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Jimenez, Danielle (DCO)

From: Keith Wiegand [kwiegand@shiftsolutions.com]
Sent: Monday, January 29, 2007 12:09 PM
To: Jimenez, Danielle (DCO)
Subject: Case #2006-01984, MOSH Holdings, LP v. Pioneer Natural Resources, et al
Attachments: header.htm

Your Honor: We respectfully request that the court consider the status of the approximate 12,000 Trust Unitholders not involved in the subject lawsuit. Respectfully submitted to Danielle Jimenez, Clerk for Judge McCally. Also copied to email address of sender, Keith Wiegand, Tulsa, Ok.

Keith A. Wiegand
10403 South 200th E. Avenue
Broken Arrow, Oklahoma 74014

January 29, 2007

FILED
CHARLES BACARISSE
District Clerk
JAN 29 2007
By Harris County, Texas
Deputy

The Honorable Judge Sharon McCally
Harris County Civil Courthouse
201 Caroline, 15th Floor
Houston, Texas 77002

Reference: MOSH Holdings, LP v. Pioneer Natural Resources Company; Pioneer Natural Resources USA, Inc.; Woodside Energy (USA) Inc.; and JPMorgan Chase Bank, NA as Trustee of the Mesa Offshore Trust, Case number 200601984

Your Honor,

We are a group of independent investors in the Mesa Offshore Trust (MOSH) who would like to make your Court aware of our opinions and positions on certain litigation before your Court. As a group, we own 12,022,050 units or 16.7% of the Trust's outstanding units. Another group of Unitholders is currently in litigation with the above referenced defendants, before your Court. We do not claim to represent all of the remaining Unitholders outside the lawsuit; however we believe that our viewpoints, opinions and requests may certainly benefit all Unitholders of the Trust.

During the last, almost 2 years since the original suit was filed, we - an independent group of investors have observed, what we believe, in our opinion - is a reduction of information available through the various SEC filings made by the Trustee, as provided to the Trustee by the Managing General Partner. Additionally, the actual usefulness of the information as it is provided appears to have

been degraded to the point of almost being useless – leaving more questions in the mind of the reader than actual answers. Thus, due to lack of reasonable and timely information, we feel that our investment in the Trust is precarious at best.

The reason we are taking this step in writing the Court, is that the current condition of the Trust is such, that we fear that any settlement or judgment may be directly or indirectly linked to the termination and immediate liquidation of the Trust's properties. There are additional fears that via the litigation, the Trust's assets could be transferred without a majority of the Unitholders' expressing their positions.

The Trust has assets in the form of Gulf of Mexico offshore leases that are worked by operators that provide the Trust royalty income. The Trust currently has 2 active lease blocks producing; West Delta 61 and the disputed Brazos A-39 Midway. The Trust also has overriding royalty interests (ORRI's) in 3 leased blocks surrounding the Midway discovery well. The Trust is still publicly traded Over the Counter – via the Pink Sheets and is subject to the SEC's rules, regulations and overview.

Normally, a going business has a CEO, President, Officers of the Corporation, a Board of Directors, an internal law department, to defend the corporation and ultimately - the shareholders. The Mesa Offshore Trust is a passive entity which has none of these positions, only a Trustee and Managing General Partner, each individually tasked with the legal fiduciary responsibility for the Trust, who are defendants of the lawsuit in question. Thus, it appears that any fiduciary responsibility normally provided to the trust and Unitholders by these parties, may be overwhelmed by their own self interests – thus leaving the balance of the Unitholders as "legal orphans", not represented and the class of all Unitholders separated into two separate, distinct and unequal classes.

We are not accusing anyone in any way, shape or form of anything. We are only consuming the information provided us, forming opinions and observations, and ultimately making a conclusion which is leading to a fear that our interests will be totally lost in this blizzard of litigation. Thus, we are seeking a fair and level playing field, such that our interests are not diminished in anyway, by the proceedings before your Court.

The following is a brief overview of our opinions, observations and reasoning that have brought us to this point. In attempting to keep this letter brief and to the point, we have attached an appendix that provides factual references that take the form of printed information from various SEC filings and investor news reports.

We have read with great trepidation the September and October 2006 MOSH 8K, followed by the November 2006 MOSH 10Q where the Managing General Partner (the Working Interest Owner) has withheld first $849,519 then $1,411,141 from the Trust's proceeds and added this sum to the abandonment accrual, to cover abandonment costs across all remaining Trust blocks. This is of extreme importance to all Unitholders, in that only a single well in which the Trust currently holds a working interest (the recently abandoned Brazos A-7), would be subject to any accrual, and lacking specific identification of how these funds are allocated, potentially diminishing any likelihood that the Trust may continue operating. Moreover, the 6/30/2006 10Q had stated that the $372,826 balance maintained was sufficient to pay the Trust's 10% working interest (WI) portion for the future abandonment of the platform and facilities of the Brazos A-7.

If this abandonment accrual actually covers more than the Brazos A7 well and includes the Brazos A-39 #5 well, then that would indicate that the defendants have returned the 37.5% WI in the #5 well, which is the central focal point of this lawsuit. This would have great ramifications in the valuation of the assets of the Trust (in our estimation), and if the case, this information should be

distributed on an equal basis to all Unitholders. If the accrual includes Brazos A-39 #5 well without the return of the Trust's working interest, then we find it difficult to understand why the additional funds are encumbered within the abandonment accrual.

