

ANDRE...  
BY Deputy

Misc. Docket No. 04-9270

In  
**THE SUPREME COURT OF TEXAS**

***IN RE MOTION TO TRANSFER AND CONSOLIDATE APPEALS  
OF RELATED AD VALOREM TAX SUITS***

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**MOTION TO TRANSFER APPEALS  
PENDING BEFORE THE FOURTH COURT OF APPEALS  
AND THE THIRTEENTH COURT OF APPEALS**

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P. Jefferson Ballew  
State Bar No. 01654980  
Adrienne E. Dominguez  
State Bar No. 00793630  
Thompson & Knight LLP  
1700 Pacific Avenue, Suite 3300  
Dallas, Texas 75201  
(214) 969-1700  
FAX: (214) 969-1751

ATTORNEYS FOR CHEVRON U.S.A.,  
INC. a/k/a CHEVRON PRODUCTS  
COMPANY, TEXACO INC., TEXACO  
EXPLORATION & PRODUCTION  
INC. and FOUR STAR OIL & GAS  
COMPANY

Shannon H. Ratliff  
State Bar No. 16573000  
Lisa A. Paulson  
State Bar No. 00784732  
Ratliff Law Firm, PLLC  
600 Congress Avenue, Suite 3100  
Austin, Texas 78701  
(512) 493-9600  
FAX: (512) 493-9625

ATTORNEYS FOR MOBIL  
PRODUCING TEXAS & NEW  
MEXICO, INC. and SOCONY MOBIL  
COMPANY, INC.

Misc. Docket No. \_\_\_\_\_

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1700 Pacific Avenue, Suite 3300  
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(214) 969-1700  
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State Bar No. 00784732  
Ratliff Law Firm, PLLC  
600 Congress Avenue, Suite 3100  
Austin, Texas 78701  
(512) 493-9600  
FAX: (512) 493-9625

ATTORNEYS FOR MOBIL  
PRODUCING TEXAS & NEW  
MEXICO, INC. and SOCONY MOBIL  
COMPANY, INC.

Orrin Harrison, III  
State Bar No. 09130700  
Sheryl L. Hopkins  
State Bar No. 09982080  
Akin Gump Strauss Hauer & Feld LLP  
1700 Pacific Avenue, Suite 4100  
Dallas, Texas 75201  
(214) 969-2800  
FAX: (214) 969-4343

ATTORNEYS FOR ATOFINA PETRO-  
CHEMICALS, INC. f/k/a FINA OIL &  
CHEMICAL CO., TOTALFINAELF  
GAS & POWER NORTH AMERICA,  
INC., FINA, INC., FINAL NATURAL  
GAS COMPANY, TOTAL FINALELF  
E&P USA, INC., TOTAL E&P USA,  
INC., and TOTALFINAELF  
HOLDINGS, USA, INC.

Michael V. Powell  
State Bar No. 16204400  
Locke, Liddell & Sapp LLP  
220 Ross Avenue, Suite 2200  
Dallas, Texas 75201-6776  
(214) 740-8520  
FAX: (214) 740-8800

ATTORNEYS FOR  
CONOCOPHILLIPS COMPANY f/k/a  
CONOCO, INC. f/k/a PHILLIPS  
PETROLEUM COMPANY

Duane L. Bunce  
State Bar No. 00793425  
Baucum Steed Barker  
1100 NW Loop 410, Suite 260  
San Antonio, Texas 78213-2253  
(210) 349-5311  
FAX: (210) 349-3523

ATTORNEYS FOR IBC PETROLEUM,  
INC.

Reagan D. Pratt  
State Bar No. 00788218  
Clements, O'Neill, Pierce, Wilson &  
Fulkerson, L.L.P.  
1000 Louisiana, Suite 1800  
Wells Fargo Plaza  
Houston, Texas 77002-5009  
(713) 654-7642  
FAX: (713) 654-7690

ATTORNEYS FOR EOG RESOURCES,  
INC.

The Movants are the defendants and now appellees in a series of related cases that were consolidated for pretrial proceedings, dismissed for lack of jurisdiction, and appealed by the plaintiffs.<sup>1</sup> The appeals are pending before the Fourth Court of Appeals at San Antonio and the Thirteenth Court of Appeals at Corpus Christi.<sup>2</sup> The Movants ask the Court to exercise its authority pursuant to section 73.001 of the Texas Government Code and to order the appeals transferred and then consolidated. For reasons explained below, the Movants request that the cases be transferred to either the First or Fourteenth Courts of Appeals in Houston. Alternatively, Movants ask the Court to transfer the Corpus Christi cases to the Fourth Court at San Antonio.

## **BACKGROUND**

This procedural motion concerns 19 similar cases filed in multiple counties in the Fourth and Fifth Administrative Judicial Regions. In each case, the taxing authorities sued one or more of the oil and gas producer defendants seeking additional ad valorem tax revenue. In each case, the taxing authorities asserted virtually identical claims that the producers negligently misrepresented and/or fraudulently understated transaction prices from sales of oil and gas to cause understate property appraisals and to avoid ad valorem taxes.

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<sup>1</sup> Movants are Appellees Chevron USA, Inc. a/k/a Chevron Products Company, Texaco Inc., Texaco Exploration & Production Inc. and Four Star Oil & Gas Company; Mobil Producing Texas & New Mexico, Inc. and Socony Mobil Company, Inc.; Fina Oil & Chemical Company, Atofina Petrochemicals, Inc., Fina, Inc., TotalFinaElf Gas & Power North America, Inc., Fina Natural Gas Company, TotalFinaElf E&P USA, Inc., TotalFinaElf Holdings USA, Inc. and Total E&P USA, Inc; ConocoPhillips Company; IBC Petroleum, Inc.; and EOG Resources, Inc.

<sup>2</sup> All Appellees and Appellants and their counsel are listed at Tab J of the Appendix. The specific appeals and cause numbers are listed *infra*, at n.8- n.10.

In addition to the cases at issue now, similar cases were filed in multiple counties located in the Sixth and Seventh Administrative Judicial Regions. Those cases have been dismissed or nonsuited and are not at issue in this motion.

Defendants in each case moved under Rule 11 of the Texas Rules of Judicial Administration for the assignment of a pretrial judge to conduct all pretrial proceedings and decide all pretrial matters in the related cases. *See* TEX. R. JUD. ADMIN. 11.3(a). On March 26, 2004, the presiding judges from the Fourth, Fifth, Sixth, and Seventh Administrative Judicial Regions sat as a panel and heard the defendants' motions. Following the hearing, all of the presiding judges entered orders finding that the cases in those regions involved common material questions of fact and law and that assignment of a pretrial judge would promote the just and efficient conduct of the cases. The presiding judges from the Fourth and Fifth Administrative Judicial Regions assigned Judge Tracy Christopher, Presiding Judge of the 295th Judicial District Court of Harris County, Texas (located within the Second Administrative Judicial Region), as the pretrial judge. *See* Order Assigning Pretrial Judge (April 7, 2004) (Tab A); Supplemental Order Assigning Pretrial Judge (May 24, 2004) (Tab B); Order Assigning Pretrial Judge (April 15, 2004) (Tab C); Supplemental Order Assigning

Pretrial Judge (May 20, 2004) (Tab D).<sup>3</sup> As a result of the assignment, Judge Christopher presided over pretrial proceedings in the 19 cases that have been appealed.<sup>4</sup>

Before the coordination orders were entered, the defendants in each case had filed pleas to the jurisdiction. Specifically, the defendants sought dismissal because the local appraisal review boards have exclusive jurisdiction over the taxing units' allegations and the Texas Tax Code provides the exclusive procedure and remedy for addressing the allegations.<sup>5</sup>

On July 12, 2004, Judge Christopher held a hearing on the defendants' pleas to the jurisdiction. By agreement of the parties, Judge Christopher heard all pretrial proceedings and signed all orders in Harris County. On September 10, 2004, Judge Christopher granted all the defendants' pleas and signed a Final Order of Dismissal in each of the related cases. The identical orders disposed of all of the related cases from the Fourth and Fifth Administrative Judicial Regions.<sup>6</sup>

On October 6 and 7, 2004, the taxing-authority plaintiffs filed notices of appeal in each case. The appeals were taken to the courts of appeals with jurisdiction over appeals

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<sup>3</sup> The presiding judges of the Sixth and Seventh Administrative Judicial Regions appointed Judge Kelly G. Moore, Presiding Judge of the 121st Judicial District Court of Terry County, as the presiding judge over the cases in the Sixth and Seventh Administrative Judicial Regions. *See* Order of Assignment of Pretrial Judge (April 14, 2004) (Tab E); Order of Assignment of Pretrial Judge (April 2, 2004) (Tab F). After the Amarillo Court of Appeals ruled in a mandamus proceeding that district courts lack jurisdiction over the claims, the plaintiffs' attorneys nonsuited all but one of the cases in the Sixth and Seventh Administrative Judicial Regions. None of those cases are at issue.

<sup>4</sup> The cases are specifically identified in the orders assigning Judge Christopher as the pretrial judge at Tabs A-D.

<sup>5</sup> The basis for the pleas to the jurisdiction are explained more fully in *In re ExxonMobil Corp.*, 2004 WL 1908390 (Tex. App.—Amarillo Aug 26, 2004) (orig. proceeding) (memorandum opinion).

<sup>6</sup> *See, e.g.*, Orders of Dismissal at Tab G.

from the counties where each case was pending. As a result, 11 of the cases are now on appeal to the Fourth Court of Appeals at San Antonio and 8 of the cases are now on appeal to the Thirteenth Court of Appeals at Corpus Christi. The plaintiffs have moved for consolidation of the two groups of cases in each of the courts of appeals, but have not sought to transfer any of the appeals to permit a single appellate review of Judge Christopher's dismissal orders.<sup>7</sup> Movants here are Appellees in 12 of the 19 appeals. For simplicity, the cases pending in the Fourth Court of Appeals are referred to as the "San Antonio Appeals,"<sup>8</sup> and the cases pending in the Thirteenth Court of Appeals are referred to as the "Corpus Christi Appeals."<sup>9</sup> Movants jointly ask the Court for the relief sought in this motion.<sup>10</sup>

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<sup>7</sup> Plaintiffs have filed identical motions to consolidate appeals in the 11 San Antonio Appeals and a separate set of identical motions to consolidate appeals in the 8 Corpus Christi appeals. An example of each set of motions is attached under Appendix Tab K.

<sup>8</sup> The San Antonio Appeals are: *Brooks County and Brooks ISD v. Texaco E&P, Inc. and Shell Western E&P, Inc.*, Cause No. 04-04-00727-CV; *Duval County, et al v. Concoco, Inc., et al.*, 04-04-00729-CV; *Jim Hogg County and Jim Hogg ISD v. Chevron U.S.A., Inc. a/k/a Chevron Products Company*, Cause No. 04-04-00730-CV;-CV; *Webb County v. Conoco, Inc. et al.*, Cause No. 04-04-00733-CV; *Webb County v. Chevron U.S.A., Inc. a/k/a Chevron Products Company*, Cause No. 04-04-00732-CV; *Zapata County, et al v. Continental Oil Co.*, Cause No. 04-04-00734-CV; and *Zapata County and Zapata Independent School District v. Chevron U.S.A., Inc. a/k/a Chevron Products Company, et al.*, Cause No. 04-04-00735-CV.

<sup>9</sup> The Corpus Christi Appeals are: *EdCouch-Elsa ISD, et al v. Chevron USA, Inc., et al.*, Cause No. 13-04-00556-CV; *Edinburg ISD vs. American Coastal Energy, Inc., et al.*, Cause No. 13-04-00543-CV; *Hidalgo County v. Texaco, Inc., et al.*, Cause No. 13-04-00542CV; *Kleberg County, et al v. Atofina Petrochemicals, Inc. et al.*, Cause No. 13-04-00553-CV; *McAllen ISD v. Fina Oil & Chemical Company, et al.*, Cause No. 13-04-00544-CV; and *Willacy County v. El Paso Production Oil & Gas Company, et al.*, Cause No. 13-04-00555-CV.

<sup>10</sup> The remaining seven appeals are *Brooks County & Brooks County ISD v. El Paso Production Oil & Gas Company, et al.*, Cause No. 04-04-00726-CV, *Jim Wells County, et al v. El Paso Production Oil & Gas Company, et al.*, Cause No. 04-04-00725-CV, *Jim Wells County, et al v. Anadarko Petroleum Corp., et al.*, Cause No. 04-04-00731, and *Duval County, et al v. Shell Western E&P, et al.*, Cause No. 04-04-00728-CV, pending in the San Antonio Court of Appeals, and *Kenedy County v. El Paso Production Oil & Gas Company, et al.*, Cause No. 13-04-00557-CV, *Kleberg County, et*

## ARGUMENT

### A. **The Supreme Court of Texas Has the Exclusive Authority to Transfer an Appeal to Any Court of Appeals for “Good Cause.”**

Under section 73.001 of the Texas Government Code, the Court is authorized to transfer appeals from one court of appeals to another:

The supreme court may order cases transferred from one court of appeals to another at any time that, in the opinion of the supreme court, there is good cause for the transfer.

TEX. GOV'T CODE ANN. § 73.001. “Only the Supreme Court is authorized to transfer appellate cases.” *Miles v. Ford Motor Co.*, 914 S.W.2d 135, 138 (Tex. 1995). The Court typically exercises that power to equalize dockets, but the statute does not limit the Court’s transfer authority to that purpose. *Id.*

In *Miles*, the Court considered a request for a transfer in the context of appeals filed by parties in one case to different courts of appeals with overlapping appellate jurisdiction. *Id.* at 136-38. The Court ultimately denied the request for a transfer, but made clear that its transfer authority extends to transferring related appeals for consolidation purposes. *Id.* at 139. The Movants ask the Court to exercise that authority here.

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*al v. El Paso Production Oil & Gas Company, et al.*, Cause No. 13-04-00554-CV, and *Willacy County v. El Paso Production Oil & Gas Company, et al.*, Cause No. 13-04-00555-CV, pending in the Corpus Christi Court of Appeals.



**B. The San Antonio Appeals and the Corpus Christi Appeals Should be Decided Together.**

**1. The issue before the courts of appeals is identical and should be considered by one court.**

There can be no dispute that the appeals should be heard by the same court in the same proceeding. Under Rule 11, the presiding judge of an Administrative Judicial Region must grant a motion for coordinated pretrial proceedings if: “(1) the case involves material questions of fact and law common to a case in another court or county; and (2) assignment of a pretrial judge would promote the just and efficient conduct of the cases.” TEX. R. JUD. ADMIN. 11.4(h) (copy attached at Tab H). After a joint hearing, the presiding judges of two Administrative Judicial Regions found both criteria satisfied. *See* Tabs A-D. On appeal, the commonality among the cases is even stronger: all defendants asserted the same basis for dismissal, and Judge Christopher signed identical dismissal orders in each case. The identical issue in these separate appeals should be heard by one court of appeals.

**2. Consideration of the appeals together promotes the purposes of Rule 11.**

The primary purpose of Rule 11 is to promote justice and efficiency by providing consistency in related cases, that is, cases involving “common material issues of fact and law.” *See* TEX. R. JUD. ADMIN. 11.2(d); 11.4(b); 11.4(h). Rule 11 provides for the pretrial assignment of related cases to an appointed pretrial judge or judges who will decide all pretrial motions. TEX. R. JUD. ADMIN. 11.3(a-b). More than one pretrial judge may be assigned in related cases, and the pretrial judges may sit in the same or different judicial regions. TEX. R. JUD. ADMIN. 11.3(c). In the interest of consistency and efficiency,”[i]f

more than one pretrial judge is assigned in related cases, either in the same region or different regions, the pretrial judges must consult with each other in conducting pretrial proceedings and deciding pretrial matters.” TEX. R. JUD. ADMIN. 11.3(c). Once assigned, a Rule 11 pretrial judge presides over all pretrial proceedings, and the regular judge can take no further action other than consulting on a trial date. TEX. R. JUD. ADMIN. 11.3(b). Those provisions demonstrate the obvious objective of Rule 11: to promote the “just and efficient conduct” of cases involving similar factual and legal issues by assuring consistency in pretrial rulings among such related cases throughout the state. *See* TEX. R. JUD. ADMIN. 11.4(b)(4); 11.4(h).

Allowing coordination of pretrial matters in the trial courts, but not in the appellate courts, would frustrate the purpose of Rule 11. At the very least, parallel appeals of the identical orders will multiply the costs for all parties and intensify the burden placed on already strained judicial resources. In addition, parallel appeals would create the possibility of different, even conflicting, results, which in turn would spark further parallel proceedings and cause even greater increases in costs to the parties and the courts. Each of these potential results threatens chaos and confusion rather than the efficiency and consistency contemplated by the rules. Avoiding those problems, and acting to promote efficiency, constitute “good cause” under § 73.001 and justify a transfer for purposes of consolidation.<sup>11</sup>

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<sup>11</sup> This Court has previously transferred cases for consolidation. *See, e.g., Misc. Docket No. 04-9023* (transferring case from First to Fourteenth Court of Appeals for consolidation); *Misc. Docket No. 03-9178* (transferring case from Fourteenth to Eleventh Court of Appeals for consolidation).

