

Inst # 1993-18208
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SHELBY COUNTY JUDGE OF PROBATE
012 MCB 35.00

FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT

By and Between

MCKENZIE METHANE CORPORATION

and

SMITH-GORDY METHANE COMPANY

Dated Effective as of March 17, 1989

(Kamehameha Investment Corporation)

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TUSCALOOSA COUNTY, ALABAMA

SOURCES OF TITLE, TUSCALOOSA COUNTY, ALABAMA:

Deed Book 1016 at Page 190
1151 at 3
1151 at 8
115 at 40
_____ at _____

FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT

Reference is hereby made for all purposes to that certain Development Agreement dated May 4, 1989, as amended by First Amendment to Development Agreement dated September 5, 1989, Second Amendment to Development Agreement dated November 3, 1989 and Third Amendment to Development Agreement dated August 7, 1990, all of which are effective as of March 17, 1989 and are between McKenzie Methane Corporation (hereinafter called "McKenzie") and Smith-Gordy Methane Company (hereinafter called "Participant"), as further amended by letter dated August 14, 1990 from Participant and others addressed to and accepted by McKenzie, and as further amended by Fourth Amendment to Development Agreement dated November 7, 1990, effective as of the commencement of the third Subsequent Program, between McKenzie and Participant (said Development Agreement as so amended is hereinafter called "the Development Agreement"), whereby Participant acquired from McKenzie certain undivided interests in Coal Seam Gas Leases and the right to participate with McKenzie in the development of Coal Seam Gas reserves in accordance with and subject to the terms of the Development Agreement.

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McKenzie and Participant consider it to be mutually desirable and advantageous that the Development Agreement be further amended in the manner hereinafter set forth.

NOW, THEREFORE, in consideration of the premises contained herein and the mutual benefits and obligations of McKenzie and Participant under the Development Agreement, McKenzie and Participant do hereby further amend the Development Agreement as follows:

1. For the third Subsequent Program only, Section 1.20 of the original Development Agreement is hereby deleted

therefrom in its entirety and the following section is hereby inserted in lieu thereof:

Section 1.20 "Participation Percentage" - the percentage interest of:

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2.62% for the 49 Initial Wells to be drilled on Well Units in the Cahaba Area on lands covered by the KCC/SEGCO Lease, the KCC Lease, the Alabama Property Company Lease or the SEGCO Lease and for the 11 Initial Wells to be drilled on Well Units in the Cahaba Area on lands other than those covered by the KCC/SEGCO Lease, the KCC Lease, the Alabama Property Company Lease or the SEGCO Lease; and

1.04% for the 39 Initial Wells to be drilled to the approximate depth of 3,000 feet subsurface on Well Units in the Cahaba Area, regardless of which lease or leases cover the lands included in such Well Units, and for the six Initial Wells to be drilled on Well Units in the Cainwood Area.

2. The words "Turnkey Costs for the second and third Subsequent Programs," which appear in the third indented portion of paragraph No. 8 on page 9 of said Second Amendment to Development Agreement are hereby deleted therefrom in their entirety and the words "Turnkey Costs for the second Subsequent Program" are hereby inserted in lieu thereof, and following such third indented portion of paragraph No. 8 and before the proviso therein at the top of page 10 of said Second Amendment to Development Agreement the following is inserted:

Turnkey Costs for the third Subsequent Program, if implemented, consist of those amounts indicated with respect to the number of wells indicated which are drilled to the depths specified and completed into

the infield gathering system or plugged and abandoned as a dry hole after a completion attempt has been made thereon in the areas as follows:

<u>Area</u>	<u>Depth</u>	<u>Amount</u>
11 Cahaba Area Wells (except the KCC/SEGCO Lease, the KCC Lease, the Alabama Property Company Lease and the SEGCO Lease)	From the surface to approximately 3,800 feet subsurface	\$375,000 (Dual Frac Well) \$335,000 (Single Frac Well)
49 Cahaba Area Wells (the KCC/SEGCO Lease, the KCC Lease, the Alabama Property Company Lease and the SEGCO Lease)	From the surface to approximately 3,800 feet subsurface	\$379,000 (Dual Frac Well) \$339,000 (Single Frac Well)
39 Cahaba Area Wells (regardless of lease)	From the surface to approximately 3,000 feet subsurface	\$375,000 (Dual Frac Well) \$335,000 (Single Frac Well)
Six Cainwood Area Wells	From the surface to a depth sufficient to test the Black Creek Coal Seam expected to be encountered at a depth of approximately 3,800 feet subsurface	\$375,000 (Dual Frac Well) \$335,000 (Single Frac Well)