The 2005 Mesa Offshore Trust 10K filing with the SEC indicated that the Managing General Partner had withheld requested data from the Trustee and the engineer performing the reserve analysis, thus preventing an accurate estimate of the Trust's reserves and valuation of the Trust's assets. This reserve report is stated by the Trustee, to be the basis for any and all prospective buyers of the Trust's properties when liquidation takes place. We believe that any information withheld, possibly reduces the worth of the trust properties, in the eyes of a potential buyer. This also marks the second instance where apparent information of substance is not being published for the benefit of all Unitholders, to our possible disadvantage.

Woodside, a defendant, in their January 18, 2007 Report to Investors, indicated that:

> "Brazos A39 #5 – 'Midway Project' (Woodside 50% working interest, 47.75 net revenue interest) – Facility issues were resolved during the quarter and a new operating agreement was executed in late December. Pipeline operator authorization to re-establish production is expected in Q1 2007."

It is interesting to note that if Woodside is able to report this to their investors, then why Pioneer has not reported this same set of events to the Trustee so that it could be included in the two (2) January 2007 MOSH 8K SEC filings is mystifying. Thus, this appears to be just another isolated incident in a sea of questions. It appears that as the owners of the actual assets, the MOSH Unitholders, are the last to be informed about anything concerning our own property. It would be interesting to understand what the new "TOP SECRET" operating agreement contains, given that the Brazos A39 #5 – 'Midway Project' is the central issue of the lawsuit.

The Unitholders were notified on 1/12/2007 that a new farmout has taken place with Hydro Gulf of Mexico, LLC, a subsidiary of Norsk Hydro Corp, a Fortune 500 company and principal developer in the North Sea. An exploratory well is to begin drilling on or before 2/1/2007. Thus, it does appear that other world-class petroleum development companies find the properties of the Trust sufficiently attractive and interesting for drilling.

In addition there is the question in our minds, of how the Trustee and Managing General Partner are best able to manage the business of the Trust, along with the associated fiduciary responsibilities entailed, if they are both Defendants in the referenced lawsuit. Whereby, the responses from each in their defense indicate that the Unitholders are unable to bring suit, in part - due to lack of standing, and that only the MGP is able to bring suit. We are left to observe, that neither the MGP, nor the Trustee has brought suit against themselves, or for that matter each other, for the benefit of the Trust's Unitholders. Therefore, in reading the various responses from all parties, taking them at face value, we the Unitholders are unable to be represented at all by anyone – and are thus "legal orphans" without any legal recourse.

The Trustee has stated that the Trust is in termination, and only awaiting liquidation pending the resolution of this lawsuit (Rule 11, gag order and 60 day notification prior to liquidation). With the potential of the Brazos A39 #5 well returning to production, and the imminent drilling of a new well, along with the return to production of the other four producing wells on West Delta 61 (taken off line by Hurricane Katrina), we feel that there is a great possibility that the Trust can continue to operate profitability for many additional years, thus providing the current Unitholders the possibility of profiting from our own assets as opposed to being forced to sell them at a fire sale for bargain basement prices. (For the other several MMS-filed E&D plans, refer to Issue F in the Appendix at the end of this letter.)

Therefore, we place ourselves at the mercy of your Court, requesting that the Court consider:

1. Provide equal protection to ALL TRUST UNITHOLDERS, and

2. Provide equal access to all Trust information as provided in the guiding Trust documents, and

3. A ruling to temporarily restrain the sale of any of the Mesa Offshore Trust properties until such future time that two reputable petroleum engineering firms, unaffiliated with the Managing General Partner of the Trust, determines that the proved and probable reserves of the Trust properties are no longer capable of economically producing royalties to the Trust beneficiaries (based on full and complete access to any and all engineering data in the possession of any and all parties of this litigation and their successors).

If justice is served, Your Honor, then all of the Mesa Offshore Trust beneficiaries will witness a court-ordered continuation of their Trust, equal protection to ALL BENEFICIARIES, and, will finally experience equal access to all Trust information as provided for in the founding/guiding Trust documents.

Respectfully and Humbly Submitted,

Keith Wiegand

Attachments
1 – Mesa Offshore Trust Interested Unitholders
2 - Appendix A

Mesa Offshore Trust Interested Unitholders

We are all Unitholders of the Mesa Offshore Trust. We have each owned our units for a varying amount of time, some for a period of greater than 20 years. We are all currently un-affiliated with the Plaintiffs. We have all followed this case with great interest.

Unitholder	Units Owned
Robert Miles	3,200,000
Fred Deaton, Jr.	1,670,000
Keith Wiegand	1,200,000

Jeff Pelcher	1,124,305
Kent Davis	625,000
Jim Fielski	649,050
Ronald McGlothlin	500,000
Roger Bean	470,000
John Easton	350,000
Gordon Bader	330,305
Jerry Wolf	320,142
John Hove	206,000
Mark Dittus	180,000
Kevin & Dean Miles, et al	173,607
John Speight	150,000
Ben Hoose	130,000
Richard Brown	100,000
Roy Maddox	100,000
Addie Rohleder	100,000
Bob Todd	70,000
Scott Curran	75,000
Mike McNamara	66,250
Gordon Stamper	65,391
Jere Wynne	64,000
Jim Benton	50,000
Tommy Thomas	30,000
Jim Blau	23,000
Subtotal 27 Unitholders	**12,022,050 (16.7%)**

Appendix A

Reference: MOSH Holdings, LP v. Pioneer Natural Resources Company; Pioneer Natural Resources USA, Inc.; Woodside Energy (USA) Inc.; and JPMorgan Chase Bank, NA as Trustee of the Mesa Offshore Trust, Case number 200601984

Issue A – Reduced dissemination of investment information involving Mesa Offshore Trust.

