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Creditors' Rights Involved in the Production and Sale of Natural Gas

William M. Schultz

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CREDITORS' RIGHTS INVOLVED
IN THE PRODUCTION AND SALE
OF NATURAL GAS

by

JUDGE WILLIAM M. SCHULTZ
Foreman & Dyess
Houston, Texas

for the

NATURAL GAS SYMPOSIUM: CONTRACT
SOLUTIONS FOR THE FUTURE
REGULATORY ENVIRONMENT

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Houston, Texas

I. SCOPE OF TOPIC

II. INTRODUCTION

- A. Early indicators and recognizing a problem exists which requires some action. Crucial starting point--comparison of income and expenses, 1978, 1979, 1980, 1981, 1982
1. Secured creditor--reporting, requirements not complied with, borrowing base out of compliance, engineering reports, amended financial statements, delinquent statements
 2. Unsecured creditor--no information available except financial statements--slow moving inventory
 3. Assessment of record keeping abilities--unsecured creditors should examine overpayments, underpayments, general lack of efficient accounting procedures, layoffs and salary reductions
 4. Comparison of reserve for bad debts on a historical basis

5. Interest payment comparison for stated years

III. CAUSES FOR COMPANY'S PROBLEMS

- A. Expansion during boom syndrome
- B. Over-spending and/or under-capitalization
- C. Reduced demand and oversupply in industry
- D. Excessive interest carry
- E. Penalties caused by delays
- F. Cost overruns and inability to pass through costs
- G. Non-payment by its account debtors
- H. Change in financing arrangements
- I. Attitude changes by lenders (large bank in Houston has decided not to restructure any loans in energy industry)
- J. Extension of payments or composition of payments to unsecureds

IV. REMEDY OR OPTIONS

- A. Workout (non-bankruptcy)--consider
 1. Secured creditors--"control issues"--beware of Farah precedent
 2. Unsecured creditor--any unencumbered assets
 3. Working interest owners--recorded assignments

B. Bankruptcy

1. Overview of Bankruptcy Code
 - a. The new Code--voluntary and involuntary
 - b. Chapters of the Code
 - c. New terminology
 - d. Powers
2. Liquidate or rehabilitate

C. Factors to evaluate

1. Economics involved--in court vs. out of court
2. Loss of time in attempts to resolve what may be an inevitable in court reorganization
3. Pending litigation or potential litigation and concomitant disruptions
4. Retention of management in out of court settlement vs. possible replacement in court
5. Attitudes of secured creditors--special consideration if you are unsecured
6. Magnitude of unsecured creditors as impediment to out of court workout
7. Careful analysis of cash flow and ability to implement monitoring of company out of court vs. reporting requirements in court

8. Effect on employees in court vs. out of court, effect on existing customers, new business and executory contracts in court or out of court--particular consideration to take or pay contracts (executory contract analysis--Section 365, Title 11, U.S.C.)

V. OPTING FOR WORKOUT--Having determined key

issue: sufficient cash flow

A. Initial steps

1. Meeting of parties initiated by Debtor
2. Requisite financial information must be furnished, preferably in advance of meeting so time not wasted
3. Preliminary written proposal should be requested prior to initial meeting
4. Credibility of management and candor must be assessed--is new management necessary? Use of consultants
5. Acknowledgment of competing interests and willingness to forego potential advantages (different rights and different attitudes)
6. Practical problems predicated on logistics and amounts involved

B. Goals of creditors

1. Strategy session of only creditors should precede meeting with Debtor
2. Select Creditors' Committee
3. If needed, select sub-committee to properly reflect and represent interests
4. Retention of professionals and experts to represent requisite committees
5. Establish parameters for creditors

C. Creditors' first meeting with Debtor

1. Discuss formulation of Plan
2. Needs for additional information-- question and answer session
3. Projections--feasibility thereof
4. Establish time constraints for achieving objectives
5. Designation of responsible parties
6. Delineate restrictions on Debtor's operations pending acceptance of Plan

VI. THE AGREEMENT

A. Types of agreements

1. Secured creditors
2. Unsecured creditors
3. Working interest
4. Combined to treat all parties--not feasible

- B. General considerations from creditors' view
 - 1. Form of new obligation--of course, varies depending on creditors' status
 - 2. Terms of new obligation
 - 3. Alternative payments--pay certain small claims in full
 - 4. Liens and security interests--prior vs. new debts
 - 5. Monitoring procedures--regular financial and business information
- C. Content
 - 1. Varies because of particular creditor status
 - 2. Define creditors and respective treatments--certain creditors may be excluded--as example, those under certain amount--creditors opting for full payment of lesser percentage
 - 3. Mechanism for treatment of affected creditors--required number of acceptances
 - 4. Agreed stay of action by all creditors--non-waiver of rights upon default
 - 5. Effective date of Plan and time constraints for implementation
 - 6. Create committee with requisite powers and duties

7. If Trustee or disbursing agent utilized--delineate powers and duties, form of agreement, designee
8. Provide method for resolving disputed claims--arbitration--possibly use of retired judges
9. Establish agreements by third parties--guaranties, liens, etc.
10. Delineate events of default and remedies in event of default
11. Attach forms to be utilized
 - a. lien documents
 - b. trustee documents or escrow agreements
 - c. Creditors' Committee agreement
 - d. evidence of indebtedness under Plan
 - e. names and addresses of all creditors
 - f. acceptance documents
12. Consider use of Plan and acceptances in possible ensuing Chapter 11
13. Determine limitations on Debtor under Plan--consider representation on Board of Directors as advisory director

VII. STATE COURT REMEDIES

- A. State court assignments for the benefit of creditors
- B. Statutory liens

- C. Court-appointed state court receiver
- D. Written notice of claim to purchaser of product (effectively suspends payment to anyone)
- E. Bulk sale--liquidation
- F. Investor interests--mining partnerships established under state law, unrecorded assignments

VIII. BANKRUPTCY REMEDIES AS IMPACTED BY NORTHERN PIPELINE CO. V. MARATHON PIPELINE COMPANY, 102 S.Ct. 2858 (1982)

- A. Automatic Stay--§362
 - 1. Concept
 - a. Exceptions--M & M liens, §546b, Title 11, but §105 possibly used by Debtor to enjoin
 - b. Termination
 - c. Relief from stay
 - d. Drafting suggestions
 - (1) Adequate protection--§§361, 362 and 363
- B. Ipso facto clauses--§§363(1), 541(c)(1)(B), 365(b)(2), 365(e)(1)
- C. Assignment of executory contract by Trustee or debtor in possession (§365)
 - 1. Discussion--no clear definition

2. Farmout agreement
3. Operating Agreement
4. Gas sales contract
5. Drafting suggestions
 - a. Difficult to cure default
 - b. Future performance assurances
 - c. Prohibit subleasing

IX. EQUITABLE SUBORDINATION--Control issues and §510 of Bankruptcy Code

X. DISCLOSURE STATEMENT AND CONFIRMATION OF PLAN IN CHAPTER 11 PROVIDES ALTERNATIVE REMEDIES

- A. Beware of avoiding powers; §§544 through 553 of the Bankruptcy Code must be read and understood

XI. ALTERNATIVE REMEDIES AVAILABLE TO CREDITORS IN COURT

- A. Motion to Dismiss--§1112(b)
- B. Motion to Convert Chapter 11 to Chapter 7--§1112(b)
- C. Involuntary petition, Chapter 7 or Chapter 11--§303
- D. Motion to appoint trustee--§1104(a)
- E. Motion to appoint examiner--§1104(b)
- F. Motion to abandon property--§554

- G. Motion for court to abstain--§305
- H. Secured creditors--motion for relief from stay as discussed--§362(d)
- I. Complaint to enjoin use of collateral--§363(c)(2) and (4)
- J. Motion to assume or reject executory contracts (may be included in complaint to modify stay)--§365
- K. Object to Plan--§1126
- L. Object to adequate disclosure and disclosure statement--§1125

APPENDIX

letter dated September 22, 1982,

Dear Bob:

We acknowledge receipt of the above referenced letter in which you have requested the Banks to forbear under the existing terms of the Credit Agreement dated October 22, 1981.

You are hereby notified that the Banks agree to your proposal of forbearance of enforcement of the terms of the Credit Agreement, provided, as you stated, the Banks have not and do not by this agreement waive existing events of default, if any, or future events of default under the Agreement, whether or not specifically claimed or enumerated by the Banks heretofore, or waive or abandon any rights or remedies that may be available to the Banks (whether against the Company, subsidiaries or any other person or entity, or any property), each of which rights and remedies (if any) the Company and subsidiaries recognize to be expressly reserved (including without limitation, the right to seek judgment and/or to proceed against any person or entity or any property) and do not cancel, abandon or reverse the asserted acceleration of the notes, claimed by the Banks to have occurred as of September 14, 1982.

Accordingly, the Banks require that the company furnish no later than September 30, 1982, a Borrowing Base Certificate as defined in the Credit Agreement, as of August 31, 1982.

Sincerely yours,

A

September 22, 1982

Attention:

Attention:

In re: Response to your September 14, 1982 Letters

Gentlemen:

We acknowledge receipt of the above referred to letters that were delivered that date following a meeting some ten days before.

This will evidence our confirmation in connection with your demand for a remittance of \$107,227.00 that, as previously agreed, such has been paid to you.

We believe and recognize that certain forbearance by the Banks under certain of the existing terms of the Credit Agreement dated October 22, 1981 would permit ultimate retirement of the indebtedness, principal and interest, in full, and simultaneously, enable this Company and its subsidiaries to continue to be an active and viable operating concern, capable of maintaining its trade accounts, surviving through the continued industry recession and thus remaining a leader in our area of oil field tubular and wellhead sales and service. We hereby request forbearance of enforcement under the existing terms of the Credit Agreement dated October 22, 1981, herein called "Agreement", as follows, for a period of twelve months from this date so long as the Company is not a debtor in a proceeding under Title 11 of the United States Code and only if the Company complies with the terms contained herein (herein called "Term"):

- (a) at such time within the Term as we would effect the sale of certain property other than inventory, accounts receivable, equipment and raw materials which we have advised you are presently for sale, we would make a lump sum reduction of the existing principal balances of the revolving notes in the aggregate of \$2,000,000.00 (to be paid to each of the Banks in its Participation Percentage as such term is defined in the Agreement); and
- (b) additional and future reductions of the principal balances of the Revolving Notes in the aggregate of fifty percent of the sales price (less existing senior liens, if any, and reasonable costs of sale) of any asset (other than accounts receivable) sold out of the ordinary course of business; provided, however, that such amount shall not be less than fifty percent of the net book value, (any such amount to be paid to each of the Banks in its Participation Percentage) and provided further that in the event such sale or sales is for less than net book value, the aforesaid fifty percent to be paid to the Banks shall be increased proportionately so that the net cash sum paid to the Banks will equal not less than fifty percent of the net book value. It being understood and agreed that the borrowing base as defined in the Agreement shall not be impaired in any manner whatsoever by a sale of assets. For illustrative purposes only, if an asset has a net book value of \$100,000.00 and is sold for \$70,000.00, in such event the percentage of the sales price, \$70,000.00, to be paid to the Banks would be 71.4 percent instead of fifty percent. Net book value shall mean for purposes of this paragraph (b) book value net of existing liens superior to Banks' liens.
- (c) future monthly payments against the Revolving Notes in the amount of forty percent of actual sales (excluding brokerage commissions and their associated transactions and excluding service revenue generated by
and) made in the ordinary course of business of the Company and the subsidiaries, but not less than \$516,000.00, plus eighty percent of actual monthly receipts emanating from sales (excluding brokerage commissions and their associated transactions and excluding service revenue

generated by

in the ordinary course of business of the Company and the subsidiaries in excess of monthly sales, said monthly payment to be reduced by 50% of the purchase price of new inventory purchased which reduction shall not exceed a total of \$1.5 million during the Term (to be paid to each of the Banks in its Participation Percentage), applied first to the payment of accrued and unpaid interest and then to the reduction of principal;

- (d) as to from actual collections equal to pre-tax profits generated through the provision of services in the ordinary course of business to the industry, 30% shall be paid to the Banks (in their respective Participation Percentages, as such term is defined in the Agreement) and 70% shall be retained by , as the case may be.
- (e) a moratorium on the obligation of the Banks to make advances to the Company or for the benefit of the Company pursuant to Section 2.01 of the Agreement, regardless of the relationship of the borrowing base (as such term is defined in the Agreement) to the outstanding principal balances of the Revolving Notes; accordingly, commitment fees are waived;
- (f) the furnishing to each of the Banks, on or before the 30th day of each month, on a monthly basis, of borrowing base certificates, as such term is defined in the Agreement, as of the close of business for the prior month; and additionally furnishing to each of the Banks on a weekly basis a borrowing base certificate, certified in the form attached as Exhibit A, as of the close of business for the prior week.
- (g) the furnishing to each of the Banks, on a monthly basis, a report as to the activities by the listing agents during the preceding month with respect to the sale of certain of the real property, a report as to any other assets sold during the preceding month, including name and address of purchaser, sales price and terms, if any, an accounting report of all actual sales made by the Company and its

subsidiaries, including the names and addresses of the purchaser, the sales price, the terms, if any; and the Banks shall furnish the Company, on a monthly basis, accounting reflecting the application of any and all payments of any sort or nature made by the Company or its subsidiaries to the Banks during the preceding month, with a resulting unpaid balance, principal and interest;

- (h) from July 1, 1982, forward, a reduction of the interest to be paid monthly on the notes, the subject of said Agreement to eight percent, with the application of payments first to accrued and unpaid interest as provided in subparagraph (c) to be computed and calculated at the rate in this subparagraph, provided, said rate to be in effect from July 1, 1982, to the end of the Term; subject, however, to the right of the Banks to recapture the interest so deferred (being the difference between the eight percent rate and the rate and fees provided in the Agreement and Notes), same being due and payable on demand by Banks after expiration of the Term, with application of all payments thereafter made to the amount to be recaptured, then to the balance of accrued interest then currently owed and then to principal;
- (i) an exception to the provisions of Section 6.09 relating to Accounts Payable so as to permit any indebtedness owing to trade creditors of the Company and the subsidiaries on the date hereof to remain outstanding for a period which exceeds the Term, provided that no interest payments shall be actually paid to any such trade creditor during the Term; and
- (j) the payment of accrued and accruing interest, mandatory prepayments, compensating balance deficiency fees and principal amounts as originally provided by the Agreement shall be deferred (except as provided above) for the Term.

