

Resolution No. 26-271-C

RESOLUTION OF THE GOVERNING BODY  
OF THE  
THREE AFFILIATED TRIBES  
OF THE  
FORT BERTHOLD INDIAN RESERVATION

- WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934 and the authority under said Act; and
- WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS, Article VI, Section 5 (i), of the Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to make assignments and leases of tribal lands, in accordance with the provisions of Article IX; and
- WHEREAS, Enserch Exploration, Inc., on the behalf of EP Operating Company, has negotiated the terms and conditions of the attached oil and gas lease option agreement with the Three Affiliated Tribes.
- WHEREAS, The Tribal Business Council believes that the consideration and the possible resulting bonuses for entering into the attached agreement are adequate for the rights granted by the lease option agreement and the potential leases.

NOW THEREFORE BE IT RESOLVED, That the Three Affiliated Tribes hereby approves the attached oil and gas leases option agreement, subject to the acceptance of Enserch of an amendatory letter deleting the words "when reasonably possible" from Section 7. D. 14 of the agreement, and authorizes the Chairperson of the Tribal Business Council, its Secretary, and the Secretary of the Interior and his designee to do all things necessary to enter into and timely approve the attached lease option agreement.

C E R T I F I C A T I O N

I the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation, hereby certify that the Tribal Business Council is composed of 11 members of whom 7 constitutes a quorum, 7 were present at a Regular Meeting, thereof duly called, noticed, convened, and held on the 11 day of December, 1986; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman (voting) (~~not voting~~)

Dated this 11<sup>th</sup> day of December, 1986.

John Charging  
John Charging  
Secretary, Tribal Business Council

ATTEST:

Alyce Spotted Bear  
Alyce Spotted Bear  
Chairman, Tribal Business Council

THREE AFFILIATED TRIBES • FORT BERTHOLD RESERVATION

Mandan, Hidatsa and Arikara Tribes

NATURAL RESOURCES DEPARTMENT

P.O. Box 460 • New Town, North Dakota 58763 • (701) 627-3620



December 11, 1986

Enserch Exploration, Inc.  
One United Bank Center  
1700 Lincoln Street, Suite 3600  
Denver, CO 80203-4536

Attention: Wendall Westfall

RE: Amendatory Letter to Fort Berthold Lease Option Agreement

Gentlemen:

The Three Affiliated Tribes have approved the above referenced lease option agreement provided that Enserch accept and agree to the following modification. Section 7. D. "14" is amended by deleting the words "when reasonably possible" from the second line.

For the Three Affiliated Tribes:

Alyce Spotted Bear  
Tribal Chairman

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 1986.

EP Operating Company, a  
Limited Partnership  
By Enserch Exploration, Inc.,  
Managing General Partner

By: \_\_\_\_\_

State of North Dakota }  
County of \_\_\_\_\_ }

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year of 1986 before me personally appeared Alyce Spotted Bear known to me to be the Chairperson of the Three Affiliated Tribes of the Fort Berthold Indian Reservation, and acknowledged to me that the Three Affiliated Tribes of the Fort Berthold Indian Reservation executed the within instrument.

My commission expires:

\_\_\_\_\_  
Notary Public

State of Texas }  
County of Dallas }

The foregoing instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 1986, by \_\_\_\_\_ Senior Vice President of Enserch Exploration, Inc., Managing General Partner of EP Operating Company, a Limited Partnership, on behalf of said partnership.

My commission expires:

\_\_\_\_\_  
Notary Public

OIL AND GAS LEASE OPTION AGREEMENT

STATE OF NORTH DAKOTA        {  
                                  { KNOW ALL MEN BY THESE PRESENTS, THAT:  
COUNTIES OF MOUNTRAIL,     {  
MCKENZIE AND DUNN         {

WHEREAS, EP OPERATING COMPANY, a Texas Limited Partnership ("EPO"), acting by and through Enserch Exploration, Inc., its Managing General Partner, wishes to purchase an option to lease certain lands described on Exhibit "A", pursuant to the terms and provisions of The Indian Mineral Development Act of 1982, 96 Stat.138, Public Law 97-382, from the Three Affiliated Tribes of North Dakota ("Tribes") for the purpose, at EPO's option, of exploring for and developing any oil and gas deposits which may be found in and under said land,

NOW, THEREFORE, be it remembered that the parties hereto, EPO and the Tribes, have COVENANTED and AGREED and do hereby COVENANT and AGREE as follows:

1. Lands Subject to the Option. The lands covered by this agreement are described in the leases referred to on the attached Exhibit "A", which Exhibit "A" is incorporated herein by reference as though set out verbatim.
2. The Option. EPO shall have the exclusive right, but not the obligation, to lease on the terms set out herein, any acreage covered by any lease set forth on Exhibit "A", on or before the expiration of such lease, or with respect to the last lease listed on Exhibit "A" [M-31823 (ND) Acq.], on or before June 1, 1987. This option shall continue with respect to the lands described on Exhibit "A" on a lease by lease basis until such time as the lease presently in effect with regard to each respective parcel of land has terminated, except that in no event shall the option extend longer than two (2) years from the effective date hereof. However, in the event this Agreement is approved after any dates on which EPO is required to exercise an option, EPO shall have an additional thirty (30) days from the date of such approval in which to exercise said option. Any lands on which EPO fails to timely exercise its option as described herein shall no longer be a part of this Option Agreement.
3. Consideration. As consideration for this option EPO shall promptly deposit with the Superintendent of the Ft. Berthold Agency, FORTY THOUSAND AND NO/100THS DOLLARS (\$40,000) for the credit of the Three Affiliated Tribes upon the execution of this agreement by the duly constituted representative(s) of the Tribes, and delivery of an executed copy to EPO.

4. Exercise. The option granted herein may be exercised by EPO from time to time during the term of this agreement, as follows: EPO shall notify the Tribes in writing at the address set out herein of EPO's intent to exercise its option with respect to certain lands which shall be described in the notice letter. Any tract described in the notice letter shall not exceed Six Hundred Forty (640) acres in size. Five copies of the attached lease form shall be prepared for each tract and attached to the notice letter.
5. Delivery of Lease. Within thirty (30) days of receipt of written notice, the Tribes shall deliver a fully executed lease covering the acreage described in EPO's notice. The lease shall be in the form attached hereto as Exhibit "B" and shall include the terms set out therein.
6. Bonus. Within forty-five (45) days of lease delivery, and following approval of title, EPO shall promptly pay to the Tribes the sum of SIXTEEN AND NO/100THS DOLLARS (\$16.00) per net acre covered by such lease.
7. Lease Provisions. Any lease executed by the Tribes under the terms of this agreement shall be on the U. S. Department of the Interior Bureau of Indian Affairs lease form a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference, containing the following provisions in addition to those set out in Exhibit "B":
  - A. Royalty: One Sixth (1/6th), as provided for and in the manner set forth in the lease form attached as Exhibit "B".
  - B. Term: Five (5) years from the effective date of the lease and as much longer thereafter as oil and/or gas is produced in paying quantities. The effective date shall be the later of:
    - (1) thirty (30) days from receipt of EPO's notice, or
    - (2) one day after the termination date of the lease affecting the acreage described in EPO's notice.
  - C. Annual Rentals: TWO AND NO/100THS DOLLARS (\$2.00) per net acre as provided for and in the manner set forth in the lease form attached as Exhibit "B".
  - D. Special Provisions: The following special provisions shall be added to the lease.

"13. If so required by the Assistant Secretary-of Indian Affairs or his authorized representative, the lessee shall condition, under the direction of the Authorized Officer of the Bureau of Land Management, any wells drilled which do not produce oil or gas in paying quantities as determined by said Authorized Officer, but which are capable of producing water satisfactory for domestic, agricultural or livestock use by the lessor. Adjustments of costs for conditioning of the well and for value of casing and equipment left in or on the well will be made in said cases where it is determined that the well will produce water satisfactorily as aforesaid.

"14. Lessee shall employ Indian labor in all positions for which they are qualified when reasonably possible, including oil field service contracts, and shall protect the Indian grazing rights and other Indian

rights to the surface of the lands covered by this lease."

"15. Lessee agrees to comply with the Three Affiliated Tribes Tribal Employment Rights Ordinance (TERO), and any and all other laws, ordinances, rules, and regulations of the Three Affiliated Tribes.