### 3. Relevant federal law also counsels in favor of transfer.

Federal courts have addressed the question presented here in the context of the federal multidistrict litigation statute, 28 U.S.C. § 1407. This Court may look to federal precedent because Texas’s multidistrict litigation system — including the recent adoption of Rule 13 discussed below — was modeled after the federal system. *See* House Research Organization, Bill Analysis, Tex. H.B. 4, 78th Leg., R.S. (2003) at 44.

The federal multidistrict litigation rule has the same underlying purpose as that of Texas Rule 11 (and 13): to provide for “the convenience of parties and witnesses and [to] promote the just and efficient conduct” of cases with common questions of fact through “coordinated or consolidated pretrial proceedings.” 28 U.S.C. § 1407(a). Like Rule 11, the federal multidistrict statute is silent regarding appeals from orders entered by a transferee court. But the rule does provide for review of orders issued by the multidistrict panel both before and after consolidation:

No proceedings for review of any order of the panel may be permitted except by extraordinary writ pursuant to the provisions of title 28, section 1651, United States Code. Petitions for an extraordinary writ to review an order of the [multidistrict] panel to set a transfer hearing and other orders of the panel issued prior to the order either directing or denying transfer shall be filed only in the court of appeals having jurisdiction over the district in which a hearing is to be or has been held. Petitions for an extraordinary writ to review an order to transfer or orders subsequent to transfer *shall be filed only in the court of appeals having jurisdiction over the transferee district.*

28 U.S.C. § 1407(e) (emphasis added). Thus, if the multidistrict panel issues further orders after it has ordered cases transferred to a transferee court, those orders must be reviewed by

the appellate court having jurisdiction over the transferee court, not the courts from which the cases were transferred.

Review by a single court promotes the efficiency and consistency that are the goals of the federal multidistrict statute by eliminating the potential for conflicting rulings in multidistrict cases. *Utah v. American Pipe & Const. Co.*, 316 F. Supp. 837, 839 (C.D. Cal. 1970). Thus, the federal appeal provision has been extended by the federal courts to apply not only to post-transfer orders issued by the multidistrict panel, but also to orders issued by the transferee court itself. *See id.* (holding that the jurisdiction to review rulings by the multidistrict transferee court is in the court of appeals for the transferee district and that such a ruling is in keeping with Congress's intent that coordination of rulings at the appellate level be achieved in one court of appeals); *see also Astarte Shipping Co. v. Allied Steel & Export Serv.*, 767 F.2d 86, 87 (5th Cir. 1985) (the review of any order of the district court in a transferred cause is within the jurisdiction of the court of appeals in the circuit to which the cause has been transferred).

The federal practice regarding cases in which multiple appellate courts have jurisdiction over cases transferred to the same district court is discussed in *FMC Corp. v. Gloucester Engineering Co.*, 830 F.2d 770 (7th Cir. 1987). In that case, the court reasoned that appellate jurisdiction should be confined to the court of appeals for the region where the transferee court is located. Such a rule prevents a situation where appellate jurisdiction over a case is divided between multiple appellate circuits. *Id.* at 772-73. In the absence of such a rule, if a transferee court enters an identical order that affects cases from differing appellate

jurisdictions (as Judge Christopher has done here), “it would be unclear which transferor circuit would have jurisdiction over an appeal from the order.” *Id.* at 772. Thus, the court concluded, “a rule which gives the transferee circuit exclusive appellate jurisdiction over all orders issued by the transferee district court is simple to administer and free from uncertainty.” *Id.* Given the consistent goal of the federal and state multidistrict litigation approaches, this Court should be guided by the federal cases interpreting the multidistrict statute that have sought to implement that goal.

**C. The Court Should Transfer the Appeals to Houston.**

Recent amendments to the Rules of Judicial Administration counsel in favor of transfers from both the Fourth Court of Appeals and the Thirteenth Court of Appeals to either the First or Fourteenth Courts of Appeals in Houston.

**1. Rule 13 and its relationship with old Rule 11.**

With the passage of House Bill 4, the application of Rule 11 retroactively was restricted to cases filed before September 1, 2003, and Rule 13 was promulgated to apply to cases filed on or after that date. *See* TEX. R. JUD. ADMIN. 11.1 (as amended); *see also* TEX. R. JUD. ADMIN. 13.1 (“This rule applies to [cases filed] on or after September 1, 2003. Cases filed before that date are governed by Rule 11 of these rules.”) (copy at Tab I). The cases here were filed just before September 1, 2003 and therefore are governed by Rule 11 not Rule 13.

Rule 11, however, was further amended to reflect an intended coordination between it and Rule 13. In particular, Rule 11 now states that it “is to be construed and applied so as

to facilitate the implementation of Rule 13 to the greatest extent possible.” TEX. R. JUD. ADMIN. 11.7(a) (emphasis added). In addition, the amendments provide that pretrial judges assigned in related cases under Rule 11 are obligated to consult with the judges of pretrial courts to which cases have been transferred under Rule 13. TEX. R. JUD. ADMIN. 11.7(d). Thus, the Legislature contemplated a seamless transition between Rule 11 and Rule 13, which was intended further to promote the just and efficient conduct of cases involving similar factual and legal issues and provide consistency among such cases throughout the state. In light of that intention and the express direction to construe Rule 11 so as to facilitate implementation of Rule 13, it makes sense to evaluate how Rule 13 would resolve the “appellate venue” issue in deciding to what court of appeals this Court should transfer the cases.

**2. Rule 13 points to Houston.**

Although Rule 11 is silent on the appropriate procedure for appealing a pretrial judge’s ruling, Rule 13 expressly prescribes the procedure for such appeals:

Orders by the Trial Court and Pretrial Court. Orders and judgments of the trial court and pretrial court may be reviewed by the appellate court that regularly reviews orders of the court in which the case is pending at the time review is sought . . . .

TEX. R. JUD. ADMIN. 13.9(b) (emphasis added). Consistent with federal practice, Rule 13 assures that any orders issued from the pretrial court will be reviewed by a single court of appeals — the court of appeals that regularly hears appeals from the pretrial court.

If Rule 13 applied to the cases involved here, Judge Christopher would be the judge of the pretrial court. Because Judge Christopher sits in Houston, any appeal would be to

either the First or the Fourteenth Court of Appeals, which are the courts with jurisdiction to regularly review her orders. This Court should exercise its transfer authority under Section 73.001 in the light of both Rule 11's silence as to the proper court of appeals, and the new direction that Rule 11 is to "be construed and applied so as to facilitate the implementation of Rule 13, to the greatest extent possible." Following that approach, the Court should transfer the San Antonio Appeals and the Corpus Christi Appeals to the court of appeals that would hear the appeal under Rule 13 — either the First or the Fourteenth Court of Appeals.

**D. Deciding Between San Antonio and Corpus Christi.**

Alternatively, the cases could be consolidated in either the San Antonio or the Corpus Christi courts. According to *Miles*, an appropriate criteria for making the decision as to which court the cases should be transferred might be to determine the first-filed appeal, although this situation does not involve dominant jurisdiction as did *Miles*. Unfortunately, there is no way to determine which notice of appeal was filed first. Notices of appeal to both courts of appeal were filed on both October 6 and October 7, 2004. But most of the notices do not reflect the time of filing, only the date.

Other factors, however, indicate that the best alternative approach (other than the transfer of all the appeals to Houston) would be to transfer the Corpus Christi Appeals to the Fourth Court of Appeals at San Antonio. First, a majority of the appeals are pending in San Antonio. Second, the San Antonio Appeals involve more counties than the Corpus Christi Appeals. The San Antonio Appeals come from six counties within the jurisdiction of the

Fourth Court of Appeals,<sup>12</sup> while the Corpus Christi Appeals come from four counties.<sup>13</sup> Third, based on the most recent annual report from the Office of Court Administration, the Fourth Court of Appeals disposed of more cases during the year and had fewer cases pending at year end than did the Thirteenth Court of Appeals.<sup>14</sup> For all of those reasons, Movants request that if the Court does not transfer the appeals to Houston, that it transfer the Corpus Christi Appeals to the Fourth Court for consolidation with the San Antonio Appeals.

**E. Once Transferred, the Appeals Should Be Consolidated.**

The purpose of transferring the appeals is, of course, to have them decided by the same court. For the same reasons the appeals should be transferred, they should be consolidated and decided together. Appellate courts commonly consolidate cases with common questions. *See, e.g., Clawson v. Wharton County*, 941 S.W.2d 267, 269 (Tex. App.—Corpus Christi 1996, writ denied) (“Since both cases address the same legal issue and both appellants assert essentially the same points of error, we consolidate the appeals into a single opinion.”); *Bailey v. Brodhead*, 838 S.W.2d 922, 923 (Tex. App.—Austin 1992, no writ) (“Because these two unrelated cases present the same issue, we have consolidated their appeals into one opinion.”). The appeals at issue involve both common questions of fact and identical questions of law. Thus, consolidation is appropriate. The Movants therefore

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<sup>12</sup> Brooks, Duval, Jim Hogg, Jim Wells, Webb, and Zapata.

<sup>13</sup> Hidalgo, Kenedy, Kleberg, and Willacy.

<sup>14</sup> The report referenced is the Office of Court Administration’s “Activity for the Fiscal Year Ended August 31, 2003” report. The report is available on the Office of Court Administration’s website at [http://www.courts.state.tx.us/publicinfo/AR2003/coa/Activity\\_Detail.pdf](http://www.courts.state.tx.us/publicinfo/AR2003/coa/Activity_Detail.pdf).



request that upon transferring the appeals, the Court also direct that they be consolidated for determination.

### **PRAYER**

For the reasons stated, Movants ask the Court to order the San Antonio Appeals and the Corpus Christi Appeals to be transferred to either the First or Fourteenth Courts of Appeals in Houston. Alternatively, they ask the Court to transfer the Corpus Christi Appeals to the Fourth Court at San Antonio. The Court should further direct that, after transfer, the cases be consolidated.


Respectfully submitted,



---

P. Jefferson Ballew  
State Bar No. 01654980  
Adrienne E. Dominguez  
State Bar No. 00793630  
1700 Pacific Avenue, Suite 3300  
Dallas, Texas 75201  
(214) 969-1700  
FAX: (214) 969-1751

ATTORNEYS FOR CHEVRON U.S.A., INC.  
a/k/a CHEVRON PRODUCTS COMPANY,  
TEXACO INC., TEXACO EXPLORATION &  
PRODUCTION INC. and FOUR STAR OIL &  
GAS COMPANY

  
Shannon H. Ratliff  
State Bar No. 16573000  
Lisa A. Paulson  
State Bar No. 00784732  
Ratliff Law Firm, PLLC  
600 Congress Avenue, Suite 3100  
Austin, Texas 78701  
(512) 493-9600  
FAX: (512) 493-9625

ATTORNEYS FOR MOBIL PRODUCING  
TEXAS & NEW MEXICO, INC. and  
SOCONY MOBIL COMPANY, INC.

  
Orrin Harrison, III  
State Bar No. 09130700  
Sheryl L. Hopkins  
State Bar No. 09982080  
Akin Gump Strauss Hauer & Feld LLP  
1700 Pacific Avenue, Suite 4100  
Dallas, Texas 75201  
(214) 969-2800  
FAX: (214) 969-4343

ATTORNEYS FOR ATOFINA PETRO-  
CHEMICALS, INC. f/k/a FINA OIL &  
CHEMICAL CO., TOTALFINAELF GAS &  
POWER NORTH AMERICA, INC., FINA,  
INC., FINAL NATURAL GAS COMPANY,  
TOTAL FINALELF E&P USA, INC., TOTAL  
E&P USA, INC., and TOTALFINAELF  
HOLDINGS, USA, INC.

Michael V. Powell <sup>by</sup> <sub>per</sub> *MP*

Michael V. Powell  
State Bar No. 16204400  
Locke, Liddell & Sapp LLP  
220 Ross Avenue, Suite 2200  
Dallas, Texas 75201-6776  
(214) 740-8520  
FAX: (214) 740-8800

ATTORNEYS FOR CONOCOPHILLIPS  
COMPANY f/k/a CONOCO, INC. f/k/a  
PHILLIPS PETROLEUM COMPANY

Duane L. Bunce <sup>by</sup> <sub>per</sub> *DB*

Duane L. Bunce  
State Bar No. 00793425  
Baucum Steed Barker  
1100 NW Loop 410, Suite 260  
San Antonio, Texas 78213-2253  
(210) 349-5311  
FAX: (210) 349-3523

ATTORNEYS FOR IBC PETROLEUM, INC.

Reagan D. Pratt <sup>by</sup> <sub>per</sub> *RP*

Reagan D. Pratt  
State Bar No. 00788218  
Clements, O'Neill, Pierce, Wilson & Fulkerson,  
L.L.P.  
1000 Louisiana, Suite 1800  
Wells Fargo Plaza  
Houston, Texas 77002-5009  
(713) 654-7642  
FAX: (713) 654-7690

ATTORNEYS FOR EOG RESOURCES, INC.

**CERTIFICATE OF CONFERENCE**

Movants have conferred with counsel for Appellants about the merits of the motion and whether those parties oppose the motion. Appellants oppose the motion.

Counsel for BP America Production Company f/k/a Amoco Production Co., Arco Oil & Gas Co., El Paso Production Oil and Gas Company, El Paso Production Oil & Gas USA, LP, El Paso CGP Company, ANR Production Company, Coastal Oil and Gas Corporation, The Coastal Corporation, Coastal States Trading, Inc., Coastal States Crude Gathering Company, Coastal Gas Marketing Company, Coastal Gas Marketing Company, Coastal Limited Ventures, Inc., El Paso Merchant Energy Co., Vastar Resources, Inc. and BP America Production Company has stated that those Appellees will file a motion to transfer seeking similar relief.

Counsel for Shell Oil Company, Shell Western E&P, Inc., Shell Gas Trading Co., Sun Operating Limited Partnership, Oryx Energy Company, Kerr-McGee Oil & Gas Onshore, LLC, Unocal Corporation a/k/a Union Oil Company of California, Anadarko Petroleum Corporation, Anadarko Holding Company f/k/a Union Pacific Minerals, Inc. and f/k/a Union Pacific Resources Group, Inc., Continental Oil Company, Brandywine Industrial Gas, Inc., Texas Independent Exploration, Ltd., Cody Energy LLC, Cabot Oil & Gas Corp. and Samedan Oil Corp. have been contacted regarding the merits of this motion and have not indicated whether they oppose the relief sought.



---

P: Jefferson Ballew



**FOURTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS****ORDER ASSIGNING PRETRIAL JUDGE**

On March 26, 2004, a hearing was held before the undersigned Presiding Judge of the Fourth Administrative Judicial Region of Texas concerning the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending in the Fourth Region:

- (1) *Webb County v. Conoco, Inc., et al*, No. 2003-CVQ-001368-D2, in the 111th District Court of Webb County;
- (2) *Webb County v. Exxon Mobil Corp., et al.*, No. 2003-CVQ-1401-D2, in the 111th District Court of Webb County;
- (3) *Zapata County, et al v. Continental Oil Co., et al*, No. 5519, in the 49th District Court of Zapata County; and
- (4) *Zapata County, et al v. Chevron U.S.A., Inc.*, No. 5520, in the 49th District Court of Zapata County.

Having considered the evidence and arguments presented, the court finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

**IT IS THEREFORE ORDERED** that The Honorable Tracy Christopher, Presiding Judge of the 295th Judicial District Court of Harris County, Texas, having been assigned to the Fourth Region by the Chief Justice, is assigned as the pretrial judge in the referenced cases.

The pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the cases is pending, exercising all the powers granted to her as pretrial judge by Rule 11.

This assignment continues until the earliest of any of the following events: (1) all pretrial proceedings in the case have been completed; (2) the pretrial judge ceases to be an active district judge; or (3) the undersigned presiding judge, in the exercise of his discretion, terminates the assignment.

**SIGNED:** April 7, 2004



**David Peeples, Presiding Judge**  
Fourth Administrative Judicial Region



**FOURTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS**

**SUPPLEMENTAL ORDER ASSIGNING PRETRIAL JUDGE**

On April 7, 2004, the undersigned Presiding Judge of the Fourth Administrative Judicial Region of Texas granted the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in five cases pending in the Fourth Region, including *Webb County v. Conoco, Inc., et al.*, No. 2003-CVQ-001368-D2, in the 111<sup>th</sup> District Court of Webb County.

