

RECEIVERSHIPS REVISITED

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CHAPTER 2

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TABLE OF CONTENTS

I. INTRODUCTION	1
II. PREREQUISITES TO FILING A RECEIVERSHIP SUIT	1
A. Statutory Requirements	1
1. <u>Jurisdiction and Venue</u>	1
2. <u>Parties</u>	1
3. <u>The Defendant</u>	1
4. <u>The Petition, Allegations and Proof</u>	1
III. THE RECEIVERSHIP SUIT	2
A. Petition and Bond	2
B. Notice	2
1. <u>Affidavit for Citation by Publication</u>	2
2. <u>Issuance of Citation; Form and Requisites</u>	3
3. <u>Service of Citation by Publication</u>	3
4. <u>Return of Citation by Publication</u>	3
C. Selection of Receiver	3
D. Setting the Hearing Date	3
E. Pre-hearing	3
1. <u>Preparation of Receivership Oil and Gas Lease or Ratification</u>	3
2. <u>Preparation of Witnesses for the Hearing</u>	4
3. <u>Selection of Attorney Ad Litem</u>	4
F. The hearing	4
1. <u>Statement of Facts</u>	4
2. <u>Evidence; Testimony</u>	4
3. <u>Order Appointing Receiver</u>	5
G. Post-hearing	5
1. <u>Payment of Bonus</u>	5
2. <u>Oath of Receiver</u>	5
3. <u>Report of Receiver</u>	5
4. <u>Order Approving Report of Receiver</u>	5
5. <u>Recording of Lease or Ratification</u>	5
H. Duration of Receivership; Payment of Royalty	5
IV. MOTION FOR NEW TRIAL AND OTHER ATTACKS ON THE JUDGMENT; CASE LAW	6
A. Motion for New Trial	6
B. Direct and Collateral Attacks	6
C. Case Law	6
V. CONCLUSION	6
ENDNOTES	7
APPENDIX	8
APPENDIX 1: Application for Appointment of Receiver for [Mineral][Royalty] Interests	9
APPENDIX 2: Affidavit for Citation by Publication	13

APPENDIX 3: Citation by Publication	14
APPENDIX 4: Publisher's Affidavit	16
APPENDIX 5: Sample Letter to Editor of the Newspaper	17
APPENDIX 6: Sample Letter to Selected Receiver	18
APPENDIX 7: Appointment of Attorney Ad Litem after Publication	19
APPENDIX 8: Order Setting Hearing	20
APPENDIX 9: Order Appointing Receiver for [Mineral] [Royalty] Interests	21
APPENDIX 10: Oath of Receiver for [Mineral] [Royalty] Interests	24
APPENDIX 11: Report of Receiver for [Mineral] [Royalty] Interests	25
APPENDIX 12: Oil, Gas and Mineral Lease	26
APPENDIX 13: Ratification of Oil, Gas and Mineral Lease	28
APPENDIX 14: Ratification of Pooling Agreement	29
APPENDIX 15: Order Approving Receiver's Report	30

RECEIVERSHIPS REVISITED

I. INTRODUCTION

In 1995, the author presented a paper at the Advanced Oil, Gas and Mineral Law Court entitled: "How to Obtain a Receivership Oil and Gas Lease." The primary purpose of the article was to provide a complete set of forms for a mineral receivership suit, as none existed at that time.

In 1999, the Texas Legislature amended Chapter 64, Subchapter F of the Texas Civil Practice and Remedies Code to add Section 64.093, "Receiver for Royalty Interest Owned by Non-resident or Absentee." The amendment resolved the long-standing issue as to whether the mineral receivership statute (Section 64.091 of the Texas Civil Practice and Remedies Code) could be utilized to obtain a lease of a nonparticipating royalty interest owned by a "non-resident or absentee" in a pooled unit.

As yet, there are no published forms for a royalty receivership nor, as in 1995, is there any complete set of forms for a mineral receivership.¹

This article provides the necessary forms, along with a practical step-by-step approach as to how to obtain a receivership under each of these statutes.

Since the procedure for obtaining a receivership in each statute is almost identical, the requirements will be set forth together.²

II. PREREQUISITES TO FILING A RECEIVERSHIP SUIT

A. Statutory Requirements

1. Jurisdiction and Venue

Suit must be brought in the district court of the county in which the land is located. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(b), 64.093(a) and 15.011.

2. Parties

Suit is brought by a person claiming or owning an undivided mineral interest in land in this state, or an undivided leasehold interest under a mineral lease of land in this state. Additionally, the suit must include one or more defendants who have, claim, or own an undivided mineral (or royalty) interest in that property. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(b)(1) and 64.093(a)(1)(2).

The mineral receivership statute also covers an action brought by a person claiming or owning an undivided leasehold interest under a mineral lease of land in this state that has one or more defendants

who have, claim or own an undivided leasehold interest under a mineral interest of the same property. V.T.C.A., Civil Practice & Remedies Code, § 64.091(b)(2). Thus, the mineral receivership statute applies not only to the missing mineral owner, but also to the missing lessee of an undivided mineral interest.

Under both statutes, the plaintiff will typically be an oil and gas lessee, and the defendant or defendants will be the owner or purported owner of an undivided mineral or royalty interest in the same property.

3. The Defendant

The defendant for whom a receiver is sought must be a person whose residence or identity is unknown, or a nonresident, and not have paid taxes on the interest or rendered it for taxes during the five-year period immediately preceding the filing of the action. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(b)³ and 64.093(b).

Most often, the defendant in a receivership suit is identified from the deed, probate proceedings, or other document of record by which he acquires title. The residence of a defendant is often not available or is outdated.

It is interesting to note that the statutes state that the defendant "be a person whose residence or identity is unknown or a nonresident." Although it is not specifically stated, it is clear that the address of the nonresident must also be unknown.

Compliance with the second part of this requirement necessitates checking ad valorem tax records in the county in which the land is located for a period of at least five years prior to filing suit. Unless the land has been productive of oil and gas in the past, it is unlikely that the defendant will have either paid taxes or rendered the interest for taxes during that period. This is also an opportunity to check and see if the defendant owns other mineral or royalty interests in the county which are currently producing oil and gas, where his address might be located.

4. The Petition, Allegations and Proof

The plaintiff must allege by verified petition and prove that he has made a diligent but unsuccessful effort to locate the defendant, and that he will suffer substantial damage or injury unless the receiver is appointed. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(c) and 64.093(c).

At a minimum, the landman, or other person charged with fulfilling the requirement of making a "diligent but unsuccessful effort to locate the defendant," should do the following:

- a. Check the grantor and grantee indices in the offices of the county and district clerks.
- b. Check the county clerk's register book for the time period of the conveyance. The register will show the name and address of the person to whom the original instrument was returned.
- c. Check the tax rolls in the office of the central appraisal district or county tax office.
- d. Check current and prior voter registration lists, if the person lived in that county.
- e. Check the telephone records and city directory for the city or town of the defendant's last known residence. White and yellow page listings for all 50 states, with addresses, are available free of charge on www.switchboard.com. (This site does not cover unlisted telephone numbers.)
- f. Check the internet for websites offering searches for missing persons. A suggested current site is westlaw.com. "people-find."
- g. Check the probate records of the county and state of the last known address of the defendant.
- h. Check the death records in the county or state where the person died, or is believed to have died.

In addition, and if the above efforts prove futile, the landman should attempt to locate the grantor from whom the defendant acquired title, who might have information as to the defendant's whereabouts.

Due to the fact that the minimum standards for a "diligent but unsuccessful effort" may vary from county to county, a question of ethics may arise. Clearly, the attorney has a duty both to his client and to the court to make certain that due diligence is exercised in the search for the defendant. It is important, therefore, that the endeavor be a legitimate effort by a person capable of conducting the proper investigation, such as a landman. This person should be prepared to testify at the receivership hearing.