We concede that the Trustee has filed timely reports (Form 10K, 10Q, 8Ks, etc.) with the US Securities and Exchange Commission (SEC), and has generally met all deadlines. However, such filings leave, the Unitholders, with a greatly reduced level of understanding and/or contradicting information. As an illustrative example, we offer the following three sample instances [A1 thru A4]:

[A1] The 2004 Mesa Offshore Trust 10K filing with the SEC, contained on page 25,

> "The Trustee currently expects to commence the sale process in the latter half of 2005, after its receipt of additional oil and gas reserve information for the production test on the Brazos A-39 exploratory prospect and the completion of the joint venture audit referred to above. **The Trustee is waiting for this information to ensure as much** [1]
>
> **information as possible regarding the Royalty Properties is available for bidders in connection with a sale**." (Note **emphasis** added)

The 2005 Mesa Offshore Trust 10K filing with the SEC, contained on page 11 (table assumptions),

> "The Trust's estimated share of oil and gas reserve volumes at December 31, 2005, were derived from the reserve report prepared by DeGolyer and MacNaugton (D&M). The Trust's estimated share of oil and gas reserve volumes at December 31, **2005 include reserves related to the Midway Prospect. (1)**" (Note **emphasis** added)

With footnote (1) stating,

> "As a result of the litigation described above, the Trust had been **unable to obtain necessary information from the working interest owner** regarding such owner's own current estimate of the fair value of the proved reserves on the [2]
>
> Midway Prospect." (Note **emphasis** added)

This indicates to the Unitholders that the reserve engineer's report (reserve valuation) is incomplete, due to a lack of data from the working interest owner of the Midway Property (Pioneer). The last line of the reference where it states that the 2005 reserves related to the Midway Prospect is included, answers the question of the prior year's reserve report where it was apparently left out. It also begs the questions that if the Trustee is qualified to render a valuation of the Trust's assets, why incur the annual expense of a qualified licensed reserve engineer to render an estimated valuation based on partial data. The last 2 reserve analyses for the years 2004 and 2005 have been faulty (based on lack of information), that the Trust continually pays for.

It is also interesting to note that for the 2004 MOSH 10K report, the Trustee was waiting to receive "**additional oil and gas reserve information for the production test**", and then also for the 2005 MOSH 10K report the Trustee and Reserve Engineer were unable to obtain all the data requested, again for apparently the same well – Brazos A-39 #5 – the project that is the main question of this referenced lawsuit. So to date, it has been 2 consecutive years that information has been withheld from the Unitholders in one form or another on our own assets, on Brazos A39 #5..

[A2] The September 2006 Mesa Offshore Trust 10Q (and prior) filing with the SEC contained the following (on page 10, second paragraph)

> "**The Trustee will make the full detail of the underlying data of the December 31, 2005 reserve report available for use in connection with the sale of the Trust properties as part of the Trust termination**. For more information regarding the estimated remaining life of each of the Royalty Properties, the estimated future net revenues of the Royalty Properties and information relating to farmout of interests on the Royalty Properties based on information provided by DeGolyer & MacNaughton (D&M), see pages 22 and 23 of the Trust's Annual Report on Form 10-K for the year ended December 31, 2005 and Note 6 in the Notes to Financial Statements included elsewhere in the Trust's Form 10-K for the year ended December 31, 2005. The sale of the assets of the Trust estate may include the related abandonment liabilities that have not been previously withheld. The final distribution to [3]
>
> Unitholders will be an amount net of funds required to satisfy all Trust liabilities." (Note **emphasis** added)

The December 31, 2005 reserve report in the previous example [A1] where "all the necessary information" was not provided by the working interest owner of Midway indicates that the Trustee is preparing to liquidate the Trust's assets, utilizing known incomplete and possibly inaccurate reserve estimates and valuation. Therefore, if this incomplete valuation is used "in connection with a sale of the Trust properties", then the Unitholders can be guaranteed not to realize full market value from their own assets.

[A3] The September 2006 Mesa Offshore Trust 8K filing with the SEC (News Release) contained the following main paragraph

> ".... The Working Interest Owner withheld $848,519 of proceeds and added this to the abandonment accrual. The [4]
>
> increase in the abandonment accrual is based on revised estimates to abandon all remaining Trust blocks. "

The October 2006 Mesa Offshore Trust 8K filing with the SEC (News Release) contained the following main paragraph

> "The Working Interest Owner withheld $1,411,141 of proceeds and added this to the abandonment accrual. The [5]
>
> increase in the abandonment accrual is based on revised estimates to abandon all remaining Trust blocks."

In the September 2006 10Q filing with the SEC the issue of the abandonment accrual was amplified, to include (page 14):

> "In the third quarter of 2006, PNR notified the Trust that the cash reserve for abandonment and removal costs had been depleted. Currently, PNR estimates that the abandonment accrual for amounts expended but not recouped and for projected future abandonment expenses for properties in which the Trust has an interest is $1,400,000, net to the Trust. These costs will be deducted from any future gross proceeds on the Royalty properties owned by PNR, which [6]
>
> deduction will reduce future Royalty income."

In this instance, neither the working interest owner, property blocks, nor the wells are identified, where the additional abandonment accrual is estimated to be applied. The only amplifying information provided is "to cover abandonment costs across all remaining Trust blocks". This is of extreme importance to all Unitholders, in that only a single well, in which the Trust currently holds a working interest, would be subject to any accrual, and lacking specific identification of how the funds are going

to be allocated, this potentially diminishes any likelihood that the Trust may continue operating. It also has, in our opinion, possibly reduced the worth of the Trust properties in the eyes of a potential buyer.