*Webb County v. Chevron U.S.A., Inc., et al.*; Cause No. 2003-CVQ-1374-D1, In the 49<sup>th</sup> Judicial District Court of Webb County, Texas was not included in the Motion for Coordinated Proceedings. Counsel for all parties in that case have requested that it be made a part of the coordinated proceedings.

Having considered the evidence and arguments presented, the court finds that *Webb County v. Chevron U.S.A., Inc., et al.*; Cause No. 2003-CVQ-1374-D1, In the 49<sup>th</sup> Judicial District Court of Webb County, Texas should be assigned to the pretrial judge in the coordinated proceedings.

**IT IS THEREFORE ORDERED** that The Honorable Tracy Christopher, Presiding Judge of the 295<sup>th</sup> Judicial District Court of Harris County, Texas, having been assigned to the Fourth Region by Chief Justice, is assigned as the pretrial judge in *Webb County v. Chevron U.S.A., Inc., et al.*; Cause No. 2003-CVQ-1374-D1, In the 49<sup>th</sup> Judicial District Court of Webb County, Texas, and that case shall be made a part of the existing coordinated proceedings created by the April 7, 2004 order referenced above.

The pretrial judge shall preside over all pretrial proceedings in the referenced case in place of the judge of the court in which the case is pending, exercising all the powers granted to her as pretrial judge by Rule 11.

This assignment continues until the earliest of the following events: (1) all pretrial proceedings in the case have been completed; (2) the pretrial judge ceases to be an active district judge, or (3) the undersigned presiding judge, in the exercise of his discretion, terminates the assignment.

SIGNED this 24<sup>th</sup> day of MAY, 2004.

*David Peebles*

David Peebles, Presiding Judge  
Fourth Administrative Judicial Region





**FIFTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS  
ORDER ASSIGNING PRETRIAL JUDGE**

On March 26, 2004, a hearing was held before the undersigned Presiding Judge of the Fifth Administrative Judicial Region of Texas concerning the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending the Fifth Region:

- 03-08-11950-CV      Brooks County & Brooks County ISD vs  
79<sup>th</sup> District Court      El Paso Production Oil & Gas Company, et al.  
Brooks County
  
- 03-08-11948-CV      Brooks County & Brooks County ISD vs  
79<sup>th</sup> District Court      Exxon Mobil Corp., et al.  
Brooks County
  
- 03-08-11943-CV      Brooks County & Brooks County ISD vs  
79<sup>th</sup> District Court      Texaco E & P, Inc., et al.  
Brooks County
  
- DC-03-320              Duval County, et al. vs  
229<sup>th</sup> District Court      Conoco, Inc., et al.  
Duval County
  
- DC-03-313              Duval County, et al. vs  
229<sup>th</sup> District Court      Shell Western E & P, Inc.  
Duval County
  
- DC-03-326              Duval County, et al. vs  
229<sup>th</sup> District Court      Exxon Mobil Corp., et al.  
Duval County
  
- C-21-66-03-F          Edcouch-Elsa ISD, et al. vs  
332<sup>nd</sup> District Court      Chevron USA, Inc., et al.  
Hidalgo County
  
- C-401-03-E              Edinburg ISD vs  
275<sup>th</sup> District Court      American Coastal Energy, Inc., et al.  
Hidalgo County
  
- C-647-03-H              Hidalgo County vs  
389<sup>th</sup> District Court      El Paso Production Oil & Gas Company  
Hidalgo County

<b>C-640-03-A</b> <b>92<sup>nd</sup> District Court</b> <b>Hidalgo County</b>	<b>Hidalgo County, Texas vs</b> <b>Texaco, Inc., et al.</b>
<b>C-641-03-B</b> <b>93<sup>rd</sup> District Court</b> <b>Hidalgo County</b>	<b>Hidalgo County vs</b> <b>Shell Western E &amp; P, Inc.</b>
<b>C-645-03-F</b> <b>332<sup>nd</sup> District Court</b> <b>Hidalgo County</b>	<b>Hidalgo County vs</b> <b>Totalfinal E &amp; P USA, Inc.</b>
<b>C-644-03-E</b> <b>275<sup>th</sup> District Court</b> <b>Hidalgo County</b>	<b>Hidalgo County vs</b> <b>Kerr McGee Oil &amp; Gas Onshore, LLC</b>
<b>CC-03-117</b> <b>229<sup>th</sup> District Court</b> <b>Jim Hogg County</b>	<b>Jim Hogg County, et al. vs</b> <b>Exxon Mobil Corp., et al.</b>
<b>03-08-41749</b> <b>79<sup>th</sup> District Court</b> <b>Jim Wells County</b>	<b>Jim Wells County, et al. vs</b> <b>El Paso Production Oil &amp; Gas Company, et al.</b>
<b>03-08-41767-CV</b> <b>79<sup>th</sup> District Court</b> <b>Jim Wells County</b>	<b>Jim Wells County, et al. vs</b> <b>Exxon Mobil Corp., et al.</b>
<b>03-08-41740</b> <b>79<sup>th</sup> District Court</b> <b>Jim Wells County</b>	<b>Jim Wells County, et al. vs</b> <b>Anadarko Petroleum Corp., et al.</b>
<b>C-2195-03-H</b> <b>389<sup>th</sup> District Court</b> <b>Hidalgo County</b>	<b>McAllen ISD vs</b> <b>Fina Oil &amp; Chemical Company, et al.</b>
<b>03-CV-103</b> <b>105<sup>th</sup> District Court</b> <b>Kenedy County</b>	<b>Kenedy County vs</b> <b>El Paso Production Oil &amp; Gas Company, et al.</b>
<b>03-CV-105</b> <b>105<sup>th</sup> District Court</b> <b>Kenedy County</b>	<b>Kenedy County vs</b> <b>Exxon Mobil Corp., et al.</b>

03-446-D Kleberg County, et al. vs  
105<sup>th</sup> District Court El Paso Production Oil & Gas Company, et al.  
Kleberg County

03-454-D Kleberg County, et al. vs  
105<sup>th</sup> District Court Exxon Mobil Corp., et al.  
Kleberg County

03-441-D Kleberg County, et al. vs  
105<sup>th</sup> District Court Atofina Petrochemicals, Inc., et al.  
Kleberg County

03-264 Willacy County vs  
357<sup>th</sup> District Court El Paso Production Oil & Gas Company, et al.  
Willacy County

03-265 Willacy County vs  
103<sup>rd</sup> District Court Exxon Mobil Corp., et al.  
Willacy County


Having considered the evidence and arguments presented, the court finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

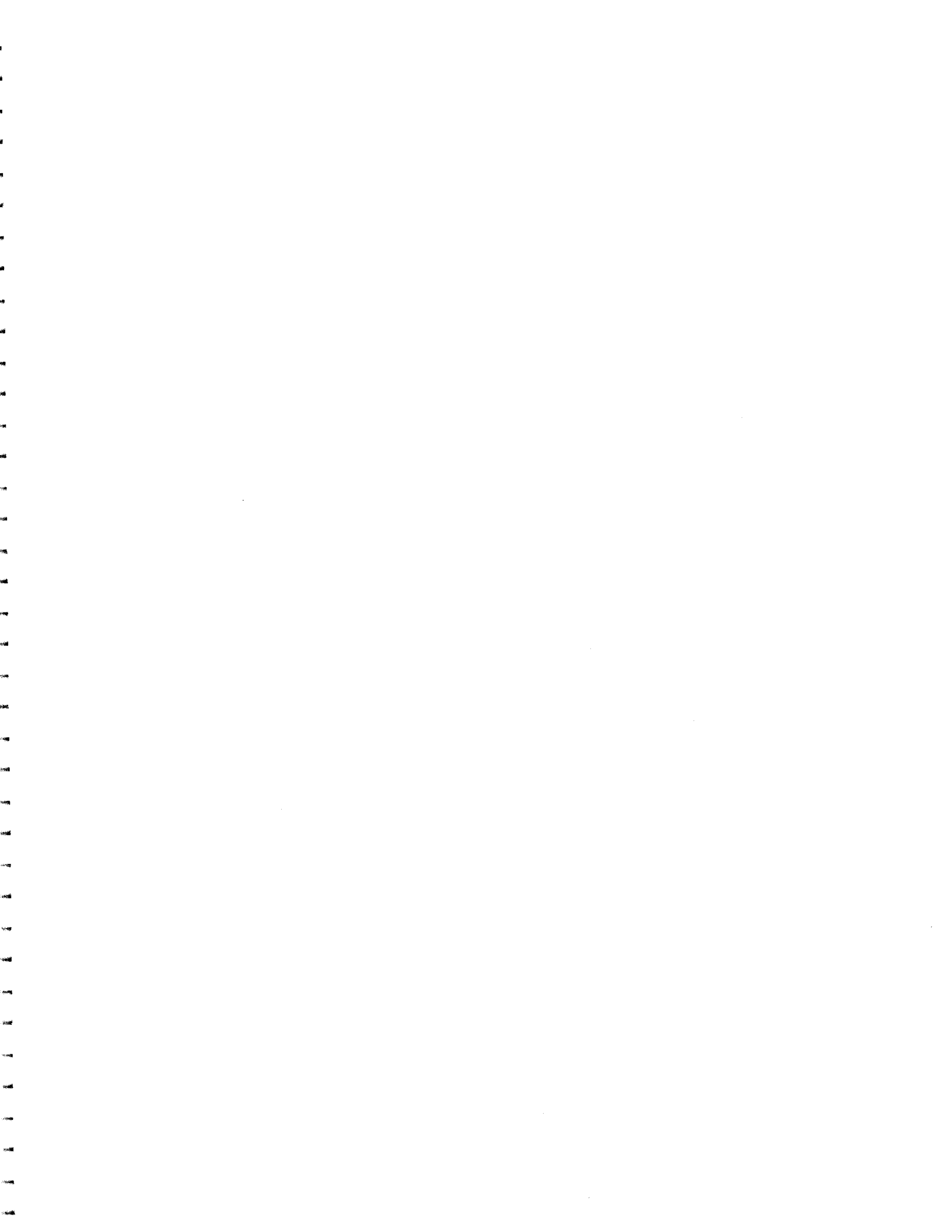
IT IS THEREFORE ORDERED that The Honorable Tracy Christopher, Presiding Judge of the 295<sup>th</sup> Judicial District Court of Harris County, Texas, having been assigned to the Fifth Region by the Chief Justice, is assigned as the pretrial judge in the referenced cases.

The pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the cases is pending, exercising all the powers granted to her as pretrial judge by Rule 11.

This assignment continues until the earliest of any of the following events: (1) all pretrial proceedings in the case have been completed; (2) the pretrial judge ceases to be an active district judge, or (3) the undersigned presiding judge, in the exercise of his discretion, terminates the assignment.

Signed for entry this 15<sup>th</sup> day of April, 2004.

  
\_\_\_\_\_  
Judge Presiding  
Fifth Administrative Judicial Region



1-20

**FIFTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS**

**SUPPLEMENTAL ORDER ASSIGNING PRETRIAL JUDGE**

On April 15, 2004, the undersigned Presiding Judge of the Fifth Administrative Judicial Region of Texas granted the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the cases pending in the Fifth Region, including *Brooks County, et al. v. El Paso Production Oil & Gas Company, et al.*; Cause No. 03-08-11950-CV, In the 79<sup>th</sup> District Court of Brooks County.

*Jim Hogg County and Jim Hogg Independent School District v. Chevron U.S.A., Inc. a/k/a Chevron Products Company*; Cause No. CC-03-115, In the 229<sup>th</sup> District Court of Jim Hogg County, Texas was not included in the Motion for Coordinated Proceedings. Counsel for all parties in that case have requested that it be made a part of the coordinated proceedings.


Having considered the evidence and arguments presented, the court finds that *Jim Hogg County and Jim Hogg Independent School District v. Chevron U.S.A., Inc. a/k/a Chevron Products Company*; Cause No. CC-03-115, In the 229<sup>th</sup> District Court of Jim Hogg County, Texas should be assigned to the pretrial judge in the coordinated proceedings.

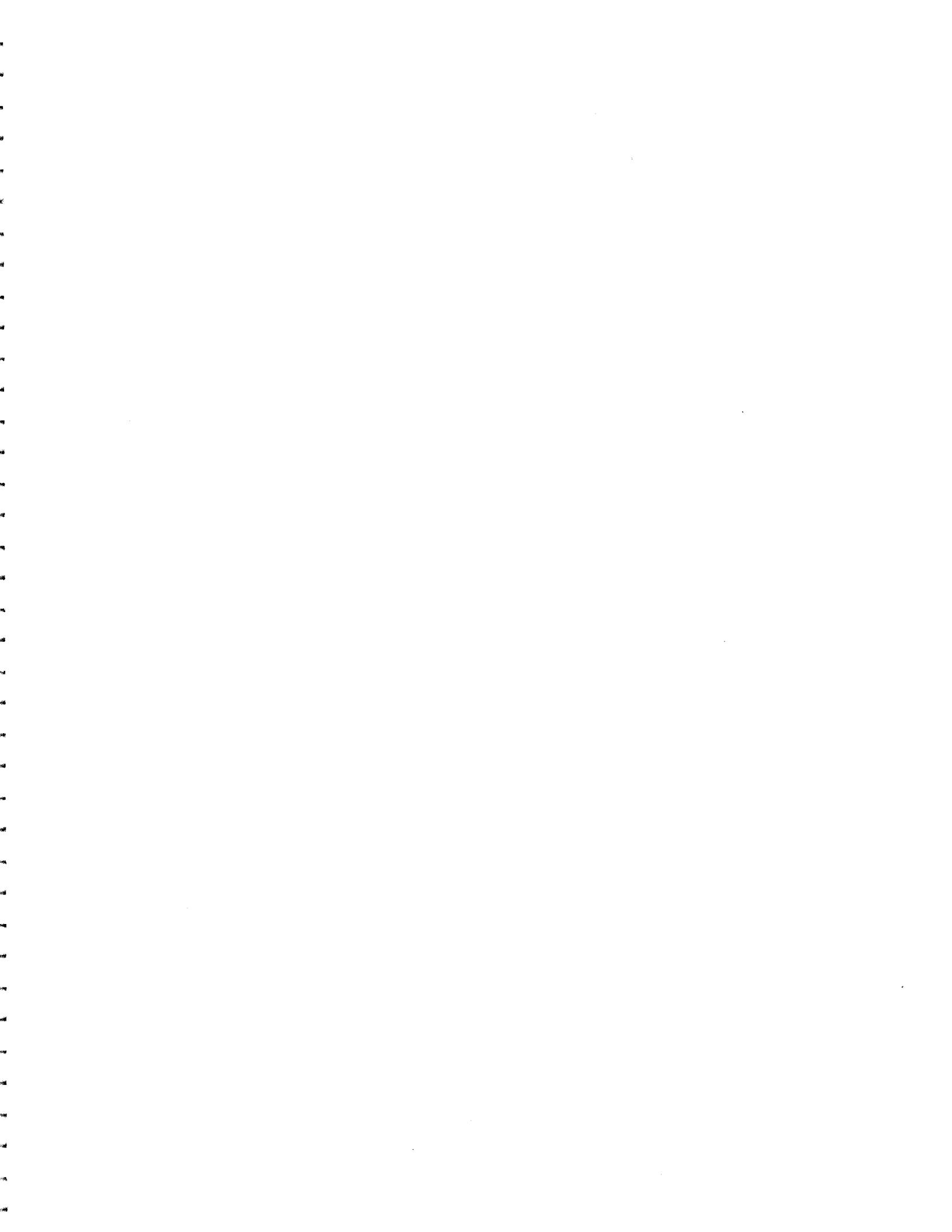
**IT IS THEREFORE ORDERED** that **The Honorable Tracy Christopher**, Presiding Judge of the 295<sup>th</sup> Judicial District Court of Harris County, Texas, having been assigned to the Fifth Region by Chief Justice, is assigned as the pretrial judge in *Jim Hogg County and Jim Hogg Independent School District v. Chevron U.S.A., Inc. a/k/a Chevron Products Company*; Cause No. CC-03-115, In the 229<sup>th</sup> District Court of Jim Hogg County, Texas, and that case shall be made a part of the existing coordinated proceedings created by the April 15, 2004 order referenced above.

The pretrial judge shall preside over all pretrial proceedings in the referenced case in place of the judge of the court in which the case is pending, exercising all the powers granted to her as pretrial judge by Rule 11.

This assignment continues until the earliest of the following events: (1) all pretrial proceedings in the case have been completed; (2) the pretrial judge ceases to be an active district judge, or (3) the undersigned presiding judge, in the exercise of his discretion, terminates the assignment.

SIGNED this 20<sup>th</sup> day of May, 2004.