Failure by the Company to comply with the above terms shall constitute a default terminating the term without notice of any nature whatsoever (which notice, if any, is hereby waived).

Notwithstanding any forbearance agreed to by the Banks, the Company and subsidiaries will not allow the borrowing base, as defined in the Agreement, to deteriorate any further from August 31, 1982. The Company and subsidiaries acknowledge that the Banks have not waived and will not waive by acceptance of this proposal, existing events of default, if any, or future events of default under the Agreement, whether or not specifically claimed or enumerated by the Banks heretofore, or waive or abandon any rights or remedies that may be available to the Banks (whether against the Company, subsidiaries or any other person or entity, or any property), each of which rights and remedies (if any) the Company and subsidiaries recognize to be expressly reserved (including without limitation, the right to seek judgment and/or to proceed against any person or entity or any property). The Company and subsidiaries further recognize that the Banks do not by their acceptance of this proposal cancel, abandon or reverse the asserted acceleration of the notes, claimed by the Banks to have occurred as of September 14, 1982.

Very truly yours,

President

CONSENTED TO: /

Guarantor

By _____

By _____

Page 6

By_

By_

By_

By_

By_

(Date)

[ADDRESS]

Gentlemen:

Pursuant to letter dated September 22, 1982, the undersigned, as the President or Vice President and the Comptroller of _____, hereby deliver to you this Certificate.

As of _____, our calculation of the Eligible Accounts Receivable and Eligible Fixed Assets is as follows:

Total Accounts Receivable	_____
Less Those More Than 90 Days Beyond Invoice Date:	_____
Equals:	_____
Less Those Attributable to Affiliated Entities:	_____
Equals:	_____
Less Those Otherwise Excluded Pursuant to Section 1.15 of the October 22, 1981 Credit Agreement:	_____
Equals:	_____
	x .80

(1) Eligible Accounts Receivable	_____
Total Fixed Assets at Cost:	_____
Less Intangible Fixed Assets at Cost:	_____
Equals Tangible Fixed Assets:	_____
Less Accumulated Depreciation on Tangible Fixed Assets:	_____
Equals:	_____
	x .25
(2) Eligible Fixed Assets:	_____

CREDITORS' AGREEMENT

THIS AGREEMENT made and entered into as of the ____ day of August, 1982, by and among those creditors (the "Trade Creditors") listed on Exhibit "A" annexed hereto who join in this Agreement, those potential unsecured creditors (the "Creditors") listed on Exhibit "B" annexed hereto who join in this Agreement, and with The Company, a Texas Corporation (the "Company").

W I T N E S S E T H:

WHEREAS, the Company has been engaged in the business of exploration for and production of oil and gas and in connection therewith has acquired certain oil and gas interests, together with related equipment and personal property; and

WHEREAS, the Company is indebted to the Trade Creditors and other parties for amounts which it incurred in connection with the operation of its business and may be indebted to the Creditors; and

WHEREAS, the Trade Creditors and Creditors desire to enter into an arrangement among themselves (the "Plan") relating to the payment of indebtedness owed to them by the Company;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the Trade Creditors, the Creditors and the Company agree among themselves as follows:

ARTICLE I.

The Plan

A. The Plan affects all "Indebtedness" or asserted "Indebtedness" of the Company to its Trade and Creditors as reflected in the Company's accounting records at August 16, 1982, and listed on Exhibits "A" and "B" attached hereto (\$_____). The specific amount owed to each Trade and Creditor for purposes of the Plan, as of such date, according to the Company's accounting records, is set forth

opposite the name of each such Trade and Creditor in Exhibits "A" and "B" attached hereto. This Plan contemplates that the Company will pay in full the principal amount of all Indebtedness of the Company to each Trade Creditor and, to the extent of its legal obligation, to each Creditor listed in Exhibits "A" and "B" after the six (6) month "Moratorium Period" (hereinafter defined in this Article I, paragraph B.) in such amounts and at such times as the Creditors' Committee (hereinafter named in Article VII.) and the Company may agree, it being the intention of the parties that the Company will use its best efforts to pay all such Indebtedness in full at either the end of the Moratorium Period or the "First Extension" (hereinafter defined in Article IX.) thereof. In addition, the Company will pay simple interest at the rate of _____% per annum on all unpaid Indebtedness from September 1, 1982, until such Indebtedness is fully paid. This Plan further contemplates that the Company will pay on a current basis _____% of all future trade indebtedness which it may incur from and after August 17, 1982, _____% of which trade indebtedness is covered by the Plan, and _____% of which trade indebtedness is not covered by the Plan, such _____% being paid as incurred pursuant to the shorter of (a) 30 days or (b) terms otherwise separately agreed upon between the Company and individual trade creditors granting credit from and after August 17, 1982.

B. Subject to the conditions and provisions hereinafter set forth, each Trade and Creditor, upon execution of a counterpart of this Agreement or an acceptance form as hereinafter provided, agrees that, for the shorter time period of (i) six (6) months from the Acceptance Date (the "Moratorium Period", plus extensions thereof (see Article IC), or (ii) the period during which the Trade Trustee (hereinafter designated) has not declared the Company to be in default under the terms of the Deed of Trust, Mortgage, Assignment, Security Agreement and Financing Statement as provided in paragraph B. of Article

II. below:

(1) It will forbear from instituting or prosecuting any suit, proceeding under any provision of the Bankruptcy Reform Act of 1978, or receivership proceeding or other legal or equitable actions against the Company (or against other third parties, including working interest owners, without first obtaining the written permission of the Trade Trustee) to recover any amount owed to it by the Company and covered by the Plan, and that it will forbear from taking any action to foreclose liens (including, but not limited to mechanics' and materialmen's and other statutory liens, judgment liens, contractual liens, and operator's liens, the terms "liens" or "mechanics' and materialmen's liens" as hereafter used including such designated liens and all other similar liens) which it may have against assets of the Company (or against other third parties, including working interest owners, without first obtaining the written permission of the Trade Trustee); provided, however, that this subparagraph (1) shall not prohibit any Trade Creditor from taking such steps as are necessary to perfect by appropriate filings or other statutory liens; and provided, further, that this subparagraph (1) shall and does require each Trade Creditor to take any and all such actions as may be necessary to cause any pipeline or pipelines purchasing production from any oil, gas or mineral leases owned by the Company (or in which the Company may have any interest) to release the proceeds of production during the six (6) month Moratorium Period plus all extensions thereof.

(2) It will, within thirty (30) days after the Acceptance Date, dismiss without prejudice to its refileing, any suit, proceeding or legal or equitable action which it may now have pending against the Company which has not resulted in a final judgment or decree (the defense of the statute of limitations with regard to any such suits or actions affecting indebtedness covered by the Plan to be waived by agreement of the Company).

(3) Each Trade Creditor having mechanics' and materialmen's liens will deliver to the Trade Trustee on or prior to the Acceptance Date a duly acknowledged and recordable release of such liens insofar as such liens secure indebtedness covered by this Agreement, such release to be held in escrow and to be delivered to the Company or filed by the Trade Trustee (hereinafter designated) upon payment in full of such creditor's lien claim as determined pursuant to the provisions of Article IV. hereof, together with interest as herein provided; provided, however, that a Trade Creditor having mechanics' and materialmen's liens and receiving payment in satisfaction of any such lien claims from a third party or parties may execute and deliver a release of such liens in consideration of said payment

and shall notify the Trade Trustee of said payment in accordance with the provisions of paragraph I. of Article XVI. hereof; provided, further, that in the event of foreclosure of the Deed of Trust, Mortgage, Assignment, Security Agreement and Financing Statement as provided in paragraph B. of Article II. below, the Trade Trustee shall be authorized to record such releases in order to cure title defects and to allow distribution of funds to secured and unsecured creditors as provided in paragraph D. of Article III. of this Agreement.

In the event the Trade Trustee determines the Company to be in default under the terms of the Deed of Trust, Mortgage, Assignment, Security Agreement and/or Financing Statement as provided in paragraph B. of Article II. below, the Trade Trustee shall promptly give written notice of such default to the Company. If the Company does not substantially cure such default within thirty (30) days following receipt of the Trade Trustee's notice of default, then the entire unpaid balance of the Indebtedness covered by the Plan, together with all accrued interest as provided herein, and all other debts secured by the said Deed of Trust, Mortgage, Assignment, Security Agreement and Financing Statement will be held and owned by the Trade Trustee pursuant to the provisions of Article VI. for the purpose of allowing the Trade Trustee to pursue collection of the Indebtedness covered by the Plan exclusively in such manner as is specifically provided herein.

ARTICLE II.

Conditions to Continued Effectiveness of Plan

Subject to the provisions of Article XIII, the Plan and the agreements of the Trade and Creditors hereunder shall continue in full force and effect if each of the following conditions is timely met or is waived as hereinafter provided, and shall terminate and be of no further force or effect if any of such conditions is not timely met or waived:

A. There shall be paid to the Trade Trustee on or prior to the Acceptance Date the amount of \$30,000.00, which amount shall be applied in accordance with the provisions of Article III. hereof.

B. The Company shall execute and deliver to the Trade Trustee hereinafter designated, prior to the Acceptance Date, a Deed of Trust, Mortgage, Assignment, Security Agreement and Financing Statement (collectively referred to herein as the "Mortgage"), in form and substance satisfactory to the Trade Trustee, the Company and the Bank Bank, N.A., the Company's principal lender ("the Bank"), securing payment of all indebtedness to Trade Creditors and to the Creditors covered by the Plan and certain other amounts contemplated by this Agreement to be paid by the Company, covering and (except as stated below) constituting a first and superior lien upon all of the Company's interest in oil and gas leases and leasehold estates in the States of Texas, Oklahoma, Montana, North Dakota, Louisiana and Wyoming, and the personal property located on or used in connection with the said leases, such Mortgage to be subject only to (i) the valid liens of the Bank and (ii) any lien securing future borrowings of the Company approved by the Bank not to exceed a total principal amount of \$40,000,000.00. The Mortgage shall contain an assignment (subordinate to the interests of the Bank) of one hundred percent (100%) of the runs of oil and gas from the producing oil and gas properties which shall be enforced only in the event of subsequent uncured default by the Company. The Company shall covenant and agree in the Mortgage to waive during the effective period of this Agreement the defense of the statute of limitations as to all actions brought by the Trade Trustee or any Trade or Creditor to collect any portion of the Indebtedness owed to Trade and Creditors and secured by the Mortgage in the event of any subsequent uncured default by the Company.

C. The Company shall execute and deliver to the Trade Trustee, prior to the Acceptance Date, a Security Agreement (the "Security Agreement") and an appropriate financing statement or statements in form and substance satisfactory to the Trade Trustee, the Company and the Bank, pursuant to which the

Company will grant to the Trade Trustee a security interest in all accounts receivable of the Company and grant to the Trade Trustee a security interest in all pipe, equipment and other personal property owned by the Company, as additional collateral securing payment of all Indebtedness to Trade and Creditors covered by the Plan and certain other amounts contemplated by this Agreement to be paid by the Company, such Security Agreement to be subject only to the valid, present and future liens of the Bank.

D. Not less than one hundred percent (100%) in dollar amount of the Trade and Creditors having claims covered by the Plan have accepted and become a party to this Agreement prior to October 1, 1982, (which date and any extension thereof as provided below being herein referred to as the "Acceptance Date"); provided, however, that if more than fifty percent (50%), but less than one hundred percent (100%), in dollar amount of such Trade and Creditors evidence their acceptance of this Agreement on or prior to October 1, 1982, and it then appears to the Trade Trustee, the Company and the Bank that, by the extension of time for execution by such Trade and Creditors, there is a reasonable likelihood that this Agreement might be approved by all or substantially all of the remaining Trade and Creditors, then the Trade Trustee is authorized, upon approval by the Creditors' Committee (as described and organized in Article VIII. hereof), the Company and the Bank to extend such time for approval for a further period of time not to exceed thirty (30) days; provided, further, that although it is contemplated that one hundred percent (100%) of such Trade Creditors will be required to evidence their acceptance of this Agreement, nevertheless, if not less than ninety percent (90%) in dollar amount of such Trade and Creditors evidence their approval hereof within the time periods specified above and, if in the opinion of the Creditors' Committee, the Company and the Bank, the intent

and purpose of this Agreement can be accomplished despite the fact that less than one hundred percent (100%) of such Trade Creditors have evidenced their approval, then the Creditors' Committee in its discretion, with the approval of the Company and the Bank, is authorized to declare this Agreement to be in full force and effect and this Agreement shall then be binding upon all Trade and Creditors who have accepted this Agreement.

E. The Company shall deliver to the Trade Trustee on or prior to the Acceptance Date an affidavit of a responsible financial officer of the Company to the effect that all creditors whose claims, according to the accounting records of the Company at August 16, 1982, amounted to \$_____ or less, have been paid in full in cash.

F. The Trade Trustee shall receive on or prior to the Acceptance Date an agreement from the Bank, in form and substance satisfactory to the Trade Trustee, wherein the Bank agrees (i) to the execution and delivery by the Company of the Mortgage for the benefit of the Trade Creditors (subject to the subordination provisions described in paragraphs B and C of this Article II), agrees not to make any further advances to the Company without notice to the Creditors' Committee, (ii) not to commence foreclosure proceedings against the Company during the six (6) month Moratorium Period, plus all extensions thereof as granted pursuant to Article IX. hereof, including any extension or extensions to the Moratorium Period as may be granted by the Creditors' Committee pursuant to Article IX. hereof, unless the Trade Trustee has declared the Company to be in default under the terms of the Mortgage, which default is not substantially and timely cured, and (iii) not to commence foreclosure proceedings against the Company in any event without first giving reasonable notice thereof to the Trade Trustee.

G. All actions to be taken by the Company in approving this Agreement shall be duly and validly authorized by the Board

of Directors of the Company and further such corporate action as may be required by state law to authorize the execution of this Agreement and satisfactory evidence of such authorization shall be delivered to the Trade Trustee on or prior to the Acceptance Date.

H. No default exists under the terms and provisions of the Mortgage on the Acceptance Date, which fact will be acknowledged in writing by the Trade Trustee on the Acceptance Date.

I. No proceeding under the Bankruptcy Reform Act of 1978 has been instituted by or against the Company on or before the Acceptance Date.

ARTICLE III.

Application of Proceeds and Method of Payment of Trade Creditors' Claims

Proceeds received by the Trade Trustee shall be applied in the following manner and the Trade and Creditors shall receive distributions on the Indebtedness covered by this Agreement as follows:

A. The amount received by the Trade Trustee pursuant to paragraph A. of Article II. of this Agreement shall be used to establish a fund for the reasonable costs and expenses of the Creditors' Committee and the Trust hereinafter created; provided, however, that the Trade Trustee, at the direction of the Creditors' Committee hereinafter constituted, may also create a fund out of any proceeds of said Trust for payment of the reasonable costs and expenses of the Creditors' Committee and said Trust.