If the abandonment accrual estimates were to include the "Midway Property" (the only other reasonable possibility), then this would indicate a radical departure from the Unitholders' previous understanding of the condition of the Trust – and standard oil industry practice, of only applying abandonment accrual to working interest ownership (of which Pioneer gave to Woodside in the disputed farmout). This would seem to indicate that Pioneer has actually returned the working interest in Midway to the Trust, and if so, then Pioneer is essentially admitting to the fundamental question of the lawsuit, that indeed the farmout of Midway was not correct and is taking belated steps to correct their actions – thus the abandonment accrual including Midway would be correct. Thus, the question on the allocation of funds is fundamental to any investor's understanding of the Trust, and of vital importance to the Trust's Unitholders.

Thus, this requested information is material to the Unitholders and the health of the Trust and should be published in its entirety. We do not see how Rule 11 might be applied in this instance, either. Given the Trust's precarious financial situation, the Unitholders need to understand where the funds are being spent and why?

The September 2006 MOSH 10Q provides some additional explanations on page 9, footnote 2:

> "Given the timing of receiving this information from the working interest owner, the Trustee has not been able to assess the reasonableness of upward change in the estimated abandonment and removal costs. The Trustee intends to assess the reasonableness to the abandonment reserve during the fourth quarter and also will engage D&M to [7]
>
> perform a reserve study as of December 31, 2006."

At this point, we the Unitholders would wonder out loud, why we need to wait another 6 months to possibly find that the information will not be furnished as was the case in an earlier identified instance [A1]. The Trustee and MGP have an obligation to keep the Trust Unitholders fully informed in a timely fashion.

[A4] Woodside, a defendant, in their January 18, 2007 Fourth Quarter Report to Investors (page 5 of 10), indicated that:

> "**Brazos A039 #5 – 'Midway Project'** (Woodside 50% working interest, 47.75 net revenue interest) – Facility issues were resolved during the quarter and a new operating agreement was executed in late December. Pipeline [8]
>
> operator authorization to re-establish production is expected in Q1 2007."

It is interesting to note, that if Woodside is able to report this to their investors, why Pioneer, or the Trustee are not able to report the same events to the Unitholders of the Trust – in a timely manner? Of the two January 2007 MOSH 8Ks filed by the Trustee, neither even touched on these material events, approximately 30 days after their occurrence.

The four sample examples above show that the quality of investment information available to the Unitholders has been degraded apparently due the lawsuit – we can not conceive of any other reason. Additionally, information is being withheld, that has a direct material impact on the Unitholder's ability to evaluate the Trust's assets. Considering the following extract, again from the 2006 Mesa Offshore Trust 3rd quarter 10Q file-dated November 11, 2006, to the SEC (page 4, continuing paragraph),

> "...The Trustee has taken steps to begin the process of liquidating the Trust. See "—Timing of Liquidation" below

in this Note. The Trustee, which has no authority or discretionary control over the timing of expenditures, production or income on the Royalty Properties, has no discretion regarding the occurrence of the Termination [9]

Threshold or its consequences"

The only barrier to termination is the Rule 11 agreed to by all parties of the lawsuit, which provides for 60 days notification prior to the termination / liquidation of the Trust's assets. This takes us to the second major issue.

Issue B – Termination of the Trust

There are several aspects to the Trust termination issue. One of the principal questions before the Court, within the lawsuit, is the possible manipulation of income production so as to have the Trust automatically terminate due to lack of income across three successive years. To this end, both the Plaintiffs and Defendants have agreed to a stand still agreement, allowing a 60 day notice before any termination / liquidation action. Four primary termination issues are presented [B1 thru B4]:

[B1] According to the Trustee, termination of the Trust has already started as described in the MOSH 2005 10K, page 8 (Status of the Trust), which states in part:

"The Trust Indenture provides that the Trust will terminate if the total amount of cash per year received by the Trust falls below certain levels for each of three successive years. **As a result of continued declines in production on Royalty Properties nearing the end of their estimated productive lives, Royalty income received by the Trust in 2002, 2003 and 2004 fell below the Termination Threshold prescribed by the Trust Indenture** . The Trustee has taken steps to begin the process of liquidating the Trust. See "—Timing of Liquidation" below in this Note. The Trustee, which has no authority or discretionary control over the timing of expenditures, production or income on the Royalty Properties, has no discretion regarding the occurrence of the Termination Threshold or its consequences.

The Trust Indenture provides the Trustee a two-year period during which it must sell all of the Trust properties. [10]

The Trust Indenture provides that such properties must be sold for cash and not for any other."

However, the First Amended and Restated Articles of General Partnership of Mesa Offshore Royalty Partnership, provides in Article VI, at 6.04

"*Limited Power of Disposition*. At the direction of the Trustee, the Managing General Partner shall use its best efforts to sell or otherwise dispose of , upon such terms as may be specified by the Trustee, any assets of the Partnership, including but not limited to, the Royalty or an part thereof, as may be specified by the Trustee. ..."

Additionally, Article X, at 10.01 of the same document, states:

Dissolution. The Partnership shall dissolve upon the occurrence of any of the following:

(a) December 31. 2030;
(b) **The election of the Trustee to dissolve the Partnership**;
(c) The termination of the Trust;
(d) The bankruptcy of the Managing General Partner; or
(e) The dissolution of the Managing General Partner of its election to dissolve the Partnership, but so long as the Trustee remains the only other Partner, the Managing General Partner agrees not to dissolve or to elect to dissolve the Partnership and agrees to be liable for all damages and costs to the Trust if it breaches such agreement.