  
\_\_\_\_\_  
**Darrell Hester, Presiding Judge**  
Fifth Administrative Judicial Region



4-14/

**THE STATE OF TEXAS**

**SIXTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS**

**ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE**

**ORDER OF ASSIGNMENT OF PRETRIAL JUDGE**

On March 29, 2004, the undersigned Presiding Judge of the Sixth Administrative Judicial Region of Texas considered the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending in the Sixth Administrative Judicial Region of Texas:

1. Cause Number P-615683-CV; Pecos County, et al v. ExxonMobil Corporation, et al; 83<sup>rd</sup> Judicial District Court of Pecos County, Texas.
2. Cause Number 03-08-U3817-OTH; Upton County, et al v. ExxonMobil Corporation, et al; 112<sup>th</sup> Judicial District Court of Upton County, Texas.

The undersigned further finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

IT IS THEREFORE ORDERED that **KELLY G. MOORE**, Presiding Judge of the 121<sup>st</sup> Judicial District Court of Terry County, Texas, is assigned as the pretrial judge in the referenced cases.

IT IS FURTHER ORDERED that the pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the case is pending; decide all pretrial motions, including motions to transfer venue and motions for summary judgment; consult with other pretrial judges assigned to similar cases in the same or different regions in conducting the pretrial proceedings and deciding pretrial matters; and consult with the judge of the court in which the case is pending on setting a trial date.

This assignment is effective immediately, and shall terminate on the date of the earliest occurrence of one of the events specified below:

1. all pretrial proceedings in the case have been completed;

UPTON COUNTY, TX  
VOLUME 33 PAGE 123

4-19-2004 FILED AT 10:00 AM  
 PHYLLIS STEPHENS  
 CLERK, COUNTY/DISTRICT COURT  
 UPTON COUNTY  
 DEPUTY




2. the pretrial judge ceases to be an active district judge; or
3. the presiding judge in the exercise of discretion terminates the assignment.

IT IS ORDERED that the Clerk of the Court shall file a copy of this order in the case, and, if it is reasonable and practicable, and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned pretrial judge.

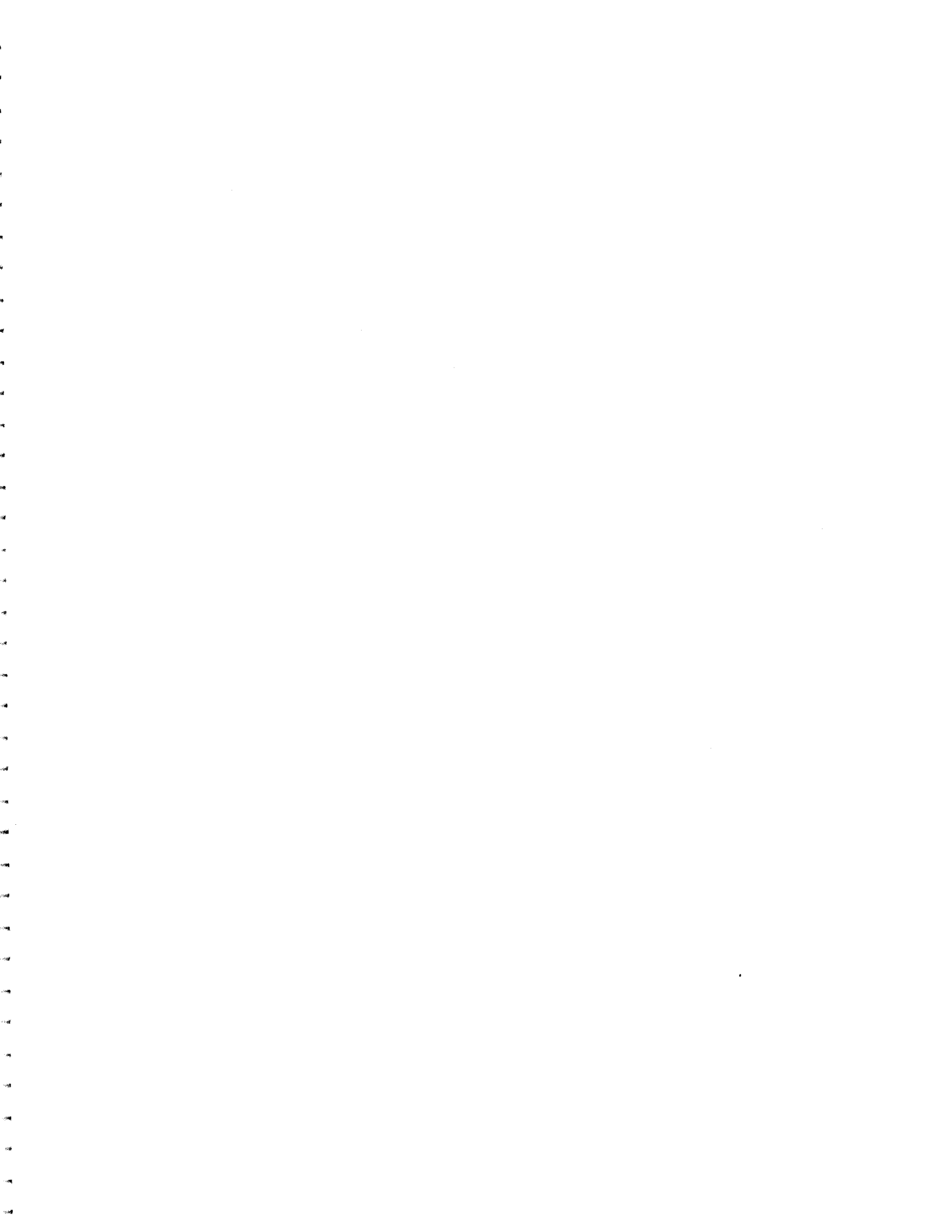
IT IS FURTHER ORDERED that the Clerk, upon receipt hereby, shall post a copy of this order in a public area of the Clerk's office or courthouse so that attorneys and parties may be advised of this assignment.

SIGNED this 14<sup>th</sup> day of April, 2004.

  
\_\_\_\_\_  
STEPHEN B. ABLES  
Presiding Judge  
Seventh Administrative Judicial Region

cc: Judge Kelly Moore  
Pecos County District Clerk  
Upton County District Clerk  
File

UPTON COUNTY, TX



COPY

THE STATE OF TEXAS  
SEVENTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS

ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE

ORDER OF ASSIGNMENT OF PRETRIAL JUDGE

Rule 11, Rules of Judicial Administration

2004 APR -5 AM  
FILED  
CYNTHIA JONES  
DISTRICT CLERK  
ANDREWS COUNTY

On March 26, 2004, the undersigned Presiding Judge of the Seventh Administrative Judicial Region of Texas considered the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending in the Seventh Administrative Judicial Region of Texas:

1. Cause Number CV-44,285, *Midland County, Texas v. ExxonMobil Corporation, et al.*; 238<sup>th</sup> Judicial District Court of Midland County, Texas;
2. Cause Number 13,865, *Kermit Independent School District v. Apache Corporation, et al.*; 109<sup>th</sup> Judicial District Court of Winkler County, Texas;
3. Cause Number 16,365, *Andrews County v. ExxonMobil Corporation, et al.*; 109<sup>th</sup> Judicial District Court of Andrews County, Texas;
4. Cause Number 16,366, *Andrews County, Texas v. Unocal Corporation, et al.*; 109<sup>th</sup> Judicial District Court of Andrews County, Texas;
5. Cause Number A-116,018, *Ector County, Texas v. Unocal Corporation, et al.*; 70<sup>th</sup> Judicial District Court of Ector County, Texas; and
6. Cause Number A-116,022, *Ector County, et al. v. ExxonMobil Corporation, et al.*; 70<sup>th</sup> Judicial District Court of Ector County, Texas.

The undersigned further finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

IT IS THEREFORE ORDERED that **KELLY G. MOORE**, Presiding Judge of the 121<sup>st</sup> Judicial District Court of Terry County, Texas, is assigned as the pretrial judge in the referenced cases.

IT IS FURTHER ORDERED that the pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the cases is pending; decide all pretrial motions, including motions to transfer venue and motions for summary judgment; consult with other pretrial judges assigned to similar cases in the same or different regions in conducting the pretrial proceedings and deciding pretrial matters; and consult with the judge of the court in which the cases is pending on setting a trial date.

This assignment is effective immediately, and shall terminate on the date of the earliest occurrence of one of the events specified below:

1. all pretrial proceedings in the case have been completed;
2. the pretrial judge ceases to be an active district judge; or
3. the presiding judge in the exercise of discretion terminates the assignment.

IT IS ORDERED that the Clerk of the Court shall file a copy of this order in the case, and, if it is reasonable and practicable, and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned pretrial judge.

IT IS FURTHER ORDERED that the Clerk, upon receipt hereof, shall post a copy of this order in a public area of the Clerk's office or courthouse so that attorneys and parties may be advised of this assignment.

SIGNED April 2, 2004.

FILED

2004 APR -5 AM 9:17

CYNTHIA JONES  
DISTRICT CLERK ANDREWS COUNTY

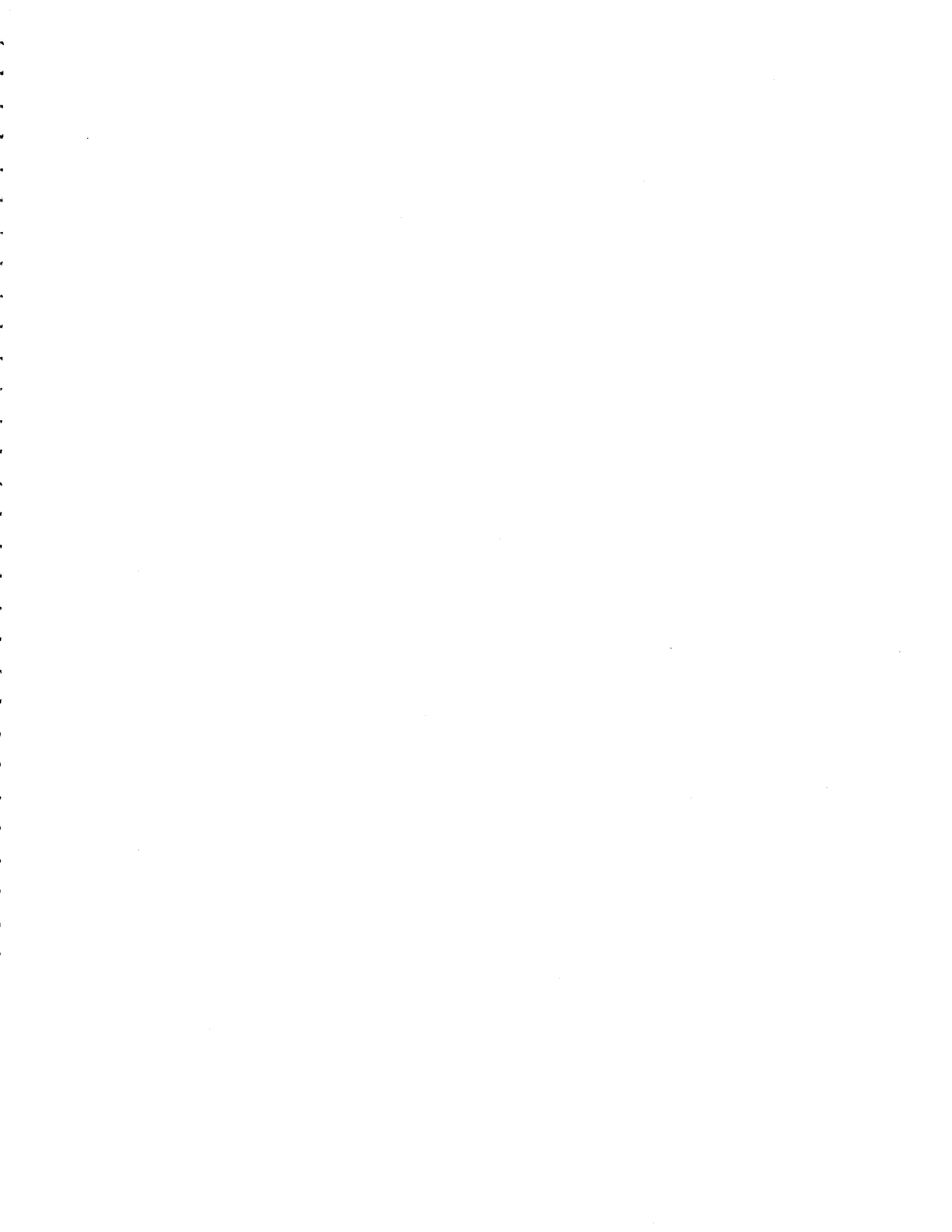
*Ludy Swinton*  
CLERK



**DEAN RUCKER**

Presiding Judge

Seventh Administrative Judicial Region



Cause No. 03-08-11943

BROOKS COUNTY,  
BROOKS INDEPENDENT  
SCHOOL DISTRICT  
Plaintiffs,

v.

TEXACO E&P, INC.,  
SHELL WESTERN E&P, INC.  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

BROOKS COUNTY, TEXAS

79TH JUDICIAL DISTRICT

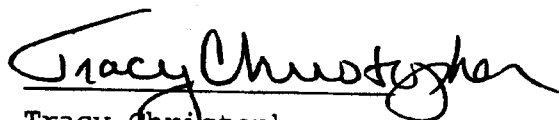
**Final Order of Dismissal**

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.



Tracy Christopher

Judge Presiding

Cause No. C-2166-03-F

EDCOUCH-ELSA INDEPENDENT	§	IN THE DISTRICT COURT OF
SCHOOL DISTRICT; LA VILLA	§	
INDEPENDENT SCHOOL DISTRICT;	§	
PROGRESO INDEPENDENT SCHOOL	§	
DISTRICT; WESLACO INDEPENDENT	§	
SCHOOL DISTRICT; CITY OF	§	
LA JOYA; CITY OF EDINBURG;	§	
CITY OF MERCEDES	§	
	§	
Plaintiffs,	§	
	§	
CITY OF PENITAS,	§	
	§	
Intervenor	§	
	§	
v.	§	HIDALGO COUNTY, TEXAS
	§	
CHEVRON U.S.A., INC. A/K/A	§	
CHEVRON PRODUCTS COMPANY,	§	
TEXACO E&P, INC.,	§	
SHELL WESTERN E&P, INC.,	§	
ATOFINA PETROCHEMICALS, INC.	§	
F/K/A FINA OIL & CHEMICAL CO.,	§	
TOTAL FINA ELF HOLDINGS USA,	§	
INC.,	§	
	§	
Defendants.	§	332ND JUDICIAL DISTRICT

**Final Order of Dismissal**

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that

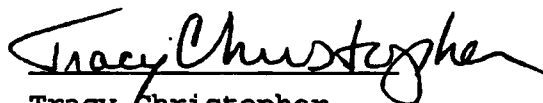


for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.



Tracy Christopher

Judge Presiding



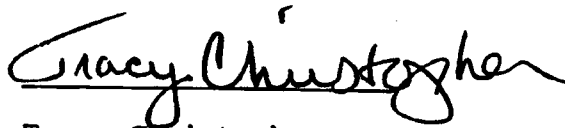
### Final Order of Dismissal

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction  
and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.

A handwritten signature in black ink that reads "Tracy Christopher". The signature is written in a cursive style with a horizontal line underlining the name.

Tracy Christopher

Judge Presiding

CAUSE NO. C-640-03-A

HIDALGO COUNTY, TEXAS,	§	IN THE DISTRICT COURT OF
	§	
v.	§	
	§	HIDALGO COUNTY, TEXAS
TEXACO, INC., a surviving subsidiary of	§	
merger between Texaco, Inc. and CHEVRON	§	
USA, TOTALFINAELF E&P USA INC.,	§	92ND JUDICIAL DISTRICT
KERR-MCGEE OIL & GAS ONSHORE,	§	
L.L.C., SHELL WESTERN E&P, INC.,	§	(Consolidation of C-640-03-A,
EL PASO PRODUCTION OIL & GAS	§	C-641-03-B, C-645-03-F,
COMPANY	§	C-644-03-E, C-647-03-H)

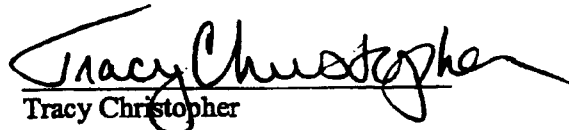
**Final Order of Dismissal**

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.

A handwritten signature in black ink that reads "Tracy Christopher". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Tracy Christopher

Judge Presiding

Cause No. CC-03-115

JIM HOGG COUNTY AND  
JIM HOGG INDEPENDENT  
SCHOOL DISTRICT

Plaintiffs,

v.

CHEVRON U.S.A., INC. A/K/A  
CHEVRON PRODUCTS COMPANY,  
Defendant.

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IN THE DISTRICT COURT OF

JIM HOGG COUNTY, TEXAS

229TH JUDICIAL DISTRICT

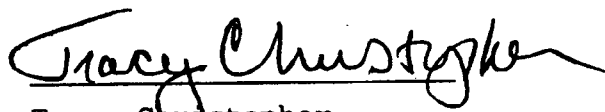
**Final Order of Dismissal**

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.