3. With respect to said third Subsequent Program, the Drilling Commitment of Participant is reduced from \$1,000,000 to \$770,135. McKenzie and Participant agree that to the extent Participant has heretofore advanced amounts to pay its share of Turnkey Costs for the third Subsequent Program in excess of such amount, the excess shall be applied on the commitment of Participant to pay its share of Turnkey Costs pursuant to that certain Narrows Development Agreement dated November 5, 1990, effective May 1, 1990, as amended by First Amendment to Narrows Development Agreement of even date herewith, effective May 1, 1990, and that certain San Juan Development Agreement dated November 5, 1990, effective March 15, 1990, as amended by First Amendment to San Juan Development Agreement of even date herewith, effective March 15, 1990, each of which agreements is between McKenzie and Participant.

4. Section 2.05 of the Development Agreement is hereby deleted therefrom in its entirety and the following section is hereby inserted in lieu thereof:

Section 2.05. (a) Prior to February 1, 1991, McKenzie shall have the right to propose a Subsequent Program (the "1991 Program") for the drilling of Coal Seam Gas wells in the Program Area to approximately the same depths as provided herein for Initial Wells to be drilled during the Initial Program, the first Subsequent Program and the second Subsequent Program. Such proposal, if made, shall identify:

(1) the approximate number of wells to be drilled, in each area within the Program Area;

(2) the total estimated costs to be incurred in drilling, completing and equipping such wells, calculated on a basis consistent with the Operating Agreement; and

(3) such other information as McKenzie may determine to be applicable.

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Participant shall have the right, until 5:00 p.m. on March 1, 1991 to elect to participate in the entirety of the 1991 Program by notifying McKenzie of its decision to do so. Participant's election to participate in the 1991 Program shall be on the following terms:

(i) Its Participation Percentage in all 1991 Program wells shall be 2.0%.

(ii) It shall bear its Participation Percentage of all costs incurred in connection with the 1991 Program, such costs to be calculated, billed and paid as follows:

(aa) lease acquisition costs allocable to a Well Unit for each well shall be billed and paid on an actual cost basis, which costs shall include all brokerage costs, title examination fees and all other costs related thereto; such costs shall be allocated to the applicable Well Unit on an acreage basis by dividing the number of acres covered by the applicable Coal Seam Gas Lease which are included in the Well Unit by the total number of acres covered by the said Coal Seam Gas Lease and multiplying the quotient by the total costs incurred in connection with the acquisition of said Coal Seam Gas Lease; and

(bb) all other costs, including all drilling, completing, equipping and operating costs shall be calculated, billed and paid as provided in the Operating Agreement.

(iii) For each 1991 Program well, Participant shall own its Participation Percentage in each 1991 Program well, the Well Unit surrounding such well, the Coal Seam Gas Leases insofar as they cover such Well Unit, the equipment in or related to such well, and the production therefrom, such Well Unit to be determined in the same fashion as Well Units are determined for Initial Wells.

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(iv) Otherwise, the wells drilled in the 1991 Program, and the rights and responsibilities of the parties, shall be on the same terms as those on which the Initial Wells are provided herein to be drilled.

(b) If Participant elects not to participate in the 1991 Program, then Participant shall have no further rights to participate with McKenzie (in wells, Coal Seam Gas Leases or otherwise) in the Program Area, except for:

(1) the Well Units applicable to wells in which Participant has participated or has agreed to participate, the Coal Seam Gas Leases insofar as they cover such Well Units, the wells situated thereon, the equipment in or related to such wells, and the production therefrom; and

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(2) any other rights or properties owned by Participant or to which Participant is entitled pursuant to this Agreement, including pipe lines, flow lines and other facilities.