B. If the Company has the capacity to pay the Indebtedness to the Trade and Creditors covered by the Plan in full with interest, then such aggregate amount shall be paid to and promptly distributed by the Trade Trustee to the Trade Creditors and, to the extent of their approved Indebtedness, to the Creditors, in full satisfaction of the Indebtedness covered by the Agreement.

C. In the event that any partial payments on the Company's Indebtedness covered by the Plan are made to the Trade Trustee prior to the expiration of the Moratorium Period (and extension(s) thereof), such payments shall be distributed by the Trade Trustee, first, to pay all Trade Creditors holding valid mechanics' and materialmen's lien debt (as determined pursuant to the provisions of Article IV. hereof) on a pro rata basis (i.e., the percentage of each such lien creditor's share being determined by dividing such creditor's valid lien debt as determined under Article IV. by the total valid lien debt as determined under Article IV.) until such lien claims are paid in full, together with accrued interest as provided herein (_____ % per annum from September 1, 1982, to date of payment), and second, to pay the unsecured indebtedness owing to Trade Creditors and to the _____ Creditors (if any indebtedness be due) on a pro rata basis until such unsecured Trade Creditors and _____ Creditors are paid in full all amounts due, together with accrued interest as provided herein (_____ % per annum from September 1, 1982, to date of payment).

D. In the event of uncured default and enforcement of remedies by the Trade Trustee, proceeds realized by the Trade Trustee from foreclosure under the Security Agreement and from any suits on any of the Indebtedness covered by the Agreement against the Company shall be distributed to the Trade Creditors and the _____ Creditors (to the extent of any indebtedness due) on a pro rata basis. In the event of foreclosure of the real estate Mortgage, all valid lien claims shall receive one hundred percent (100%) of each distribution of proceeds of production or sale attributable to liquidation of the property subject to their claims until the amount of each lien claim, together with interest and costs, has been paid in full. After such lien claims are paid in full, each distribution of proceeds of production or sale attributable to the liquidated properties which were subject to the lien claims shall be disbursed on a

pro rata basis to all Trade and Creditors, after appropriate credit has been made on the accounts of the Trade Creditors receiving distributions on account of their lien claims. After foreclosure of the real estate Mortgage, the proceeds of production or sale attributable to properties of the Company which are not subject to mechanics' and materialmen's lien claims shall be distributed by the Trade Trustee to the Trade and Creditors on a pro rata basis. After foreclosure of the Mortgage, in the event that there remains an excess of proceeds in the Trust hereinafter created, after all Indebtedness covered by the Plan is paid in full, together with interest as provided herein, such excess shall be distributed by the Trade Trustee to the Company.

ARTICLE IV.

Provisions Relating to Mechanics' and Materialmen's Liens and Other Involuntary Liens and Determination of Valid Lien Indebtedness

All Trade Creditors who filed mechanics' and materialmen's liens or other involuntary liens under state law against properties of the Company shall submit copies of their lien claims and supporting invoices to the Creditors' Committee, which shall review such lien claims and determine the validity of the liens, i.e., (i) whether the lien claims were timely filed, (ii) whether the services or materials were actually furnished to the Company, (iii) whether the descriptions of the property set forth in the lien claims are adequate, (iv) whether other statutory requirements for valid claims were complied with by the lien claimants, and (v) whether the fair market value of the lease is sufficient to secure the lien indebtedness. The total burdens against each lease of the Company (the term "total burdens" being defined to mean the sum of the unpaid royalty, unpaid overriding royalty, unpaid taxes and valid contractual liens against each lease) shall be computed, and the mechanics' and materialmen's liens on each lease shall be paid in full together with accrued interest as provided herein to the extent the fair market value of each lease reduced by the

total burdens is equal to or exceeds the total mechanics' and materialmen's lien indebtedness against such lease. If the fair market value of a particular lease, reduced by the total burdens with respect to such lease, is not sufficient to pay the mechanics' and materialmen's lien indebtedness against such lease in full together with accrued interest, then the valid mechanics' and materialmen's lien claims against such lease shall be reduced on a pro rata basis to an amount equal to the fair market value of such lease less the total burdens against such lease.

The Creditors' Committee shall advise each lien creditor as to the amount and validity of such creditor's lien claims as determined by the Creditors' Committee. To the extent that agreement cannot be reached as to the validity and amount of any lien claim among the Creditors' Committee and the holders of such lien claims, the matter shall be submitted to a three-member board of arbitration, one member to be selected by the Creditors' Committee, one by the creditor involved and one by those two selected members. A majority decision of such board shall be binding on all parties. Costs incurred in connection with such arbitration procedures shall be paid as agreed to by the board of arbitration and the Trade Trustee, but not by the Company.

With respect to the claims of the Creditors, the legal obligation of the Company to pay any amount to any such Creditor, the validity of each separate claim of each such Creditor and the amount of each such claim shall be determined by the same procedure as is used for determining the validity and amount of each mechanics' and materialmen's lien claim.

ARTICLE V.

Payments by the Company and Remedies of the Trade Creditors

The Mortgage and all other security instruments delivered by the Company to the Trade Trustee shall contain, in addition to such covenants, agreements and other events of default as may

be satisfactory to the Trade Trustee, the Company and the Bank, provisions to the effect that a default may be declared thereunder if not cured within thirty (30) days following the Company's receipt of the Trade Trustee's written notice of default, which declaration will terminate the agreements of forbearance of paragraph B. of Article I. and entitle the Trade Trustee to proceed to foreclose upon the assets covered by the Mortgage and said other security instruments, and if:

A. The Company shall not pay through the Trade Trustee its aggregate Indebtedness to Trade and (to the extent of the Company's legal obligation) the Creditors covered by the Plan, together with interest, such payment to be made within such time periods and upon such terms as may be permitted hereunder.

B. The Company shall not pay or cause to be paid, within the greater of (i) thirty (30) days after their due dates, or (ii) such other terms as may be agreed upon, _____% of each of its obligations for goods and services both present and future, other than the aggregate Indebtedness owed to the Trade Creditors which is covered by the Plan and debts which the Company is disputing in good faith.

C. The Company shall not pay within thirty (30) days after receiving appropriate statements approved by the Creditors' Committee, the Company and Interfirst all reasonable expenses incurred by the Creditors' Committee in placing this Agreement in effect, including printing and mailing charges, travel expenses and attorneys' fees for the preparation of this Agreement and all opinions, documents and other instruments which are required by the terms of this Agreement or by the Creditors' Committee in connection with this Agreement, and all future reasonable fees and expenses of the Trade Trustee appointed hereunder and any agent or employee designated by said Trade Trustee in accordance with the provisions of this Agreement, and the reasonable expense of holding meetings of

the Creditors' Committee in connection with matters arising during the term of this Agreement and relating to actions of the Trade Trustee or the Company under this Agreement.

D. The Company shall repay any debt to any insider of the Company in excess of Ten thousand and 00/100 (\$10,000.00) Dollars.

E. The Company shall fail to furnish within a reasonable time such financial and other information as may be reasonably requested by the Trade Trustee at reasonable intervals during the term of this Agreement.

F. The Company shall substantially breach and thereafter fail to timely cure any material covenant, warranty or condition of the real estate Mortgage or Security Agreement.

ARTICLE VI.

Creation of Trust

The Trade Creditors hereby establish a Trust (hereinafter referred to as the "Trust") for the purpose of receiving the Mortgage, the Security Agreement, and any other assets and payments to be delivered by the Company or any third party (hereinafter referred to as the "Trust Property") to _____ of Dallas, Texas (the "Trade Trustee"), liquidating and distributing assets transferred to it and carrying on all activities which are reasonably necessary to and consistent with the liquidation and distribution of such assets.

Pursuant to the authority granted to the Creditors' Committee to be established pursuant to the terms of this Agreement, and upon the direction from that Creditors' Committee, when so permitted hereunder, the Trade Trustee shall have full power and authority to:

1. Perfect and secure his right, title and interest to the collateral and properties comprising the Trust Property;
2. Reduce all of said properties to his possession and hold the same;

3. Sell and convert the properties to cash and distribute the net proceeds as specified herein;

4. Manage, operate, improve, protect and produce the properties and distribute the net proceeds, as specified herein;

5. Lease or renew leases;

6. Grant options to purchase and to contract to sell and sell the property owned by the Trust or any part or parts thereof for such purchase price and for cash or on such terms as the Creditors' Committee shall deem appropriate;

7. Mortgage, pledge or otherwise encumber the properties owned by the Trust or any part thereof;

8. Exchange and re-exchange the said properties or any part or parts thereof for other real or personal property.

9. Release, convey or assign any right, title or interest in or about the property owned by the Trust;

10. Pay and discharge any mortgage or other lien or encumbrance against the properties owned by the Trust and pay and discharge any other costs, expenses or obligations deemed necessary to preserve the said properties or any part thereof or to preserve this Trust;

11. Improve or repair the said properties or any part thereof;

12. Purchase insurance of all kinds sufficient to protect fully the properties owned by the Trust and to protect from liability the Trustee, the Creditors' Committee and the employer of any member of the Creditors' Committee, when approved by the Bank;

13. Deposit Trust funds and draw checks and make disbursements;

14. Employ and have such attorneys, accountants, engineers, agents, realtors, rental agents, tax speci-

alists and clerical and stenographic assistance as may be deemed reasonably necessary, and which are approved by the Bank;

15. Employ brokers, investment brokers and salesmen, when approved by the Bank;

16. Borrow money on the security of the property owned by the Trust;

17. Issue certificates of indebtedness secured by the property owned by the Trust;

18. Exercise any and all powers granted to the Trade Trustee by the Mortgage and Security Agreement;

19. Take any action required or permitted by this Agreement;

20. Engage in and carry on any business or undertaking and enter into any partnership with any person, firm, corporation or any trustee under any other trust;

21. Enter into contracts and execute obligations negotiable and nonnegotiable;

22. Vote shares of stock in person or by proxy, with or without power of substitution;

23. Alone or with others form, reorganize or extend the life of any corporation and exercise or perform any and all rights, privileges and powers inuring to the holder of any stock or securities comprising at any time a part of the Trust Property;

24. Sue and be sued;

25. Settle, compromise or adjust by arbitration or otherwise any disputes or controversies in favor of or against the Trust estate;

26. Waive, subordinate or release liens or rights of any kind;

27. Appoint, remove and act through agents, managers and employees and confer upon them such power and authority as may be necessary or advisable, with the

prior approval of the Bank;

28. Sell, convey and/or lease or acquire rights or interests of any and every character in oil, gas and other minerals or any one or more of them, including, but not limited to the power to make and release oil, gas and mineral leases and subleases covering one or more of said substances or any interest or interests, or right or rights, therein and make mineral deeds and royalty transfers covering oil, gas and other minerals or any one or more of them or any interest or interests or right or rights therein and create, reserve and dispose of overriding royalties, oil payments, gas payments and any one or more of the foregoing and execute division orders and transfer orders and enter into development and drilling contracts, gas purchase contracts and operating contracts and unitization agreements for present or future pooling of any and all interests in oil, gas and other mineral properties with all of the rights and powers that an individual has in conducting his own oil business, all with the prior approval of the Bank;

29. Consent to the modification or release of any guaranty of any mortgage or lien;

30. Continue mortgages upon and after maturity with or without renewal or extension upon such terms as may be advisable, without reference to the value of the security at the time of such continuance;

31. Foreclose as an incident to the collection of any debt and bid in property at such foreclosure sale or to acquire the property by deed from the mortgagor or obligor without foreclosure; and

In general, without in any manner limiting any of the foregoing, deal with the property owned by the Trust or any part or parts thereof in all other ways as would be lawful for any person owning the same to deal therewith, whether similar to or

different from the ways above specified, at any time or times hereafter, all (where not otherwise specified above) with the prior approval of the Bank.

The Trade Trustee shall be directed in all things by a Creditors' Committee to be formed under this Agreement and all orders and directions of the said Committee, adopted in accordance with the procedures set forth in this Agreement, shall confer full and complete authority upon the Trade Trustee to do and perform all acts, to execute all documents and to make all payments and disbursements of funds directed to be done, executed, performed, paid and disbursed by the provisions of this Agreement.

At the direction of the Creditors' Committee, the Trade Trustee shall have the power to invest funds of the trust in demand and time deposits in any national bank which is an authorized depository for bankruptcy funds in the federal district in which the Trade Trustee resides or to make temporary investments in short-term certificates of deposit in such banks or in Treasury bills.

The Trade Trustee shall distribute available proceeds from the sale of assets or income from investments to Trade Creditors on at least an annual basis.

In the event of uncured default declared in accordance with the provisions of this Agreement or the Mortgage, the Trade Trustee shall cause the Mortgage to be foreclosed in accordance with applicable law and the provisions of this Agreement. The Trade Creditors hereby specifically appoint the Trade Trustee as attorney in fact or agent for the purpose of causing foreclosing the lien of the Mortgage and hereby assign to the Trade Trustee all of their debt covered by the Agreement together with all their rights, claims, liens and causes of action in connection therewith including the right and authority to bring an appropriate suit or suits to collect such debts or recover a deficiency judgment against the Company. Any of the

Trade and/or Creditors desiring to bid at any sale resulting from such foreclosure, whether judicial or private, must bid cash. The Trade Trustee is authorized to bid such portion of the Indebtedness as may be necessary or required at such foreclosure sales to obtain title to the properties covered by the Mortgage. After foreclosure, any proceeds resulting from the property covered by the Mortgage, whether from income or from sales, shall be distributed by the Trade Trustee as provided in the Mortgage and in paragraph D of Article III of this Agreement. After foreclosure, the Trade Trustee may deal with the property owned by the Trust pursuant to the powers contained in this Agreement and subject to the directions of the Creditors' Committee as provided in this Agreement.

In the event of uncured default declared in accordance with the provisions of this Agreement or the Security Agreement, the Trade Trustee shall take such action as may be appropriate to foreclose the lien of the Security Agreement in accordance with applicable law and shall distribute any amounts recovered thereby to Trade Creditors on a pro rata basis as provided in paragraph D of Article III of this Agreement.