Partnership shall not terminate until its affairs have been wound up and its assets liquidated **and shall not terminate if, prior to such winding up, the Partners or their successors elect to continue the Partnership.** " (Note

emphasis added)

Therefore, it certainly appears that both the Trustee and the MGP each can elect to continue the Trust, and termination is not as automatic as the Trustee states in [B1] above. Even if the termination has been started, since the affairs of the Trust have not been wound up, the Trustee and MGP are able to elect to continue the partnership – and thus the Trust.

Thus, we the Unitholders are left wondering – what is the rush to terminate the Trust if new drilling is starting, pre-hurricane Katrina production is returning and the real potential of income is about to be realized as the MMS-permitted drilling plans are carried out? (See Issue F at the end of this letter for detailed plans by property.)

Given the problems with the valuation of the Trust's assets [A1] and the Trust Indenture providing a two year period for disposal of the Trust's assets, we fear that an immediate liquidation (after the 60 day notification) of the Trust's assets would be devastating to the potential market value of our Trust properties. The quality of the E&D operators who are actively involved with the several undrilled prospects on Trust properties laid out in [F1], [F2] and [F3] below, clearly shows that our Royalty Properties are not "nearing the end of their estimated productive lives", as has been continuously stated in SEC filings.

[B2] Therefore, the timing of any termination action becomes extremely critical to the non-Plaintiff Unitholders. If the timing of the termination / liquidation were to coincide with any settlement and or judgment, then the non-Plaintiff Unitholders potentially run the risk of not participating in any settlement. With our Trust terminated, the bulk of the Unitholders would be totally disenfranchised, with absolutely no legal recourse/standing whatsoever. Additionally a near instant liquidation of our Trust's assets vastly increases the probability of a less than market valuation being realized.

Therefore, any and all termination / liquidation proceedings are viewed by the non-Plaintiff Unitholders with a very jaundiced eye. Section 4.02 of the Trust Indenture expressly provides that none of the beneficiaries of the Trust shall have any right to demand or obtain a partition of the Trust's assets. We, the non-Plaintiff Unitholders, question the motives of the Defendants across all of their various responses:

- First – using Section 4.02 of the Trust Indenture to attempt to deny the Plaintiffs their day in court in front of a Jury, or failing that end,

- Second - using Section 4.02 of the Trust Indenture to attempt to deny the addition of the Intervener to the lawsuit, or failing that end

- Third – using the combination of Trust termination and the potential settlement to create two unequal classes of Unitholders – one class (the Plaintiffs Unitholders receiving a settlement) and another class (the non-Plaintiff Unitholders potentially receiving nothing), immediately followed by a quick termination thus completely disenfranchising the non-Plaintiff Unitholders from any and all future legal action.

Any out of court settlement or judgment resulting in any distribution to only a limited set of Unitholders may essentially result in an unequal distribution across the class of Unitholders, thus should be considered as a partition of Trust's assets and not allowed by Section 4.02 of the Trust Indenture.

[B3] A quick termination / liquidation of the Trust would potentially be harmful to all Unitholders, in that the full market value of the Trust's assets would probably not be observed or measured by interested buyers. In terms of the Midway properties, only the Defendants have a working knowledge of the properties, and without any meaningful production history from the property, its market value would certainly be viewed as diminished.

[B4] In that a second production effort is underway by Norsk Hydro, if the Trust suffers a quick termination/liquidation – the Court may not be able to observe the second producer's activity and compare the efforts to that of the Defendants. The initial Midway was announced as a successful discovery well in a Woodside Australian news release on 1/31/2004 (3 years ago). There is a window of opportunity for this new well to be completed successfully, tested and connected to the collection system before the end of the trial, in line with the offshore industry standard. It would be an interesting comparison of timelines between the two wells, drilled on a contiguous 3 mile by 3 mile off shore block and similar drill depths (20,000 feet for Midway vs. 18,000 feet for the new well) in asking why the Midway well took years to bring to production.

This brings us to the third major issue.

Issue C – Representation of all Unitholders – Equal Treatment

The original filing and subsequent first amendment to the lawsuit, requests that the Court consider letting the Plaintiffs represent all Unitholders, or that this case be converted to a class action. At this time, we the non-Plaintiff Unitholders, have no standing or representation. Only the Plaintiffs have made any move to attempt to protect or at least consider all Unitholders of the Trust as equals.

Issue D – Representation of all Unitholders – Trust's Trustee

Section 3.01 of the Trust Indenture broadly defines the scope of the Trustee. Article V of the Articles of General Partnership addresses the scope of the Managing General Partner (MGP), in addition to the interaction of the Trustee and MGP. Therefore the author of the Trust, created a system of checks and balances between the Trustee and MGP, with both having fiduciary responsibility to the Trust's Unitholders. However, it appears that this system has failed or ceases to be effective.

With respect to the issue of the role of the Trust's Trustee, we would request the Court to consider several points [D1 thru D3]:

[D1] Rule 11, that was agreed upon by all parties (of the lawsuit) – the Plaintiffs and the Defendants, which includes the Trust's Trustee, covers the confidentially of information obtained from the discovery process. This has potentially left the Trustee in a position of possibly being unable to represent the general interests of, or provide all pertinent information to all the Unitholders of the Trust. This opinion and observation has been documented in issue 1 items [1A through 1D]

[D2] Early in 2006, the Trustee – JPMorgan attempted to resign, however due to the inability to find a qualified replacement, JPMorgan has continued to serve. In a business transaction, Bank of New York has assumed the Corporate Trust Operations of JPMorgan Chase Bank, NA, and thus is operating as the current Trustee. However, the individuals remain the same; specifically the individuals within the JPMorgan Trust Operations are the same individuals serving in the same capacity for Bank of New York. Thus these individuals are covered by the same confidentially agreement (also referred to as the gag agreement). Therefore, the Bank of New York as Trustee suffers from the same problem as JPMorgan, the inability to fully represent and protect the interests of all Unitholders of the Trust.