(c) If Participant elects to participate in the 1991 Program, all operations and activities (including drilling operations) conducted after the termination of the 1991 Program in connection with the first well (hereafter called "First Well") drilled on well units in the Program Area (which constitutes the Contract Area covered by the Operating Agreement), on or attributable to which no well was drilled during the Initial Program or any Subsequent Program (including the 1991 Program), shall be conducted in accordance with the terms of the Operating Agreement. The term "well unit" as used in this Section 2.05 shall have

the same meaning as such term has in the Operating Agreement. After the termination of the 1991 Program, Participant shall pay to McKenzie its Participation Percentage of the cost incurred by McKenzie to acquire Coal Seam Gas Leases and renewals or extensions of Coal Seam Gas Leases, interests therein or parts or portions thereof (including bonus payments, brokerage fees, commissions and filing fees) to the extent such costs are allocated to the well unit on which a First Well is drilled after the termination of the 1991 Program. Such costs shall consist of those costs specified above that have been incurred to date which are allocable to any such well unit, together with any such costs specified above that are hereafter incurred which are allocable to any such well unit. In the event all or any portion of a well unit consists of acreage covered by a Coal Seam Gas Lease covering lands in addition to those lands included in such well unit, such costs shall be allocated to the well unit on an acreage basis by dividing the number of acres covered by the Coal Seam Gas Lease which are included in the well unit by the total number of acres covered by the Coal Seam Gas Lease and multiplying the quotient by the total cost incurred in connection with the acquisition of the Coal Seam Gas Lease. McKenzie shall invoice Participant at the time a First Well is proposed for the lease acquisition costs allocable to the well unit for which such well shall be the First Well and shall provide Participant with appropriate documentation to support such costs. If Participant is the party to the Operating Agreement proposing a First Well or if Participant consents to participate in a First Well proposed by another party thereto, Participant shall pay such costs within the time

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period provided for in the Operating Agreement. If Participant does not consent to participate in a First Well proposed by another party to the Operating Agreement, Participant shall return such invoice unpaid to McKenzie. On or before the commencement of the actual drilling of any such First Well, McKenzie shall assign to Participant by recordable instrument the Participation Percentage of Participant in and to the Coal Seam Gas Lease or Coal Seam Gas Leases covering the well unit for which such well shall be the First Well insofar and only insofar as such lease or leases cover the lands comprising such well unit.

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(d) If McKenzie does not propose the 1991 Program within the time indicated, all operations and activities (including drilling operations) conducted after the termination of the third Subsequent Program in connection with the First Well drilled on well units in the Program Area on or attributable to which no Initial Well was drilled during the Initial Program or any Subsequent Program shall be conducted in accordance with the terms of the Operating Agreement. After the termination of the third Subsequent Program, Participant shall pay to McKenzie its Participation Percentage of the cost incurred by McKenzie to acquire Coal Seam Gas Leases and renewals or extensions of Coal Seam Gas Leases, interests therein or parts or portions thereof (including bonus payments, brokerage fees, commissions and filing fees) to the extent such costs are allocated to the well unit on which a First Well is drilled after the termination of the third Subsequent Program. Such costs shall consist of those costs specified above that have been incurred to date which are allocable to any such well unit, together with any such costs

specified above that are hereafter incurred which are allocable to any such well unit. In the event all or any portion of a well unit consists of acreage covered by a Coal Seam Gas Lease covering lands in addition to those lands included in such well unit, such costs shall be allocated to the well unit on an acreage basis by dividing the number of acres covered by the Coal Seam Gas Lease which are included in the well unit by the total number of acres covered by the Coal Seam Gas Lease and multiplying the quotient by the total cost incurred in connection with the acquisition of the Coal Seam Gas Lease. McKenzie shall invoice Participant at the time a First Well is proposed for the lease acquisition costs allocable to the well unit for which such well shall be the First Well and shall provide Participant with appropriate documentation to support such costs. If Participant is the party to the Operating Agreement proposing a First Well or if Participant consents to participate in a First Well proposed by another party thereto, Participant shall pay such costs within the time period provided for in the Operating Agreement. If Participant does not consent to participate in a First Well proposed by another party to the Operating Agreement, Participant shall return such invoice unpaid to McKenzie. On or before the commencement of the actual drilling of any such First Well, McKenzie shall assign to Participant by recordable instrument the Participation Percentage of Participant in and to the Coal Seam Gas Lease or Coal Seam Gas Leases covering the well unit for which such well shall be the First Well insofar and only insofar as such lease or leases cover the lands comprising such well unit.

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For the same consideration recited above and without waiving any rights or claims that McKenzie or Participant may have against the other, McKenzie and Participant hereby adopt, ratify and confirm the Development Agreement, as herein amended, and agree and declare that the Development Agreement is presently in full force and effect with respect to the Program Area in accordance with its terms, as herein amended. Terms defined in the Development Agreement and not otherwise defined herein shall have the same meanings herein as such terms have in the Development Agreement. The terms and provisions of this instrument shall extend to, be binding upon and inure to the use and benefit of McKenzie and Participant and their respective successors, legal representatives and assigns.