Tracy Christopher

Judge Presiding



Cause No. 2003-CVQ-1374-D1

WEBB COUNTY,	§	IN THE DISTRICT COURT OF
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
	§	WEBB COUNTY, TEXAS
CHEVRON U.S.A., INC. A/K/A.	§	
CHEVRON PRODUCTS COMPANY,	§	
TEXACO E&P, INC., AND	§	
FOUR STAR OIL & GAS COMPANY,	§	
	§	
Defendants.	§	49TH JUDICIAL DISTRICT

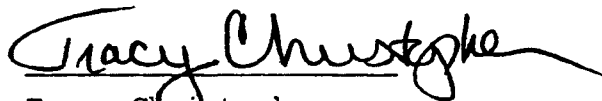
**Final Order of Dismissal**

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.



Tracy Christopher

Judge Presiding

WEBB COUNTY

§ IN THE DISTRICT COURT  
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VS.

CONOCO, INC; CONTINENTAL OIL COMPANY; BRANDYWINE INDUSTRIAL GAS; CONOCOPHILLIPS COMPANY; PHILLIPS PETROLEUM COMPANY; EL PASO PRODUCTION OIL AND GAS COMPANY; EL PASO PRODUCTION OIL AND GAS USA, L.P.; EL PASO CGP COMPANY; COASTAL OIL AND GAS CORPORATION; THE COASTAL CORPORATION; COASTAL STATES TRADING, INC.; COASTAL STATES CRUDE GATHERING COMPANY; COASTAL GAS MARKETING COMPANY; COASTAL LIMITED VENTURES, INC.; EL PASO MERCHANT ENERGY COMPANY.

111<sup>th</sup> JUDICIAL DISTRICT

WEBB COUNTY, TEXAS

**Final Order of Dismissal**

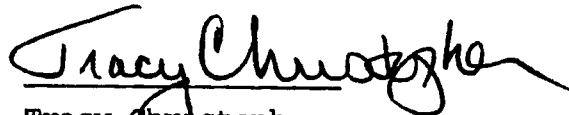
On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and

defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.



Tracy Christopher  
Judge Presiding

Cause No. 5,520

ZAPATA COUNTY,	§	IN THE DISTRICT COURT OF
ZAPATA INDEPENDENT	§	
SCHOOL DISTRICT	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
CHEVRON U.S.A., INC. A/K/A	§	
CHEVRON PRODUCTS COMPANY,	§	ZAPATA COUNTY, TEXAS
SHELL WESTERN E&P, INC.,	§	
ANADARKO PETROLEUM	§	
CORPORATION, ANADARKO	§	
HOLDING COMPANY F/K/A	§	
UNION PACIFIC MINERALS, INC.	§	
AND F/K/A UNION PACIFIC	§	
RESOURCES GROUP, INC.,	§	
	§	
Defendants.	§	49TH JUDICIAL DISTRICT

**Final Order of Dismissal**

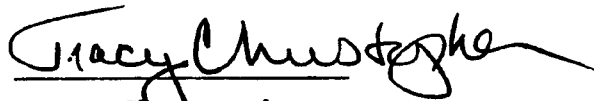
On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have

agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

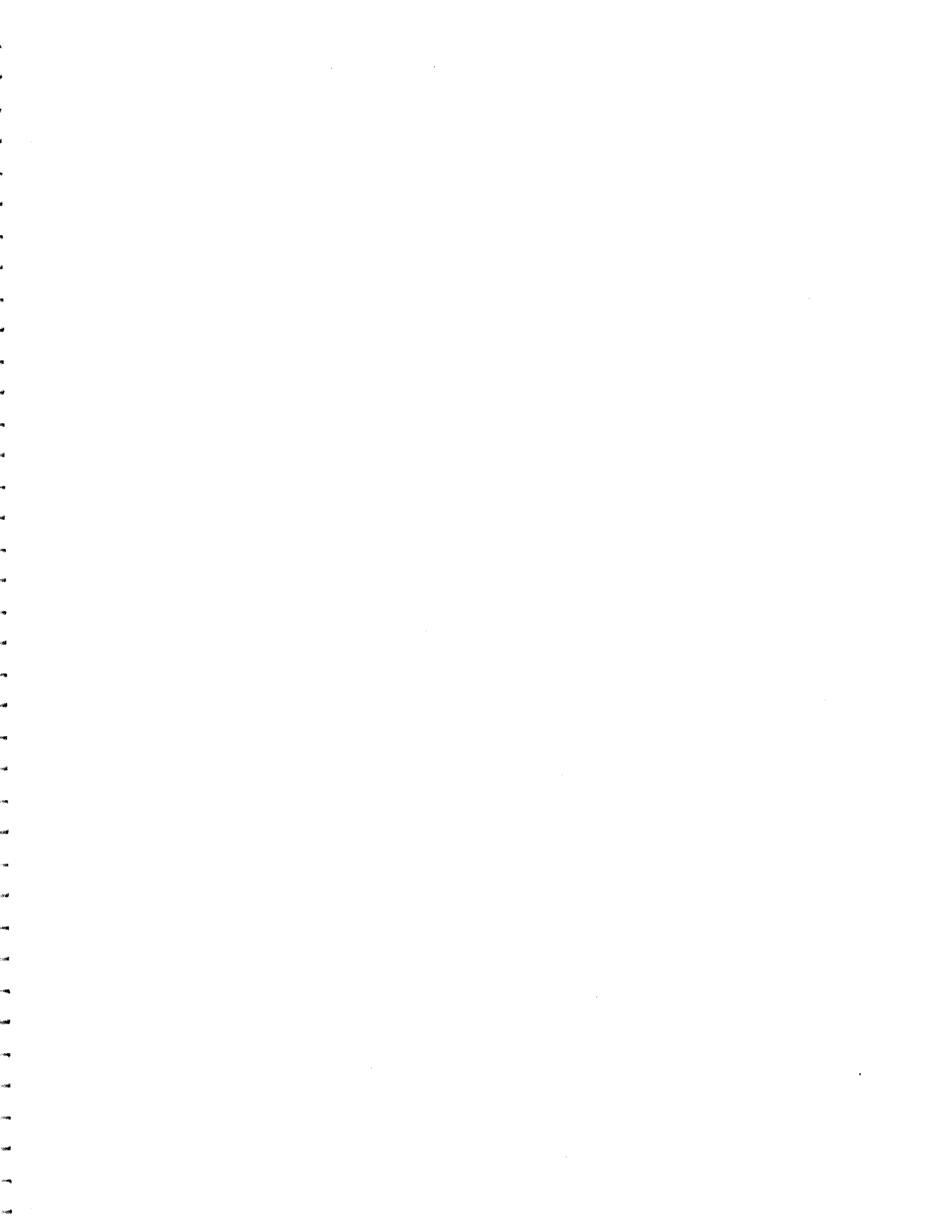
The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10<sup>th</sup> day of Sept, 2004.



Tracy Christopher  
Judge Presiding



## LEXSTAT TX JUD AD 13

Dorsaneo and Soules' Texas Rules Annotated  
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\*\*\* THIS DOCUMENT REFLECTS ALL CHANGES EFFECTIVE AS OF AUGUST 1, 2004 \*\*\*  
\*\*\*NOTES AND ANNOTATIONS CURRENT THROUGH THE 2003-2004 EDITION (AUG. 2003)\*\*\*

STATE RULES  
TEXAS RULES OF JUDICIAL ADMINISTRATION (Gov. Code, Title 2, Subtitle F, Appendix)

*Tex. R. Jud. Admin. 11 (2003)*

Rule 11 Pretrial Proceedings in Certain Cases

11.1 Applicability. This rule applies to any case filed before September 1, 2003, that involves material questions of fact and law in common with another case pending in another court in another county on or after October 1, 1997.

11.2 Definitions.

- (a) Presiding judge means the presiding judge of an administrative judicial region in which a case is pending;
- (b) Regular judge means the regular judge of a court in which a case is pending.
- (c) Pretrial judge means a judge assigned under this rule.
- (d) Related means that cases involve common material issues of fact and law.

11.3 Assignment of Pretrial Judge.

- (a) By presiding judge. On motion or request under 11.4, a presiding judge may assign himself or herself or an active district judge to a case to conduct all pretrial proceedings and decide all pretrial matters.
- (b) Authority of pretrial judge. The pretrial judge will preside over all pretrial proceedings in the case in place of the regular judge. The pretrial judge will decide all pretrial motions, including motions to transfer venue and motions for summary judgment. The pretrial judge and the regular judge must consult on setting a trial date.
- (c) Different judges assigned. The same pretrial judge need not be assigned in all related cases. If more than one pretrial judge is assigned in related cases, either in the same region or in different regions, the pretrial judges must consult with each other in conducting pretrial proceedings and deciding pretrial matters.
- (d) Assignment outside region. The Chief Justice of the Supreme Court may assign an active district judge to other administrative regions to allow the judge to be assigned as a pretrial judge under this rule.
- (e) No objections to pretrial judge. An assignment under this rule is not made pursuant to *section 74.054 of the Government Code*, and therefore a pretrial judge is not subject to an objection under *section 74.053 of the Government Code*.
- (f) Termination of assignment. An assignment under this rule terminates when:
  - (i) all pretrial proceedings in a case have been completed;
  - (ii) the pretrial judge ceases to be an active district judge; or
  - (iii) the presiding judge in the exercise of discretion terminates the assignment.

11.4 Procedure for Obtaining Assignment of a Pretrial Judge.

- (a) Motion or request required; who may file. A pretrial judge may be assigned only on the motion of a party to a case or at the request of the regular judge.



(b) Contents of motion or request. The motion or request must state:

- (1) the number and style of the case;
- (2) the number and style of the related case, and the court and county in which it is pending;
- (3) the material questions of fact and law common to the cases;
- (4) the reasons why the assignment would promote the just and efficient conduct of the action; and
- (5) whether all parties agree to the motion.

(c) Where filed. The motion or request must be filed in all cases identified under (b)(1) and (b)(2).

(d) Response. A response may be filed by:

- (1) any other party to the case;
- (2) the regular judge of the court in which the case is pending;
- (3) the regular judge of the court in which the related case is pending, if no pretrial judge has already been assigned in that case;
- (4) the pretrial judge assigned to the related case, if a pretrial judge has already been assigned; and
- (5) any party to the related case.

(e) Briefs. A motion, request, or response may be accompanied by a brief. The presiding judge may request briefs.

(f) Hearing. Unless all parties in the case agree to a motion or request, the presiding judge must conduct an oral hearing. The hearing may be held in any county within the region or in Travis County. The presiding judge must give notice of the time and place for the hearing to all parties and the regular or pretrial judges in the cases identified in (b)(1) and (b)(2).

(g) Evidence. The presiding judge may consider all documents filed in the case or the related case, all discovery conducted in the case or the related case, any stipulations filed by the parties in the case or the related case, affidavits filed in connection with the motion, request, or response, and oral testimony.

(h) Decision. The presiding judge must grant the motion or request if the judge determines that:

- (1) the case involves material questions of fact and law common to a case in another court and county; and
- (2) assignment of a pretrial judge would promote the just and efficient conduct of the cases.

Otherwise, the presiding judge must deny the motion or request.

(i) Order. The presiding judge must issue an order deciding the motion or request. The order must be filed in the case in which assignment of a pretrial judge was sought and in the related case.

(j) Service and notice. A party must serve any paper filed under this rule on all parties to the cases identified under (b)(1) and (b)(2) and on the presiding judge or judges for those cases. If a judge files any paper under this rule, the clerk of the court in which the paper is filed must send a copy to all parties to the cases identified under (b)(1) and (b)(2) and to the presiding judge or judges for those cases. The clerk of the court where a case is pending in which assignment of a pretrial judge is sought shall serve as the clerk for the presiding judge under this rule.

11.5 Review. A presiding judge's order granting or denying a motion or request for appointment of a pretrial judge may be reviewed only by the Supreme Court in an original mandamus proceeding.

11.6 Expenses of Pretrial Judge. If a pretrial judge travels outside the judge's county of residence to conduct proceedings, the county in which the proceedings are conducted must pay--on certification by the presiding judge of the administrative judicial region in which the other county is located--the pretrial judge's actual travel expenses and actual living expenses incurred while conducting the proceedings.

11.7 Relationship to Rule 13.

(a) Generally. This rule is to be construed and applied so as to facilitate the implementation of Rule 13 to the greatest extent possible.

(b) Application of Rule 13 by Agreement of the Parties. Parties may agree to the application of Rule 13. Such an agreement must be in writing and must be joined by all parties to the case. An agreement is effective and irrevocable when it is filed with the trial court if:

(1) no pretrial judge has been appointed in the case, or

(2) a pretrial judge has been appointed in the case, and the parties in all related cases to which the same pretrial judge has been assigned have likewise agreed to the application of Rule 13.

(c) Assignments of Pretrial Judges After September 1, 2003. An assignment of a pretrial judge to any case after September 1, 2003, must be made in consultation with the Chair of the Multidistrict Litigation Panel.

(d) Consultation of Pretrial Judges. In conducting pretrial proceedings and deciding pretrial matters, a pretrial judge assigned under this rule must consult with the judge of a pretrial court to which related cases have been transferred under Rule 13.

**NOTES:**

**ANNOTATION**

- See **TLG**, Ch. 61, *Venue*.



## LEXSTAT TX JUD AD 13

Dorsaneo and Soules' Texas Rules Annotated  
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\*\*\* THIS DOCUMENT REFLECTS ALL CHANGES EFFECTIVE AS OF AUGUST 1, 2004 \*\*\*  
\*\*\*NOTES AND ANNOTATIONS CURRENT THROUGH THE 2003-2004 EDITION (AUG. 2003)\*\*\*

STATE RULES  
TEXAS RULES OF JUDICIAL ADMINISTRATION (Gov. Code, Title 2, Subtitle F, Appendix)

*Tex. R. Jud. Admin. 13* (2003)

Rule 13. Multidistrict Litigation

13.1 Authority and Applicability.

(a) Authority. This rule is promulgated under sections 74.161-.164 of the Texas Government Code.

(b) Applicability. This rule applies to civil actions that involve one or more common questions of fact and that were filed in a constitutional county court, county court at law, probate court, or district court on or after September 1, 2003. Cases filed before that date are governed by Rule 11 of these rules.

13.2 Definitions. As used in this rule:

(a) MDL Panel means the judicial panel on multidistrict litigation designated pursuant to *section 74.161 of the Texas Government Code*, including any temporary members designated by the Chief Justice of the Supreme Court of Texas in his or her discretion when regular members are unable to sit for any reason.

(b) Chair means the chair of the MDL Panel, who is designated by the Chief Justice of the Supreme Court of Texas.

(c) MDL Panel Clerk means the Clerk of the Supreme Court of Texas.

(d) Trial court means the court in which a case is filed.

(e) Pretrial court means the district court to which related cases are transferred for consolidated or coordinated pretrial proceedings under this rule.

(f) Related means that cases involve one or more common questions of fact.

(g) Tag-along case means a case related to cases in an MDL transfer order but not itself the subject of an initial MDL motion or order.

13.3 Procedure for Requesting Transfer.

(a) Motion for Transfer; Who May File; Contents. A party in a case may move for transfer of the case and related cases to a pretrial court. The motion must be in writing and must:

(1) state the common question or questions of fact involved in the cases;

(2) contain a clear and concise explanation of the reasons that transfer would be for the convenience of the parties and witnesses and would promote the just and efficient conduct of the cases;

(3) state whether all parties in those cases for which transfer is sought agree to the motion; and

(4) contain an appendix that lists:

(A) the cause number, style, and trial court of the related cases for which transfer is sought; and

(B) all parties in those cases and the names, addresses, telephone numbers, fax numbers, and email addresses of all counsel.

(b) Request for Transfer by Judges. A trial court or a presiding judge of an administrative judicial region may request a transfer of related cases to a pretrial court. The request must be in writing and must list the cases to be transferred.

(c) Transfer on the MDL Panel's Own Initiative. The MDL Panel may, on its own initiative, issue an order to show cause why related cases should not be transferred to a pretrial court.

(d) Response; Reply; Who May File; When to File. Any party in a related case may file:

- (1) a response to a motion or request for transfer within twenty days after service of such motion or request;
- (2) a response to an order to show cause issued under subparagraph (c) within the time provided in the order; and
- (3) a reply to a response within ten days after service of such response.

(e) Form of Motion, Response, Reply, and Other Documents. A motion for transfer, response, reply, or other document addressed to the MDL Panel must conform to the requirements of *Rule 9.4 of the Texas Rules of Appellate Procedure*. Without leave of the MDL Panel, the following must not exceed 20 pages: the portions of a motion to transfer required by subparagraphs (a)(1)-(2); a response; and a reply. The MDL Panel may request additional briefing from any party.