To the best of our knowledge, Bank of New York has not filled any paperwork to assume the Trusteeship of the Trust, either as successor Trustee, or interim Trustee.

Section 6.04 of the Trust Indenture permits the beneficiaries of the Trust to remove the trustee at any time and without cause. The Defendants cite this in their various response filings to the court. However, again citing the September 2006 Mesa Offshore Trust 10Q (and prior) filing with the SEC contained the following (page 4 last paragraph)

> "On November 30, 2005, JPMorgan Chase Bank, N.A. announced its intention to resign as Trustee of the Mesa Offshore Trustee effective January 31, 2006. Since that announcement, MHLP and others have sought a qualified institution willing to serve as successor Trustee. However, neither MHLP nor Pioneer have identified a willing qualified successor Trustee that is not also a lender under one of Pioneer's credit facilities (which status MHLP
>
> [11]
>
> contends is an alleged conflict of interest)."

However, there are apparently no qualified institutions willing to serve as successor Trustee, while the lawsuit is in progress, and once the lawsuit is adjudicated, the trust will probably be immediately terminated, thus there is no real ability to have any other Trustee serve, and protect the Trust Unitholders' legal position and fiduciary responsibility.

Therefore, the Defendants state that the Plaintiffs and later Dagger-Spine Hedgehog have the ability to indirectly influence the direction of the Partnership via the selection of the Trustee, thus should not be able to bring or join the lawsuit. However, in actual fact – put forth by the Defendants (ironically), there is indeed no viable alternative to the current Trustee, thus the Defendants have created a Catch-22, a circular argument, effectively attempting to deny the Plaintiffs, and Dagger-Spine, along with all other non-Plaintiff Unitholders, from being able to address any grievance through any legal action. Thus we the Unitholders become "legal orphans".

The Defendants state, that only the Trustee or the MGP has the power to sue on behalf of the Partnership (thus the Trust). However to date, neither the Trustee has sued the MGP, nor the MGP has sued the Trustee, on behalf of the Trust's Unitholders. The Unitholders of the trust are in the middle of a "Mexican Standoff". The lawsuit essentially asks the question – if both the Trustee and MGP are so conflicted, how the Partnership (thus the Trust) can, effectively operate on behalf of the Unitholders. The Court is requested to recognize this condition and take under consideration whatever appropriate remedies that may be available so as to correct this Gordian knot issue.

[D3] It appears to this group of Unitholders that in defending themselves, both the Trustee and the MGP appear to believe that they are immune from Unitholder litigation on any topic. An Associate Professor of Law, Northwestern University writes in the University of Illinois Law Review, an article that addressed this topic in passing, stating in part,

> "The suggestion that the statutory business trust is used mainly as a malleable entity of convenience may also explain why more has not been made of its extreme freedom of contract. The Delaware-style acts state that their underlying policy is to "give maximum effect to the principle of freedom of contract and to the enforceability of governing instruments." [45] **Taken literally, several appear to authorize indemnification of the trustees for even willful breach of duty**.[46] To put this in context, under Delaware corporate law, indemnification of corporate managers typically requires that they have acted in good faith.[47] Likewise, although the common law of trusts permits indemnification and exculpation clauses, a total exoneration from
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> [12]
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> all fiduciary obligations—that is, **authorization of a bad faith trusteeship—is forbidden.**[48]" (Note **emphasis** added)

So it does stand in a number of States, as well as in our Trust's specific instances, that neither the Trustee nor the MGP have absolute freedom to do anything. We are not stating that the Trustee and MGP have stated an absolute freedom, however in reviewing their responses, and taking them together, it certainly appears that in our opinion, the Defendants feel that this litigation is baseless – starting with the standing of the Plaintiff. If the Plaintiffs have no standing, and are not allowed to go forward to trial, that would certainly send a strong message to the general unitholder population that the Trustee and MGP have complete and total immunity, and would thus leave all the Unitholder as "legal orphans". Various situations with and between the Trustee and MGP that this litigation addresses, certainly gives the Unitholders the opinion, that this litigation provides a base for an argument that the inability (or reduced level of performance) to perform all legal fiduciary responsibilities, duties and obligations required as a Trustee/MGP. This potential of a reduced level of fiduciary responsibility due only to litigation effectively would render all non Plaintiff Unitholders to a second class status- i.e., lower or subservient class / group, to that of the Plaintiff and to the Defendants (Trustee and MGP) with no rights of redress on any matter concerning the question of the assets of the Trust.

Thus, this brings us to the next major issue.

Issue E – Representation of all Unitholders – Trust's Managing General Partner

The Defendants responses filed to date, cite that (paragraph 2 Woodside's Plea to the Jurisdiction and Motion to Strike Petition in Intervention And, Subject Thereto, Original Answer),

> "Defendant Pioneer Natural Resources, USA, Inc. ("PNR") is the sole managing general partner of the Partnership. Under the terms of the Partnership Agreement only the managing general partner – PNR- has the authority to manage the Partnership's affairs. The authority to manage the Partnership's affairs expressly includes the right to prosecute claims or lawsuits on behalf of the Partnership. No other partner, including the Trust, has this authority."