8. Notices and Payments. Any notice or payment required under this agreement, except rentals and royalties which are described in the attached lease Exhibit "B", shall be deemed delivered if deposited with the U. S. Postal Service on or before the relevant deadline. Should a dispute arise in this regard, the party alleged not to have complied shall be required to produce a certified mail receipt or similar proof of delivery. Payments may be made by check; however, if dishonored, cash or cashier's checks may be required thereafter.
9. Addresses. The addresses of the parties for the purposes of this agreement shall be as follows:

Rocky Mountain Land Manager  
EP Operating Company  
One United Center  
1700 Lincoln Street  
Suite 3600  
Denver, Colorado 80203

The Three Affiliated Tribes of North Dakota  
P. O. Box 220  
New Town, North Dakota 58763

10. Effective Date. Time is of the essence; therefore, this agreement shall be effective as of the date of execution by the parties hereto, but must be approved by the Secretary of the Department of the Interior on or before January 15, 1987, otherwise this agreement shall be null and void at EPO's option, and the consideration called for under paragraph three (3) hereof shall be promptly refunded by the BIA on behalf of the Tribes to EPO.
11. Interpretation. Should a conflict exist between the terms of the attached exhibits and the main body of this agreement, the main body of this agreement shall control.
12. Headings. The headings set forth herein at the beginning of each section are for convenience only; therefore, they should not be considered in the interpretation of this agreement.
13. Approval. Approval of this agreement by the Secretary of Interior or his authorized representative shall be considered approval by said Secretary of any leases to be issued under this agreement.
14. Arbitration.  
A. Those provisions pertaining to the conduct of the lessee and lessor contained in the lease which is attached hereto as Exhibit "B" shall remain in force; however, those disputes that may arise under this agreement between the Tribe and EPO, the parties to this agreement, shall first go to an arbitration board comprised of three representatives. One such representative shall be appointed by EPO but shall not be a direct employee of EPO. One such representative shall be appointed by the Tribe but shall not be a direct employee of the Tribe. The aforementioned representatives shall appoint the third representative within ten(10) days of their appointment. The parties also agree that if thirty (30) days elapse from the date of demand by either party for arbitration of a dispute, then it shall be the responsibility, upon written application of either party to the President of

the American Arbitration Association, of said President to appoint such arbitrator(s) that have not yet been selected to complete the arbitration board. If said American Arbitration Association President shall fail to act, then such arbitrators so not appointed shall be appointed by the Judge of the United States District Court, senior in service, for the Federal district of North Dakota.

B. The Board of Arbitrators so chosen shall proceed immediately to hear and determine the matter(s) in dispute. The decision of the Board of Arbitrators or majority thereof shall be made within thirty (30) days after the appointment of the third arbitrator, subject to any reasonable delay due to unforeseen circumstances. In the event that the Board of Arbitrators or majority thereof should fail to make a decision within sixty (60) days after the appointment of the third arbitrator, new arbitrators may, at the election of either party, be appointed in the same manner as if none had been previously appointed.

C. The decision of the arbitrators shall be reduced to writing and signed by the arbitrators or a majority thereof and shall be final and binding on the parties hereto as to any matter(s) so submitted, and said parties shall abide by such decision and perform the conditions thereof. All expenses in connection with such arbitration, including a reasonable compensation to the arbitrators, shall be divided equally between the parties hereto, with the exception of the expenses of legal counsel, witnesses and employees of the parties hereto, which will be borne by the party incurring them.

D. The arbitrators appointed to act hereunder shall be qualified by education and training to pass upon the particular matter in dispute. Therefore, it is agreed that if, for example, an engineering matter is involved, qualified engineers shall be appointed, if a legal matter is involved, qualified lawyers shall be appointed, and a similar procedure shall be followed in connection with other matters.

AGREED TO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1986.

EP OPERATING COMPANY, a  
Limited Partnership  
By Enserch Exploration, Inc.,  
Managing General Partner

By: \_\_\_\_\_  
Gary J. Junco  
Senior Vice President

AGREED TO THIS 19th DAY OF November, 1986.

THE THREE AFFILIATED TRIBES  
OF NORTH DAKOTA

By: Alyce Speed Bear  
Tribal Chairman

STATE OF TEXAS

COUNTY OF DALLAS

The foregoing instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 1986, by GARY J. JUNCO, SENIOR VICE PRESIDENT of ENSERCH EXPLORATION, INC., Managing General Partner of EP OPERATING COMAPANY, a Limited Partnership, on behalf of said limited partnership.

My Commission expires:

\_\_\_\_\_

\_\_\_\_\_  
LINDA J. JONES, Notary Public  
In and for the State of Texas

STATE OF COLORADO

COUNTY OF DENVER

On this \_\_\_\_\_ day of \_\_\_\_\_, 1986, before me personally appeared \_\_\_\_\_ known to me to be the \_\_\_\_\_ of THE THREE AFFILIATED TRIBES OF NORTH DAKOTA, and acknowledged to me that THE THREE AFFILIATED TRIBES OF NORTH DAKOTA executed the within instrument.

My Commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, a notary public, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared \_\_\_\_\_

\_\_\_\_\_ to me known to be the identical person who executed the within and foregoing lease, and acknowledged to me that \_\_\_\_\_ executed the same as \_\_\_\_\_ free and voluntary act and deed for the uses and purposes therein set forth.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
DEPARTMENT OF THE INTERIOR  
Bureau of Indian Affairs

APPROVED:

\_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Area Director

EXHIBIT "A"

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL AND GAS LEASE OPTION AGREEMENT BETWEEN EP OPERATING COMPANY AND THE THREE AFFILIATED TRIBES OF NORTH DAKOTA. THE LEASES DESCRIBED BELOW ARE REFERRED TO BY THEIR FORMER U. S. BUREAU OF LAND MANAGEMENT NUMBERS ("BLM NO."). EACH RESPECTIVE LEASE COVERS THE LANDS DESCRIBED ADJACENT TO EACH LEASE'S BLM NUMBER, SUCH LANDS BEING LOCATED IN THE COUNTY NAMED BELOW THE BLM NUMBER.

| <u>BLM NUMBER and<br/>EP OPERATING COMPANY NUMBER</u> | <u>DESCRIPTION</u>   | <u>GROSS ACRES</u> | <u>EXPIRATION DATE</u> |
|---|--|--------------------|------------------------|
| M-35232 (ND) Acq.<br>EE-ND-ML-#671                    | <u>Township 150 North, Range 93 West</u><br>Sec. 7: Lots 1-6, W/2E/2NE/4, W/2NE/4,<br>E/2NW/4, W/2SE/4, SE/4SE/4   | 2,374.86           | 8/1/87                 |
| Dunn County, North Dakota                             | Sec. 17: Lots 6-10, SE/4SW/4<br>Sec. 18: Lots 1-10, E/2SW/4<br>Sec. 19: Lot 1, NW/4NE/4, NE/4NW/4<br>Sec. 20: Lots 1-8, SW/4NW/4, E/2SW/4,<br>SW/4SE/4<br>Sec. 21: Lots 2, 3, 4, 6-11<br>Sec. 28: Lots 1-5, SE/4NW/4 |                    |                        |
|   | <u>Township 150 North, Range 94 West</u><br>Sec. 1: Lots 1-9, SW/4NW/4, W/2SW/4<br>Sec. 2: Lot 1<br>Sec. 24: E/2NE/4, E/2SW/4NE/4  |                    |                        |
|   | <u>Township 151 North, Range 94 West</u><br>Sec. 35: N/2NE/4SE/4   |                    |                        |



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| BLM NUMBER and<br>EP OPERATING COMPANY NUMBER | DESCRIPTION   | GROSS ACRES | EXPIRATION DATE |
|---|---|-------------|-----------------|
| M-35233 (ND) Acq.<br>EE-ND-ML-#672            | Township 150 North, Range 93 West<br>Sec. 25: Lots 1-8, S/2SW/4<br>Sec. 26: Lots 1-8, N/2N/2, S/2S/2<br>Sec. 27: Lots 1-8, NE/4NW/4, N/2NE/4,<br>S/2S/2<br>Sec. 35: N/2NW/4, SW/4NW/4, SE/4SW/4,<br>NE/4, N/2SE/4, SW/4SE/4<br>Sec. 36: W/2, NE/4, E/2SE/4                    | 2,559.09    | 1/1/87          |
| Dunn County, North Dakota                     | Township 149 North, Range 93 West<br>Sec. 1: W/2 of Lot 3, E/2SW/4NW/4,<br>W/2SE/4NW/4  |             |                 |
|   | Township 150 North, Range 92 West<br>Sec. 19: Lots 3, 4<br>Sec. 20: SW/4SW/4, E/2SE/4<br>Sec. 29: N/2NW/4NW/4, S/2SW/4NW/4, E/2NW/4<br>Sec. 30: Lot 6, NE/4NW/4   |             |                 |
| M-35234 (ND) Acq.<br>EE-ND-ML-#673            | Township 150 North, Range 92 West<br>Sec. 14: E/2SW/4SW/4, SE/4SW/4<br>Sec. 23: NE/4, NE/4NW/4, E/2NW/4NW/4<br>N/2SE/4, SE/4SE/4, W/2SE/4<br>Sec. 24: N/2, SW/4, E/2SE/4<br>Sec. 25: All<br>Sec. 26: E/2NE/4, SE/4<br>Sec. 28: SW/4, S/2SE/4<br>Sec. 29: Lot 1, NW/4SW/4, E/2 | 2,559.60    | 1/1/87          |
| Mountrail County,<br>North Dakota             |   |             |                 |