The plaintiff must also prove that he "will suffer substantial damage or injury." This showing

is often made by the plaintiff alleging that if he is unable to drill, his mineral or leasehold interest in the tract will suffer drainage or potential drainage from an offset operator or operators. He may also be able to show that if the interest in question is not leased, he will not be able to drill and thus will lose his leasehold interest in the property. Since the matter is not contested, normally the only proof of these allegations will be through the testimony of the plaintiff himself. The expert testimony of a geologist or petroleum engineer would be helpful, but is probably unnecessary in most cases.

It is important to note that the plaintiff does not need to prove that the mineral or royalty interest in question is in danger of being lost, moved, or materially injured, or that the appointment of a receiver is ancillary to other relief. Scott v. Sampson, 333 S.W.2d 220 (Tex.Civ.App.-Fort Worth 1960, writ ref'd n.r.e.).

III. THE RECEIVERSHIP SUIT

A. Petition and Bond

The verified petition must name as the defendant the last known owner or the last record owner of the interest. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(d)(1) and 64.093(d)(1). As shown above, the last known or record owner is most often identified through the document by which he acquired title. Neither the plaintiff nor the receiver is required to post bond. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(d)(4)(5) and 64.093(d)(4)(5).

B. Notice

The plaintiff must serve notice upon the defendant by publication, as provided by the Texas Rules of Civil Procedure. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(d)(2) and 64.093(d)(2). The statute does not identify the appropriate rule or rules in the Texas Rules of Civil Procedure to follow. See, Gray v. PHI Resources, Ltd., 710 S.W.2d 566 (Tex. 1986), discussed below.

The procedure recommended by most practitioners is as follows:

1. Affidavit for Citation by Publication

An affidavit should be prepared which states that the residence of the defendant or defendants is unknown, that the defendant or defendants are residents or nonresidents of the state, and that the affiant has made a diligent but unsuccessful effort to

locate the defendants. This affidavit should be filed in the cause. Tex.R.Civ.P. 109.

2. Issuance of Citation; Form and Requisites

The citation should be prepared in accordance with Rules 114 and 115 of the Texas Rules of Civil Procedure. It shall contain the names of the parties, a brief statement of the nature of the suit, a legal description of the land involved and a statement of the interests of the named defendants, and shall command the parties to appear and answer at or before 10:00 a.m. on the first Monday after the expiration of 42 days from the date of issuance thereof, specifying the day of the week, the day of the month, and the time of day the defendant is required to answer.

3. Service of Citation by Publication

The citation, when issued, shall be served by the sheriff or any constable of any county of the State of Texas or by the clerk of the district court of the county in which the case is pending, by having the same published once each week for four (4) consecutive weeks, the first publication to be at least twenty-eight (28) days before the return day of the citation. The publication shall be made in the county where the land, or a portion thereof, is situated, if there be a newspaper in such county, but if not, then in an adjoining county to the county where the land or a part thereof is situated, where a newspaper is published. Tex.R.Civ.P. 116.

a. Appointment of Process Server

Although Rule 116 of the Texas Rules of Civil Procedure states that the citation, when issued, shall be served by the "sheriff or any constable" or "by the clerk of the court in which the case is pending," it appears nevertheless that a process server may be appointed by the district judge. Tex.R.Civ.P. 103. The primary advantage of using a private process server is to insure that the newspaper receives proper instructions for publication at the time of service. In rural counties, the same advantage may be had by direct contact with the sheriff's office.

b. Instructions to the Newspaper

It is advisable that written instructions be given to the newspaper as to how and when the citation should be published, so as to lessen the chances for an error. A form to use for this purpose is attached. The cautious practitioner should make arrangements

with the newspaper in advance and should monitor the publication each week until it is completed.

4. Return of Citation by Publication

The return of the officer executing the citation shall be endorsed or attached to the same, and shall show how and when the citation was executed, specifying the dates of publication. It should be signed by him or her officially, and must be accompanied by a printed copy of the publication. Tex.R.Civ.P. 117. Note that the return must be dated more than 28 days after the date of first publication in the newspaper. Tex.R.Civ.P. 116.

C. Selection of Receiver

The receiver may be the county judge, the county clerk, or any other resident of the county in which the land is located. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(d)(3) and 64.093 d)(3). It is not required that the receiver post bond. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(d)(5) and 64.093(d)(5). A good practice is to select the county judge or the county clerk, if either is willing to undertake the job. In most rural counties, this is the common practice. Since in most counties the county judge and the county and district clerks may be unfamiliar with mineral receiverships, it is recommended that you contact them in advance to discuss the proceedings.

D. Setting the Hearing Date

Once the receiver is selected, set the hearing date at a time when the receiver is available, which is after the return date of the citation, and which is on or after the appearance date (i.e., the first Monday after the expiration of 42 days from the date of issuance of the citation). Further, the order setting the hearing should be signed by the district judge and filed in the cause, with a copy delivered to the receiver.

E. Pre-hearing

1. Preparation of Receivership Oil and Gas Lease or Ratification

The oil and gas lease or ratification should be prepared in proper form prior to the hearing. The lease or ratification should be dated as of the date of the hearing. The lessor or grantor will be the county judge or county clerk of the county, or other person selected, acting in his or her capacity as receiver for mineral or royalty interests under appointment by the district court in the cause, for the named mineral

or royalty owner defendants. In the case of a mineral receivership, the following procedures are recommended:

- a. The receivership lease should be prepared on the same form, with terms similar to the leases taken from the other mineral owners in the tract. A separate lease for each defendant is not required.
- b. The royalty reserved in the lease should approximate the same royalty given to other mineral lessors in the same tract. For example, if the average royalty reserved by the other lessors in the same tract is three-sixteenths (3/16), the receivership lease should reserve a 3/16 royalty. If in that instance, the receivership lease reserved a one-eighth (1/8) royalty, obvious legal and ethical concerns could arise if the proceedings are later brought under attack.
- c. The attorney should take care in determining the amount of bonus to be paid for the receivership lease. The amount should be set by an average of the bonuses paid to the other mineral lessors in the tract.
- d. The primary term of the lease should be consistent with the other leases taken by the plaintiff/lessee in the same tract.

With regard to a royalty receivership, please note that Section 64.093(g) provides that a lease ratified by a receiver under this section may authorize the lessee to pool and unitize land subject to the lease with adjacent land into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well, plus 10% tolerance, or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule. It states that a pooling agreement ratified by a receiver under this section may allow a pooled unit not to exceed 160 acres for an oil well or 640 acres for a gas well, plus 10% tolerance, or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule. Note, however, that these acreage restrictions should not apply to a unitization agreement, approved by the Railroad Commission of Texas, executed by a receiver under Section 64.093(f)(3).

2. Preparation of Witnesses for the Hearing

Normally the only witnesses will be the landman and, perhaps, the plaintiff. The landman will

testify as to the due diligence used by him in seeking to locate the defendant mineral or royalty owners. He will also testify as to the undivided interests owned by the plaintiff and the defendant in the subject property. In the case of a mineral receivership, he will need to show that the bonuses paid and the royalties reserved, as well as the other terms of the receivership lease, are reasonable. In a royalty receivership, he should be prepared to testify concerning the pooling provisions in the lease to be ratified and/or the terms of the pooling agreement, as well as that the terms of the lease to be ratified and/or the pooling agreement are within the acreage restrictions set out in Section 64.093(g), discussed above.

The plaintiff or the landman, as the case may be, will also need to testify in some detail that the plaintiff will suffer substantial damage or injury unless the receiver is appointed. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(c)(2) and 64.093(c)(2). In a royalty receivership, the testimony of a geologist or engineer might also be helpful to the court on this issue.

3. Selection of Attorney Ad Litem

An attorney ad litem should be selected to represent the defendant mineral or royalty owners at the hearing. Usually, the plaintiff nominates an attorney ad litem to be appointed by the court. The fee charged by the attorney ad litem, like the filing fee and the publication cost, is paid by the plaintiff. The fee should be agreed upon in advance of the hearing. Although an attorney ad litem is not required by either statute, this additional step may prevent future problems if the proceedings are attacked.

F. The hearing

1. Statement of Facts

Make sure that the proceedings are transcribed by a court reporter. The lack of a statement of facts may have serious consequences if the case is appealed. See Helton v. Kimball, 621 S.W.2d 675 (Tex.App.--Fort Worth 1981, no writ).

