

BK 411

198

Recorded Aug 25 1959 at 11:40 A.M.
 Reception No. 29224 Leno Tucker, Recorder

OIL AND GAS LEASE

THIS AGREEMENT entered into this 1st day of April, 1959, between MALCO REFINERIES, INC., hereinafter called lessor, and NORTHWEST PRODUCTION CORPORATION, hereinafter called lessee, does witness:

1. That lessor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and of the covenants and agreements hereinafter contained to be performed by the lessee, has this day granted and leased and hereby grants, leases and lets unto the lessee for the purpose of mining and operating for and producing oil and gas, casinghead gas, casinghead gasoline, laying pipe lines, building roads, tanks, storing oil, building power stations, telephone lines and other structures thereon to produce, save, take care of and manufacture all of such substances, and for housing and boarding employees, the following described tract of land in La Plata County, State of Colorado, to-wit:

The West Half of the Northwest Quarter ($\frac{1}{2}\text{NW}\frac{1}{4}$), the North Half of the Southwest Quarter ($\frac{1}{2}\text{SW}\frac{1}{4}$) and the West Half of the Southeast Quarter ($\frac{1}{2}\text{SE}\frac{1}{4}$) of Section 11, Township 32 North, Range 7 West, N.M.P.M., and containing 240.00 acres, more or less.

2. This lease shall remain in force for a term of one (1) year and as long thereafter as oil, gas, casinghead gas, casinghead gasoline or any of them is or can be produced.

3. The lessee shall deliver to the credit of the lessor as royalty, free of cost, in the pipe line to which lessee may connect its wells the equal one-fourth ($\frac{1}{4}$) part of all oil produced and saved from the leased premises, or at lessee's option, may pay to the lessor for such one-fourth royalty the market price for oil of like grade and gravity prevailing on the day such oil is run into the pipe line, or into storage tanks.

4. The lessee shall pay lessor, as royalty, one-fourth ($\frac{1}{4}$) of the proceeds from the sale of the gas, as such, for gas from wells where gas only is found, and where gas from a well or wells capable of producing gas only is not sold or used, lessee may pay annually as royalty the sum of Two Hundred Forty Dollars (\$240.00) and if such payment is made it will be considered that gas is being produced from the above described land under all of the terms and provisions hereof; the lessor to have gas free of charge from any gas well on the leased premises for stoves and inside lights in the principal dwelling house on said land by making his own connections with the well, the use of said gas to be at the lessor's sole risk and expense. The lessee shall pay to the lessor for gas produced from any oil well and used by the lessee for the manufacture of gasoline or any other product, as royalty, one-fourth ($\frac{1}{4}$) of the market value of such gas. If said gas is sold by the lessee, then as royalty one-fourth ($\frac{1}{4}$) of the proceeds of the sale thereof.

5. Unless operations for the drilling of a well for oil or gas are commenced on said land or on acreage pooled therewith on or before six (6) months from this date and said operations are thereafter prosecuted with due diligence until said well has been drilled to a depth sufficient to test the Dakota formation, this lease shall terminate as to both parties. In the event said well is drilled, then unless operations for the drilling of a second well are commenced on said land or on acreage pooled therewith within six (6) months from the date of the completion of said first well, and said operations are thereafter prosecuted with due diligence until said well has been drilled to a depth sufficient to test the Mesaverde formation, this lease, insofar as it pertains to gas rights in the Mesaverde formation within the drilling unit for the production of gas from the Mesaverde formation on which no well has been drilled, shall terminate as to both parties.

6. Lessee, at its option, is hereby given the right and power to pool or combine the land covered by this lease, or any portion thereof, as to gas, with any other land, lease or leases when in lessee's judgment it is necessary or advisable to do so in order to properly develop and operate said premises, such pooling to be into a well unit or units not exceeding six hundred forty (640) acres, for gas, except that smaller units shall be created to conform to any spacing or well unit pattern that may be prescribed by government authorities having jurisdiction. Lessee may pool or combine acreage covered by this lease, or any portion thereof, as above provided, as to gas in any one or more strata, and units so formed need not conform in size or area with the unit or units into which the lease is pooled or combined as

199

to any other stratum or strata. The pooling in one or more instances shall not exhaust the rights of the lessee hereunder to pool this lease or portions thereof into other units. Lessee shall execute in writing and place of record an instrument or instruments identifying and describing the pooled acreage. The entire acreage so pooled into a unit shall be treated for all purposes, except the payment of royalties, as if it were included in this lease, and drilling or reworking operations thereon or production of gas therefrom, or the completion thereon of a well as a shut-in gas well, shall be considered for all purposes, except the payment of royalties, as if such operations were on or such production were from or such completion were on the land covered by this lease, whether or not the well or wells be located on the premises covered by this lease. In lieu of the royalties elsewhere herein specified, lessor shall receive from a unit so formed only such portion of the royalty stipulated herein as the amount of his acreage placed in the unit or his royalty interest therein bears to the total acreage so pooled in the particular unit involved. In the absence of production lessee may terminate any unitized area by filing of record notice of termination.