(f) Filing. A motion, request, response, reply, or other document addressed to the MDL Panel must be filed with the MDL Panel Clerk. The MDL Panel Clerk may require that all documents also be transmitted to the clerk electronically. In addition, a party must send a copy of the motion, response, reply, or other document to each member of the MDL Panel.

(g) Filing Fees. The MDL Panel Clerk may set reasonable fees approved by the Supreme Court of Texas for filing and other services provided by the clerk.

(h) Service. A party must serve a motion, response, reply, or other document on all parties in related cases in which transfer is sought. The MDL Panel Clerk may designate a party or parties to serve a request for transfer on all other parties. Service is governed by *Rule 9.5 of the Texas Rules of Appellate Procedure*.

(i) Notice to Trial Court. A party must file in the trial court a notice in the form prescribed by the MDL Panel if that a motion for transfer has been filed. The MDL Panel Clerk must cause such notice to be filed when a request for transfer by a judge has been filed.

(j) Evidence. The MDL Panel will accept as true facts stated in a motion, response, or reply unless another party contradicts them. A party may file evidence with the MDL Panel Clerk only with leave of the MDL Panel. The MDL Panel may order parties to submit evidence by affidavit or deposition and to file documents, discovery, or stipulations from related cases.

(k) Hearing. The MDL Panel may decide any matter on written submission or after an oral hearing before one or more of its members at a time and place of its choosing. Notice of the date of submission or the time and place of oral hearing must be given to all parties in all related cases.

(l) Decision. The MDL Panel may order transfer if three members concur in a written order finding that related cases involve one or more common questions of fact, and that transfer to a specified district court will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of the related cases.

(m) Orders Signed by Chair or Clerk; Members Identified. Every order of the MDL Panel must be signed by either the chair or by the MDL Panel Clerk, and must identify the members of the MDL Panel who concurred in the ruling.

(n) Notice of Actions by MDL Panel. The MDL Panel Clerk must give notice to all parties in all related cases of all actions of the MDL Panel, including orders to show cause, settings of submissions and oral arguments, and decisions. The MDL Panel Clerk may direct a party or parties to give such notice. The clerk may determine the manner in which notice is to be given, including that notice should be given only by email or fax.

(o) Retransfer. On its own initiative, on a party's motion, or at the request of the pretrial court, the MDL Panel may order cases transferred from one pretrial court to another pretrial court when the pretrial judge has died, resigned, been replaced at an election, requested retransfer, recused, or been disqualified, or in other circumstances when retransfer will promote the just and efficient conduct of the cases.

#### 13.4 Effect on the Trial Court of the Filing of a Motion for Transfer.

- (a) No Automatic Stay. The filing of a motion under this rule does not limit the jurisdiction of the trial court or suspend proceedings or orders in that court.
- (b) Stay of Proceedings. The trial court or the MDL Panel may stay all or part of any trial court proceedings until a ruling by the MDL Panel.

#### 13.5 Transfer to a Pretrial Court.

(a) Transfer Effective upon Notice. A case is deemed transferred from the trial court to the pretrial court when a notice of transfer is filed with the trial court and the pretrial court. The notice must:

- (1) list all parties who have appeared and remain in the case, and the names, addresses, phone numbers, and bar numbers of their attorneys or, if a party is pro se, the party's name, address, and phone number;
- (2) list those parties who have not yet appeared in the case; and
- (3) attach a copy of the MDL transfer order.

(b) No Further Action in Trial Court. After notice of transfer is filed in the trial court, the trial court must take no further action in the case except for good cause stated in the order in which such action is taken and after conferring with the pretrial court. But service of any process already issued by the trial court may be completed and the return filed in the pretrial court.

(c) Transfer of Files; Master File and New Files in the Pretrial Court. If the trial court and pretrial court are in the same county, the trial court must transfer the case file to the pretrial court in accordance with local rules governing the courts of that county. If the trial court and pretrial court are not in the same county, the trial court clerk must transmit the case file to the pretrial court clerk. The pretrial court clerk, after consultation with the judge of the pretrial court, must establish a master file and open new files for each case transferred using the information provided in the notice of transfer. The pretrial court may direct the manner in which pretrial documents are filed, including electronic filing.

(d) Filing Fees and Costs. Unless the MDL Panel assesses costs otherwise, the party moving for transfer must pay the cost of refileing the transferred cases in the pretrial court, including filing fees and other reasonable costs.

(e) Transfer of Tag-along Cases. A tag-along case is deemed transferred to the pretrial court when a notice of transfer in the form described in Rule 13.5(a) -- is filed in both the trial court and the pretrial court. Within 30 days after service of the notice, a party to the case or to any of the related cases already transferred to the pretrial court may move the pretrial court to remand the case to the trial court on the ground that it is not a tag-along case. If the motion to remand is granted, the case must be returned to the trial court, and costs including attorney fees may be assessed by the pretrial court in its remand order. The order of the pretrial court may be appealed to the MDL Panel by a motion for rehearing filed with the MDL Panel Clerk.

#### 13.6 Proceedings in Pretrial Court.

(a) Judges Who May Preside. The MDL Panel may assign as judge of the pretrial court any active district judge, or any former or retired district or appellate judge who is approved by the Chief Justice of the Supreme Court of Texas. An assignment under this rule is not subject to objection under chapter 74 of the Government Code. The judge assigned as judge of the pretrial court has exclusive jurisdiction over each related case transferred pursuant to this rule unless a case is retransferred by the MDL Panel or is finally resolved or remanded to the trial court for trial.

(b) Authority of Pretrial Court. The pretrial court has the authority to decide, in place of the trial court, all pretrial matters in all related cases transferred to the court. Those matters include, for example, jurisdiction, joinder, venue, discovery, trial preparation (such as motions to strike expert witnesses, preadmission of exhibits, and motions in limine), mediation, and disposition by means other than conventional trial on the merits (such as default judgment, summary judgment, and settlement). The pretrial court may set aside or modify any pretrial ruling made by the trial court before transfer over which the trial court's plenary power would not have expired had the case not been transferred.

(c) Case Management. The pretrial court should apply sound judicial management methods early, continuously, and actively, based on its knowledge of each individual case and the entire litigation, in order to set fair and firm time limits tailored to ensure the expeditious resolution of each case and the just and efficient conduct of the litigation as a whole.

After a case is transferred, the pretrial court should, at the earliest practical date, conduct a hearing and enter a case management order. The pretrial court should consider at the hearing, and its order should address, all matters pertinent to the conduct of the litigation, including:

- (1) settling the pleadings;
- (2) determining whether severance, consolidation, or coordination with other actions is desirable and whether identification of separable triable portions of the case is desirable;
- (3) scheduling preliminary motions;
- (4) scheduling discovery proceedings and setting appropriate limitations on discovery, including the establishment and timing of discovery procedures;
- (5) issuing protective orders;
- (6) scheduling alternative dispute resolution conferences;
- (7) appointing organizing or liaison counsel;
- (8) scheduling dispositive motions;
- (9) providing for an exchange of documents, including adopting a uniform numbering system for documents, establishing a document depository, and determining whether electronic service of discovery materials and pleadings is warranted;
- (10) determining if the use of technology, videoconferencing, or teleconferencing is appropriate;
- (11) considering such other matters the court or the parties deem appropriate for the just and efficient resolution of the cases; and
- (12) scheduling further conferences as necessary.

(d) **Trial Settings.** The pretrial court, in conjunction with the trial court, may set a transferred case for trial at such a time and on such a date as will promote the convenience of the parties and witnesses and the just and efficient disposition of all related proceedings. The pretrial court must confer, or order the parties to confer, with the trial court regarding potential trial settings or other matters regarding remand. The trial court must cooperate reasonably with the pretrial court, and the pretrial court must defer appropriately to the trial court's docket. The trial court must not continue or postpone a trial setting without the concurrence of the pretrial court.

#### 13.7 Remand to Trial Court.

(a) **No Remand If Final Disposition by Pretrial Court.** A case in which the pretrial court has rendered a final and appealable judgment will not be remanded to the trial court.

(b) **Remand.** The pretrial court may order remand of one or more cases, or separable triable portions of cases, when pretrial proceedings have been completed to such a degree that the purposes of the transfer have been fulfilled or no longer apply.

(c) **Transfer of Files.** When a case is remanded to the trial court, the clerk of the pretrial court will send the case file to the trial court without retaining a copy unless otherwise ordered. The parties may file in the remanded case copies of any pleadings or orders from the pretrial court's master file. The clerk of the trial court will reopen the trial court file under the cause number of the trial court, without a new filing fee.

#### 13.8 Pretrial court orders binding in the trial court after remand.

(a) **Generally.** The trial court should recognize that to alter a pretrial court order without a compelling justification would frustrate the purpose of consolidated and coordinated pretrial proceedings. The pretrial court should recognize that its rulings should not unwisely restrict a trial court from responding to circumstances that arise following remand.

(b) **Concurrence of the Pretrial Court Required to Change Its Orders.** Without the written concurrence of the pretrial court, the trial court cannot, over objection, vacate, set aside, or modify pretrial court orders, including orders related to summary judgment, jurisdiction, venue, joinder, special exceptions, discovery, sanctions related to pretrial proceedings, privileges, the admissibility of expert testimony, and scheduling.

(c) Exceptions. The trial court need not obtain the written concurrence of the pretrial court to vacate, set aside, or modify pretrial court orders regarding the admissibility of evidence at trial (other than expert evidence) when necessary because of changed circumstances, to correct an error of law, or to prevent manifest injustice. But the trial court must support its action with specific findings and conclusions in a written order or stated on the record.

(d) Unavailability of Pretrial Court. If the pretrial court is unavailable to rule, for whatever reason, the concurrence of the MDL Panel Chair must be obtained.

#### 13.9 Review.

(a) MDL Panel Decision. Orders of the MDL Panel, including those granting or denying motions for transfer, may be reviewed only by the Supreme Court in original proceedings.

(b) Orders by the Trial Court and Pretrial Court. Orders and judgments of the trial court and pretrial court may be reviewed by the appellate court that regularly reviews orders of the court in which the case is pending at the time review is sought, irrespective of whether that court issued the order or judgment to be reviewed.

13.10 MDL Panel Rules. The MDL Panel will operate at the direction of its Chair in accordance with rules prescribed by the panel and approved by the Supreme Court of Texas.





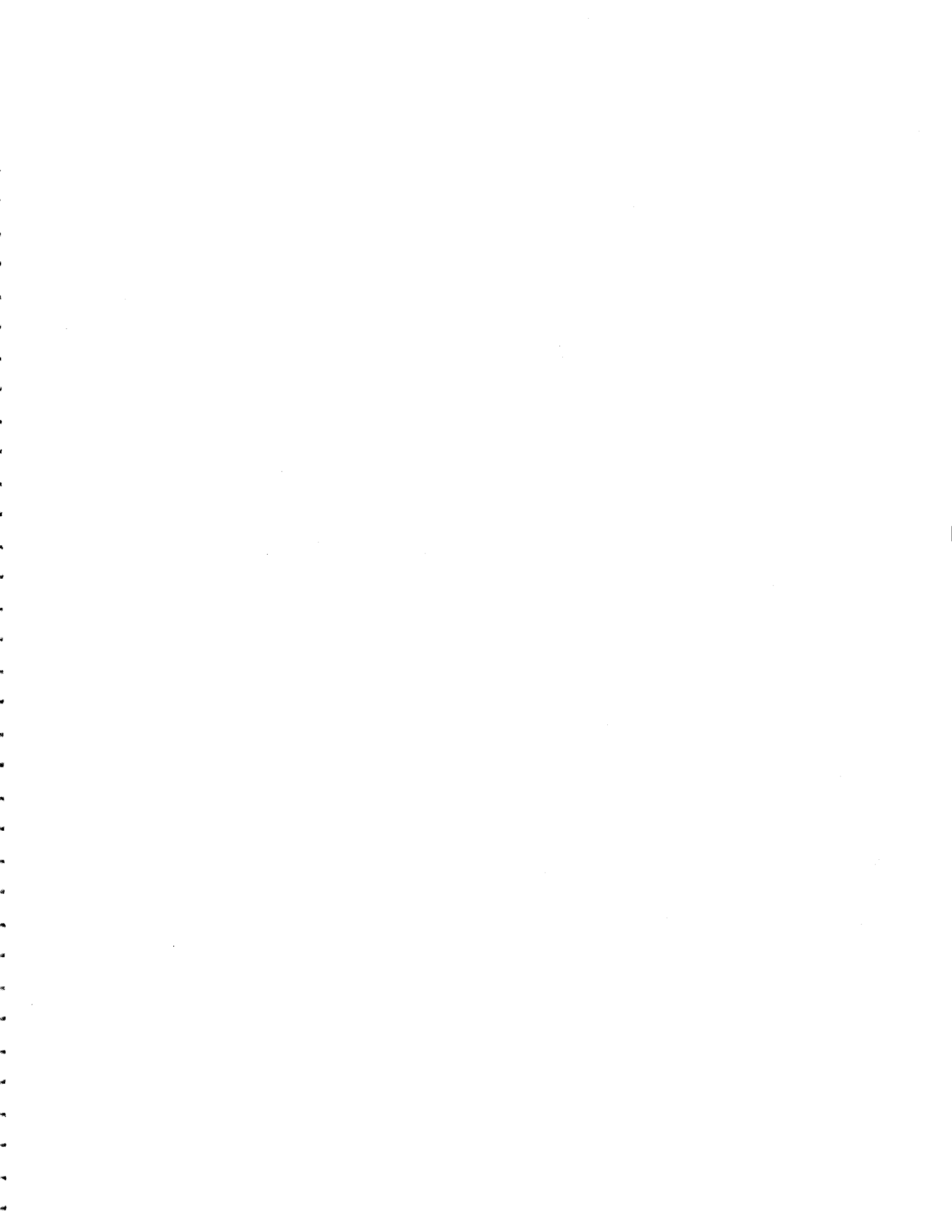
## IDENTITY OF PARTIES AND COUNSEL

APPELLEES	COUNSEL FOR APPELLEES
<p>Chevron USA, Inc. a/k/a Chevron Products Company                      Texaco Inc.                      Texaco E&amp;P, Inc.                      Four Star Oil &amp; Gas Company</p>	<p>P. Jefferson Ballew                      Adrienne E. Dominguez                      Thompson &amp; Knight, LLP                      1700 Pacific Avenue, Suite 3300                      Dallas, Texas 75201                      (214) 969-1700                      FAX: (214) 969-1751</p>
<p>Mobil Producing TX &amp; NM, Inc.                      Socony Mobil Company, Inc.</p>	<p>Shannon H. Ratliff                      Lisa A. Paulson                      Ratliff Law Firm, PLLC                      600 Congress Avenue, Suite 3100                      Austin, Texas 78701                      (512) 493-9600                      FAX: (512) 493-9625</p>
<p>BP America Production Company f/k/a                      Amoco Production Co.                      Arco Oil &amp; Gas Co.                      El Paso Production Oil and Gas Company                      El Paso Production Oil &amp; Gas USA, LP                      El Paso CGP Company                      ANR Production Company                      Coastal Oil and Gas Corporation                      The Coastal Corporation                      Coastal States Trading, Inc.                      Coastal States Crude Gathering Company                      Coastal Gas Marketing Company                      Coastal Limited Ventures, Inc.                      El Paso Merchant Energy Co.                      Vastar Resources, Inc.                      BP America Production Company</p>	<p>William F. Ikard                      William W. Kilgarlin                      Laurie Ratliff                      Popp &amp; Ikard LLP                      Four Barton Skyway                      1301 South Mopac, Suite 430                      Austin, Texas 78746                      (512) 473-2661                      FAX: (512) 479-8013</p>
<p>Shell Oil Company                      Shell Western E&amp;P, Inc.                      Shell Gas Trading, Co.                      Sun Operating Limited Partnership                      Oryx Energy Company                      Kerr-McGee Oil &amp; Gas Onshore, LLC</p>	<p>Jasper G. Taylor, III                      Daniel M. McClure                      Fulbright &amp; Jaworski                      1301 North McKinney, Suite 5100                      Houston, Texas 77010-3095                      (713) 651-5151                      FAX: (713) 651-5246</p>