In no case shall any party dealing with the Trade Trustee in any manner whatsoever in relation to the properties owned by the Trust or to any part or parts thereof, including but not limited to any party to whom said properties or any part thereof shall be conveyed, contracted to be sold, leased or mortgaged by the Trade Trustee, be obligated to see to the application of any purchase money, rent, proceeds of oil or gas runs, or money borrowed or advanced on said properties, or be obligated to see that the provisions of this Agreement or the terms of this Trust or any direction from the Creditors' Committee have been complied with, or be obligated or privileged to inquire into the necessity or expediency of any act of the Trade Trustee, or to inquire into the approval of the Creditors' Committee to such act of the Trade Trustee, or to inquire into any other limi-

tation or restriction of the power and authority of the Trade Trustee, but as to any party dealing with the Trade Trustee in any manner whatsoever in relation to the properties owned by the Trust, the power of the Trade Trustee to act or otherwise deal with said properties shall be absolute.

The Trade Trustee shall keep or cause to be kept books containing a description of all property from time to time constituting the Trust Estate and an accounting of all receipts and disbursements, which records shall be open to inspection by any Trade or Creditor at all reasonable times, and the Trade Trustee shall otherwise keep the Trade and Creditors informed in the matter of this Trust. The Trade Trustee shall furnish to the Trade and Creditors annually a statement of receipts and disbursements from the Trust.

All reasonable costs, expenses and obligations approved by the Creditors' Committee, the Company and the Bank and incurred by the Trade Trustee in administering this trust or in any manner connected, incidental or related thereto and all costs of preparing this Agreement, and obtaining its execution, including attorney's fees and expenses, shall, if not paid by the Company, be a charge against the properties owned by the Trust and remaining from time to time in the hands of the Trade Trustee, and the Creditors' Committee, the Company and the Bank, upon being satisfied as to the correctness of any and all such costs, expenses and obligations, shall approve and direct the payment thereof prior to a distribution to the Trade Creditors as herein provided or shall maintain adequate reserves for such payment prior to making distribution to the Trade Creditors.

No recourse shall ever be had, directly or indirectly, against the Trade Trustee personally or against the Trustee under the Mortgage or against the Creditors' Committee or any member thereof or against the Trade Creditors (including, without limitation, the employers of members of the Creditors'

Committee) or any of them or against any employee of the Trade Trustee or of the Creditors' Committee, by legal or equitable proceedings or by virtue of any statute or otherwise, or any deed of trust, mortgage, pledge, note, nor upon any promise, contract, instrument, undertaking, obligation, covenant or agreement whatsoever executed by the Trade Trustee under this Agreement or by the Trustee under the Mortgage or by the Creditors' Committee or by any person employed by the Creditors Committee, or by reason of the creation of any indebtedness by the Trade Trustee under this Trust for any purpose authorized by this Trust, save and except only such recourses as may arise from acts of negligence, willful misconduct or criminal intent, it being expressly understood and agreed that all such liabilities, covenants and agreements of the Trade Trustee or the Trustee under the Mortgage or the Creditors' Committee or any such employee, whether in writing or otherwise, under this Trust shall be enforceable only against and be satisfied only out of the Trust Property or such part thereof as shall under the terms of any such agreement be liable therefor or shall be evidence only of a right of payment out of the income, proceeds and avails of the Trust Property, as the case may be; and every undertaking, contract, covenant or agreement entered into in writing by the Trade Trustee or the Creditors' Committee shall provide expressly against the personal liability (as herein limited) of the Trade Trustee or the members of the Creditors' Committee and of the Trade Creditors.

The Trade Trustee shall receive reasonable compensation for his services in an amount agreed upon between him, the Creditors' Committee, the Company and the Bank, which fee, if not paid by the Company as provided herein, shall be a charge against and paid out of the Trust Property.

The Trade Trustee shall not be liable for any act he may do or omit to do as trustee hereunder while acting in good faith and in the exercise of his best judgment, and the fact that such

act or omission was advised, directed or approved by the Creditors' Committee or advised by an attorney acting as attorney for this Trust, shall be evidence of such good faith and best judgment; nor shall the Trade Trustee be liable in any event except for his own negligence or willful default or criminal misconduct.

The Trade Trustee may resign at any time by giving written notice of his intention so to do addressed to the Chairman of the Creditors' Committee and such resignation shall be effective upon the date provided in such notice.

In the case of the resignation of the Trade Trustee, a successor in trust shall thereupon be appointed by an instrument in writing, signed and acknowledged by the Creditors' Committee and delivered to the resigning Trade Trustee, the Bank and the Company whereupon such resigning Trade Trustee shall convey, transfer and set over to such successor in trust by appropriate instrument or instruments all of the Trust Property then un conveyed or otherwise undisposed of and all other assets then in his possession and held hereunder. Said successor shall thereupon be vested with all the rights, privileges, powers and duties of the Trustee named herein. Each succeeding trustee may in like manner resign and another may in like manner be appointed in his place.

If the Creditors' Committee at any time desires to terminate the rights of the Trade Trustee then acting under this Trust and appoint a new Trade Trustee in his stead, the Creditors' Committee may do so by a written instrument, addressed to such Trade Trustee then acting, to the Bank and to the Company, and thereupon like conveyances as in the case of resignation of the Trade Trustee as aforesaid shall be made by the Trade Trustee then acting to the newly appointed Trade Trustee, and thereupon such new Trade Trustee shall be vested with all the rights, privileges, powers and duties of the Trade Trustee herein named. In like manner, a new Trade Trustee may

be appointed from time to time in writing, addressed to the Trade Trustee acting for the time being, and to the Bank and the Company. In the event of the death or inability to act of the Trade Trustee, a successor Trade Trustee shall be selected by the Creditors' Committee and such successor Trade Trustee shall be vested with all the rights, privileges, powers and duties of his predecessor upon the filing of a certificate by the Secretary of the Creditors' Committee in the records of the counties in which Trust Property is located stating the facts relating to such appointment.

This Agreement and Trust shall be effective as of the day and year first above written, and, subject to termination pursuant to Articles II and XIII hereof, shall remain and continue in full force and effect until the earlier of the following: (1) the Indebtedness to Trade and Creditors covered by the Plan has been paid in full, or (2) the property subject to the Trust has been wholly converted to cash and all costs, expenses and obligations incurred in administering this Trust have been fully paid and discharged and all remaining income, proceeds and avails of the Trust Property have been distributed to the Trade Creditors, or (3) a federal bankruptcy proceeding has been instituted; provided, however, the Trust created herein shall terminate within three (3) years from the date on which the Trust is created or within such further time as is reasonably necessary to accomplish full liquidation and/or disbursement; and provided, further, that the Trade Trustee will make continuing efforts to dispose of the Trust assets, make timely distributions, and not unduly prolong the duration of the Trust.

The Trade Trustee, in exercising the powers granted to him under this Agreement, shall act thereon only with the prior approval of the Creditors' Committee and the Trade Trustee shall execute or otherwise carry out any act or deal in respect to the Trust Property as the Creditors' Committee may direct,

said Creditors' Committee being authorized and empowered to direct and control the acts of the Trade Trustee in all things relating to the Trust Property. The Creditors' Committee may establish such rules and regulations as it may deem appropriate with regard to the deposit of Trust funds, the drawing of checks and the making of disbursements by its Trustee, the procedure to be followed by its Trustee in seeking the approval of the Creditors' Committee to any proposed action of the Trustee relating to the Trust Property, the manner in which it shall direct its Trustee to act and any other matters pertaining to the Trust Property.

ARTICLE VII.

The Creditors' Committee

The Trade Creditors hereby constitute a Creditors' Committee of eleven (11) members to represent them in connection with the agreements contained herein. The Creditors' Committee is composed of the following members:

The Creditors' Committee shall function under the following rules:

1. Any member of the Committee may act by proxy. In the event of the death, resignation or inability of any member of the Committee to act, his successor shall be named by the surviving members of the Committee. The Committee may, by appointment, add other representatives of creditors to its membership.

2. The Committee shall prescribe its own rules of procedure, subject, however, to the following requirements:

(a) The Committee shall elect from its members a Chairman and a Secretary;

(b) Any notice required to be given to the Committee shall be by written notice, addressed to the members at the addresses stated above or at such other address as any present or future member of the Committee may designate in writing to the Secretary of the Committee;

(c) The Secretary shall keep written minutes of all meetings of the Committee;

(d) All action by the Committee shall be upon the affirmative vote of a majority of the whole Committee;

(e) Presence of a majority of the members shall constitute a quorum;

(f) Approval of any action may always be evidenced by the written consent of a majority of the Committee.

3. Each member of the Committee as it may be constituted from time to time shall use his best judgment and discretion in all things connected herewith and shall not be personally liable in any case whatever arising in connection with the business of this Trust, either for his acts or for his failure to act, unless he himself shall

have been guilty of willful fraud, willful misconduct or negligence, and in no case shall the employer of any member be liable for such member's acts or failures to act. No member or his employer shall be held liable or responsible for the willful fraud, willful misconduct or negligence of any other member of the Committee, or an employee of the Committee, or of the Trade Trustee.

ARTICLE VIII.

Verification of Accounts

The amounts owing to the Trade Creditors as set forth on Exhibit A and the amounts which may be owing to the Creditors as set forth on Exhibit B are the amounts reflected by the accounting records of the Company as of the date shown in the Exhibits and such amounts, with respect to the Trade Creditors only, are true and correct according to the best information available to the Creditors' Committee. If any Trade Creditor disputes the amount of his claim as reflected by Exhibit A, which amount will be furnished to each Trade Creditor in accordance with the provisions of this Agreement, as being a true and correct amount due and owing to him by the Company, he shall notify the Trade Trustee in writing of the amount of his account as of the date reflected in the Exhibit according to his own records and shall furnish an itemization of such account with supporting invoices all verified by affidavit. Such notification shall be given to the Trade Trustee no later than October 1, 1982. In the absence of such notification, the amount of the accounts of each of the Trade Creditors as set out in Exhibit A shall be conclusively presumed to be true and correct and the amounts of the accounts of each of the Creditors shown on Exhibit B shall be conclusively presumed to be the highest amount which may be asserted.

Upon receipt of notice of a dispute in the amount of any account as aforesaid, the Trade Trustee and the Creditors' Committee shall investigate the matter and make such adjustment as may be agreeable between the Trade Creditor involved and the

Creditors' Committee. If no agreement can be reached, the matter will be submitted to a three-member board of arbitration, one member to be selected by the Creditors' Committee, one by the Trade Creditor involved and those two shall choose a third arbitrator. A majority decision of such board shall be binding on all parties. Costs incurred in connection with such arbitration procedures shall be paid as agreed to by the board of arbitration and the Trade Trustee, but not by the Company.

ARTICLE IX.

Waivers and Extensions

The Trade Trustee, acting pursuant to instructions from the Creditors' Committee, may extend time periods provided for in this Agreement (except the time periods provided for in Paragraph D of Article II, which shall be absolute) for such lengths of time as the Creditors' Committee and the Bank may deem reasonable under the circumstances, may waive compliance or extend the time for performance of any condition set forth in this Agreement, and, specifically, may from time to time extend the payment date or modify payment amounts for Trade and/or Creditors as set forth in Article V for any reasonable period of time prescribed by the Creditors' Committee. A "First Extension" (see Article I, A) of six (6) months shall be unconditionally granted upon the joint request of the Company and the Bank, if at the time of such request, there shall exist no uncured default of the provisions of the Mortgage by the Company.

ARTICLE X.

Assignment

A. It is understood and agreed that the account of each Trade Creditor reflected in Exhibit A shall not be assignable during the terms of this Agreement except by operation of law and no assignment by operation of law shall be effective until appropriate notification and proof thereof is submitted to the

Trade Trustee, and the Trade Trustee may continue to pay all amounts to the parties reflected in Exhibit A until receipt of proper notification and proof; provided, however, that any Trade Creditor may create a security interest or lien upon the interest of such Trade Creditor under the Trust and payments may be made to the holder of such security interest or lien by the Trade Trustee upon receipt of proper notification and proof of creating such security interest or lien; and provided further that any Trade Creditor may assign its interest under the Trust to an affiliated entity of such Trade Creditor and payments may be made to such affiliated entity by the Trade Trustee upon receipt of proper notification and proof of such assignment.

B. In the event that any Trade Creditor holds a note or notes for all or any portion of his account as set forth in Exhibit A, such Trade Creditor agrees to endorse such note or notes with a legend that such are subject to the terms of this Agreement.

ARTICLE XI.

Special Payments

Notwithstanding any provision of this Agreement, in the event of extreme hardship in the case of any trade creditor, the Creditors' Committee may approve and direct the Trade Trustee to make payments to such creditor in any amount in excess of his pro rata share of distributions to relieve such extreme hardship. Further, in the event it appears to be in the best interest of the Trade and Creditors and necessary to preserve the Trust Property or necessary to the continued existence of this Agreement, the Creditors' Committee may authorize payment of debts or obligations of the Company in preference to distributions pursuant to Article III of this Agreement. It is contemplated that the Creditors' Committee will exercise its discretion in either of the two instances set forth above, if at all, only in extreme cases.

ARTICLE XII.

Termination of Mortgage and
Security Agreement

Notwithstanding the fact that the Mortgage and Security Agreement are delivered by the Company to the Trade Trustee and recorded or filed of record or a financing statement or statements filed, said Mortgage and Security Agreement shall be void and of no effect whatever if the Plan is terminated as a result of the failure to meet any of the conditions specified in Article II above which are not waived, or if Article XIII shall become applicable. Upon delivery of the Mortgage and Security Agreement by the Company to the Trade Trustee, the Trade Trustee shall contemporaneously execute, or cause to be executed, and deliver, or cause to be delivered, a release, re-assignment, waiver and such additional documentation as may reasonably be requested by the Company of said Mortgage and Security Agreement which release, re-assignment, waiver and additional documentation shall be delivered in escrow to a third party satisfactory to the Trade Trustee and the Company (the "Escrow Holder"). The Trade Trustee and the Company shall each furnish to the Escrow Holder no later than fifteen (15) days following the Acceptance Date a written representation stating whether each condition set forth in Article II has been satisfied. In the event the Trade Trustee and Company shall represent to the Escrow Holder that one or more of said conditions shall not have been satisfied and shall not have been timely and substantially cured, and the same shall not have been waived by the Trade Trustee or the Company, the Escrow Holder shall deliver said release, re-assignment and waiver of the Mortgage and Security Agreement then held by it to the Company which the Company may then file and record. In the event the Trade Trustee and the Company represent that said conditions have been satisfied or waived, the Escrow Holder shall deliver said release, re-assignment and waiver of said Mortgage and Security Agreement,

then held by it to the Trade Trustee and the Trade Trustee may destroy the same.