7. In case said lessor owns a less interest in the above described land than the entire and undivided fee simple estate therein, then the royalties and rentals herein provided for shall be paid to the said lessor only in the proportion which his interest bears to the whole undivided fee.

8. The lessee shall have the right to use, free of cost, gas, oil and water found on said land for its operations thereon, except water from the wells of the lessor. When required by lessor, the lessee shall bury pipelines below plow depth and shall pay for damage caused by its operation to growing crops on said land. No well shall be drilled nearer than 200 feet to the house or barn now on said premises without written consent of the lessor. Lessee shall have the right at any time during or after the expiration of this lease to remove all machinery, fixtures, houses, buildings and other structures placed on said premises, including the right to draw and remove all casing.

9. If the estate of either party hereto is assigned (and the privilege of assigning in whole or in part is expressly allowed), the covenants hereof shall extend to the heirs, executors, administrators, successors and assigns, but no change of ownership in the land or in the rentals or royalties shall be binding on the lessee until after notice to the lessee and it has been furnished with the written transfer or assignment or a certified copy thereof. In case lessee assigns this lease, in whole or in part, lessee shall be relieved of all obligations with respect to the assigned portion or portions arising subsequent to the date of assignment.

10. Lessor hereby warrants and agrees to defend the title to the land herein described against the lawful claims and demands of all persons claiming by, through or under lessor but against none other.

11. Notwithstanding anything in this lease contained to the contrary, it is expressly agreed that if lessee shall commence drilling operations at any time while this lease is in force, this lease shall remain in force and its terms shall continue so long as such operations are prosecuted and, if production results therefrom, then as long as production continues.

12. If, at the expiration of the primary term, lessee is conducting operations for drilling a new well on said land or on acreage pooled therewith, or reworking an old well thereon, or, if, after the expiration of the primary term, production on this lease or on acreage pooled therewith shall cease, this lease nevertheless shall continue as long as said operations continue or additional operations are had on this lease or on acreage pooled therewith, which additional operations shall be deemed to be had where not more than sixty (60) days elapse between abandonment of operations on one well and commencement of operations on another well, and if production is discovered, this lease shall continue as long thereafter as oil, gas or other mineral is produced on said land or on acreage pooled therewith, and as long as additional operations are had thereon.

13. Lessee may at any time surrender this lease, in whole or in part, by delivering or mailing a release or releases thereof to the lessor or by placing a release or releases thereof of record in the proper county.

14. It is agreed that this lease shall never be forfeited or cancelled for failure to perform in whole or in part any of its implied covenants, conditions or stipulations until it shall have first been finally judicially determined that such failure exists and, after such final determination, lessee is given a reasonable time therefrom to comply with any such covenants, conditions or stipulations.

15. All express or implied covenants of this lease shall be subject to all Federal and State Laws, Executive Orders, Rules or Regulations, and this lease shall not be terminated, in whole or in part, nor lessee held liable in damages, for failure to comply therewith if compliance is prevented by, or if such failure is the result of, any such Law, Order, Rule or Regulation, or if prevented by an act of God, of the public enemy, labor disputes, inability to obtain material, failure of transportation, or other cause beyond the control of lessee.

16. This lease and all its terms, conditions and stipulations shall extend to and be binding on all successors of said lessor or lessee.

IN WITNESS WHEREOF, we sign the day and year first above written.

ATTEST:

MALCO REFINERIES, INC.

Sw. By
RCH

Donald B. Anderson
VICE PRESIDENT

STATE OF NEW MEXICO)
COUNTY OF CHAVES) ss.

Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Donald B. Anderson, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said MALCO REFINERIES, INC., a corporation, and that he executed the same as the act of such corporation for the purposes therein expressed and in the capacity therein states.

Witness my hand and official seal this 14th day of April, 1959.

My commission expires:

6-30-60

H. E. Hamington
Notary Public