<b>APPELLEES</b>	<b>COUNSEL FOR APPELLEES</b>
<p>Atofina Petro-Chemicals Inc. f/k/a Fina Oil &amp; Chemical Co.  TotalFinaElf Gas &amp; Power North America, Inc.  Fina, Inc.  Fina Natural Gas Company  TotalFinaElf E &amp; P USA, Inc.  Total E &amp; P USA, Inc.  TotalFinaElf Holdings USA, Inc.</p>	<p>Orrin Harrison, III  Sheryl L. Hopkins  Akin Gump Strauss Hauer &amp; Feld LLP  1700 Pacific Avenue, Suite 4100  Dallas, Texas 75201  (214) 969-2800  FAX: (214) 969-4343</p>
<p>Unocal Corporation a/k/a Union Oil Company of California</p>	<p>Harrell Feldt  Vinson &amp; Elkins  1001 Fannin Street  2300 First City Tower  Houston, Texas 77002-6760  (713) 758-2222  Fax: (713) 758-2346</p>
<p>ConocoPhillips Company f/k/a Conoco, Inc. f/k/a Phillips Petroleum Company</p>	<p>Michael V. Powell  Locke, Liddell &amp; Sapp LLP  2200 Ross Avenue, Suite 2200  Dallas, TX 75201-6776  (214) 740-8520  FAX: (214) 740-8800</p>
<p>Anadarko Petroleum Corporation  Anadarko Holding Company f/k/a Union Pacific Minerals, Inc. and f/k/a Union Pacific Resources Group, Inc.</p>	<p>Martin Paul Detloff  Carol A. Alexander  Anadarko Petroleum Corporation  1201 Lake Robbins Drive  The Woodlands, Texas 77380  (832) 636-7563  FAX: (832) 636-8002</p>
<p>Continental Oil Company  Brandywine Industrial Gas, Inc.</p>	<p>Raymond L. Thomas  Kittleman, Thomas, Ramirez &amp; Gonzales  4900-B North 10<sup>th</sup> Street  McAllen, Texas 78504  (956) 686-8797; (956) 668-1744  FAX: (956) 630-5199; (956) 668-0612</p>

<b>APPELLEES</b>	<b>COUNSEL FOR APPELLEES</b>
IBC Petroleum, Inc.	Duane L. Bunce Baucum Steed Barker 1100 NW Loop 410 Suite 260 San Antonio, Texas, 78213-2253 (210) 349-5311 FAX: (210) 349-3523
Texas Independent Exploration, Ltd.	Allen D. Cummings Haynes and Boone LLP 1000 Louisiana Suite 4300 Houston, Texas, 77002 (713) 547-2022 FAX: (713) 547.2600
EOG Resources, Inc.	Regan D. Pratt Clements, O'Neill, Pierce, Wilson & Fulkerson, L.L.P. 1000 Louisiana Suite 1800 Well Fargo Plaza Houston, Texas 77002-5009 (713) 654-7642 FAX: (713) 654-7690
Cody Energy LLC Cabot Oil & Gas Corp.	William D. Wood Fulbright & Jaworski 1301 North McKinney, Suite 5100 Houston, Texas 77010-3095 (713) 651-5151 FAX: (713) 651-5246
Samedan Oil Corp.	Michael McElroy McElroy, Sullivan & Miller LLP 1201 Spyglass, Suite 200 Austin, Texas, 78746 (512) 327-8111 FAX: (512) 327-6566

<b>APPELLANTS</b>	<b>COUNSEL FOR APPELLANTS</b>
<p>Brooks County  Brooks Independent School District  Duval County  San Diego Independent School District  Freer Independent School District  Jim Hogg County  Jim Hogg Independent School District  Jim Wells County  Premont Independent School District  Webb County  Zapata County  Zapata Independent School District  Ed-Couch Elsa Independent School District  La Villa Independent School District  Progreso Independent School District  Weslaco Independent School District  City of La Joya  City of Edinburg  City of Mercedes  Edinburg Consolidated Independent School District  Hidalgo County  Kenedy County  Kleberg County  Kingsville Independent School District  McAllen Independent School District  Willacy County</p>	<p>John F. Carroll  111 West Olmos Drive  San Antonio, Texas 78212  (210) 829-7183  FAX: (210) 829-0734</p>



No. 13-04-00543-CV

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THIRTEENTH COURT OF APPEALS  
CORPUS CHRISTI TEXAS

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EDINBURG INDEPENDENT SCHOOL DISTRICT  
*Appellants,*

v.

FINA OIL & CHEMICAL COMPANY, ET AL.  
*Appellees*

---

Appeal From Cause No. C-401-03-E  
275<sup>th</sup> District Court, Hidalgo County Texas

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**APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS**

JOHN F. CARROLL  
State Bar No. 03888100  
Attorney at Law  
111 West Olmos Drive  
San Antonio, Texas 78212  
Telephone (210) 829-7183  
Facsimile (210) 829-0734  
*Counsel for Appellants*

**APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS**

TO THE HONORABLE JUDGE OF THE THIRTEENTH COURT OF APPEALS:

NOW COMES Edinburg Independent School District, Plaintiff in the above numbered and styled cause and files this its Motion for Consolidation of Appeals and in support thereof would show the Court as follows:

1. The number and style of the instant case is C-401-03-E, Edinburg Independent School District v. Fina Oil & Chemical Company, et al.
2. The following cases pending before this Court are related:
  1. C-2166-03-F, Edcouch-Elsa Independent School District v. Chevron U.S.A., Inc. et al.; 332<sup>nd</sup> District Court of Hidalgo County, Texas
  2. Cause No. C-640-03-A, Hidalgo County, Texas v. Texaco, Inc. et al.; 92<sup>nd</sup> District Court of Hidalgo County, Texas
  3. Cause No. C-2195-03-H, McAllen Independent School District v. Fina Oil and Chemical Company, et al.; 38<sup>th</sup> District Court of Hidalgo County, Texas
  4. Cause No. 03-CV-103, Kenedy County v. El Paso Production Oil & Gas Company, et al.; 105<sup>th</sup> District Court of Kenedy County, Texas
  5. Cause No. 03-446-D, Kleberg County et al. v. El Paso Production Oil Y Gas Company; 105<sup>th</sup> District Court of Kleberg County, Texas
  6. Cause No. 03-441-D, Kleberg County, et al. v. Atofina Petrochemicals, Inc. f/k/a Fina Oil & Gas Company et al.; 105<sup>th</sup> District Court of Kleberg County, Texas
  7. Cause No. 03-264, Willacy County v. El Paso Production Oil and Gas Company et al.; 357<sup>th</sup> District Court of Willacy County, Texas
3. Appellant seeks to consolidate the above related appeals for purposes of briefing and oral argument to promote the efficient termination of these cases by the Court as well as to promote efficiency within the office of counsel for the Appellants.



### Procedural Background

4. The above referenced cases are lawsuits filed by counties and school districts as taxing entities against various oil and gas production company defendants, alleging claims and causes of action for fraud arising out of what Plaintiffs allege was a scheme by the various Defendants to fraudulently undervalue mineral interests for real property tax purposes; thereby resulting in an undervaluation of the property for real property tax appraisal purposes with the result that the various Defendants under paid the amount of real property taxes which should have been paid to the various Plaintiffs'. The same claims were made not only in the cases listed in this motion but also in other cases in South Texas (Appeals of which are pending before the Fourth Court of Appeals of Texas) as well as cases filed by various taxing entities in West Texas (undersigned counsel does not represent the West Texas counties). The presiding judges of the Fourth, Fifth, Sixth and Seventh Judicial Administrative Regions were asked to consolidate all of the South Texas and West Texas cases under Rule 11 of the Texas Rules of Judicial Administration before a single pre-trial judge. Following a hearing in Austin, the Judges determined that the West Texas cases should be consolidated for hearing before one pre-trial judge and that the South Texas cases pending in the Fourth and Fifth Administrative Judicial Regions should be consolidated before a different pre-trial judge.

5. The South Texas cases, including those pending before this Court were assigned to the Honorable Tracy Christopher, Judge of the 295<sup>th</sup> Judicial District Court of Harris County. The Defendants in each of those cases filed Pleas to the Jurisdiction asserting that exclusive jurisdiction of the Plaintiffs' claims was provided for in the Texas Tax Code and that the Plaintiffs' had failed to exhaust administrative remedies by not availing themselves of the procedures set forth in the Texas Tax Code including going before the local appraisal review board with their complaints.

6. On the 10<sup>th</sup> day of September 2004, Judge Christopher signed Orders in each of the above referenced cases as well as the cases now pending in the Fourth Court of Appeals granting the pleas to the jurisdiction and dismissing the Plaintiffs' claims. Each of the Plaintiffs have timely appealed. Appellants believe that the issues before the Court in each of the appeals listed above will be identical and can more efficiently be briefed and presented to this court through a single consolidated brief on behalf of all the Plaintiffs.

Conference

7. Undersigned counsel for the Appellants provided opposing counsel the attached correspondence regarding the legal question in this motion and received no response.

WHEREFORE, Appellant respectfully requests the Court grant this motion and order that the above listed appeals be consolidated for purposes of briefing and oral argument before the Court and that Appellants in each of the listed cases be directed to file a single consolidated brief asserting all their claims on appeal before the Court.

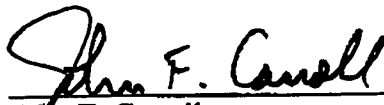
Respectfully submitted,

Jon Christian Amberson  
JON CHRISTIAN AMBERSON, P.C.  
2135 E. Hilderbrand Ave.  
San Antonio, Texas 78209  
Telephone: (210) 826-3339  
Facsimile: (210) 826-3340

Rolando Cantu  
State Bar No. 00789201  
Juan Rocha  
State Bar No. 17122000  
ROLANDO CANTU & ASSOCIATES, P.L.L.C.  
Attorneys at Law  
4428 S. McColl  
Edinburg, Texas 78539  
Telephone: (956) 687-5777  
Facsimile: (956) 687-6125

Scott Morris  
State Bar No. 14489000  
J. SCOTT MORRIS, P.C.  
3355 Bee Caves Rd., Suite 202  
Austin, Texas 78746  
Telephone: (512) 457-8523  
Facsimile: (512) 329-8484

John F. Carroll  
ATTORNEY AT LAW  
111 West Olmos Dr.  
San Antonio, Texas 78212  
(210) 829-7183 - Telephone  
(210) 829-0734 - Facsimile

By:   
John F. Carroll  
State Bar No. 03888100

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 28<sup>th</sup> day of October 2004, upon the following counsel of record:

William Ikard  
POPP & IKARD, L.L.P.  
Four Barton Skyway  
1301 South Mopac, Suite 430  
Austin, Texas 78746  
Attorney for El Paso Production  
Oil & Gas Company and El Paso  
Production Oil & Gas USA, L.P.  
El Paso CGP Company, ANR  
Production Company, Coastal Oil  
& Gas Corporation, The Coastal  
Corporation, Coastal States Trading,  
Inc.,  
Coastal States Gathering Company, and  
Coastal Gas Marketing Company,  
Coastal Limited Ventures, Inc. and El  
Paso  
Merchant Energy Co. and Arco Oil &  
Gas Co.,  
Vastar Resources, Inc. and BP America  
Production  
Company  
Facsimile: (512) 472-5515

Martin P. Detloff  
ANADARKO  
PETROLEUM CORPORATION  
1201 Lake Robbins Drive  
The Woodlands, Texas 77380  
Attorney for Anadarko Petroleum  
Corporation  
Facsimile: (832) 636-8002

P. Jefferson Ballew  
THOMPSON & KNIGHT, L.L.P.  
1700 Pacific Avenue, Suite 3300  
Dallas, Texas 75201  
Attorney for ChevronTexaco  
Facsimile: (214) 969-1751

Jasper G. Taylor  
FULBRIGHT & JAWORSKI, LLP  
1301 McKinney, Ste. 5100  
Houston, Texas 77010-3095  
Attorney for Shell Western E&P, Inc.  
Facsimile: (713) 651-5246

Michael V. Powell  
LOCKE LIDDELL & SAPP, LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201-6776  
Attorney for ConocoPhillips  
Facsimile: (214) 740-8800

Orrin L. Harrison, III  
AKIN GUMP STRAUSS HAUER & FELD,  
L.L.P.  
1700 Pacific Avenue, Suite 4100  
Dallas, Texas 75201  
Attorney for TotalFina/Fina Appellees  
Facsimile: (214) 969-4343

Edmundo O. Ramirez  
ELLIS, KOENEKE & RAMIREZ, L.L.P.  
1101 Chicago  
McAllen, Texas 78501  
Attorney for Shell Oil Company,  
Shell Gas Trading Company, and  
Shell Western E&P, Inc.  
Facsimile: (956) 682-0820

Michael E. McElroy  
McELROY, SULLIVAN, RYAN &  
MILLER, LLP  
1201 Spyglass, Ste. 200  
Austin, Texas 78746  
Attorney for Samedan Oil Corp.

**Facsimile:** (512) 327-6566

Duane L. Bunce  
BAUCUM STEED BARKER  
1100 N.W. Loop 410, Suite 260  
San Antonio, Texas 78213  
Attorney for IBC Petroleum, Inc.  
Facsimile: (210) 349-1918

Regan D. Pratt  
CLEMENTS, O'NEILL, PIERCE WILSON  
& FULKERSON, LLP  
1000 Louisiana, Texas 77002  
Houston, Texas 77002  
Attorney for EOG Resources, Inc.  
Facsimile: (713) 654-7690  
Catherine W. Smith  
LAW OFFICE OF RAMON GARCIA, P.C.  
222 West University Drive  
Austin, Texas 78539  
Attorney for La Joya Consolidated  
Independent School District, Intervenor  
Facsimile: (956) 381-0825

William Wood  
Attorneys at Law  
1301 McKinney, Ste. 5100  
Houston, Texas 77010-3095  
Attorney for Cody Energy LLP  
and Cabot Oil & Gas Corporation  
Facsimile: (713) 651-5246

Eduardo Roberto Rodriguez  
RODRIGUEZ, COLVIN & CHANEY  
1201 E. Van Buren  
Brownsville, Texas 78522  
Attorney for Sun Operating Limited  
Partnership  
Facsimile: (956) 541-2170

Mr. Edmundo O. Ramirez  
Ellis, Koeneke & Ramirez, L.L.P.  
1101 Chicago  
McAllen, Texas 78501  
Attorney for SWEPI

**Facsimile:** (956) 682-0820

Jack Balagia, Jr.  
Attorney at Law  
800 Bell St., Room 1540A  
Houston, Texas 77002  
Attorney for Mobil Producing  
Texas & New Mexico Inc. and  
Socony Mobil Co., Inc.  
Facsimile: (713) 656-4653

Raymond Thomas  
KITTLEMAN, THOMAS, RAMIREZ,  
GONZALES, PLLC  
P.O. Box 1416  
4900-B North 10<sup>th</sup> St.  
McAllen, Texas 78505  
Attorney for Continental Oil  
Company and Brandywine  
Industrial Gas, Inc.  
Facsimile: (956) 630-5199

Allen D. Cummings  
HAYNES & BOONE, LLP  
1000 Louisiana, Ste. 4300  
Houston, Texas 78002  
Attorney for Texas Independent  
Exploration, Ltd.  
Facsimile: (713) 547-2000

*John F. Carroll*

John F. Carroll

: : :  
No. 04-04-00727-CV

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FOURTH COURT OF APPEALS  
SAN ANTONIO TEXAS

---

BROOKS COUNTY, ET AL.  
*Appellants,*

v.

TEXACO E&P, INC., ET AL.  
*Appellees*

---

Appeal From Cause No. 03-08-11943-CV  
79<sup>th</sup> District Court, Brooks County Texas

---

**APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS**

JOHN F. CARROLL  
State Bar No. 03888100  
Attorney at Law  
111 West Olmos Drive  
San Antonio, Texas 78212  
Telephone (210) 829-7183  
Facsimile (210) 829-0734  
*Counsel for Appellants.*

3 1 7 2 0 0

**APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS**

TO THE HONORABLE JUDGE OF THE FOURTH COURT OF APPEALS:

NOW COMES Brooks County, et al., Plaintiffs in the above numbered and styled cause and file this its Motion for Consolidation of Appeals and in support thereof would show the Court as follows:

1. The number and style of the instant case is 03-08-11943-CV, Brooks County v. Texaco E&P, Inc., et al.
2. The following cases pending before this Court are related:
  1. Cause No. 03-08-1150-CV, Brooks County v. El Paso Oil & Gas Company, et al.; 79<sup>th</sup> District Court of Brooks County, Texas
  2. Cause No. DC-03-320, Duval County, et al. v. Conoco, Inc. et al.; 229<sup>th</sup> District Court of Duval County, Texas
  3. Cause No. DC-03-313, Duval County, et al. v. Shell Western E&P, Inc.; 229<sup>th</sup> District Court of Duval County, Texas
  4. Cause No. CC-03-117, Jim Hogg County, et al. v. Exxon Mobil Corporation, et al.; 229<sup>th</sup> District Court of Jim Hogg County, Texas
  5. Cause No. 03-08-41740, Jim Wells County, et al. v. El Paso Production Oil & Gas Company, et al.; 79<sup>th</sup> District Court of Jim Wells County, Texas
  6. Cause No. 03-08-41767-CV, Jim Wells County et al. v. Anadarko Petroleum Corporation, et al.; 79<sup>th</sup> District Court of Jim Wells County, Texas
  7. Cause No. 2003-CVQ-001374-D1, Webb County v. Chevron U.S.A., Inc. et al.; 49<sup>th</sup> District Court, Webb County, Texas
  8. Cause No. 2003-CVQ-001368-D2, Webb County v. Conoco, Inc. et al.; 111<sup>th</sup> District Court, Webb County, Texas
  9. Cause No. 5519, Zapata County, et al. v. Conoco, Inc., et al.; 49<sup>th</sup> Judicial District Court, Zapata County, Texas
  10. Cause No. 5520, Zapata County, et al. v. Chevron U.S.A., Inc., et al.; 49<sup>th</sup> Judicial District Court, Zapata County, Texas



3. Appellant seeks to consolidate the above related appeals for purposes of briefing and oral argument to promote the efficient termination of these cases by the Court as well as to promote efficiency within the office of counsel for the Appellants.