Essentially, this argues that only the Managing General Partner (MGP) has the authority, standing and ability to sue Pioneer on the question of the farmout, among other issues. We doubt very seriously that Pioneer is going to sue itself, on behalf of the Trust's Unitholders. Thus, it is believed that Section 5.09 of the Articles of the General Partnership would provide for the Trustee to assume these duties when the MGP's actions are in question.

Therefore, JPMorgan, the Trustee has indicated

> "To date, **the Trustee has allowed MHLP to proceed on the issue of whether the farmout by Pioneer was a valid farmout**. While Pioneer has provided a reasoned analysis of why it believes the farmout was in fact valid under the terms of the conveyance, only a court, and not the Trustee, can make a final adjudication. Further, while MHLP's claims on the farmout issue may merit adjudication, based on facts known to the Trustee at this time, the Trustee is unable to determine, even if MHLP prevailed on its uncertain liability claims, **whether the Trust would realize any economic benefit**. Based on information received to date, the Trustee has not concluded that it would be in the best interest of the Unitholders to fund the MHLP claims directly with Trust funds. However, as noted above, **the Trustee has not opposed MHLP's pursuit of its claims on behalf of the Unitholders** at their own expense, which reasonable expenses would be subject to repayment of the claims **proved successful and a benefit were conferred upon all Unitholders of the Trust**. In connection with both the anticipated sale of Trust properties pursuant to the Trust's termination and the pending litigation, the Trustee has (1) engaged an independent reserve engineer to review the estimated reserves and (2) had an independent joint venture auditor review certain historical expenditures and revenue receipts on Trust properties. The Trustee believes expenditures for these reviews were
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> prudent and in the interest of the Unitholders." (Note **emphasis** added)

The above when coupled with the first amended original petition, paragraph 46 that cites (in part):

> "... Additionally JPMorgan now admits Mosh's claims under the Trust regarding the Woodside farmout have merit, but JPMorgan seeks to resign since its conflict (always known to JPMorgan) has been raised by Plaintiff"

The Trustee has essentially, provided the Plaintiff with the Trustee's standing in respect to the Trust's Partnership. Further reading, has the Trustee providing this standing "on behalf of the Unitholders" and "... a benefit were conferred upon ***all Unitholders*** of the Trust". It is also curious to note that the Trustee would address the economic aspects of the lawsuit, specifically (from the immediate above reference):

> ".... Further, while MHLP's claims on the farmout issue may merit adjudication, based on facts known to the Trustee at this time, the Trustee is unable to determine, even if MHLP prevailed on its uncertain liability claims, **whether the Trust would realize any economic benefit**. ..."

It appears that if a settlement or judgment is won by the Plaintiffs, it would be to the economic detriment of the Defendants, so it appears that this statement is somewhat self-serving on behalf of the Trustee to be placed in the MOSH SEC filing. It appears that the Trustee is telling the Unitholders that there is a problem – "farmout has merit", however it is such a small issue, no economic benefits will be gained.

Issue F – Representation of all Unitholders – Trust's Managing General Partner

The final issue, we would like the Court to consider, is at the heart of the plaintiff's claims in the First Amended Original Petition filed on November 28, 2005, and centers on the economic value of the remaining Trust property assets. The value of the disputed Midway discovery well is only part of the issue here, because a review of drilling permits and plans filed with the US Department of the Interior, Minerals Management Service (MMS) during the last 6 years, shows unquestionably that successful and experienced operators in the Gulf of Mexico and other offshore regions world wide, have filed their intentions to explore and develop prospects on the Trust's properties based on their analyses of increasingly reliable 3-D seismic surveys. To wit:

[F1] TRUST PROPERTY INTEREST NO. 1 - WEST DELTA 61 - Stone Energy is the farmout operator of 4 producing wells, where our Trust has a 12.5% Overriding Royalty Interest (ORRI). Stone filed plans with the MMS (file stamped 08/08/2003 and 09/03/2003) for the drilling of 4 development wells. Only 1 well has been drilled, which brought the number of producing wells up to the present 4. Katrina severely damaged the onshore processing facility owned and operated by Shell, and oil and gas sales have been shut in from 08/27/2005 until the collection line is scheduled to be re-routed by 02/28/2007. In the present energy price environment, this lease alone will produce sufficient royalties to remain well above the Trust's historical annual termination "cash received by the Trustee" threshold.

[F2] TRUST PROPERTY INTEREST NO. 2 - BRAZOS A-39 MIDWAY - This is the disputed farmout lease location, and a 01/18/2007 news release by co-defendant Woodside, announced in its fourth quarter 2006 shareholder report that this discovery well will be back on production in this quarter, and interestingly stated that, "A new Operating Agreement was executed in late December". That raises the question of whether Pioneer has been replaced as the operator. That imminent infusion of royalty income from this new discovery well to our Trust in coming months will very likely be multiplied when the other 2 planned development wells are drilled and completed, as per MMS plan file stamped 10/31/2002. Obviously, this Trust property's potential is highly valued based on fact that Woodside Energy, the largest energy company in Australia 34% owned by Shell, chose to join Pioneer as a 50% Working Interest (WI) owner. Shell was stated to be the "joint operator" with Pioneer in that MMS-filed "Plan of Exploration".