2. Evidence; Testimony

Introduce certified copies of the leases held by the plaintiff in the subject property to show his undivided interest in the leasehold. In a royalty receivership, also introduce copies of the leases (if different from the plaintiff's leases) and/or the pooling agreement, if any, to be ratified by the

receiver. Present the testimony of the landman, the plaintiff and the geologist or engineer, if necessary. As previously stated, the landman must testify concerning his "diligent but unsuccessful effort" to locate the defendants, and the landman and/or plaintiff and/or geologist/engineer must also show that the plaintiff "will suffer substantial damage or injury" unless the receiver is appointed.

3. Order Appointing Receiver

At the conclusion of the hearing, have an order appointing receiver signed by the district judge.

G. Post-hearing

1. Payment of Bonus

In a mineral receivership, immediately following the hearing, the plaintiff should pay the bonus money to the district clerk. The bonus money must be paid to the clerk of the court in which the case is pending before the receiver executes the lease. V.T.C.A., Civil Practice & Remedies Code, § 64.091(h).

The royalty receivership statute also requires that the monetary consideration, if any, due for the execution by the receiver of a ratification, pooling agreement, or unitization agreement be paid to the clerk of the court in which the case is pending before the receiver executes the instrument. That statute goes on to state, however, that "because ratifications, pooling agreements, and unitization agreements are typically entered into in consideration of the future benefits accruing to the grantor thereof, an initial monetary consideration is not typically paid for the execution of such instruments." V.T.C.A., Civil Practice & Remedies Code, § 64.093(h).

In both instances, the court shall apply the bonus money to the costs accruing in the case, and retain any balance for the use and benefit of the defendant mineral or royalty owner. Payments made at a later time under the lease, assignment, or unitization agreement (in the case of a mineral receivership), or under the lease, pooled unit, or unitization agreement (in the case of a royalty receivership) shall be paid into the registry of the court and impounded for the owner of the interest. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(h) and 64.093(h). "Costs accruing in the case" should include costs such as the filing fee, publication cost, and the ad litem fee, some or all of which may have been paid in advance by the plaintiff.

2. Oath of Receiver

The receiver should execute an oath of receiver, which is filed in the case.

3. Report of Receiver

After taking the oath, the receiver then executes the oil and gas lease or leases, or the ratification, as the case may be, along with a report of receiver. The report of receiver recites that after the bonus money, if any, was paid to the district clerk of the county, the receiver, acting pursuant to the authority granted to him, executed the receiver-ship oil, gas and mineral lease or the ratification of a mineral lease or pooling agreement covering the described land, on behalf of the defendant or defendants. Copies of the oil and gas lease, ratification and/or unitization agreement are attached to the report. Once signed by the receiver, the report is filed in the cause.

4. Order Approving Report of Receiver

The district judge signs an order approving the receiver's report. In the case of a mineral receivership, the order should state, among other things, that the terms of the receivership lease are fair and reasonable. It should direct the receiver to deliver the lease to the plaintiff for filing in the county. With regard to a royalty receivership, the order should state that the lease or pooling agreement ratified by the receiver complies with the acreage restrictions set out in Section 64.093(g) of the Code, or that the unitization agreement executed by the receiver has been authorized by the Railroad Commission of Texas. It should direct the receiver to deliver the ratification or unitization agreement to the plaintiff for filing in the county.

5. Recording of Lease or Ratification

The receivership lease or ratification should be filed for record in the county clerk's office. This final step must be followed. It is not sufficient for the lease or ratification to simply be of record in the district clerk's office as part of the receivership proceedings.

H. Duration of Receivership; Payment of Royalty

The receivership continues as long as the defendant or his heirs, assigns or personal representatives fail to appear in court in person or by agent or attorney to claim the defendant's interest. V.T.C.A., Civil Practice & Remedies Code, §§

64.091(e)⁴ and 64.093(e). Both statutes provide that royalty payments shall be paid into the registry of the district court and impounded for the use and benefit of the owner of the interest. V.T.C.A., Civil Practice & Remedies Code, §§ 64.091(h) and 64.093(h).

IV. MOTION FOR NEW TRIAL AND OTHER ATTACKS ON THE JUDGMENT; CASE LAW

A detailed discussion pertaining to attacks upon receivership proceedings is beyond the scope of this article. The following brief discussion of these issues, however, should be helpful to the attorney who seeks and obtains a mineral or royalty receivership.

A. Motion for New Trial

The time period for filing a motion for new trial in a mineral or royalty receivership proceeding is two (2) years from the date of judgment. Tex.R.Civ.P. 329; Dorman Exploration v. Mitchell Energy Company, 71 S.W.3d 469 (Tex.App.-Waco 2002, no writ).

B. Direct and Collateral Attacks

An order appointing a mineral or royalty receiver must be attacked directly in the cause in which the appointment was made. It may be collaterally attacked only where the court was without jurisdiction to issue the order, or where the order is void on its face. Johnson v. Barnwell Production Company, 391 S.W.2d 776 (Tex.Civ. App.-Texarkana 1965, writ ref'd n.r.e.); Zarate v. Sun Operating Ltd., Inc., 40 S.W.3rd 617 (Tex. App.-San Antonio 2001, pet.denied).

C. Case Law

The Texas courts hold that every reasonable presumption will be indulged by the appellate court in support of an order appointing a receiver for a mineral or royalty interest, and in the absence of some contrary showing, it will be presumed that the judge acted fairly, properly and according to law, and that the petition and evidence were sufficient, and that proper and sufficient grounds existed for the order. Scott v. Sampson, 333 S.W.2d 220 (Tex.Civ.App.-Fort Worth 1960, writ ref'd n.r.e.); Johnson v. Barnwell production Company, *supra*.

Although there are few reported cases, it appears that most attacks upon mineral or royalty receiverships concern improper notice. In this

regard, it should be noted that the absence of proper notice merely makes the appointment of the receiver voidable, but not void. Helton v. Kimball, 621 S.W.2d 675 (Tex.Civ.App.-Fort Worth 1981, no writ). In Gray v. PHI Resources, Ltd., 710 S.W.2d 566 (Tex.1986), on the date the petition for receivership was filed, the trial court, acting under the provisions of Section 695 of the Texas Rules of Civil Procedure,⁵ signed an order requiring posting of a copy of the petition at the county courthouse for a period of three (3) days prior to a hearing on the matter. No citation was issued. Although the case was decided on other grounds, the Texas Supreme Court stated:

"It is a fundamental tenet of our law that a plaintiff must properly invoke the jurisdiction of a trial court by valid service of citation on a defendant... Furthermore, the notice provision of Rule 695 will not confer jurisdiction absent some type of citation or appearance by the named defendant(s)." Gray v. PHI Resources, Ltd., *supra*, at 567.

In 1989, subsection (k) was added to Section 64.091 of the Code, which provided that to the extent that subsection (d)(2) (requiring notice on the defendant by publication as provided in the Texas Rules of Civil Procedure) conflicts with the Texas Rules of Civil Procedure, subsection (d)(2) controls. It further states that the Texas Supreme Court may not amend or adopt rules in conflict with subsection (d)(2). An identical provision also appears in subsection (k) of Section 64.093. Thus, it now seems clear that notice by publication in a mineral or royalty receivership proceeding should be in accordance with Tex.R.Civ.P. 109 et seq. (as described above in this article), rather than as provided in Tex.R.Civ.P. 695.⁶

V. CONCLUSION

Obtaining a mineral or royalty receivership under the provisions of Section 64.091 or Section 64.093 of the Texas Civil Practice and Remedies Code is a relatively simple process. As shown, however, the requirements of the statutes must be strictly followed. The lack of case law in this area suggests that if the proceedings are conducted fairly, with proper notice, and with due regard to the legal and ethical issues involved, the chances of a successful attack upon the judgment are remote.

* * *

ENDNOTES

¹ See 3 W. V. Dorsaneo III, Texas Litigation Guide, §§43.04 and 43.120 (2001).