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| BLM NUMBER and<br>EP OPERATING COMPANY NUMBER | DESCRIPTION   | GROSS ACRES | EXPIRATION DATE |
|---|---|-------------|-----------------|
| M-35234 (ND) Acq.<br>EE-ND-ML-#674            | <u>Township 150 North, Range 92 West</u>                                      | 2,534.12    | 1/1/87          |
| Dunn County, North Dakota                     | Sec. 29: E/2SW/4  |             |                 |
|   | Sec. 31: Lots 1-6, SW/4NE/4, SE/4NW/4,<br>NE/4SW/4, E/2SE/4SW/4, SE/4         |             |                 |
|   | Sec. 32: Lots 1-8, N/2NE/4, W/2SW/4,<br>SE/4SW/4, SW/4SE/4                    |             |                 |
|   | Sec. 33: Lots 3-7   |             |                 |
|   | Sec. 34: Lots 1, 2, 3, NE/4SW/4, SE/4SE/4                                     |             |                 |
|   | Sec. 35: NE/4, NE/4NW/4, S/2NW/4, S/2   |             |                 |
|   | Sec. 36: NE/4, W/2, S/2SE/4   |             |                 |
| M-35236 (ND) Acq.<br>EE-ND-ML-#675            | <u>Township 149 North, Range 92 West</u>                                      | 2,555.97    | 1/1/87          |
| Dunn County, North Dakota                     | Sec. 1: Lots 1-9, N/2SW/4SW/4,<br>NW/4SE/4SW/4, E/2SE/4                       |             |                 |
|   | Sec. 2: Lots 1-12, S/2S/2   |             |                 |
|   | Sec. 3: Lots 1-5, SW/4NW/4, N/2SW/4,<br>E/2SE/4SW/4, W/2SE/4, SE/4SE/4        |             |                 |
|   | Sec. 4: Lots 1-4, S/2N/2, N/2NW/4SW/4,<br>E/2SW/4                             |             |                 |
|   | Sec. 5: Lots 1, 2, N/2S/2NE/4   |             |                 |
|   | Sec. 6: Lots 1, 2, 3  |             |                 |
|   | Sec. 10: E/2E/2, SW/4SE/4   |             |                 |
|   | Sec. 11: SW/4NW/4NE/4, SW/4NE/4,<br>S/2NE/4NW/4, SE/4NW/4, W/2W/2,<br>E/2SW/4 |             |                 |
|   | <u>Township 150 North, Range 92 West</u>                                      |             |                 |
|   | Sec. 36: Lot 1, NE/4SE/4  |             |                 |

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| <u>BLM NUMBER and<br/>EP OPERATING COMPANY NUMBER</u>                      | <u>DESCRIPTION</u>   | <u>GROSS ACRES</u> | <u>EXPIRATION DATE</u> |
|--|--|--------------------|------------------------|
| M-35237 (ND) Acq.<br>EE-ND-ML-#676<br><br>Dunn County, North Dakota        | <u>Township 149 North, Range 92 West</u><br>Sec. 11: NW/4SE/4, E/2SE/4, SW/4SE/4NE/4<br>Sec. 14: N/2NW/4, W/2SW/4NW/4<br>Sec. 15: N/2, E/2SE/4<br>Sec. 16: SE/4NE/4NE/4, E/2SE/4NE/4<br><br><u>Township 150 North, Range 91 West</u><br>Sec. 29: Lots 1-6, SE/4SW/4, SW/4SE/4,<br>E/2SE/4<br>Sec. 30: Lots 1-8, E/2NW/4, W/2NE/4<br>NE/4NE/4, NE/4SW/4<br>Sec. 31: Lots 1-8, SE/4NE/4, SE/4<br>Sec. 32: N/2<br><br><u>Township 149 North, Range 91 West</u><br>Sec. 6: Lots 2, 3, 5, 7, S/2 of Lot 6,<br>W/2SE/4SW/4 | 2,470.69           | 1/1/87                 |
| M-35853 (ND) Acq.<br>EE-ND-ML-#847<br><br>McKenzie County,<br>North Dakota | <u>Township 151 North, Range 94 West</u><br>Sec. 24: E/2W/2<br>Sec. 26: N/2SE/4, SE/4SE/4<br>Sec. 35: NE/4NE/4, S/2NE/4SE/4, SE/4SE/4<br>Sec. 36: Lots 1-7, W/2W/2   | 719.12             | 1/1/87                 |