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Reference is hereby made to all instruments hereinbefore mentioned and to all instruments mentioned or referred to therein for all pertinent purposes.

Dated this the 17 day of January, 1991, but effective for all purposes as of the 17th day of March, 1989.

Witnesses:

Deedee Odom
A. Parker Taylor

MCKENZIE METHANE CORPORATION

By: [Signature]
Michael McKenzie, President

Karen Williams
[Signature]

SMITH-GORDY METHANE COMPANY

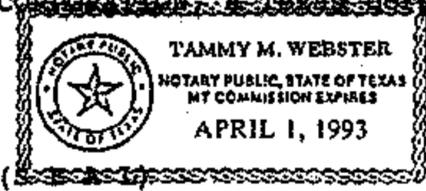
By: [Signature]
Lester H. Smith, Partner

Karen Williams
[Signature]

By: [Signature]
Russell D. Gordy, Partner

THE STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on January 17th, 1991, by MICHAEL MCKENZIE, President of MCKENZIE METHANE CORPORATION, a Texas corporation, on behalf of said corporation.



Tammy M Webster
NOTARY PUBLIC IN AND FOR
THE STATE OF T E X A S

(Printed Name of Notary)

My Commission Expires:

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W. HARDY MCCOLLUM
TUSCALOOSA COUNTY, ALABAMA

THE STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on January 12, 1991, by LESTER H. SMITH, Partner of SMITH-GORDY METHANE COMPANY, a Texas joint venture, on behalf of said joint venture.

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REC. RECORDING FEES 31.00
SOL. 1ST SRCE TITLE 2.00
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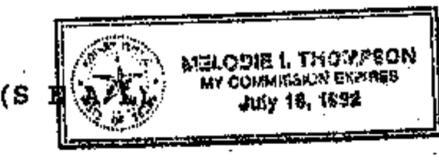
Melodie I Thompson
NOTARY PUBLIC IN AND FOR
THE STATE OF T E X A S

(Printed Name of Notary)

My Commission Expires:

THE STATE OF TEXAS §
COUNTY OF HARRIS §

This instrument was acknowledged before me on January 17, 1991, by RUSSELL D. GORDY, Partner of SMITH-GORDY METHANE COMPANY, a Texas joint venture, on behalf of said joint venture.

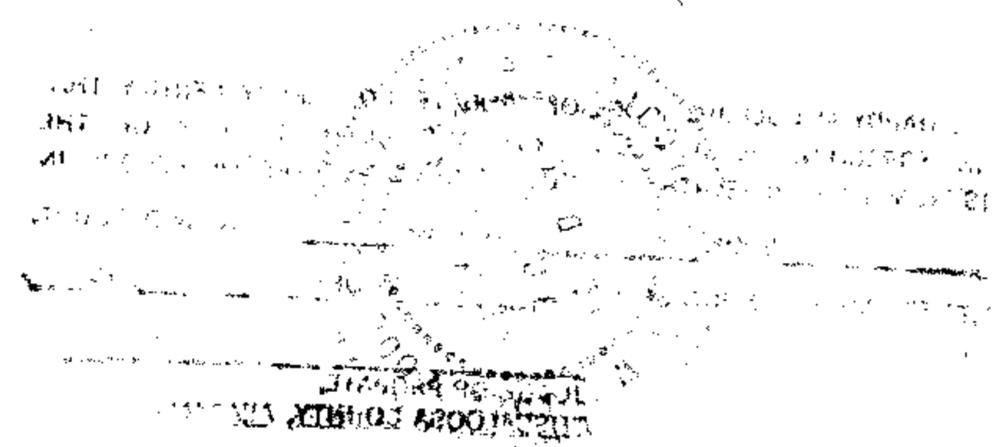


Melodie I Thompson
NOTARY PUBLIC IN AND FOR
THE STATE OF T E X A S

(Printed Name of Notary)

My Commission Expires:

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HARDY McCOLLUM, JUDGE OF PROBATE, DO HEREBY CERTIFY THAT
THE FOREGOING IS A FULL, TRUE AND CORRECT COPY OF THE
(INSTRUMENTS) HEREWITH SET OUT AS SAME APPEARS OF RECORD IN
Book 1151 AT PAGE 43 IN SAID COURT.
WITNESS MY HAND AND SEAL THIS 22 DAY OF June, 1993
Hardy McCollum
JUDGE OF PROBATE,
MUSCAGOOSA COUNTY, ALABAMA