² This article does not address the procedure for obtaining a receivership for contingent interests in minerals set out in Section 64.092 of the Texas Civil Practice and Remedies Code. See, Kemp v. Hughes, 557 S.W.2d 139 (Tex.Civ.App.-Eastland 1977, no writ).

³ Note that there are two subparagraphs (b) in Section 64.091.

⁴ Citing this provision and Section 64.091(f)(1), some practitioners have questioned whether a receiver has the continuing authority to execute a renewal lease after the expiration of the original lease. Although there is no authority on this issue, concerns about additional notice to the defendant should dictate the filing of a new proceeding.

⁵ Rule 695 of the Texas Rules of Civil Procedure provides as follows:

"Except where otherwise provided by statute, no receiver shall be appointed without notice to take charge of property which is fixed and immovable. When an application for appointment of a receiver to take possession of property of this type is filed, the judge or court shall set the same down for hearing and notice of such hearing shall be given to the adverse party by serving notice thereof not less than three days prior to such hearing. If the order finds that the defendant is a nonresident or that his whereabouts is unknown, the notice may be served by affixing the same in a conspicuous manner and place upon the property or if that is impracticable it may be served in such other manner as the court or judge may require."

⁶ Despite the holding in Gray v. PHI Resources, Ltd., *supra*, and the 1989 amendment of Section 64.091, one commentator suggests that notice under Tex.R.Civ.P. 695 in a mineral receivership

proceeding may be served by affixing it on the property in a conspicuous manner and place. See, 3 W. V. Dorsaneo, III, Texas Litigation Guide, § 43.120 (2001).

APPENDIX
FORMS AND INSTRUCTIONS

Insofar as the author is aware, there is no complete set of published forms for a mineral or royalty receivership suit. The following forms have been developed and used by the author.

As with all forms, these forms are included for illustrative purposes only and should not be used unless independent analysis and consideration is given by a licensed attorney as to their applicability to a given fact situation.

APPENDIX 1

NO. 1953

LINK OIL COMPANY	:	IN THE 32ND JUDICIAL
	:	
VS.	:	DISTRICT COURT OF
	:	
JOSEPH R. DOAKES, ET AL.	:	NOLAN COUNTY, TEXAS

**APPLICATION FOR APPOINTMENT
OF RECEIVER FOR [MINERAL][ROYALTY] INTERESTS**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes LINK OIL COMPANY, hereinafter referred to as Plaintiff, complaining of JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and THEIR HEIRS, KNOWN OR UNKNOWN, IF ANY OF SAID PERSONS ARE DECEASED, hereinafter referred to as Defendants, and files this action for appointment of a receiver under the provisions of Section [64.091][64.093] of the Texas Civil Practice and Remedies Code, for certain undivided [mineral] [royalty] interests owned by said defendants, as hereinafter set out, and in support thereof would show this Honorable Court the following:

I.

Plaintiff, LINK OIL COMPANY, is a Texas corporation whose principal offices are located at 1618 Morris Avenue, Sweetwater, Texas 79556.

Defendants, JOSEPH R. DOAKES, ET AL., are former residents of the State of Texas, the States of New York, Georgia, Illinois, and perhaps other states, all of whose residences and present whereabouts, as hereinafter described, are unknown.

II.

Plaintiff is engaged in oil and gas exploration and development in Nolan County, Texas, and is the owner of certain undivided leasehold interests in and under the following described lands in Nolan County, Texas, to-wit:

A tract of 160 acres of land, more or less, being the Southeast Quarter (SE/4) of Section ABC, Block XYZ, T&P Ry. Co. Surveys, Nolan County, Texas.

III.

Plaintiff would show that the interests owned by the Defendants in the [oil, gas and other minerals] [royalty] in and under the above described lands, and the last known addresses of the Defendants, if any, are as follows:

(A) Defendant JOSEPH R. DOAKES, whose last known address was Room 1313 in the Baker Hotel, Commerce Street, Dallas, Texas, and whose interest is 9/2560;

(B) Defendant WILLIAM A. (BILL) BECK, whose last known address was 1001 Fifth Avenue, New York, New York 00000, whose interest is 9/512;

(C) Defendant FORREST GUMP, whose last known address is Atlanta, Georgia, and whose interest is 9/512; and

(D) Defendant ELSIE BORDEN, whose last known address is 1616 Hatchet Lane, Chicago, Illinois, and whose interest is 18/512.

IV.

Plaintiff would show that the present residences of all of the above listed Defendants, some of whom are non-residents of this state, are unknown. Plaintiff would further show that none of the above listed Defendants, or their heirs, have paid taxes on the interests owned by them, nor have they rendered said interests for taxes during the five-year period immediately preceding the filing of this action.

V.

Plaintiff would show that for a period in excess of _____ [time period], its landmen and attorneys have made diligent but unsuccessful efforts to locate each of the above listed Defendants, or their heirs.

VI.

Plaintiff seeks to explore and develop the above described lands for the production of oil and/or gas [which can only be accomplished by the creation of a pooled unit].

Unless Plaintiff can secure valid [oil and gas leases of the mineral interests] [ratifications of the nonparticipating royalty interests] owned by each of the Defendants listed above, Plaintiff will not be able to properly explore and develop said land [by creation of a pooled unit] and, therefore, will suffer substantial injury and damage thereby. Plaintiff has invested substantial sums in purchasing leasehold interests in said land, which sums will be lost if Plaintiff is unable to proceed. Further, Plaintiff would show that activities for the exploration and development of oil and gas are now being conducted in the vicinity of the above described lands, which activities may give rise to a possibility that the above described lands will suffer drainage therefrom. Such drainage will result in substantial damage or injury not only to Plaintiff, but also to Defendants, or their heirs, unless [the mineral interests of the Defendants are properly leased to Plaintiff] [ratifications of the pooled unit are obtained from the Defendants] so that Plaintiff may explore and develop said lands.

VII.

Plaintiff would show that in accordance with the provisions of Section [64.091(d)(3)] [64.093(d)(3)] of the Texas Civil Practice and Remedies Code, it is in the best interest of both Plaintiff and Defendants that the County Judge of Nolan County, Texas, and his successors, be appointed receiver for the undivided [mineral] [royalty] interests owned by the Defendants herein, with the following powers:

[As to a mineral receivership]:

1. To negotiate, execute and deliver to the Plaintiff oil, gas and mineral leases, with pooling and unitization clauses, under such terms and conditions as may be prescribed and approved by this Court, and as are set out in Section 64.091 of the Texas Civil Practice and Remedies Code;

2. To manage the above described mineral interests for the duration of the receivership;

3. To render the mineral interests for taxation purposes and to pay any taxes upon the same as they become due.]

[As to a royalty receivership]:

- [1. To negotiate, execute and deliver to the Plaintiff ratifications of mineral leases executed by persons owning an undivided mineral interest in the above described property, or ratifications of a pooling agreement covering the property, or enter into a unitization agreement authorized by the Railroad Commission of Texas;
2. To manage the above described royalty interests for the duration of the receivership;
3. To render the royalty interests for taxation purposes and to pay any taxes upon the same as they become due.]

VIII.

Plaintiff respectfully requests that the [oil and gas leases] [ratifications] granted by the receiver appointed herein cover the entire [mineral] [royalty] interests owned by the Defendants in the above described lands. Plaintiff further requests under the provisions of Section [64.091(e)] [64093(e)] that the receivership, once created, continue as long as said Defendants, or their heirs, assigns or personal representatives, fail to appear in this Court in person or by agent or attorney to claim their interests.

WHEREFORE, premises considered, Plaintiff prays that the Defendants be cited to appear and answer herein by publication, as provided by the Texas Rules of Civil Procedure and Section [64.091] [64.093] of the Texas Civil Practice and Remedies Code, and that upon final hearing hereof, Plaintiff have the following:

1. Judgment appointing the County Judge of Nolan County, Texas, and his successors, or other person that the Court deems qualified, as receiver of Defendants' [mineral] [royalty] interests, as specified above, with the powers specified above;
2. Judgment directing the receiver to execute and deliver to Plaintiff, as Lessee, [oil, gas and mineral leases containing pooling and unitization clauses] [ratifications of Plaintiff's mineral lease or leases and/or ratifications of a pooling agreement covering the described property], and other provisions as are prescribed by this Court and by law covering the lands described in this petition;
3. [If appropriate] Judgment directing the receiver to enter into a unitization agreement covering the described property authorized by the Railroad Commission of Texas;
4. Judgment providing that Plaintiff have such other and further relief to which it may show itself to be justly entitled, at law or in equity.