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| BLM NUMBER and<br>EP OPERATING COMPANY NUMBER | DESCRIPTION  | GROSS ACRES      | EXPIRATION DATE |
|---|--|------------------|-----------------|
| M-17482 (ND) Acq.<br>EE-ND-ML-#1234           | <u>Township 151 North, Range 94 West</u><br>Sec. 1: Lots 1, 2, 3, 7, 8, 13,<br>SW/4NE/4, W/2SE/4<br>Sec. 12: Lots 1, 2, 3, 4, W/2NE/4, S/2NW/4<br>SW/4, NW/4SE/4<br>Sec. 13: Lots 1, 2, 3, 4, 5, 6, 7,<br>NW/4, N/2SW/4, SE/4SW/4<br>Sec. 24: Lots 1, 2, 3, 4, 5, 6<br>Sec. 25: Lots 1, 2, 3, 4, 5, W/2W/2 | 1,607.21         | N/A             |
| McKenzie County,<br>North Dakota              |  |                  |                 |
| M-35266 (ND) Acq.<br>EE-ND-ML-#700            | <u>Township 152 North, Range 93 West</u><br>Sec. 15: Lots 2, 3, SW/4 excl. 10.16<br>acres, W/2SE/4<br>Sec. 22: Lot 1, NE/4NW/4, E/2NW/4NW/4,<br>Sec. 31: Lots 1, 2, E/2NW/4<br>Sec. 33: Lot 2  | 557.57           | 7/31/87         |
| McKenzie County,<br>North Dakota              |  |                  |                 |
| M-38363 (ND) Acq.<br>EE-ND-ML-#               | <u>Township 151 North, Range 94 West</u><br>Sec. 11: N/2S/2  | 160 more or less | 12/1/87         |
| Mountrail County,<br>North Dakota             |  |                  |                 |
| M-31823 (ND) Acq.<br>EE-ND-ML-#               | <u>Township 152 North, Range 93 West</u><br>Sec. 10: Lots 11, 12, S/2SE/4<br>Sec. 15: Lot 1, N/2NE/4, SW/4NE/4, NW/4<br>Sec. 16: W/2SW/4, SE/4SW/4, SW/4SE/4<br>Sec. 22: Lots 2, 4, 5, SW/4NW/4NW/4,<br>S/2NW/4, NW/4SW/4  | 700 more or less | 8/31/85         |
| McKenzie County,<br>North Dakota              |  |                  |                 |

LEASE NO. \_\_\_\_\_

CONTRACT NO. \_\_\_\_\_

NOTICE  
THIS LEASE DOES NOT TERMINATE  
AUTOMATICALLY DUE TO NON-PAY-  
MENT OF RENTALS. (SEE SECS. 5 AND  
6 OF THIS LEASE).

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

OIL AND GAS MINING LEASE—TRIBAL INDIAN LANDS

AUTHORITY - The Indian Mineral Development Act of 1982, 96 STAT. 138, Public Law 97-382

THIS INDENTURE OF LEASE, made and entered into in quintuplicate this \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_

of \_\_\_\_\_, State of \_\_\_\_\_, for and  
on behalf of the \_\_\_\_\_ Tribe of Indians, lessor, and

of \_\_\_\_\_, State of \_\_\_\_\_, lessee, WITNESSETH:

1. Lessor, in consideration of a cash bonus of \$\_\_\_\_\_, paid to the payee designated by the Area Director, receipt of which is hereby acknowledged and in consideration of rents and royalties to be paid, and the covenants to be observed as herein set forth, does hereby grant and lease to the lessee the exclusive right and privilege to drill for, mine, extract, remove, and dispose of all the oil and natural gas deposits including helium gas, carbon dioxide gas, and sulphur gas in or under the following-described tracts of land situated in the county of \_\_\_\_\_, State of \_\_\_\_\_, and more particularly described as follows:

containing \_\_\_\_\_ acres more or less, together with the right to construct and maintain thereupon all works, buildings, plants, waterways, roads, telegraph and telephone lines, pipe lines, reservoirs, tanks, pumping stations, or other structures necessary to the full enjoyment hereof for the term of 5 years from and after the approval hereof by the Secretary of the Interior and as much longer thereafter as oil and/or gas is produced in paying quantities from said land.