Each Trade Creditor and Creditor by executing a counterpart of this Agreement or an acceptance form, confers upon the Trade Trustee, his agents, nominees and representatives, in the event of termination of this Agreement, the power and authority to release, re-assign and waive the Mortgage and Security Agreement as described herein and further agrees that, in the event said Plan is terminated and said release, re-assignment and waiver are delivered to the Company and filed and recorded by the Company, he will not make any claim, assertion or allegation that he has or is entitled to any benefits, liens, or other rights under said Mortgage and Security Agreement.

ARTICLE XIII.

Conditional Termination

All parties hereto acknowledge that this Agreement is executory until such time as all conditions specified in Article II, Sections A. through I., have been met within the time periods therein described.

Thereafter (i. e., from and after the effective "Acceptance Date"), all parties hereto acknowledge that this Agreement is fully executed, the Company, at such time, being entitled to the moratorium and other benefits herein granted, in exchange for its promises to perform its specified obligations hereunder.

The parties hereto further acknowledge that it is the purpose and intent of this Agreement to structure a method by which bankruptcy reorganization and/or liquidation proceedings can be best avoided, the parties all agreeing that it is in their mutual best interests to rehabilitate this Company by means of this informal, out-of-court work-out mechanism.

Therefore, notwithstanding anything to the contrary in this Agreement, it is the understanding and agreement of all of the parties hereto, that, if the purpose and intent of this

Agreement is frustrated by the commencement, on or after the effective "Acceptance Date" of this Agreement, of any proceeding under the Bankruptcy Reform Act of 1978, then this Agreement shall be null and void, ab initio; further, upon such commencement of any federal bankruptcy proceeding, all mortgages, security agreements, financing statements, transfers, grants, conveyances, assignments, promises, obligations, delegations of power, trust powers and other legal rights, powers, or benefits conferred under this Agreement shall be null and void, ab initio. To evidence the legal invalidity and ineffectiveness of (i) all actions taken pursuant to this Agreement, (ii) all documents executed and delivered in connection herewith, and (iii) the perfection of all security and mortgage interests granted by the Company pursuant hereto, it shall be sufficient for the Company to file, in all appropriate places of recordation, a certificate of the commencement of such federal bankruptcy proceeding along with appropriate excerpts from this Agreement (including the language of this Article XIII.), the recordation of which Certificate shall be deemed and shall legally be effective as a full and final release of any and all such security and mortgage interests and financing statements, as well as a release and termination of all grants, transfers, conveyances, assignments, promises, obligations, delegations of power, trust powers, and other legal rights, powers and benefits conferred under this Agreement, and all documents executed and delivered in connection herewith.

ARTICLE XIV.

Relationship of the Parties

Nothing in this Agreement shall be construed to change the relationship existing between the Company and the Trade and Creditors to one other than a debtor-creditor relationship, nor to modify such debtor-creditor relationship as it now exists, nor is this Agreement intended to change or in any way affect the relationship among the Trade and Creditors except as

specifically provided in this Agreement. This Agreement is not intended nor shall it be construed to create a partnership or joint venture relationship between any of the parties to the Agreement or between such parties and the Company. The Creditors' Committee created under this Agreement is intended solely as a means by which matters affecting the interests of Trade and Creditors can, within the authority herein granted, be determined on behalf of such creditors, and it is not intended nor shall the Trade Trustee or the Creditors' Committee or any Trade or Creditor usurp the managerial functions of the Board of Directors and officers of the Company.

ARTICLE XV.

Counterpart Execution

This Agreement may be executed by the Trade and Creditors in any number of counterparts and each of said counterparts when so executed shall be deemed an original and all of which collectively shall constitute a single agreement. This Agreement and an excerpt from Exhibits A and B showing the account of each Trade and Creditor to whom this Agreement is delivered shall be delivered by the Creditors' Committee to all parties concerned. In lieu of full counterpart execution the Creditors' Committee may furnish an acceptance form for execution by each Trade and Creditor and such acceptance form shall be sufficient to evidence the agreement of such Trade and Creditor to the provisions of this Agreement.

ARTICLE XVI.

General Provisions

A. From time to time after the approval of this Agreement by any Trade or Creditor, the Trade Trustee, without further consideration, may request and the Trade and Creditors shall execute and deliver such further instruments or documents as the Trade Trustee may deem necessary or appropriate in order to carry out the intention and provisions of this Agreement.

Specifically, the Trade and Creditors shall forthwith upon request by the Trade Trustee furnish properly executed powers of attorney and assignments of debt in recordable form satisfactory to the Trade Trustee in connection with the foreclosure provisions of this Agreement and the Mortgage.

B. Each Trade and Creditor agrees, by approval of this Agreement, that this Agreement shall cover only the principal amount of each Trade and Creditor's indebtedness and shall not include any interest, attorneys' fees or other charges. In the event the amounts listed in Exhibits A and B shall include any interest, attorneys' fees or other charges, each Trade and

Creditor agrees to notify the Creditors' Committee and to eliminate such amounts from its account and to refund any distributions made under this Agreement on the basis of such charges. Further, any Trade or Creditor who has received any payment on its account or who has repossessed, or taken possession of any goods or materials of the Company shall agree to notify the Creditors' Committee, to credit its account accordingly and to refund any distributions made under this Agreement on the basis of such amounts.

C. The rights and remedies reserved to the Trade Trustee under this Agreement shall be cumulative and additional to any other or further rights and remedies available at law or in equity and no waiver of a breach of any provision of this Agreement shall constitute a waiver of any subsequent breach or a waiver of such provision.

D. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, devisees and successors.

E. This Agreement shall be governed by and shall be construed and enforced in accordance with the laws of the State of Texas.

F. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contem-

plated herein and no modification, alteration or amendment of this Agreement shall be valid or effective unless executed in writing by all parties hereto, except as specifically provided herein.

G. Should any clause, paragraph or article of this Agreement (other than Article XIII) be held judicially to be invalid, unenforceable or void, such holding shall not have the effect of invalidating or voiding the remainder of this Agreement and the parties hereby agree that the part or parts which may be held to be invalid, unenforceable or void shall be deemed to have been stricken herefrom with the same force and effect as if they had never been included in this Agreement.

H. The Trade Trustee shall notify the Company promptly of all amounts disbursed to the Trade and Creditors pursuant to the Plan, such notification to show the amount paid to each Trade and Creditor.

I. Each Trade Creditor holding a mechanics' or materialmen's lien, judgment lien, operator's lien or other involuntary lien or liens or a contractual lien received in lieu of such lien or liens shall notify the Trade Trustee promptly of any amounts collected outside of this Plan from the Company or third parties which reduces the debt of such Trade Creditor as set forth in Exhibit A and the Trade Trustee shall reduce the account of such creditor for purposes of determining the pro rata share of such Trade Creditor in future disbursements by the Trade Trustee.

J. No Trade or Creditor may withdraw his acceptance to the Plan once it has been delivered to the Trade Trustee.

IN WITNESS WHEREOF, this Agreement is executed this _____ day of _____, 1982.

TRADE/ CREDITOR:

Name of Company, Partnership
or Individual:

(Please Print)

Executed by:

ATTEST:

Secretary (if a corporation)

(Please sign and indicate capacity)

TRADE TRUSTEE:

This Agreement is executed by
the Trade Trustee to evidence
his acceptance of the Trust cr-
eated by this Agreement and his
agreement to perform strictly
with the terms and provisions of
this Agreement.

COMPANY:

THE COMPANY

ATTEST:

Secretary

By: _____
President

APPROVED:

THE BANK

By: _____
President

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

CASE NOS.

Debtors

ORDER AUTHORIZING USE OF CASH COLLATERAL

The Application for Authority to Use Cash Collateral and Motion for Expedited Hearing having come on to be heard, and the Court having reviewed such application and the objections filed in regard thereto, and it appearing to the Court that all proceeds of accounts receivable of (the "Debtor") constitute cash collateral of (the "Bank"), and the Bank, the Debtor and

B

(the Debtor's largest unsecured creditor) having advised the Court that they had reached agreement concerning use of cash collateral, based upon weekly budget projections of the Debtor and projections for orders to be completed and shipped in July, 1982, such use of cash collateral to be subject to approval of the Court, it is accordingly

ORDERED, ADJUDGED and DECREED:

1. Subject to the qualifications set forth below, a hearing on continued use of cash collateral by the Debtor is scheduled to be held at 3:30 p.m. on July 13, 1982, if requested by the Bank, the Official Creditors' Committee (the "Committee"), or

, provided such hearing must be requested by 12:00 noon on July 12, 1982, and counsel for the Debtor, counsel for the Bank, and members of the Committee must be served with a copy of the notice requesting such hearing by such time.

2. Notwithstanding the foregoing, it is not contemplated that a hearing will be held, and the Bank shall not have a right to request a hearing in the event that the following conditions have been met by 3:00 p.m., July 9, 1982:

a. The Debtor and a representative of the Bank and the Committee shall have jointly verified the terms and conditions of the orders listed in paragraph c below, including the delivery date thereof, the status of such orders, the estimated payment date, and the absence of

known material claims by third parties to the proceeds arising from such orders.

b. The Debtor shall engage an independent consultant satisfactory to the Bank and the Committee, who shall have verified to the Bank and the Committee the progress of the orders listed in paragraph c below, the percentage of completion thereof, and the reasonable likelihood of the shipment thereof by July 31, 1982.

c. The Debtor shall have provided to the Bank and the Committee a report showing the cost of pre-petition inventory in each of the orders hereafter listed below, the cost of post-petition inventory for new material required to complete such jobs, and other relevant cost data. The orders scheduled for delivery in July, 1982, are stipulated to be (2 orders, at \$563,870 and \$905,485, respectively);
(\$341,407); (\$293,943);
(\$699,413); (\$329,203).

3. In order to secure the post-petition obligations of Debtor to Bank and to secure Bank to the extent pre-petition inventory and accounts receivable are used, Debtor will be and hereby is, required to execute a Security Agreement and other documents in favor of Bank, thereby granting to Bank a security interest in and to all of Debtor's inventory and accounts receivable and proceeds thereof. Debtor by signature of its representative to this order, acknowledges and validates, for the limited purpose of securing Bank for the post-petition obligations of Debtor to Bank and for the diminution of Debtor's pre-petition inventory and accounts receivable, Bank's pre-petition mortgages encumbering Debtor's real property, equipment and improvements. In the event that the Bank shall be undersecured

for the above-described post-petition advances and diminutions, then to that extent, the post-petition obligations of Debtor to Bank shall be afforded the highest priority pursuant to 11 U.S.C. §364(c)(1) as an expense of administration. Debtor shall execute documents substantially similar to those pre-petition documents executed by _____ and subject to such changes thereto as Bank reasonably may require to evidence the obligations, liens and mortgages described in this Order.

4. So long as this Order (or a successor thereto) shall be in effect, then all accounts receivable collected by Debtor shall be deposited in the Bank lockbox as provided in the previous agreements between _____ and the Bank. The Debtor and its United States affiliates may utilize funds actually received by the Debtor, and may expend a total amount not to exceed \$732,000 for the week ended July 2, \$375,000 for the week ended July 9, \$626,000 for the week ended July 16, and \$280,000 for the week ended July 23, in payment of customary and normal payroll and ordinary operating expenses. Utilization of such funds is to be limited to expenses of _____ and, through inter-company advances from _____ which advances are deemed to have been made in the ordinary course of business, and which advances shall not be deemed to constitute a substantive consolidation, expenses of _____ and _____ and the

operations of the foregoing entities in the continental United States. The total number of employees of the Debtor and its United States affiliates that have as of the date hereof filed reorganization proceedings shall not exceed 487 as of June 30, 1982, and 335 as of July 31, 1982.

5. The Debtor and the Committee agree to meet during the week ended July 9, to review the expenses, income and other relevant data in regard to the Debtor.

6. The Bank is authorized to continue to accept deposits of accounts receivable of _____ and is explicitly authorized to disburse funds to the Debtor in accordance with the amounts specified in paragraph 4 above. To the extent that accounts receivable of _____ in excess of the amount specified in paragraph 4 above are collected, such proceeds shall be held in a high-yield demand account, in accordance with 11 U.S.C. §345, pending further order of this Court, without waiver of any right the Bank might have to assert a claim to such funds.

7. The Debtor will implement the schedule of salary reductions and employee terminations previously announced by it for implementation as of July 1, 1982, in accordance with its schedule thereof, with the exception that any salary reductions applicable to the highest paid employee of the Debtor shall be retroactive to May 1, 1982.

8. The Debtor shall seek court authorization to engage as its chief executive officer a recognized work-out expert.

9. Entry of this Order shall be without prejudice to the rights of any party in interest to request a hearing to determine whether there have been material changes in the circumstances or condition of the Debtor. Entry hereof is further without prejudice to the right of any party to request the Court to grant any relief appropriate under the facts and circumstances, including determination of the validity of any liens or security interests, or any other remedy available under Title 11, United States Code; provided, however, entry of this Order is without prejudice to the right of any party in interest other than the Bank (except as provided in paragraph 2 hereof) to request modification of the right of the Debtor to use cash collateral during the period specified in this Order.

10. Nothing contained herein shall be deemed to have effected a substantive consolidation of any of the estates listed above, and to the extent any inter-company advances are made from the Debtor, the Debtor shall be afforded the highest priority pursuant to 11 U.S.C. 364(c)(1) as an expense of administration.

Entered at Houston, Texas this 1 day of July,

1982.