Respectfully submitted,

STEAKLEY & WETSEL, L.L.P.

THE STATE OF TEXAS)

COUNTY OF NOLAN)

BEFORE ME, the undersigned authority, on this day personally appeared ZACHARY QUENTIN LINK, who after being by me duly sworn, upon his oath stated the following:

"My name is Zachary Quentin Link. I am the President of Link Oil Company, a Texas corporation, which is the Plaintiff in the above styled and numbered cause. I have read the foregoing Application for Appointment of Receiver for [Mineral] [Royalty] Interests, and I am authorized by Link Oil Company to make this verification. All of the statements contained therein are within my personal knowledge and are true and correct."

EXECUTED this the ____ day of July, 2002.

ZACHARY QUENTIN LINK

SWORN TO AND SUBSCRIBED BEFORE ME by the said ZACHARY QUENTIN LINK, on this the ____ day of July, 2002, to certify which witness my hand and seal of office.

NOTARY PUBLIC, STATE OF TEXAS
My commission expires: _____

APPENDIX 2

[CAPTION]

AFFIDAVIT FOR CITATION BY PUBLICATION

THE STATE OF TEXAS)

COUNTY OF NOLAN)

BEFORE ME, the undersigned authority, on this day personally appeared SAMUEL SLEUTH, known to me to be a credible person, who after being by me duly sworn, on oath deposed and said:

"My name is Samuel Sleuth. My address is 123 Alamo Avenue, Sweetwater, Texas 79556. I am over the age of eighteen years, have never been convicted of a felony, and I am competent in all respects to make this affidavit.

"I am an Independent Petroleum Landman in Sweetwater, Nolan County, Texas. I have been employed by Link Oil Company, concerning the subject matter of the above lawsuit, and in such regard, I am the duly authorized agent of Link Oil Company in this proceeding and have authority to make this Affidavit.

"Over a period of _____ [months] [weeks] prior to the filing of this lawsuit, I have made the following diligent efforts to locate each of the Defendants in the above styled and numbered cause, or their heirs, but all such efforts have been unsuccessful: [Specify efforts undertaken, e.g.:

- "(1) checked all records in the offices of the County and District Clerks in Nolan County, Texas;
- "(2) checked the tax rolls in the office of the Central Appraisal District of Nolan County, Texas;
- "(3) checked the city directory for Sweetwater, Roscoe, Blackwell, Maryneal and Nolan and instituted a nation-wide search of telephone records on the internet;
- "(4) conducted a nation-wide search for missing persons through websites on the internet; etc.]

"Despite all of my efforts, the whereabouts of each of the Defendants in this case, some of which are non-residents of this state, are and remain unknown."

EXECUTED this the ____ day of July, 2002.

SAMUEL SLEUTH

SWORN TO AND SUBSCRIBED BEFORE ME by the said SAMUEL SLEUTH on this the ____ day of July, 2002, to certify which witness my hand and seal of office.

NOTARY PUBLIC, STATE OF TEXAS
My commission expires: _____

APPENDIX 3

CITATION BY PUBLICATION

CLERK OF THE COURT:
Vera Holloman
P. O. Box 1236
Sweetwater, TX 79556

PLAINTIFF'S ATTORNEY:
Rod E. Wetsel, Steakley & Wetsel, L.L.P.
P. O. Box 78
Sweetwater, Texas 79556

THE STATE OF TEXAS

NOTICE TO DEFENDANTS: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of forty-two (42) days after the date of issuance of this citation and petition, a default judgment may be taken against you."

TO: JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and THEIR HEIRS, KNOWN OR UNKNOWN, IF ANY OF SAID PERSONS ARE DECEASED, Defendants in the cause herein described.

You and each of you are hereby commanded to appear and answer before the 32nd Judicial District Court in the Nolan County Courthouse in Sweetwater, Nolan County, Texas, at or before _____.m. on the first Monday after the expiration of forty-two (42) days from the date of issuance hereof, being at or before 10:00 a.m. on Monday, the ____ day of _____, 2002, then and there to answer the petition of LINK OIL COMPANY, in Cause No. 1953, styled "LINK OIL COMPANY vs. JOSEPH R. DOAKES, ET AL.," wherein the said LINK OIL COMPANY is Plaintiff, and the said JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and THEIR HEIRS, KNOWN OR UNKNOWN, IF ANY OF SAID PERSONS BE DECEASED, are Defendants. The said petition, filed on the ____ day of July, 2002, discloses that the nature of said suit is as follows:

This suit is brought to have a receiver appointed under the provisions of Section [64.091] [64.093] of the Texas Civil Practice and Remedies Code for undivided [mineral] [royalty] interests owned by the Defendants in the following described lands in Nolan County, Texas, to-wit:

A tract of 160 acres of land, more or less, being the Southeast Quarter (SE/4) of Section ABC, Block XYZ, T&P Ry. Co. Surveys, Nolan County, Texas;

and to execute [Oil, Gas and Mineral Leases] [ratifications of oil, gas and mineral leases] thereof to the Plaintiff [OR ratifications of a pooling agreement covering said land], and take such other action deemed necessary under the provisions of said statute.

If this citation is not served within ninety (90) days after date of its issuance, it shall be returned unserved.

ISSUED AND GIVEN UNDER MY HAND AND THE SEAL OF SAID COURT on this the ____ day of July, 2002, at Sweetwater, Nolan County, Texas.

VERA HOLLOMAN,
Clerk of the District Court of Nolan County, Texas
By: _____, Deputy

OFFICER'S RETURN

Received this Citation on the ____ day of July, 2002, at _____ o'clock __.m. Executed by publishing the same in the "Sweetwater Reporter," a duly qualified newspaper for legal publications, published in Nolan County, Texas, the county in which suit is pending and the county in which the property the subject of such suit is situated.

The said publication was made once each week for four (4) consecutive weeks prior to the return day hereof, to-wit: On _____, _____, _____, and _____, 2002, the first of such days being at least 28 days before the return day hereof. Attached hereto is a printed copy of such publication, duly verified by the publisher.

The distance actually traveled by me in serving such process was ____ miles, and my fees are as follows:

For serving Citation	\$ _____
Printer's Fee	\$ _____
 Total Fees	 \$ _____

To certify which witness my hand this ____ day of _____, 2002.

DONNIE RANNEFELD, SHERIFF,
NOLAN COUNTY, TEXAS

By: _____
Deputy

APPENDIX 4

[CAPTION]

PUBLISHER'S AFFIDAVIT

THE STATE OF TEXAS)

COUNTY OF NOLAN)

I solemnly swear that the foregoing Citation by Publication was published in the "Sweetwater Reporter," a newspaper printed in Sweetwater, Nolan County, Texas, and of general circulation in said county, as provided in the Texas Rules of Civil Procedure for the service of citation or notice by publication. Said publication was made once each week for four (4) consecutive weeks prior to the return day thereof, to-wit: On _____, _____, _____, and _____, 2002, the first of such days being at least 28 days before the return day thereof. A copy of such notice as published, which was clipped from the newspaper, is attached hereto.

PUBLISHER
By: _____
(Title)

SWORN TO AND SUBSCRIBED BEFORE ME by _____ on this the _____ day of _____, 2002, to certify which witness my hand and seal of office.

(SEAL)

NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS)
COUNTY OF NOLAN)

This instrument was acknowledged before me on the _____ day of _____, 2002, by _____ of the "Sweetwater Reporter."