[F3] TRUST PROPERTY INTEREST NO. 3 - BRAZOS A-24, A-25 AND A-39 NEWLY ANNOUNCED NIMITZ PROJECT - Our Trust has a 2.5% ORRI on these properties, and a 01/12/2007 news release to the Trust announced that Hydro Gulf of Mexico, LLC(Hydro) will begin drilling a deep shelf exploratory well "on or before 02/01/2007". Hydro is a wholly-owned subsidiary of Norsk Hydro based in Norway, and is one of the major offshore exploration companies in the world, with over 30,000 employees. These lease blocks, plus a portion of the contiguous Brazos A-38, were the subject of a farmout with Shell in 2000, who at that time filed MMS plans for 5 new wells (2 on the NE quadrant of the Trust's A-39, and 1 each on A-24, A-25 and A-38. Obviously, this trust property's potential (not only contiguous to the disputed Midway discovery well, but also in close proximity of Shell's 1999 huge "Alex" discovery) is highly valued, based on the quality of the operator(s) filing drilling plans with the MMS.

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[1]

2004 Mesa Offshore Trust Form 10K Filing with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D05%252D014390%252Etxt%26filepath%3D%255C2005%255C03%255C31%255C&symbol=MOSH

[2]

2005 Mesa Offshore Trust Form 10K Filing with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D021330%252Etxt%26filepath%3D%255C2006%255C03%255C31%255C&symbol=MOSH

[3]

September 2006 Mesa Offshore Trust Form 10Q Filing with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D075531%252Etxt%26filepath%3D%255C2006%255C11%255C15%255C&symbol=MOSH

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September 2006 Mesa Offshore Trust Form 8K Filing with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D062095%252Etxt%26filepath%3D%255C2006%255C09%255C20%255C&symbol=MOSH

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October 2006 Mesa Offshore Trust Form 8K Filing with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D068264%252Etxt%26filepath%3D%255C2006%255C10%255C24%255C&symbol=MOSH

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September 2006 Mesa Offshore Trust Form 10Q Filing with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D075531%252Etxt%26filepath%3D%255C2006%255C11%255C15%255C&symbol=MOSH

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September 2006 Mesa Offshore Trust Form 10Q Filing with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D075531%252Etxt%26filepath%3D%255C2006%255C11%255C15%255C&symbol=MOSH

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Woodside Fourth Quarter Report, for period ended 31 December 2006 http://www.woodside.com.au/NR/rdonlyres/7B180CA8-432F-4596-9C7A-18713C35AE09/0/FourthQuarterReportforperiodended31Dec0618Januray2006.pdf

[9]

September 2006 Mesa Offshore Trust Form 10Q Filing dated November 15, 2006 with the Securities and Exchange Commission http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D075531%252Etxt%26filepath%3D%255C2006%255C11%255C15%255C&symbol=MOSH

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2005 Mesa Offshore Trust Form 10K Filing dated March 31, 2006 with the Securities and Exchange Commission

http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D021330%252Etxt%26filepath%3D%255C2006%255C03%255C31%255C&symbol=MOSH
[11]

2006 Mesa Offshore Trust Form 10Q Filing dated November 15, 2006 with the Securities and Exchange Commission
http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D075531%252Etxt%26filepath%3D%255C2006%255C11%255C15%255C&symbol=MOSH
[12]

Sitkoff, Robert H, "Trust as "Uncorporation" A Research Agenda, University of Illinois Law Review, Volume 1, June 20, 2005. http://home.law.uiuc.edu/lrev/publications/2000s/2005/2005_1/Sitkoff.pdf
The section of the article makes several legal references, specifically:

45. CONN. GEN. STAT. § 34-546 (1997); DEL. CODE ANN. tit. 12, § 3823(b) (2001); NEV. REV. STAT. 88A.160 (1999); N.H. REV. STAT. ANN. § 293-B:1 (1999); S.D. CODIFIED LAWS § 47-14A-95 (Michie 2003); VA. CODE ANN. § 13.1-1282(B) (Michie 2004); WYO. STAT. ANN. § 17-23-302(b) (Michie 2003); *see also* 15 PA. CONS. STAT. ANN. § 9502(e) (West 1995 & Supp. 2004).

46. *See, e.g.*, CONN. GEN. STAT. § 34-524 (1997); DEL. CODE ANN. tit. 12, §§ 3806, 3817 (2001); NEV. REV. STAT. 88A.400 (1999); S.D. CODIFIED LAWS §§ 47-14A-77 to -78 (Michie 2003); VA. CODE ANN. § 13.1-697 (Michie 1999); WYO. STAT. ANN. § 17-23-121 (Michie 2003). In the only reported case under the Delaware act, the court denied the trustees' claim for indemnification on the ground of unclean hands. *Nakahara*, 739 A.2d at 772.

47. *See* DEL. CODE ANN. tit. 8, § 145 (2001); Waltuch v. Conticommodity Servs., 88 F.3d 87, 89 (2d Cir. 1996); Mayer v. Executive Telecard, Ltd., 705 A.2d 220, 225 (Del. Ch. 1997); BAINBRIDGE, *supra* note 36, § 6.6.

48. *See* McNeil v. McNeil, 798 A.2d 503, 509 (Del. 2002); UNIF. TRUST CODE § 1008, 7C U.L.A. 258 (Supp. 2004); RESTATEMENT (SECOND) OF TRUSTS § 222 (1959); Sitkoff, *Agency*, *supra* note 9, at 642–46.

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November 2006 MOSH 10Q SEC Filing
http://www.pinksheets.com/quote/print_filings.jsp?url=%2Fredirect.asp%3Ffilename%3D0001104659%252D06%252D075531%252Etxt%26filepath%3D%255C2006%255C11%255C15%255C&symbol=MOSH