364(c); to Pay Pre-Petition Indebtedness; and to Limit Notice of Same to Ten Largest Unsecured Creditors (the "Application"), and it

APPEARING to this Court that the preservation of the Debtors' assets require that money be immediately obtained as capital on an emergency basis; and it

APPEARING to the Court and the Court so finds that prior to the date of the filing of these Chapter 11 cases, the Debtors borrowed and/or guaranteed the repayment of certain sums of money to (i)
(ii)

, and (iii)

("the Lenders"), which indebtedness at the time of the filing of the Debtors' Chapter 11 cases represented a principal balance of \$25,000,000 before giving effect to the setoffs described below ("the Pre-Petition Loans"), and that such Pre-Petition Loans are secured by valid, perfected and enforceable liens, mortgages, security interests, and assignments in substantially all of the Debtors' assets, including, without limitation, all of their oil and gas leasehold interests, inventory, gas pipelines and easements relating thereto, accounts receivable, contract rights, and certain other personal property (the "Pre-Petition Loan Papers"); and it

Those documents referred in Exhibit 1 being

APPEARING to the Court that the Lenders are willing to lend money to the Debtors for the preservation of the Debtors' assets upon terms and conditions contained in the Application and in the Credit Agreement attached to said Application as Exhibit "A" and in accordance with the terms and conditions set forth in new loan agreements, promissory notes, security agreements, mortgages, and other documents ("Post-Petition Loan Papers"); and it

APPEARING to this Court and the Court so finds that it is in the best interests of these estates that the Debtors be authorized to incur debt by borrowing money on an emergency basis for the preservation of the Debtors' assets, that the Debtors be authorized to execute the Credit Agreement and Post-Petition Loan Papers and that this Court grant the Lenders a first priority and lien position over administrative expenses and liens as provided by § 364(c) of the Bankruptcy Code subject to the conditions set forth herein, and that the Debtors should be permitted to pay certain items of pre and post-petition indebtedness representing expenses or obligations essential to preservation of assets; accordingly, the Court makes the following Findings of Fact:

1. That actual notice of the Application and hearing in the Application has been sent to those persons set out in the Certificate of Service and Affidavit of Notice filed by the Debtors with the Court including the Internal Revenue Service, and that

the opportunity given to those persons for a hearing before the Court on the Application was appropriate, adequate, and satisfactory in light of the particular emergency conditions of this case;

2. That the Debtors presently require cash and the incurrence of new debt and the extension of new credit in order to obtain funds to preserve the property and assets of the estate; and
3. Under the Pre-Petition Loan Papers, and as of November 16, 1982, the total principal amount of pre-petition secured indebtedness owing by Debtors to Lenders was \$25,000,000, plus interest accruing thereon, costs and attorneys' fees, before giving effect to the setoffs described in the following paragraph 4;
4. On or about November 9, 1982, and
offset balances in certain accounts maintained by the Debtors against the Pre-Petition Loans in an aggregate amount of approximately \$1,480,000 (\$100,000 of which has heretofore been readvanced to the Debtors). It is a condition of the advance of substantially all remaining setoff amounts pursuant to the Credit Agreement that the setoffs will not be subject to invalidation;

5. Because substantially all of the assets of the Debtors appear to have been validly encumbered to the Lenders, as secured creditors identified in the Application, the Debtors are unable to obtain funds on an unsecured basis in amounts sufficient and readily available to preserve their assets in any manner set forth in § 364(a) (b) and (c) of the Bankruptcy Code; and
6. Unless the Debtors are able to obtain funds and cash to preserve and maintain the property and assets of the estate, and to meet and pay its pre- and post-petition payroll, tax obligations, royalty and delay rental payments, third party gas contract obligations, and other essential expenses, the value of the Debtors' assets and the estates' property will be immediately and irreparably jeopardized, all to the enormous financial detriment of the estates and their creditors; and
7. The terms and conditions of the proposed secured borrowing and extension of credit from the Lenders, as evidenced by the Credit Agreement, are fair and reasonable, were negotiated by the parties in good faith, and the proposed borrowing is the only source of funds immediately available to the

- Debtors under the present market conditions and emergency financial circumstances; and
8. The Debtors should be authorized by this Court to enter into, execute, perform and consummate, and this Bankruptcy Court should confirm the execution, performance, and consummation by the Debtors of the Credit Agreement and Post-Petition Loan Papers, and performance of all acts reasonably required by the Lenders to be carried out by the Debtors to consummate and effectuate the transactions contemplated by the Application.
 9. In accordance with the request of the Debtors and the Lenders and after review of the Pre-Petition Loan Papers, the validity, perfection and enforceability of all of the Lenders' pre-petition setoff, liens, mortgages, security interests, and assignments in and to assets of the Debtors are hereby acknowledged and recognized and approved by this Court.

NOW, THEREFORE, on the basis of the foregoing Findings of Fact, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The Debtors be and they hereby are authorized to incur debt by executing the Credit Agreement and all Post-Petition Loan Papers as may be required

- by the Lenders in accordance with the terms as set forth in the Application and Credit Agreement;
2. Such debt shall be funded initially in the amount of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00), subject to possible subsequent increases as provided in the Credit Agreement, all of which such amounts shall be used by the Debtors for the payment of those pre- and post-petition expenses and obligations essential to maintaining and preserving the Debtors' assets and the assets of the estates;
 3. All or any such loans or any other indebtedness which may now or from time to time hereafter be owing by the Debtors to Lenders including, without limitation, the indebtedness by the Debtors to Lenders as set out in Finding of Fact number 3 above, shall be and hereby are secured by:
 - (a) Valid, perfected, and enforceable liens, assignments, mortgages and security interests in all of the presently existing and hereafter acquired, arising or created collateral of the estate of the Debtors of the types reflected and described in the Application and Credit Agreement executed and to be

executed by and between Lenders and the Debtors; and

- (b) All setoffs, liens, mortgages and security interests in or to assets of the Debtors granted by the Debtors or effected by the Lenders prior to the filing of the Chapter 11 petitions initiating these cases pursuant to the Pre-Petition Loan Papers, all of which setoffs, liens, mortgages and security interests are hereby acknowledged, ratified and approved; and
- (c) The liens, mortgages and security interests herein granted in favor of Lenders to secure the loans and extension of credit to the Debtors pursuant to the Credit Agreement shall be and hereby are made to be valid, perfected, and enforceable liens on the property of the Estate described and identified in the Application and Credit Agreement, junior only in those instances where such property is secured by a valid and enforceable senior lien, mortgage or security interest; and
- (d) The liens, mortgages and security interests approved hereunder in favor of Lenders shall

further have priority over any and all administrative expenses of any kind (except for fees and expenses that may be approved by this Court for the attorney for the Debtors or other attorneys, accountants or other professional persons approved by the Bankruptcy Court) as well as the maximum priority in repayment permissible under and pursuant to §364(c)(1) of the Bankruptcy Code; and

(e) Except in those instances where the property is secured by a senior lien, mortgage or security interest to the position of the Lenders, a first and prior lien, mortgage or security interest in any interest preserved for the benefit of the estate pursuant to §551 of the Bankruptcy Code (11 U.S.C. §551) with respect to property of the estate identified in the Application and Credit Agreement; and

4. All provisions of the Application and the Credit Agreement attached to such Application as Exhibit "A" are hereby approved;

5. The entrance into, execution, performance and consummation of the subject transaction, the Credit Agreement and the Post-Petition Loan Papers

by the Debtors are hereby expressly confirmed and approved, and the validity and enforceability of the pre-petition setoff effected by the Lenders and the pre- and post-petition liens, assignments and security interests of the Lenders in the pre- and post-petition assets of the Debtors are hereby confirmed and shall not be subject to any later determination by any party in interest or successor to the Debtors of such validity or enforceability; and

6. Except as provided in paragraph number (3) of this Order, no costs or expenses of administration which have been or may be incurred in this case, or in any other bankruptcy case related hereto, and no priority or other claims are or will have priority over or be on parity with the obligations created by the Post-Petition Loan, and no priority or other claims are or will be prior to or on parity with the claims of the Lenders against the Debtor's estate pursuant to the Credit Agreement and Post-Petition Loan Papers, and no such costs or expenses of administration shall be imposed upon or against the Lenders, their claims against the estate or the collateral securing such claims; and

7. All loans to be made by the Lenders to the Debtors shall be payable on demand and bear interest at the rate set forth in the Credit Agreement; and
8. Debtors, or any of them, or any succeeding entity or Trustee in these cases or any succeeding bankruptcy case or cases may not recover from Lenders or any of them any amounts offset prior to the filing of the petitions in these cases.
9. All acts of the Debtors herein pertaining to its transactions with the Lenders as approved by the Court shall be binding on any successor to the Debtors, including, without limitation, any successor Trustee appointed under any chapter of the Bankruptcy Code.
10. The automatic stay in effect pursuant to § 362 of the Bankruptcy Code which might prohibit the collection of the Debtors' pre-petition accounts receivable and other cash collateral by the Lenders, and the application of such proceeds toward payment of the pre- and post- petition secured indebtedness of the Debtors to the Lenders is hereby modified and lifted to the extent necessary to permit such collections, actions or events to occur and/or be taken by the Lenders or the Debtors, and the Debtors shall remit their

accounts receivable and cash collateral to the Lenders in reduction of its indebtedness.

11. Nothing contained in this Order shall constitute a waiver of the Lenders' rights under the Bankruptcy Code to request further adequate protection of the Lenders' interests under §§362 and 363 of the Bankruptcy Code or such other relief as may be appropriate for the Lenders.

DATED ~~AND ENTERED~~ at Houston, Texas, this 17th day of November, 1982, at 12:10 o'clock p.m.

UNITED STATES BANKRUPTCY JUDGE

SETTLEMENT AGREEMENT

THIS AGREEMENT made and entered into by and between:

(1)

All of the above parties are hereinafter some-
times jointly called working interest owners
("WIO"), and

(2) corporation now in
reorganization under Chapter 11 of the Bankruptcy
Code under Case No. of the U. S.
Bankruptcy Court for the District of
, herein represented by
, its duly appointed Trustee,
hereinafter called " "; and

(3) Those persons, firms and corporations listed on
Exhibit "A" attached hereto who furnished labor,
services and materials in connection with the
drilling of the Well located in
, and who elect to join this
Agreement, all of which parties are hereinafter
called "Trade Creditors".

D

WITNESSETH That

WHEREAS, acquired from certain oil, gas and mineral leases covering land in the Prospect in , which leases are more fully described on Exhibit B attached hereto and are hereinafter called "Leases"; and

WHEREAS, each WIO each entered into a Participation Agreement with pursuant to which agreed to drill the Well and each WIO agreed to pay certain sums to ; and

WHEREAS, did in fact drill the Well and said well is ready to be completed and be produced if satisfactory arrangements can be made to hook up the well to a gas line; and

WHEREAS, did not pay the persons, firms and corporations listed on Exhibit "A" (Trade Creditors) for providing labor, materials and services in connection with the drilling of such well and as a result certain of the Trade Creditors have filed Notices Asserting a Lien Claim affecting the Well and Leases and other Trade Creditors may have the right to assert claims on the Well and Leases;

WHEREAS, each WIO desires to pay to the balance of the sums due to under the terms of the Participation Agreements and to hook up and produce the Well,

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I
THE PROPOSAL

1. agrees
 - (a) to assign to an overriding royalty interest affecting the Leases equal to the difference between all outstanding royalty and overriding royalty interests, if any, (including the land owners royalty) which now burdens the Leases and 32% and

(b) to assign to the Trade Trustee to be appointed by the Court for the benefit of the Trade Creditors, a Production Payment affecting the Leases in the amount of \$1,000,000.00 payable out of 25% of the net revenue interest attributable to 100% of the working interest, i.e. 25% x 68%, said production payment to become effective when the gross proceeds from production attributable to the working interest shall equal the aggregate of (i) the full amount of the cost of hooking up the well and putting it in production, and (ii) the total shut-in payments made by to the landowner, and operating costs incurred by WIO's during the period when items (i) and (ii) are being recouped; provided, however, that such aggregate sum will not exceed \$292,000.00. The production payment will be on the form attached hereto as Exhibit "C"

It is the intent of the parties hereto that the cash paid to the Escrow Agent by WIO's plus the gross amount of the Production Payment shall equal the aggregate of the claims of the Trade Creditors. The amount of the Production Payment assigned to the Trade Trustee is therefor an estimated amount and is subject to adjustment after the cash has actually been paid to the Escrow Agent and the claims of the Trade Creditors have been finally fixed in the manner hereinafter set out.

When the total amounts due by the WIO's are finally fixed and determined and such sums have been paid to and distributed by the Escrow Agent and the total amounts due to the Trade Creditors is finally fixed and determined, then the amount of the Production Payment can be fixed. At that time the Trade Trustee is authorized and directed to

execute a recordable instrument adjusting the amount of the Production Payment.

(c) ^{EXCEPT AS PROVIDED IN PARAGRAPH 4 OF THIS ARTICLE I,} to assign to the parties set out below the undivided working interest set out opposite their respective names, in the Leases. The Assignment will be subject to a proportionate share of the overriding royalties and the Production Payment. The assignees and their respective interests are:

43.75%
25.0%
12.5%
1.5625%
.78125%
.390625%
.390625%
.25%
.75%
14.625%

recognizes that

may claim title to a part of the working interest which has agreed to assign to , and agrees to hold title to such working interest subject to orders of the U.S. Bankruptcy Court with respect to any such claims. agrees to indemnify against any claim asserted by the above named parties against for failing to assign to such party a portion of the working interest in the Leases. agrees to defend and bear all costs, including but not limited to, attorneys' fees, in connection with the defense of any such claims. This obligation of shall be a first priority under Section 503B of Title 11 of U.S. Code.

2. WIO's agree

(a) to deliver on or before ^{NOVEMBER 2} ~~October~~, 1982 to the BANK of Houston, Texas

as Escrow Agent the sums set out below opposite their respective names, being the balances due to under the terms of the Participation Agreement for drilling and completing the Well, which aggregate sum will be distributed by said Escrow Agent to and the Trade Creditors in the manner and at the time and subject to the conditions hereinafter set out. In the event that Escrow Agent is advised by a partner in on a date subsequent to November 16, 1982, but prior to November 30, 1982, that this Settlement Agreement has not become effective, then Escrow Agent may return to each of the parties named below the sum deposited by each party with Escrow Agent.

The sums payable by each WIO is as follows:

\$494,640.00
427,349.46
129,437.04
5,622.19
13,626.80
6,940.26
6,346.50
NONE
NONE

<u>\$1,083,962.25</u>

- (b) to execute a gas sales contract with Corporation. agrees to distribute proceeds received from the sale of gas to the WIO's to the Trustee and to the Trade Trustee in proportion to their respective interests.
 - (c) to hook up the Well and put it in production at their sole cost, risk and expense
3. agrees
- (a) to permit WIO's to recover from 's working interest 's proportionate share of the cost of hooking up and putting the well on production, and the shut in payments

- (b) to enter into an operating agreement with WIO's providing for the payment of operating expenses on the form attached hereto as Exhibit "D"

4. Should any WIO, other than _____ and _____, fail or refuse to execute this Agreement, or having executed this Agreement fail or refuse to pay to the Escrow Agent the sum set out above opposite its name but the other conditions set out in Article III are satisfied, then the Agreement shall become effective, subject to the following modifications:

(a) _____ shall assign to _____ the interest of any WIO which fails or refuses to execute this Agreement, in which event this Agreement will become effective without such execution and the indemnity provision in Paragraph 1 (c) above shall become applicable to such interest.