(SEAL)

NOTARY PUBLIC, STATE OF TEXAS

APPENDIX 5

SAMPLE LETTER TO EDITOR OF THE NEWSPAPER

July 22, 2002

Mr. Editor
Sweetwater Reporter
P. O. Box 750
Sweetwater, TX 79556

Re: No. 1953, Link Oil Company vs. Joseph R. Doakes, et al.;
in the 32nd Judicial District Court of Nolan County, Texas

Dear Mr. Editor:

We represent Link Oil Company, of Sweetwater, Texas, and have filed on behalf of our client an Application for Appointment of Receiver for [Mineral] [Royalty] Interests, which requests that the defendants named in the suit be cited by publication. In accordance with the requirements of Rule 116 of the Texas Rules of Civil Procedure, pertaining to citation by publication, we are writing this letter to offer guidelines for publishing the Citation by Publication, which will be served upon you by the Nolan County Sheriff's Office.

The statute requires that the citation be published once each week, for four consecutive weeks, the first of said publication dates to be at least 28 days before the return day of the citation (_____, 2002). Therefore, in order to meet your publication deadline, and in order for us to strictly comply with the statute, we hereby request that this citation be published on the following dates:

Wednesday, July 24, 2002
Wednesday, July 31, 2002
Wednesday, August 7, 2002
Wednesday, August 14, 2002

Failure to publish the citation for four consecutive weeks will invalidate the citation and necessitate repetition of the publication.

Immediately following the last publication on **Wednesday, August 14, 2002**, we will appreciate your forwarding to the serving officer copies of the tear sheets for each of the four required publications, along with a publisher's affidavit. Please either include with these documents or forward directly to us a statement for your publication charges, and we will see that it is promptly paid.

Should you have any questions concerning this matter, please do not hesitate to contact us. Thank you for your attention to this matter.

Very cordially yours,

STEAKLEY & WETSEL, L.L.P.
By: Roderick E. Wetsel

REW:ggs

APPENDIX 6

SAMPLE LETTER TO SELECTED RECEIVER

July 22, 2002

The Honorable Tim Fambrough
Judge, County Court
Nolan County Courthouse
Sweetwater, TX 79556

Re: No. 1953, Link Oil Co., Inc. vs. Joseph R. Doakes, et al.; in the
32nd Judicial District Court of Nolan County, Texas

Dear Judge Fambrough:

In accordance with our discussions concerning the referenced matter, we are enclosing a copy of the Application for Appointment of Receiver for [Mineral] [Royalty] Interests, with citation by publication, which has today been issued.

Please note that the hearing date in the District Court will be on or after the ____ day of September, 2002, at 10:00 o'clock a.m. [i.e., the appearance date, which is the first Monday after the expiration of 42 days from the date of issuance of the citation]. At the hearing, we will ask that you be appointed Receiver for these interests.

As soon as we have a hearing date and time, we will let you know. In the meantime, please review the enclosed pleadings and the accompanying statutes and rules, and call if you have any questions.

I really appreciate your help in this matter. Best personal regards.

Very cordially yours,

STEAKLEY & WETSEL, L.L.P.

By: Roderick E. Wetsel

REW:ggs
Enclosures

cc: Mr. Zachary Quentin Link
Link Oil Company
1616 Morris Avenue
Sweetwater, TX 79556

APPENDIX 7

[CAPTION]

APPOINTMENT OF ATTORNEY AD LITEM AFTER PUBLICATION

It has been brought to the Court's attention that JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and THEIR HEIRS, KNOWN OR UNKNOWN, IF ANY OF SAID PERSONS BE DECEASED, Defendants herein, have been cited by publication, and that no answer has been filed and no appearance has been entered by either of such parties within the prescribed time.

Accordingly, IT IS ORDERED and the Court hereby appoints BONNIE BARRISTER, Attorney at Law, who is licensed to practice law in this Court and this state, to defend the suit on behalf of said Defendants.

SIGNED this the 6th day of September, 2002.

GLEN HARRISON
DISTRICT JUDGE PRESIDING

APPENDIX 8

[CAPTION]

ORDER SETTING HEARING

IT IS ORDERED that the Plaintiff's Application for Appointment of Receiver for [Mineral] [Royalty] Interests on file herein be, and the same is hereby set for hearing on Monday, the 23rd day of September, 2002, at 9:00 o'clock a.m., in the District Courtroom, Nolan County Courthouse, Sweetwater, Texas.

SIGNED this the ____ day of September, 2002.

GLEN HARRISON,
DISTRICT JUDGE PRESIDING

APPENDIX 9

[CAPTION]

ORDER APPOINTING RECEIVER FOR [MINERAL] [ROYALTY] INTERESTS

On the 23rd day of September, 2002, came on to be heard the Application for Appointment of Receiver for [Mineral] [Royalty] Interests in the above styled and numbered cause, brought by the Plaintiff, LINK OIL COMPANY.

The Plaintiff, LINK OIL COMPANY, appeared by and through its attorney of record, RODERICK E. WETSEL. The Defendants, JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, although duly cited by publication, as provided by the Texas Rules of Civil Procedure, and as prescribed in Section [64.091] [64.093] of the Texas Civil Practice and Remedies Code, failed to appear and wholly made default. BONNIE BARRISTER, an attorney practicing before this Court, was appointed by the Court as Attorney Ad Litem to represent the interests of the Defendants.

The case was called for trial, and the Plaintiff, by and through its attorney of record, and the Defendants, by and through their Attorney Ad Litem, announced ready for trial. No jury having been demanded, all matters of fact and of law were submitted to the Court. The Court finds that it has jurisdiction of the parties hereto and of the subject matter hereof, and after having examined the pleadings and having heard the evidence and arguments of counsel, the Court finds further as follows:

I.

(A) Plaintiff, LINK OIL COMPANY, is engaged in oil and gas exploration and development in Nolan County, Texas, and is the owner of certain undivided leasehold interests in and under the following described lands in Nolan County, Texas, to-wit:

A tract of 160 acres of land, more or less, being the Southeast Quarter (SE/4) of Section ABC, Block XYZ, T&P Ry. Co. Surveys, Nolan County, Texas.

(B) Defendants own [undivided interests in the oil, gas and other minerals] [undivided interests in the royalty] [nonparticipating royalty interests] in and under the above described lands, as is more particularly set out in Plaintiff's Application for Appointment of Receiver for [Mineral] [Royalty] Interests filed herein.

(C) The Defendants have been cited by publication in the manner and for the length of time required by the Texas Rules of Civil Procedure, and as prescribed by Section [64.091(d)(2)] [64.093(d)(2)] of the Texas Civil Practice and Remedies Code. The return of citation is on file herein, and is in all things proper and in accordance with the law.

(D) The residences and/or whereabouts of the Defendants, some of whom are non-residents of this State, are unknown. None of the Defendants, or their heirs, have paid taxes on the undivided interests owned by them in the above described lands, nor have they rendered said interests for taxes during the five-year period immediately preceding the filing of this action.

Plaintiff has made diligent efforts to locate each of the above listed Defendants or their heirs, all of which efforts have been unsuccessful.

(E) Plaintiff has proved to the satisfaction of the Court that it will suffer substantial damage or injury unless a Receiver is appointed, as requested herein. The Court finds that the allegations of substantial injury

and damages that will be suffered by Plaintiff if a Receiver is not appointed are true. Further, the Court finds that the appointment of a Receiver, as requested herein, for the exploration and development of oil and gas will inure to the benefit of the Defendants and their heirs. Under the provisions of Section [64.091] [64.093] of the Texas Civil Practice and Remedies Code, it is, therefore, in the best interest of the Plaintiff and the Defendants that the County Judge of Nolan County, Texas, and his successors, be appointed Receiver for the undivided [mineral] [royalty] interests owned by the Defendants herein, with the following powers:

(1) To negotiate, execute and deliver to the Plaintiff [oil, gas and mineral leases with pooling and unitization clauses] [ratifications of oil, gas and mineral leases] [ratifications of a pooling agreement] [enter into a unitization agreement authorized by the Railroad Commission of Texas] under such terms and conditions as may be prescribed and approved by this Court; it being ORDERED that such [leases] [ratifications] [unitization agreement] shall cover the entire undivided [mineral] [royalty] interests owned by the Defendants in the above described lands;

(2) To manage the said [mineral] [royalty] interests for the duration of the receivership which, once created, shall continue as long as said Defendants, or their heirs, successors, assigns or personal representatives, fail to appear in this Court in person or by agent or attorney to claim their interests;

(3) [If appropriate:] To enter into a unitization agreement authorized by the Railroad Commission of Texas; and

(4) To render said interests for taxation purposes and to pay the taxes upon the same as they become due.