#### Procedural Background

4. The above referenced cases are lawsuits filed by counties and school districts as taxing entities against various oil and gas production company defendants, alleging claims and causes of action for fraud arising out of what Plaintiffs allege was a scheme by the various Defendants to fraudulently undervalue mineral interests for real property tax purposes; thereby resulting in an undervaluation of the property with the result that the various Defendants under paid the amount of real property taxes which should have been paid to the various Plaintiffs'. The same claims were made not only in the cases listed in this motion but also in other cases in South Texas (Appeals of which are pending before the Thirteenth Court of Appeals of Texas) as well as cases filed by various taxing entities in West Texas (undersigned counsel does not represent the West Texas counties). The presiding judges of the Fourth, Fifth, Sixth and Seventh Judicial Administrative Regions were asked to consolidate all of the South Texas and West Texas cases under Rule 11 of the Texas Rules of Judicial Administration before a single pre-trial judge. Following a hearing in Austin, the Judges determined that the West Texas cases should be consolidated for hearing before one pre-trial judge and that the South Texas cases pending in the Fourth and Fifth Administrative Judicial Regions should be consolidated before a different pre-trial judge.

5. The South Texas cases, including those pending before this Court were assigned to the Honorable Tracy Christopher, Judge of the 295<sup>th</sup> Judicial District Court of Harris County. The Defendants in each of those cases filed Pleas to the Jurisdiction asserting that exclusive jurisdiction

of the Plaintiffs' claims was provided for in the Texas Tax Code and that the Plaintiffs' had failed to exhaust administrative remedies by not availing themselves of the procedures set forth in the Texas Tax Code including going before the local appraisal review board with their complaints.

6. On the 10<sup>th</sup> day of September 2004, Judge Christopher signed Orders in each of the above referenced cases as well as the cases now pending in the Fourth Court of Appeals granting the pleas to the jurisdiction and dismissing the Plaintiffs' claims. Each of the Plaintiffs has appealed. Appellants believe that the issues before the Court in each of the appeals listed above will be identical and can more efficiently be briefed and presented to this court through a single consolidated brief on behalf of all the Plaintiffs.

Conference

7. Undersigned counsel for the Appellants provided opposing counsel the attached correspondence regarding the legal question in this motion and received no response.

WHEREFORE, Appellant respectfully requests the Court grant this motion and order that the above listed appeals be consolidated for purposes of briefing and oral argument before the Court and that Appellants in each of the listed cases be directed to file a single consolidated brief asserting all their claims on appeal before the Court.

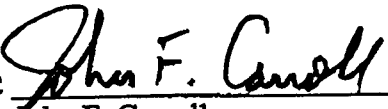
Respectfully submitted,

Jon Christian Amberson  
JON CHRISTIAN AMBERSON, P.C.  
2135 E. Hilderbrand Ave.  
San Antonio, Texas 78209  
Telephone: (210) 826-3339  
Facsimile: (210) 826-3340

Rolando Cantu  
State Bar No. 00789201  
Juan Rocha

State Bar No. 17122000  
ROLANDO CANTU & ASSOCIATES, P.L.L.C.  
Attorneys at Law  
4428 S. McColl  
Edinburg, Texas 78539  
Telephone: (956) 687-5777  
Facsimile: (956) 687-6125

John F. Carroll  
ATTORNEY AT LAW  
111 West Olmos Dr.  
San Antonio, Texas 78212  
(210) 829-7183 - Telephone  
(210) 829-0734 - Facsimile

By:   
\_\_\_\_\_  
John F. Carroll  
State Bar No. 03888100

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 29<sup>th</sup> day of October 2004, upon the following counsel of record:

William Ikard  
POPP & IKARD, L.L.P.  
Four Barton Skyway  
1301 South Mopac, Suite 430  
Austin, Texas 78746  
Attorney for El Paso Production  
Oil & Gas Company and El Paso  
Production Oil & Gas USA, L.P.  
El Paso CGP Company, ANR  
Production Company, Coastal Oil  
& Gas Corporation, The Coastal  
Corporation, Coastal States Trading,  
Inc.,  
Coastal States Gathering Company, and  
Coastal Gas Marketing Company,  
Coastal Limited Ventures, Inc. and El  
Paso  
Merchant Energy Co. and Arco Oil &  
Gas Co.,  
Vastar Resources, Inc. and BP America  
Production  
Company  
Facsimile: (512) 472-5515

Martin P. Detloff  
ANADARKO  
PETROLEUM CORPORATION  
1201 Lake Robbins Drive  
The Woodlands, Texas 77380  
Attorney for Anadarko Petroleum  
Corporation  
Facsimile: (832) 636-8002

P. Jefferson Ballew  
THOMPSON & KNIGHT, L.L.P.  
1700 Pacific Avenue, Suite 3300  
Dallas, Texas 75201  
Attorney for ChevronTexaco  
Facsimile: (214) 969-1751

Jasper G. Taylor  
FULBRIGHT & JAWORSKI, LLP  
1301 McKinney, Ste. 5100  
Houston, Texas 77010-3095  
Attorney for Shell Western E&P, Inc.  
Facsimile: (713) 651-5246

Michael V. Powell  
LOCKE LIDDELL & SAPP, LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201-6776  
Attorney for ConocoPhillips  
Facsimile: (214) 740-8800

Orrin L. Harrison, III  
AKIN GUMP STRAUSS HAUER & FELD,  
L.L.P.  
1700 Pacific Avenue, Suite 4100  
Dallas, Texas 75201  
Attorney for TotalFina/Fina Appellees  
Facsimile: (214) 969-4343

Edmundo O. Ramirez  
ELLIS, KOENEKE & RAMIREZ, L.L.P.  
1101 Chicago  
McAllen, Texas 78501  
Attorney for Shell Oil Company,  
Shell Gas Trading Company, and  
Shell Western E&P, Inc.  
Facsimile: (956) 682-0820

Michael E. McElroy  
McELROY, SULLIVAN, RYAN &  
MILLER, LLP  
1201 Spyglass, Ste. 200  
Austin, Texas 78746  
Attorney for Samedan Oil Corp.

**Facsimile:** (512) 327-6566

Duane L. Bunce  
BAUCUM STEED BARKER  
1100 N.W. Loop 410, Suite 260  
San Antonio, Texas 78213  
**Attorney for IBC Petroleum, Inc.**  
**Facsimile:** (210) 349-1918

Regan D. Pratt  
CLEMENTS, O'NEILL, PIERCE WILSON  
& FULKERSON, LLP  
1000 Louisiana, Texas 77002  
Houston, Texas 77002  
**Attorney for EOG Resources, Inc.**  
**Facsimile:** (713) 654-7690  
Catherine W. Smith  
LAW OFFICE OF RAMON GARCIA, P.C.  
222 West University Drive  
Austin, Texas 78539  
**Attorney for La Joya Consolidated  
Independent School District, Intervenor**  
**Facsimile:** (956) 381-0825

William Wood  
Attorneys at Law  
1301 McKinney, Ste. 5100  
Houston, Texas 77010-3095  
**Attorney for Cody Energy LLP  
and Cabot Oil & Gas Corporation**  
**Facsimile:** (713) 651-5246

Eduardo Roberto Rodriguez  
RODRIGUEZ, COLVIN & CHANEY  
1201 E. Van Buren  
Brownsville, Texas 78522  
**Attorney for Sun Operating Limited  
Partnership**  
**Facsimile:** (956) 541-2170

Mr. Edmundo O. Ramirez  
Ellis, Koeneke & Ramirez, L.L.P.  
1101 Chicago  
McAllen, Texas 78501  
**Attorney for SWEPI**

**Facsimile:** (956) 682-0820

Jack Balagia, Jr.  
Attorney at Law  
800 Bell St., Room 1540A  
Houston, Texas 77002  
**Attorney for Mobil Producing  
Texas & New Mexico Inc. and  
Socony Mobil Co., Inc.**  
**Facsimile:** (713) 656-4653

Raymond Thomas  
KITTLEMAN, THOMAS, RAMIREZ,  
GONZALES, PLLC  
P.O. Box 1416  
4900-B North 10<sup>th</sup> St.  
McAllen, Texas 78505  
**Attorney for Continental Oil  
Company and Brandywine  
Industrial Gas, Inc.**  
**Facsimile:** (956) 630-5199

Allen D. Cummings  
HAYNES & BOONE, LLP  
1000 Louisiana, Ste. 4300  
Houston, Texas 78002  
**Attorney for Texas Independent  
Exploration, Ltd.**  
**Facsimile:** (713) 547-2000

*John F. Carroll*  

---

John F. Carroll

**JOHN F. CARROLL**  
**ATTORNEY AT LAW**  
111 WEST OLMOS DRIVE  
SAN ANTONIO, TEXAS 78212

TELEPHONE: (210) 829-7183

FACSIMILE: (210) 829-0734

October 22, 2004

William Ikard  
POPP & IKARD, L.L.P.  
Four Barton Skyway  
1301 South Mopac, Suite 430  
Austin, Texas 78746  
Attorney for El Paso Production  
Oil & Gas Company and El Paso  
Production Oil & Gas USA, L.P.  
El Paso CGP Company, ANR  
Production Company, Coastal Oil  
& Gas Corporation, The Coastal  
Corporation, Coastal States Trading,  
Inc.,  
Coastal States Gathering Company, and  
Coastal Gas Marketing Company,  
Coastal Limited Ventures, Inc. and El  
Paso  
Merchant Energy Co. and Arco Oil &  
Gas Co.,  
Vastar Resources, Inc. and BP America  
Production  
Company  
Facsimile: (512) 472-5515

Martin P. Detloff  
ANADARKO  
PETROLEUM CORPORATION  
1201 Lake Robbins Drive  
The Woodlands, Texas 77380  
Attorney for Anadarko Petroleum  
Corporation  
Facsimile: (832) 636-8002

P. Jefferson Ballew  
THOMPSON & KNIGHT, L.L.P.  
1700 Pacific Avenue, Suite 3300  
Dallas, Texas 75201  
Attorney for ChevronTexaco  
Facsimile: (214) 969-1751

Jasper G. Taylor  
FULBRIGHT & JAWORSKI, LLP  
1301 McKinney, Ste. 5100  
Houston, Texas 77010-3095  
Attorney for Shell Western E&P, Inc.  
Facsimile: (713) 651-5246

Michael V. Powell  
LOCKE LIDDELL & SAPP, LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201-6776  
Attorney for ConocoPhillips  
Facsimile: (214) 740-8800

Orrin L. Harrison, III  
AKIN GUMP STRAUSS HAUER & FELD,  
L.L.P.  
1700 Pacific Avenue, Suite 4100  
Dallas, Texas 75201  
Attorney for TotalFina/Fina Appellees  
Facsimile: (214) 969-4343

Edmundo O. Ramirez  
ELLIS, KOENEKE & RAMIREZ, L.L.P.  
1101 Chicago  
McAllen, Texas 78501  
Attorney for Shell Oil Company,  
Shell Gas Trading Company, and  
Shell Western E&P, Inc.  
Facsimile: (956) 682-0820

Michael E. McElroy  
McELROY, SULLIVAN, RYAN &  
MILLER, LLP  
1201 Spyglass, Ste. 200  
Austin, Texas 78746  
Attorney for Samedan Oil Corp.  
Facsimile: (512) 327-6566

Duane L. Bunce  
BAUCUM STEED BARKER  
1100 N.W. Loop 410, Suite 260  
San Antonio, Texas 78213  
Attorney for IBC Petroleum, Inc.  
Facsimile: (210) 349-1918

Regan D. Pratt  
CLEMENTS, O'NEILL, PIERCE WILSON  
& FULKERSON, LLP  
1000 Louisiana, Texas 77002  
Houston, Texas 77002  
Attorney for EOG Resources, Inc.  
Facsimile: (713) 654-7690

Catherine W. Smith  
LAW OFFICE OF RAMON GARCIA, P.C.  
222 West University Drive  
Austin, Texas 78539  
Attorney for La Joya Consolidated  
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William Wood  
Attorneys at Law  
1301 McKinney, Ste. 5100  
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and Cabot Oil & Gas Corporation  
Facsimile: (713) 651-5246

Eduardo Roberto Rodriguez  
RODRIGUEZ, COLVIN & CHANEY  
1201 E. Van Buren  
Brownsville, Texas 78522  
Attorney for Sun Operating Limited  
Partnership  
Facsimile: (956) 541-2170

Mr. Edmundo O. Ramirez  
Ellis, Koeneke & Ramirez, L.L.P.  
1101 Chicago  
McAllen, Texas 78501  
Attorney for SWEPI  
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Jack Balagia, Jr.  
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800 Bell St., Room 1540A  
Houston, Texas 77002  
Attorney for Mobil Producing  
Texas & New Mexico Inc. and  
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Raymond Thomas  
KITTLEMAN, THOMAS, RAMIREZ,  
GONZALES, PLLC  
P.O. Box 1416  
4900-B North 10<sup>th</sup> St.  
McAllen, Texas 78505  
Attorney for Continental Oil  
Company and Brandywine  
Industrial Gas, Inc.  
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HAYNES & BOONE, LLP  
1000 Louisiana, Ste. 4300  
Houston, Texas 78002  
Attorney for Texas Independent  
Exploration, Ltd.  
Facsimile: (713) 547-2000



Re: **Thirteenth Court of Appeals cases**

Cause No. \_\_\_\_\_, E.C.I.S.D. v. Fina Oil & Chemical Co., et al.  
Cause No. \_\_\_\_\_, Ed-Couch ISD, et al. v. Chevron U.S.A., Inc., et al.  
Cause No. \_\_\_\_\_, Hidalgo County v. Texaco, Inc., et al.  
Cause No. \_\_\_\_\_, Kenedy County v. El Paso Production Oil & Gas Company, et al.  
Cause No. \_\_\_\_\_, Kleberg County, et al. v. El Paso Production Oil & Gas Company, et al.  
Cause No. \_\_\_\_\_, Kleberg County, et al. v. Atofina Petrochemicals, Inc., et al.  
Cause No. \_\_\_\_\_, McAllen ISD v. Fina Oil and Chemical Company, et al.  
Cause No. \_\_\_\_\_, Willacy County v. El Paso Production Oil & Gas Company, et al.

**Fourth Court of Appeals cases**

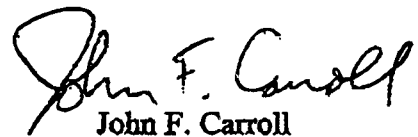
Cause No. 04-04-00726-CV, Brooks County, et al. v. El Paso Production Oil & Gas Company, et al.  
Cause No. 04-04-00727-CV, Brooks County, et al. v. Texaco E&P, Inc. et al.  
Cause No. 04-04-00728-CV, Duval County, et al. v. Shell Western E&P, Inc.  
Cause No. 04-04-00729-CV, Duval County, et al. v. Conoco, Inc. et al.  
Cause No. 04-04-00730-CV, Jim Hogg County, et al. v. Chevron U.S.A., Inc., et al.  
Cause No. 04-04-00725-CV, Jim Wells, et al. v. El Paso Production Oil and Gas Company, et al.  
Cause No. 04-04-00731-CV, Jim Wells, et al. v. Anadarko Petroleum Corporation, et al.  
Cause No. 04-04-00732-CV, Webb County v. Chevron U.S.A., Inc. et al.  
Cause No. 04-04-00733-CV, Webb County v. Conoco, Inc. et al.  
Cause No. 04-04-00734-CV, Zapata County, et al. v. Conoco, Inc. et al.  
Cause No. 04-04-00735-CV, Zapata County, et al. v. Chevron U.S.A., Inc. et al.

**Counsel:**

Appellants intend to file Motions for Consolidation of the referenced appeals for purposes of briefing and oral argument in the Fourth and Thirteenth Courts of Appeals, respectively.

If you have an objection, please contact me by October 27, 2004. If I do not hear from you, I will assume there is no objection.

Very truly yours,

  
John F. Carroll

JFC/dgm