2. The term "oil and gas supervisor" as employed herein shall refer to such officer or officers as the Secretary of the Interior may designate to supervise oil and gas operations on Indian lands. The term "superintendent" as used herein shall refer to the superintendent or other official in charge of the Indian Agency having jurisdiction over the lands leased. Helium gas, carbon dioxide gas, sulphur gas, and all other natural gases are included under the term "gas" as used in this lease.

3. In consideration of the foregoing, the lessee hereby agrees:

(a) Bond.—To furnish such bond as may be required by the regulations of the Secretary of the Interior, with satisfactory surety, or United States bonds as surety therefor, conditioned upon compliance with the terms of this lease.

(b) Wells.—(1) To drill and produce all wells necessary to offset or protect the leased land from drainage or in lieu thereof, to compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided*, That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the oil and gas supervisor and payment in lieu of drilling and production shall be with the consent of, and in an amount determined

by the Secretary of the Interior; (2) at the election of the lessee to drill and produce other wells: *Provided*, That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (3) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within 10 days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of this lease of not to exceed \$1 per acre per annum, which sum shall be in addition to any rental or royalty hereinafter specified.

(c) **Rental and royalty.**—To pay, beginning with the date of approval of the lease by the Secretary of the Interior or his duly authorized representative, a rental of \$2.00 per acre per annum, in advance during the continuance hereof, the rental so paid for any one year not to be credited on the royalty for that year, together with a royalty of 16 $\frac{2}{3}$  percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased herein, save and except oil, and/or gas used by the lessee for development and operation purposes on said lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes hereof may, in the discretion of the Secretary, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the oil and gas supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor: *Provided*, That the lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced: *And provided further*, That the lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage caused by acts of God. All rental and royalty payments, except as provided in section 4 (c) shall be made by check or draft drawn on a solvent bank, open for the transaction of business on the day the check or draft is issued, to the payee designated by the Area Director. All such rental and royalty payments shall be mailed to the oil and gas supervisor for transmittal to the payee designated by the Area Director. It is understood that in determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be two-thirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casinghead gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

(d) **Monthly statements.**—To furnish to the oil and gas supervisor monthly statements in detail in such form as may be prescribed by the Secretary of the Interior, showing the amount, quality, and value of all oil, gas, natural gasoline, or other hydrocarbon substances produced and saved during the preceding calendar month as a basis upon which to compute, for the treasurer of said tribe or the superintendent, the royalty due the lessor. The leased premises and all wells, producing operations, improvements, machinery, and fixtures thereon and connected therewith and all books and accounts of the lessee shall be open at all times for the inspection of any duly authorized representative of the Secretary of the Interior.

(e) **Log of well.**—To keep a log in the form prescribed by the Secretary of the Interior of all the wells drilled by the lessee showing the strata and character of the formations passed through by the drill, which log or a copy thereof shall be furnished to the oil and gas supervisor.

(f) **Diligence, prevention of waste.**—To exercise reasonable diligence in drilling and operating wells for oil and gas on the lands covered hereby, while such products can be secured in paying quantities; to carry on all operations hereunder in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; to plug securely all wells before abandoning the same and to effectually shut off all water from the oil or gas-bearing strata; not to drill any well within 200 feet of any house or barn now on the premises without the lessor's written consent; to carry out at the expense of the lessee all reasonable orders and requirements of the oil and gas supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; to bury all pipe lines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; to pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

(g) **Regulations.**—To abide by and conform to any and all regulations of the Secretary of the Interior now or hereafter in force relative to such leases, including 30 CFR 221: *Provided*, That no regulation hereafter approved shall effect a change in rate of royalty or annual rental herein specified without the written consent of the parties to this lease.

(h) **Assignment of lease.**—Not to assign this lease or any interest therein by an operating agreement or otherwise nor to sublet any portion of the leased premises before restrictions are removed, except with the approval of the Secretary of the Interior. If this lease is divided by the assignment of an entire interest in any part of it, each part shall be considered a separate lease under all the terms and conditions of the original lease.