(F) The Court further finds and is satisfied that the Plaintiff has fully complied with all the terms, conditions and provisions of Section [64.091] [64.093] of the Texas Civil Practice and Remedies Code.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that TIM FAMBROUGH, the County Judge of Nolan County, Texas, and his successors, be and is hereby appointed Receiver of the [undivided interests of the Defendants in the oil, gas and other minerals] [royalty or nonparticipating royalty interests of the Defendants] in and under and that may be produced from the above described lands, with all of the powers set out above, and acting in such capacity, is AUTHORIZED and DIRECTED to execute and deliver to Plaintiff, [as Lessee, oil, gas and mineral leases containing pooling and unitization clauses, and other provisions] [ratifications of oil, gas and mineral leases or ratifications of a pooling agreement], as prescribed by this Court and by law, covering all of the lands described in Plaintiff's Application.

IT IS FURTHER ORDERED that upon commencing the duties as Receiver in this cause, the County Judge of Nolan County, Texas shall take the oath required by law, and such appointment shall be effective upon the filing of such Oath in this proceeding.

IT IS FURTHER ORDERED that as provided in Section [64.091(d)(4)] [64.093(d)(4)] of the Texas Civil Practice and Remedies Code, the Receiver is not required to post bond.

IT IS FURTHER ORDERED that the Attorney Ad Litem appointed herein be and is hereby granted an attorney's fee in the amount of _____ AND NO/100 DOLLARS (\$ _____), which may be taxed as part of the costs of this proceeding.

IT IS FURTHER ORDERED that all other costs incurred in this proceeding be taxed against and paid out of the money consideration paid for the [execution of the leases of these interests by the Receiver] [money consideration paid for the execution of ratifications by the Receiver, or funds later accruing to these royalty interests], and the balance retained for the use and benefit of the Defendants.

IT IS FURTHER ORDERED that the Receiver shall report the execution of the [lease or leases of the interests of the Defendants] [ratifications executed on behalf of the Defendants] to this Court for approval, and that this cause be subject to further orders made by the Court herein.

SIGNED this the ____ day of September, 2002.

GLEN HARRISON,
DISTRICT JUDGE PRESIDING

APPENDIX 10

[CAPTION]

OATH OF RECEIVER FOR [MINERAL] [ROYALTY] INTERESTS

THE STATE OF TEXAS)

COUNTY OF NOLAN)

I, TIM FAMBROUGH, County Judge of Nolan County, Texas, being the Receiver for [Mineral] [Royalty] Interests appointed in the above styled and numbered cause by the District Court of Nolan County, Texas, do solemnly swear that I will well and truly perform the duties of a Receiver herein, according to law and the Orders of this Court appointing me, and any further Orders of this Court that may be hereafter entered in this cause.

TIM FAMBROUGH

SWORN TO AND SUBSCRIBED before me on this the ____ day of September, 2002, by TIM FAMBROUGH, to certify which witness my hand and seal of office.

VERA HOLLOMAN, DISTRICT CLERK
Nolan County, Texas

By: _____
Deputy

APPENDIX 11

[CAPTION]

REPORT OF RECEIVER FOR [MINERAL] [ROYALTY] INTERESTS

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes TIM FAMBROUGH, Receiver for [Mineral] [Royalty] Interests in the above styled and numbered cause, and reports to the Court the following:

On the ____ day of September, 2002, after money consideration was first paid to the District Clerk of Nolan County, Texas by the Plaintiff, LINK OIL COMPANY, as prescribed by Section [64.091(h)] [64,093(h)] of the Texas Civil Practice and Remedies Code, [OR, no initial bonus money having been paid], and pursuant to the authority granted to me as a Receiver in these proceedings, acting as Receiver, I did execute [Oil, Gas and Mineral Leases] [Ratifications of oil, gas and mineral leases] [ratifications of a pooling agreement], each dated September __, 2002, to LINK OIL COMPANY, as Lessee, covering the following lands in Nolan County, Texas, to-wit:

A tract of 160 acres of land, more or less, being the Southeast Quarter (SE/4) of Section ABC, Block XYZ, T&P Ry. Co. Surveys, Nolan County, Texas;

on behalf of each of the following Defendants in this cause: JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and their heirs, known or unknown, if any of said persons are deceased.

True a correct copies of the [Oil, Gas and Mineral Leases] [Ratifications] are attached hereto as Exhibit "A," and made a part hereof for all purposes.

WHEREFORE, premises considered, your Receiver prays that this Report and the execution by him of the attached [Oil, Gas and Mineral Leases] [Ratifications], be approved and confirmed; that your Receiver be directed to deliver said [Oil, Gas and Mineral Leases] [Ratifications] to LINK OIL COMPANY, for recording the same in Nolan County, Texas.

Respectfully submitted,

TIM FAMBROUGH, RECEIVER

SWORN TO AND SUBSCRIBED before me on this the ____ day of September, 2002, by TIM FAMBROUGH.

VERA HOLLOMAN, DISTRICT CLERK
Nolan County, Texas

By: _____
Deputy

APPENDIX 12

Oil, Gas and Mineral Lease

OIL, GAS AND MINERAL LEASE

THIS AGREEMENT made this.....day of.....September.....2002..... between

TIM FAMBROUGH, County Judge, Nolan County, Texas, acting in his capacity as Receiver for Mineral interests under appointment by the 32nd Judicial District Court of Nolan County, Texas, in Cause No. 1953, for JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and their heirs, known or unknown, if any of them should be deceased, as LESSOR whose address is: c/o Office of the District Clerk of Nolan County, Texas, P. O. Box 1236, Sweetwater, Texas 79556; and LINK OIL COMPANY, a Texas corporation, with offices at 1618 Morris Avenue, Sweetwater, Texas 79556, as LESSEE,

W I T N E S S E T H :

I, Lessor, in consideration of.....Ten and No/100.....Dollars, receipt of which is hereby acknowledged, and of the covenants and agreements of lessee hereinafter contained, does hereby grant, lease and let unto lessee the land covered hereby for the purposes and with the exclusive right of exploring, drilling, mining and operating for, producing and owning oil, gas, sulphur and all other minerals (whether or not similar to those mentioned), together with the right to make surveys on said land, lay pipe lines, establish and utilize facilities for surface or subsurface disposal of salt water, construct roads and bridges, dig canals, build tanks, power stations, telephone lines, employee houses and other structures on said land, necessary or useful in lessee's operations in exploring, drilling for, producing, treating, storing and transporting minerals produced from the land covered hereby or any other land adjacent thereto. The land covered hereby, herein called "said land", is located in the County of.....Nolan....., State of.....Texas..... and is described as follows:

A tract of 160 acres of land, more or less, being the Southeast Quarter (SE/4) of Section ABC, Block XYZ, T&P Ry. Co. Surveys, Nolan County, Texas.

[Notwithstanding any provision contained herein to the contrary, the royalties payable under the terms of this lease shall be "1/6" instead of "1/8," and wherever the words and fraction "one-eighth" appear with respect to royalties, the same shall be deleted and the fraction "1/6" (one-sixth) shall be inserted in lieu thereof.]