(b) _____ shall not assign any working interest to any WIO which has executed this Agreement, but which fails or refuses to pay the sum set out opposite its name in Paragraph 2(a) above.

~~(c) If any WIO has not made the payment because of an offsetting claim against _____, such claim shall be submitted to the U.S. Bankruptcy Court in the proceeding involving _____ for a determination of its rights, or if the U. S. Bankruptcy Court refuses to accept jurisdiction, to such other appropriate court.~~

~~(d) Following a determination of its rights by the Bankruptcy Court (or such other appropriate court), the WIO which has failed or refused to pay shall have a period of ten (10) days within which to pay the Escrow Agent the amount determined by such court to be due. If such amount is not paid within that period of time then the _____ Trustee shall have the right~~

~~(i) to declare the working interest of such WIO to be forfeited in which case _____ shall assign the interest to _____ and the Trustee will pay to the Escrow Agent one hundred (100%) percent of the proceeds attributable to the forfeited working interest and actually received by the Trustee until such proceeds equal one hundred (100%) percent of the amount due by such WIO, and the Escrow Agent will distribute the proceeds to the _____ Trustee and the Trade Creditors in the manner hereinafter set out, or~~

~~(ii) to direct _____ to assign the working interest to such WIO and to proceed through the judicial proceeding to obtain a judgment and collect such judgment. 100%~~

~~Of any sums collected by the Trustee through such judgment shall be paid to the Escrow Agent for distribution to the Trade Creditors and the Trustee.~~

~~If the Court should determine that no sums are due by any such WIO, then [redacted] shall be authorized to assign to such WIO the working interest set out opposite its name above.~~

- (e) If any WIO fails or refuses to pay for any reason ~~other than an offsetting claim against~~ [redacted], then the interest of such WIO shall, at the election of the Trustee, be assigned to [redacted] in which event the indemnity provision in Paragraph 1 (c) shall become applicable to such interest

ARTICLE II
METHOD OF PAYMENT

1. The Trade Creditors designate the official Creditors Committee appointed by the Court in the Bankruptcy Proceedings to act for the Trade Creditors in connection with the Agreements contained herein. The Committee is composed of the following members:

2. The Creditors' Committee shall function under the following rules:

a. Any member of the Committee may act by proxy. In the event of the death, resignation or inability of any member of the Committee to act, his successor shall be named by the company for whom he is acting. Should the Bankruptcy Court increase or decrease the membership of the Committee, the Committee acting hereunder shall also change so that it will have the same membership as the official Creditors Committee.

b. The Committee shall prescribe its own rules of procedure, subject, however, to the following requirements:

- (1) The Committee shall elect from its members a Chairman;
- (2) The Committee has the right to appoint a Counsel for the Committee;
- (3) Any notice required to be given to the Committee shall be by written notice, addressed to the members at the addresses stated above or at such other address as any present or future member of the Committee may designate in writing to the Counsel of the Committee;
- (4) All action by the Committee shall be upon the affirmative vote of a majority of the whole Committee;

(5) Presence of a majority of the members shall constitute a quorum;

(6) Approval of any action may always be evidenced by the written consent of a majority of the Committee.

3. Each member of the Committee, as it may be constituted from time to time, shall use his best judgment and discretion in all things connected herewith and shall not be personally liable in any case whatever arising in connection with the business of this Trust, either for his acts or for his failure to act, unless he himself shall have been guilty of willful fraud, willful misconduct or gross negligence, and in no case shall the employer of any member be liable for such member's acts or failures to act. No member or his employer shall be held liable or responsible for the willful fraud, willful misconduct or gross negligence of any other member of the Committee, or an employee of the Committee, or of the Trade Trustee.

4. The Creditors Committee will review all claims for unpaid services by the Trade Creditors and will furnish Escrow Agent with a schedule reflecting:

- (a) Those Trade Creditors which timely filed a notice of lien and are entitled to a priority of payment (Primary Secured Creditors) together with the amount which is due to each such Trade Creditor and
- (b) Those Trade Creditors who have not timely filed a Notice of Lien (Secondary Secured Creditors) together with the amount which is due to each such Trade Creditor.

The schedule shall not be submitted to the Escrow Agent until a copy has been submitted to the Trustee and WIO's and said parties have had an opportunity to review and object to the amount due any creditor.

5. The Creditors Committee shall determine the indebtedness of the Trade Creditors arising out of the drilling of the Well as follows:

- (a) The tentative amount owed to each Trade Creditor for purposes of the Plan as of this date, according to the Company's accounting records, as initially adjusted by the Creditors Committee on the basis of information forwarded to the Committee, is set forth opposite the name of such Trade Creditors on Exhibit "A" attached hereto. The amounts owing to the Trade Creditors as reflected on Exhibit "A" are subject to further adjustments by the Trustee and/or by the Creditors Committee and/or by the Bankruptcy Court upon receipt of additional information.
- (b) If any Trade Creditor disputes the amount of its claim as reflected on Exhibit A, as being a true and correct amount due and owing to him by , it shall notify counsel for Creditors' Committee in writing of the amount of his account as of the date of the Chapter 11 Proceeding was filed according to his own records and shall furnish an itemization of such account with supporting invoices all verified by affidavit. Such notification shall be given to the Committee no later than 10 days after the date on which this agreement becomes effective. In the absence of such notification, the amount of the accounts of each of the Trade Creditors as set out on Exhibit A shall be presumed to be true and correct, provided, however, that such amount shall be subject to challenge by the Trustee and/or the Creditor's Committee and/or WIO's. It is recognized that the amounts shown on

Exhibit "A" relate solely to sums due on the

Well and that there may be additional amounts owed by to each Trade Creditor, but such additional amounts are specifically excluded from payment under the Agreement.

- (c) The Creditors Committee after review of invoices forwarded by any Trade Creditor may further adjust the account of such Trade Creditor. In order to assure that the aggregate indebtedness represents a correct total, each Trade Creditor shall have the right to notify the Creditors Committee that there is or may be an error in the amount due to another Trade Creditor.
- (d) If the Trustee or any WIO objects to the amount shown on the schedule as being due to any Trade Creditors, such party shall notify the Creditors Committee and specify the reason the account is not correct.
- (e) Upon receipt of notice that there is an error in, or a dispute concerning, the amount due any Trade Creditor, the Creditors' Committee shall investigate the matter and make such adjustment as may be agreeable between the Trade Creditor involved, the Trustee, WIO and the Committee. If no agreement can be reached, the matter will be submitted to the Bankruptcy Court for a resolution of the dispute.
- (f) Should any Trade Creditor whose name is reflected on Exhibit "A" fail or refuse to sign this Agreement then such Trade Creditor shall not be entitled to receive any part of the distribution of the cash paid by the WIO's to the Escrow Agent. Should any such Trade Creditor thereafter assert a claim against the Leases or against the

property or equipment of another person, firm or corporation, including another Trade Creditor, by seizure or otherwise and thereafter obtain assurances of payment of such claim then any payments due hereunder to such seizing Trade Creditor shall be suspended. If such seizing Trade Creditor thereafter collects all or a part of its claim from another person, firm or corporation then the entity including another Trade Creditor, which has paid the seizing Trade Creditor shall thereupon be subrogated to the rights of the seizing Trade Creditor under this Agreement to the extent of the monies due and payable to such seizing Trade Creditor.

6. The Escrow Agent will distribute 20% of the cash to the Trustee. The remainder of the cash will be distributed as follows:

- (a) To pay the costs (excluding attorney fees) incurred in preparing and obtaining approval of the Agreement and obtaining the execution thereof by the Trade Creditors, not to exceed \$5,000.00.
- (b) To pay in full each Trade Creditor whose aggregate claim on the Well is less than \$1,000.
- (c) To pay \$1,000 to each Trade Creditor whose aggregate claim against the well is more than \$1,000, but who is willing to accept \$1,000 in full settlement of his claim against such well. Such settlement would not foreclose such Trade Creditor from asserting and recovering the unpaid balance of its claim on a priority with other unsecured Creditor for the unpaid balance of his claim.
- (d) To distribute the remaining cash:
70% to the Primary Secured Creditors prorata
30% to the Secondary Secured Creditors prorata.

The Escrow Agent is authorized to accept instructions from the Creditors Committee with respect to the actual breakdown of the sums to be distributed.

Prorata means that each Trade Creditor will receive that percentage of the funds allocated to its class of Creditors that its claim as finally approved by the Creditors Committee bears to the total aggregate claims of all Trade Creditors in the same class as finally approved by the Creditors Committee.

If the claim of any Trade Creditor as reflected on the Exhibit A is contested, the Creditors Committee may authorize the payment to that Creditor of its prorata percentage interest in the uncontested portion of its claim.

7. The Creditors Committee will authorize the Trade Trustee to distribute all proceeds received by Trade Trustee from the Production Payments, after deduction of the costs incurred by the Trade Trustee in administering the Production Payment, as follows:

- (a) 100% of such proceeds will be paid to the Primary Secured Trade Creditors prorata until the Primary Secured Trade Creditors have received 100% of the principal amount of their claims, then
- (b) 100% of such proceeds will be paid to the Secondary Secured Trade Creditors prorata until such Creditors have received 100% of the principal amount of their respective claims or the Production Payment has terminated whichever event occurs first.

ARTICLE III CONDITIONS OF CLOSING

This Agreement shall become effective in the event and only in the event that the following conditions are satisfied or waived on or before November 16, 1982, namely:

1. Not less than 100% of all Trade Creditors shown on Exhibit A have elected to accept and participate in this Plan and Agreement by executing a counterpart of this Agreement or the form of the "Joinder" attached as Exhibit E; provided, however, that if 90% in dollar amount of such Trade Creditors accept the Plan and Agreement within the time specified above, and if in the opinion of WIO's, the Creditors Committee, the Trustee and the Primary Secured Creditors, the intent and purpose of this Agreement can be accomplished despite the non-joinder of certain Trade Creditors then all of such parties acting jointly can elect to declare that this condition has been satisfied in which event the Agreement will be binding on all Creditors which have accepted.

2. WIO's have paid to the Escrow Agent the sums set out in Article I, paragraph 2 (a) for distribution to the Trade Creditors and the Trustee, subject to the modifications set out in Paragraph 4 of Article I.

3. shall have executed and delivered:

- (a) the overriding royalty assignment to the Trustee; and
- (b) the Production Payment to the Trade Trustee; and
- (c) the conveyance of working interests to the WIO's and , subject to the modifications set out in Paragraph 4 of Article I.

4. All of the actions contemplated herein by WIO's have been validly authorized and corporate resolutions reflecting such authorization have been delivered to the Creditors Committee and Trustee.

5. This Plan and Agreement has been approved by the court after Notice and a hearing.

6. A Release of lien has been delivered to the Trade Trustee by each Trade Creditor which filed a Notice of Lien in the Mortgage Records of

ARTICLE IV
OBLIGATIONS OF TRADE CREDITORS

1. Each Trade creditor, by execution of a counterpart of this Agreement, or the form of "Joinder" attached hereto agrees that, it will forbear from taking any action to foreclose liens which it may have against the _____ Well and Leases on which such Well is located (including, but not limited to, mechanics' and materialmen's and other statutory liens and judgment liens), until November 30, 1982; provided, however, that each Trade Creditor shall have the right to take such steps as may be necessary to perfect by appropriate filings or other actions any mechanics', materialmen's or other statutory liens, and provided further that if this Agreement does not become effective on or before November 30, 1982, then the Trade Creditors may exercise whatever rights they may have.

2. Each Trade Creditor which filed a Notice of a mechanics' and materialmen's lien will execute and deliver to the Trade Trustee a duly acknowledged and recordable release of such lien, insofar as such liens secure indebtedness covered by this Agreement, such release to be held in escrow and to be delivered to WIO's and _____ or filed by the Trade Trustee in the Mortgage Records of _____ when this Agreement becomes effective; provided however that in the event any WIO fails to pay the sum set out opposite its name in paragraph 2(a) of Article I hereof, but this Agreement nevertheless becomes effective, then in that event the release by each Trade Creditor of its lien shall be limited to the aggregate leasehold interest of those WIO's which did pay the sum set out opposite their respective names in paragraph 2(a) of Article I, and such release shall not constitute or be construed as a release of its lien insofar as the lien affects the leasehold interest of any WIO which did not pay.

3. Each Trade Creditor which has not filed a Notice of Lien agrees that should this Agreement become effective, its execution hereof shall serve to release and relinquish any materialman's or mechanic's lien or liens which such Trade Creditor has or may have against the Well, the Leases and any property or equipment located on the Well and Leases, but only as to the interest of those WIO's who have paid the sum set out opposite their respective names in Paragraph 2(a) of Article I hereof.

ARTICLE V
CREATION OF TRUST

The Trade Creditors hereby establish a trust (hereinafter referred to as the "Trust") and will request the U.S. Bankruptcy Judge to appoint an independent person, firm or corporation to act for the Trade Creditors and to hold title to the Production Payments and to make disbursements of the proceeds thereof to the Trade Creditors in accord with this Agreement.

Pursuant to authorization and direction from the Creditors' Committee established pursuant to the terms of this Agreement, the Trade Trustee shall have full power and authority to:

1. Sign Division Orders and receive all proceeds accruing to the Production Payments.
2. Deposit Trust funds and draw checks and make disbursements;
3. Furnish the Trustee with a schedule showing the payments received and the amounts distributed to each Trade Creditor.
4. Employ and have such attorneys, accountants, engineers and clerical and stenographic assistance as may be deemed necessary;
5. Exercise any and all powers granted to the Trade Trustee by the terms of Production Payment;

6. Take any action required or permitted by this Agreement;

The Trade Trustee shall be directed in all things by the Creditor's Committee formed under this Agreement and all orders and directions of the said Committee, adopted in accordance with the procedures set forth in this Agreement, shall confer full and complete authority upon the Trade Trustee to do and perform all acts, to execute all documents and to make all payments and disbursements of funds directed to be done, executed, performed, paid and disbursed by the provisions of this Agreement.

The Trade Trustee shall keep or cause to be kept books containing an accounting of all receipts and disbursements, which records shall be open to inspection by any Trade Creditor at all reasonable times, and the Trade Trustee shall furnish to the Trade Creditors annually a statement of receipts and disbursements from the Production Payment.

All administrative costs, expenses and obligations incurred by the Trade Trustee in administering this Trust and all costs of preparing this Agreement, and obtaining its execution, including attorneys' fees and expenses, shall be a charge against the Production Payment owned by the Trust, and the Creditors' Committee, upon being satisfied as to the correctness of any and all such costs, expenses and obligations, shall approve and direct the payment thereof prior to making distribution to the Trade Creditors, provided, however, that the Estate shall receive credit for the full amount of the proceeds paid pursuant to the Production Payment so that such costs and expenses will be borne solely by the Trade Creditors whose claims shall be reduced prorata by such sums.