4. The lessor expressly reserves:

(a) **Disposition of surface.**—The right to lease, sell, or otherwise dispose of the surface of the lands embraced within this lease under existing law or laws hereafter enacted, such disposition to be subject at all times to the right of the lessee herein to the use of so much of said surface as is necessary in the extraction and removal of the oil and gas from the land herein described.

(b) **Use of gas.**—The right to use sufficient gas free of charge for any school or other buildings belonging to the tribe on said lands by making connection at its own expense with the well or wells thereon, the use of such gas to be at the lessor's risk at all times.

(c) **Royalty in kind.**—The right to elect on 30 days' written notice to take lessor's royalty in kind.

5. **Surrender and termination.**—The lessee shall have the right at any time during the term hereof to surrender and terminate this lease or any part thereof upon the payment of the sum of one dollar and all rentals, royalties, and other obligations due and payable to the lessor; and in the event restrictions have not been removed, upon a showing satisfactory to the Secretary of the Interior that full provision has been made for conservation and protection of the property and the proper abandonment of all wells drilled on the portion of the lease surrendered, the lease to continue in full force and effect as to the lands not so surrendered. If this lease has been recorded lessee shall file a recorded release with his application to the superintendent for termination of this lease.

6. **Cancelation and forfeiture.**—When, in the opinion of the Secretary of the Interior and the Tribal Council, there has been a violation of any of the terms and conditions of this lease, the Secretary of the Interior shall have the right at any time after 30 days' notice to the lessee, specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days of receipt of notice, to declare this lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land: *Provided*, That after restrictions are removed the lessor shall have and be entitled to any available remedy in law or equity for breach of this contract by the lessee.

7. **Removal of buildings, improvements, and equipment.**—Lessee shall be the owner of and shall have the right to remove from the leased premises, within 90 days after termination of this lease, any and all buildings, structures, casing, material, and/or equipment placed thereon for the purpose of development and operation hereunder, save and except casing in wells and other material, equipment, and structures necessary for the continued operation of wells producing or capable of being produced in paying quantities as determined by the Secretary of the Interior, on said leased land at the time of surrender of this lease or termination thereof; and except as otherwise provided herein, all casing in wells, material, structures, and equipment shall be and become the property of the lessor.

8. **Drilling and producing restrictions.**—It is covenanted and agreed that the Secretary of the Interior may impose restrictions as to time or times for the drilling of wells and as to the production from any well or wells drilled when in his judgment such action may be necessary or proper for the protection of the natural resources of the leased land and the interests of the Indian lessor, and in the exercise of his judgment the Secretary may take into consideration, among other things, Federal laws, State laws, or regulations by competent Federal or State authorities or lawful agreements among operators regulating either drilling or production, or both.

9. **Unit operation.**—The parties hereto agree to subscribe to and abide by any agreement for the cooperative or unit development of the field or area, affecting the leased lands, or any pool thereof, if and when collectively adopted by a majority operating interest therein and approved by the Secretary of the Interior, during the period of supervision.

10. **Conservation.**—The lessee in consideration of the rights herein granted agrees to abide by the provisions of any act of Congress, or any order or regulation prescribed pursuant thereto, relating to the conservation, production, or marketing of oil, gas, or other hydrocarbon substances.

11. **Heirs and successors in interest.**—It is further covenanted and agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors of, or assigns of the respective parties hereto.

12. **No lease, assignment thereof, or interest therein, will be approved to any employee or employees of the United States Government whether connected with the Indian Service or otherwise and no employee of the Interior Department shall be permitted to acquire any interest in any mineral lease covering restricted Indian lands by ownership of stock in corporations having such leases or in any other manner.**

IN WITNESS WHEREOF, the said parties have hereunto subscribed their names and affixed their seals on the day and year first above mentioned:

*Two witnesses to execution by lessor:*

..... [SEAL]

P. O. ....

..... [SEAL]

P. O. ....

*Two witnesses to execution by lessee:*

..... [SEAL]

P. O. ....

P. O. .... Attest: .....

**ACKNOWLEDGMENT OF LESSOR**

STATE OF ..... }  
COUNTY OF ..... } ss:

Before me, a notary public, on this ..... day of ..... 19....., personally appeared

.....  
to me known to be the identical person who executed the within and foregoing lease, and acknowledged to me that .....  
executed the same as ..... free and voluntary act and deed for the uses and purposes therein set forth.

My commission expires .....

DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

APPROVED:

....., 19.....

.....  
*Area Director.*