This lease also covers and includes, in addition to that above described, all land, if any, contiguous or adjacent to or adjoining the land above

before the end of each anniversary of the expiration of said ninety day period if upon such anniversary this lease is being continued in force solely by reason of the provisions of this paragraph. Each such payment or tender shall be made to the parties who at the time of payment would be entitled to receive the royalties which would be paid under this lease if the wells were producing, and may be deposited in the.....Office of the District Clerk of Nolan County, Texas, P. O. Box 1236, Sweetwater, Texas 79556..... at.....Sweetwater, Texas..... or its successors, which shall continue as the depositories, regardless of changes in the ownership of shut-in royalty, if at any time that lessee pays or tenders shut-in royalty, two or more parties are, or claim to be, entitled to receive same, lessee may, in lieu of any other method of payment herein provided, pay or tender such shut-in royalty, in the manner above specified, either jointly to such parties or separately to such in accordance with their respective ownerships thereof, as lessee may elect. Any payment hereunder may be made



to which this lease covers less than such full interest, shall no part only in the proportion which the interest herein is due to the lessors bears to the whole and undivided fee simple estate therein. All royalty interest covered by this lease (whether or not owned by lessor) shall be paid out of the royalty herein provided. This lease shall be binding upon each party who executes it without regard to whether it is executed by all those named herein as lessor.

11. If, while this lease is in force, at, or after the expiration of the primary term hereof, it is not being continued in force by reason of the shut-in well provisions of paragraph 3 hereof, and lessee is not conducting operations on said land by reason of (1) any law, order, rule or regulation, (whether or not subsequently determined to be invalid) or (2) any other cause, whether similar or dissimilar, (except financial) beyond the reasonable control of lessee, the primary term hereof shall be extended until the first anniversary date hereof occurring ninety (90) or more days following the removal of such delaying cause, and this lease may be extended thereafter by operations as if such delay had not occurred.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

TIM FAMBROUGH, County Judge, Nolan County, Texas, as Receiver for JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and their heirs, known or unknown, if any of them should be deceased

STATE OF TEXAS }
COUNTY OF NOLAN }

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the _____ day of _____ September _____, _____ by TIM FAMBROUGH, County Judge of Nolan County, Texas, as Receiver for JOSEPH R. DOAKES, WILLIAM A. (BILL) BECK, FORREST GUMP and ELSIE BORDEN, and their heirs, known or unknown, if any of them should be deceased.

Notary Public, State of Texas
Notary's name (printed):
Notary's commission expires:

APPENDIX 13

RATIFICATION OF OIL, GAS AND MINERAL LEASE

State: Texas

County: Nolan

Royalty Owner: TIM FAMBROUGH, County Judge of Nolan County, Texas, acting in his capacity as Receiver for Royalty Interests under appointment by the 32nd Judicial District Court of Nolan County, Texas, in Cause No. 1953 for Joseph R. Doakes, William A. (Bill) Beck, Forrest Gump and Elsie Borden, and their heirs, known or unknown, if any of said persons are deceased (whose address is c/o Office of the District Clerk of Nolan County, Texas, P. O. Box 1236, Sweetwater, Texas 79556)

Lessee: LINK OIL COMPANY, a Texas corporation, with offices at 1618 Morris Avenue, Sweetwater, Texas 79556

Effective Date: (Date of the Oil and Gas Lease being ratified)

On the ___ day of _____, 2002, _____, as Lessor, executed and delivered to the Lessee, named above, an Oil, Gas and Mineral Lease (the "Lease"), recorded in Volume ___, Page ___, Official Public Records, Nolan County, Texas, covering the following described lands (the "Lands"):

[Description of Lands included in the lease]

The royalty owner(s) named above own(s) a nonparticipating royalty interest(s) in and under the Lands.

For adequate consideration, TIM FAMBROUGH, County Judge of Nolan County, Texas, acting in his capacity as Receiver for royalty interests, as described above, for Joseph R. Doakes, William A. (Bill) Beck, Forrest Gump and Elsie Borden, their heirs, known or unknown, if any of said persons be deceased, RATIFIES, CONFIRMS and ADOPTS the terms of the lease and acknowledges and agrees that the interests of the above described nonparticipating royalty owners in the Lands may be pooled and unitized, under the terms of the Lease, on the same basis as all other mineral and royalty interests in the Lands.

EXECUTED this the _____ day of September, 2002.

TIM FAMBROUGH, County Judge of Nolan County, Texas,
Receiver for JOSEPH R. DOAKES, WILLIAM A. (BILL)
BECK, FORREST GUMP and ELSIE BORDEN,
AND THEIR HEIRS, KNOWN OR UNKNOWN,
IF ANY OF SAID PERSONS ARE DECEASED

[Acknowledgment]

APPENDIX 14

RATIFICATION OF POOLING AGREEMENT

State: Texas

County: Nolan

Royalty Owner: TIM FAMBROUGH, County Judge of Nolan County, Texas, acting in his capacity as Receiver for Royalty Interests under appointment by the 32nd Judicial District Court of Nolan County, Texas, in Cause No. 1953 for Joseph R. Doakes, William A. (Bill) Beck, Forrest Gump and Elsie Borden, and their heirs, known or unknown, if any of said persons are deceased (whose address is c/o Office of the District Clerk of Nolan County, Texas, P. O. Box 1236, Sweetwater, Texas 79556)

Lessee: LINK OIL COMPANY, a Texas corporation, with offices at 1618 Morris Avenue, Sweetwater, Texas 79556

Effective Date: (Date of the Pooling Agreement being ratified)

On the ____ day of _____, 2002, _____ and _____, entered into a Pooling Agreement (the "Agreement"), recorded in Volume ____, Page ____, Official Public Records, Nolan County, Texas, concerning the creation of a pooled unit for the production of oil and/or gas covering the following described lands (the "Lands"):

[Description of Leases and Lands included in the pooling agreement]

The royalty owner(s) named above own(s) a nonparticipating royalty interest(s) in and under the Lands.

For adequate consideration, TIM FAMBROUGH, County Judge of Nolan County, Texas, acting in his capacity as Receiver for royalty interests, as described above, for Joseph R. Doakes, William A. (Bill) Beck, Forrest Gump and Elsie Borden, their heirs, known or unknown, if any of said persons be deceased, RATIFIES, CONFIRMS and ADOPTS the terms of the above described Pooling Agreement and acknowledges and agrees that the interests of the above described nonparticipating royalty owners in the Lands may be pooled and unitized, under the terms of said Pooling Agreement, the same as if said Owners had executed, acknowledged and delivered the original or a counterpart of the Pooling Agreement.

EXECUTED this the ____ day of September, 2002.

TIM FAMBROUGH, County Judge of Nolan County, Texas
Receiver for JOSEPH R. DOAKES, WILLIAM A. (BILL)
BECK, FORREST GUMP and ELSIE BORDEN,
AND THEIR HEIRS, KNOWN OR UNKNOWN,
IF ANY OF SAID PERSONS ARE DECEASED

[Acknowledgment]

APPENDIX 15

ORDER APPROVING RECEIVER'S REPORT

On this the ____ day of September, 2002, came on to be heard the Report of Receiver for [Mineral] [Royalty] Interests, filed in this proceeding on this date, and the Court having examined the Report and the evidence submitted in connection therewith, is of the opinion and finds that the facts stated therein are true; that each of the [Oil, Gas and Mineral Leases executed by the Receiver to LINK OIL COMPANY, as Lessee] [Ratifications executed by the Receiver], covering the lands made the subject of this proceeding and on behalf of the Defendants in this proceeding and their known or unknown heirs, is in proper form; that the terms and provisions thereof are fair and reasonable; and that said [leases] [ratifications] have been executed pursuant to the Order of this Court. The Court further finds that said Report should be in all things approved and confirmed, and that the Receiver, therefore, should be directed to deliver said [Oil, Gas and Mineral Leases] [Ratifications] to LINK OIL COMPANY, as Lessee, for filing the same of record in Nolan County, Texas.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Report of Receiver for [Mineral] [Royalty] Interests on file herein be, and the same is in all things APPROVED and CONFIRMED, and that TIM FAMBROUGH, as the appointed Receiver herein, be and is hereby directed to deliver to LINK OIL COMPANY the [Oil, Gas and Mineral Leases covering the lands made the subject of this action and covering all of the interests owned by the Defendants and their heirs, known or unknown, in said lands] [ratifications of oil, gas and mineral leases or ratifications of a pooling agreement covering the nonparticipating royalty interests owned by the Defendants and their heirs, known or unknown, in said lands].

SIGNED this the ____ day of September, 2002.

GLEN HARRISON
DISTRICT JUDGE PRESIDING