No recourse shall ever be had, directly or indirectly, against the Trade Trustee personally or against the Creditors' Committee or any member thereof or against the Trade Creditors (including, without limitation, the employers of members of the

Creditors' Committee) or any of them or against any employee of the Trade Trustee or of the Creditors' Committee, by legal or equitable proceedings or by virtue of any statute or otherwise, or any contract or agreement whatsoever executed by the Trade Trustee under this Agreement or by the Creditors' Committee or by any person employed by the Creditors' Committee, it being expressly understood and agreed that all such liabilities, covenants and agreements of the Trade Trustee or the Creditors' Committee or any employee thereof, whether in writing or otherwise, under this Trust shall be enforceable only against and be satisfied only out of the Production Payment.

The Trade Trustee shall receive reasonable compensation for his services in an amount agreed upon between it and the Creditors' Committee, which fee shall be a charge against and paid out of the Production Payment.

The Trade Trustee shall not be liable for any act it may do or omit to do as Trustee hereunder while acting in good faith and in the exercise of his best judgment, and the fact that such act or omission was advised, directed or approved by the Creditors' Committee or advised by an attorney acting as attorney for this Trust, shall be conclusive evidence of such good faith and best judgment; nor shall the Trade Trustee be liable in any event except for his own gross negligence or willful default or misconduct.

The Trade Trustee may resign at any time by giving written notice of his intention so to do addressed to the Chairman of the Creditors' Committee and such resignation shall be effective upon the date provided in such notice.

In the case of the resignation of the Trade Trustee, a successor in trust shall thereupon be appointed by an instrument in writing, signed and acknowledged by the Creditors' Committee and delivered to the resigning Trade Trustee, whereupon such resigning Trade Trustee shall convey and transfer the Production

Payment to such successor in trust by an appropriate instrument. Said successor shall thereupon be vested with all the rights, privileges, powers and duties of the Trustee named herein. Each succeeding trustee may in like manner resign and another may in like manner be appointed in his place.

If the Creditors' Committee at any time desires to terminate the rights of the Trade Trustee then acting under this Trust and appoint a new Trade Trustee in his stead, the Creditors' Committee may do so by a written instrument, addressed to such Trade Trustee then acting and thereupon a conveyances, of the Production Payment as in the case of resignation of the Trade Trustee, shall be made by the Trade Trustee then acting to the newly appointed Trade Trustee, and thereupon such new Trade Trustee shall be vested with all the rights, privileges, powers and duties of the Trade Trustee herein named.

This Agreement and Trust shall be effective as of the date on which the Production Payment is delivered to the Trade Trustee and this Agreement becomes effective, and shall remain and continue in full force and effect until the earlier of the following: (1) the indebtedness to Trade Creditors covered by the Plan has been paid in full, or (2) the Production Payment has been paid in full and been wholly converted to cash and all costs, expenses and obligations incurred in administering this Trust have been fully paid and discharged and all remaining income and proceeds from the Production Payment has been distributed to the Trade Creditors; or (3) the oil, gas and mineral leases affected by the Production Payment have expired and terminated.

The Trade Trustee, in exercising the powers granted to him under this Agreement, shall act thereon only with the prior approval of the Creditors' Committee and the Trade Trustee shall execute or otherwise carry out any act or deal in respect to the Trust Property as the Creditors' Committee may direct, said Creditors' Committee being authorized and empowered to direct and

control the acts of the Trade Trustee in all things relating to the Trust Property. The Creditors' Committee may establish such rules and regulations as it may deem appropriate with regard to the deposit of Trust funds, the drawing of checks and the making of disbursements by the Trade Trustee, the procedure to be followed by the Trade Trustee in seeking the approval of the Creditors' Committee to any proposed action of the Trade Trustee relating to the Trust Property, the manner in which it shall direct the Trade Trustee to act and any other matters pertaining to the Trust Property.

ARTICLE VI
RELEASE OF PRODUCTION PAYMENT

Each Trade Creditor, by executing a counterpart of this Agreement confers upon the Trade Trustee, the power and authority to release the Production Payment within thirty (30) days after all amounts due thereunder have been paid provided that a request for such release has been delivered to the Trade Trustee by any WIO.

ARTICLE VII
OBLIGATIONS OF WIO'S

WIO's agree that after the Plan and Agreement becomes effective, it will attempt with due diligence to hook up and produce the Well and continue to produce the well so long as it can economically do so. In the event that WIO or any of them elects to abandon the well, such WIO or WIO's will offer to reassign all of its or their interest in the well and leases to

. If the Production Payments have not been paid in full such assignment shall be subject to the Production Payment.

WIO's release from any and all claims that WIO's have or may have in damages or otherwise as a result of having to execute and deliver for the benefit of Trade Creditors a Production Payment affecting the interest of WIO's in the Well and Leases, but WIO's shall have the right to assert a claim as an unsecured creditor against in the U.S. Bankruptcy Court for

the amount of the Production Payment which was actually paid out of its interest in the proceeds of production.

ARTICLE VIII
RELATIONSHIP OF THE PARTIES

Nothing in this Agreement shall be construed to change the relationship existing between and the Trade Creditors to one other than a debtor-creditor relationship, nor to modify such debtor-creditor relationship as it now exists, nor is this Agreement intended to change or in any way affect the relationship among the Trade Creditors, except as specifically provided in this Agreement.

The delivery of the Production Payment by and the acceptance thereof by the Trade Trustee for the benefit of Trade Creditors is not intended to, and does not constitute a compromise, dation en paiement, novation or accord and satisfaction of the indebtedness of to Trade Creditors, and it does not modify or render unenforceable or terminate the indebtedness of to Trade Creditors, it being understood and agreed that will continue to be obligated to each Trade Creditor for the full amount of its indebtedness to such Trade Creditor which has not been paid in cash and is not paid in cash from the proceeds from the Production Payment. Each Trade Creditor shall continue to have the right to assert the full unpaid portion of its claim against as shown on Exhibit A as an unsecured creditor in the Bankruptcy proceedings.

It is expressly understood however that for and in consideration of (i) the assignment of the Production Payment by and (ii) the payment of the sums set out in paragraph 2(a) of Article I hereof by each of the parties referred to jointly in the caption hereof as WIO, each Trade Creditor which executes this Agreement agrees that it will not assert against any WIO which has paid the sums set out in paragraph 2(a) of Article I hereof, and

(to the extent necessary to give effect to this agreement) that it releases any such WIO from, any claim which any such Trade Creditor has or may have against such WIO, arising out of the Participation Agreement between such WIO and pursuant to which the Well was drilled, for the payment of sums due by to such Trade Creditor for labor, materials and/or services furnished by such Trade Creditor in connection with the drilling of the Well; provided however that the release of any WIO shall not be considered or construed as a release of and each Trade Creditor expressly reserves the right to assert against the full amount of the unpaid claim as set out in Exhibit A.

This Agreement is not intended nor shall it be construed to create a partnership or joint venture relationship between any of the parties to the Agreement or between such parties and . The Creditors' Committee created under this Agreement is intended solely as a means by which matters affecting the interests of Trade Creditors can, within the authority herein granted, be determined on behalf of such creditors.

ARTICLE IX COUNTERPART EXECUTION

This Agreement may be executed by the Trade Creditors in any number of counterparts and each of said counterparts when so executed shall be deemed an original and all of which collectively shall constitute a single agreement. Any Trade Creditor may execute the Joinder Agreement and upon such execution it will be deemed that such creditor has executed a counterpart of this Agreement.

ARTICLE X GENERAL PROVISIONS

1. From time to time after the approval of this Agreement by any Trade Creditor, the Trade Trustee, without further consideration, may request and such Trade Creditor shall execute and deliver such further instruments or documents as the Trade

Trustee may deem necessary or appropriate in order to carry out the intention and provisions of this Agreement.

2. Each Trade Creditor agrees, by execution of this Agreement, that this Agreement shall cover only the principal amount of 's indebtedness to such Trade Creditor and shall not include any interest, attorneys' fees or other charges. In the event the amount listed in Exhibit A shall include any interest, attorneys' fees or other charges, each Trade Creditor agrees to notify the Creditors' Committee and to eliminate such amounts from its account and to refund any distributions made under this Agreement on the basis of such charges. Further, any Trade Creditor who has received any payment on its account or who has repossessed, or taken possession of any goods or materials of agrees to notify the Creditors' Committee, to credit its account accordingly and to refund any distributions made under this Agreement on the basis of such amounts.

3. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, devisees and successors.

4. This Agreement shall be governed by and shall be construed and enforced in accordance with the laws of the State of , or to the extent applicable in accord with the applicable provisions of the U. S. Bankruptcy Code.

5. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated herein and no modification, alteration or amendment of this Agreement shall be valid or effective unless executed in writing by all parties hereto, except as specifically provided herein.

6. Should any clause, paragraph or article of this Agreement be held judicially to be invalid, unenforceable or void, such holding shall not have the effect of invalidating or voiding the remainder of this Agreement and the parties hereby agree that the part or parts which may be held to be invalid, unenforceable

or void shall be deemed to have been stricken herefrom with the same force and effect as if they had never been included in this Agreement.

7. The Trade Trustee shall notify WIO's and the Trustee annually of all amounts received by the Trade Trustee and disbursed to the Trade Creditors pursuant to this Agreement, such notification to show the amount paid to each Trade Creditor.

8. Each Trade Creditor holding a mechanics' or materialmen's lien, judgment lien, operator's lien or other involuntary lien or liens or a contractual claim shall notify the Trade Trustee promptly of any amounts collected outside of this Plan from WIO or which reduces the debt of such Trade Creditor as set forth in Exhibit A and the Trade Trustee shall reduce the account of such creditor for purposes of determining the pro rata share of such Trade Creditor in future disbursements by the Trade Trustee.

9. No Trade Creditor may withdraw his acceptance to the Plan once it has been delivered to the Trade Trustee, either in the form of a counterpart of this Agreement or by execution of a Joinder Agreement.

IN WITNESS WHEREOF, this Agreement is executed in multiple counterparts as of the 25th day of October, 1982, and shall become effective and binding on all parties executing this Agreement at such time as all of the conditions set out in Article III have been satisfied.

BY:

BY:

IN REORGANIZATION UNDER
CHAPTER 11 OF THE
U.S. BANKRUPTCY CODE

BY: _____
Trustee

BY:

BY:

TRADE CREDITOR:

BY: _____

ESCROW AGREEMENT

THE STATE OF TEXAS |

COUNTY OF HARRIS |

This Agreement made and entered into by and between
(hereinafter called "Bank") and
the undersigned, WITNESSETH:

WHEREAS, one or more of the following parties have entered
into a Settlement Agreement dated as of October 25, 1982, pur-
suant to which certain of such parties have agreed to place in
escrow with the Bank the amounts set out opposite their respective
name or names, to-wit:

\$	494,640.00
	427,349.46
	129,437.04
	5,622.19
	13,626.80
	6,940.26
	<u>6,346.50</u>
\$	<u>1,083,962.25</u>

WHEREAS, simultaneously with the execution of this Agreement,
one or more of the undersigned has or have deposited with Bank the
sum set out above opposite its or their respective names, the
receipt of which is hereby acknowledged by Bank. The aggregate of
all deposits in escrow shall hereinafter be referred to as "Escrow
Items".

NOW, THEREFORE, it is agreed between each of the undersigned
and Bank as follows:

The Bank shall retain the Escrow Items under the terms
shown below unless subsequent to November 16, 1982, but prior to
November 30, 1982, it receives notification from a partner of
the firm _____ that the Settlement Agreement dated
October 25, 1982 has not become effective. If during the above
period the Bank is so advised that the Settlement Agreement dated
October 25, 1982 has not become effective, Bank shall return to
each of the parties named above the sums shown as deposited by each
party with the Bank.

Immediately following the final day for the notification pro-
vided for above, the Bank will distribute 20% of the total of the
Escrow Items to _____ as Trustee for
_____ and shall pay the remainder of the cash according
to the instructions of the Official Creditors' Committee appointed by
the Bankruptcy Court for the Western District of Louisiana in the
bankruptcy proceedings entitled In re:

All such instructions shall be considered veri-
fied if signed by _____, Chairman, (a representative of
_____, and representatives of any two other mem-
bers of the Creditors' Committee who are named in the Settlement

E

Agreement dated October 25, 1982, a copy of which is attached hereto.

This Agreement may be executed by the parties hereto in any number of counterparts and each of said counterparts when so executed shall be deemed an original and all of which collectively shall constitute a single agreement.

Bank's sole responsibility shall be for the safekeeping of the Escrow Items which are to be delivered as set forth above and Bank shall not be required to deliver any of the Escrow Items other than as directed above or take any action with reference to any matters which might arise in connection herewith, unless and until requested and authorized to do so in writing by each and all of the parties hereto and then in the manner as directed by said parties.

Should any controversy arise between the undersigned with respect to this Agreement, or with respect to the right to receive the Escrow Items, Bank shall have the right to institute a bill of interpleader in any court of competent jurisdiction to determine the rights of the parties. Should a bill of interpleader be instituted, or should Bank become involved in litigation in any manner whatsoever on account of this Agreement or the escrow deposit made hereunder, the undersigned hereby bind and obligate themselves, their heirs and legal representatives, to pay Bank, in addition to any charge made hereunder for acting as escrow agent, reasonable attorneys' fees incurred by Bank, and any other disbursements, expenses, losses, costs, and damages in connection with and resulting from such litigation.

Bank is hereby given a lien on all Escrow Items for all indebtedness that may become owing to Bank hereunder, which may be enforced by Bank by appropriate foreclosure proceedings.

THIS AGREEMENT evidences the entire escrow agreement between Bank and the undersigned and no other agreement entered into between the undersigned concerning the Escrow Items shall be considered as adopted in whole or in part by Bank, although such agreement be deposited herewith.

EXECUTED this _____ day of _____, 1982.

Amount deposited:

Amount deposited:

Amount deposited:

Amount deposited:

Amount deposited:

Amount deposited:

Amount deposited:

OFFICIAL CREDITORS COMMITTEE
FOR THE REORGANIZATION OF

RECEIPT OF THE SUMS SET OUT OPPOSITE THE SIGNATURES OF EACH PARTY
IS HEREBY ACKNOWLEDGED:

Escrow Agent

By _____

FEE \$ _____