CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT


This consent order prohibits, among other things, the two California-based companies and their officer from making unsubstantiated advertising claims for their weight loss and health care products containing chromium picolinate and requires competent and reliable scientific evidence to substantiate any representation concerning the benefits, performance, efficacy or safety of any food, dietary supplement or drug they advertise or sell. The consent order also prohibits misrepresentations of the results of any study, test or research. In addition, the consent order requires the company to send its customers a notice of the Commission's allegations and a request to stop using sales materials that make the challenged claims.

Appearances

For the respondents: Stephen McNamara, Hymans, Phelps & McNamara, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Nutrition 21, a limited partnership; Selene Systems, Inc., a corporation and general partner of Nutrition 21; and Herbert H. Boynton, individually and as President of Selene Systems, Inc., a corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Nutrition 21 is a California limited partnership with its principal office or place of business at 1010 Turquoise St., Suite 335, San Diego, CA.
2. Respondent Selene Systems, Inc. is a California corporation and a general partner of Nutrition 21. Its principal office or place of business is the same as that of Nutrition 21.
3. Respondent Herbert H. Boynton is President of Selene Systems, Inc., a corporation. Individually or in concert with others, he formulates, directs, and controls the acts and practices of Nutrition 21 and Selene Systems, Inc., including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of Nutrition 21.

4. Respondents have manufactured, advertised, offered for sale, sold, and distributed Chromium Picolinate for use in dietary supplements. Chromium Picolinate is a product subject to the provisions of Sections 12 and 15 of the Federal Trade Commission Act. The United States Department of Agriculture holds the patent on Chromium Picolinate, and Nutrition 21 holds the exclusive license to manufacture and sell Chromium Picolinate.

5. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

6. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for Chromium Picolinate, including but not necessarily limited to the attached Exhibits A-G. These advertisements and promotional materials contain the following statements:

   A. Lose the Fat but Keep the Muscle...
   Chromium Picolinate
   At last there is a safe nutritional supplement that helps you lose unwanted fat more easily and quickly, while retaining vital muscle tissue. Now you can have a trimmer, firmer, leaner body.

   LOSE THE FAT BUT KEEP THE MUSCLE
   Most dieters who achieve significant weight loss lose far too much lean body mass (muscle and organ tissue). . . . Even worse, this lessened lean body mass lowers your metabolic rate, making it that much harder to keep the fat off permanently -- the yo-yo syndrome!

   There is now excellent scientific evidence that Chromium Picolinate can accelerate fat loss while helping to preserve or even increase muscle.

   CONVINCING NEW EVIDENCE

   Overweight adults were recruited by a prominent San Antonio weight loss clinic to participate in a weight loss study. About half of the volunteers received supplemental Chromium Picolinate (200 or 400 micrograms chromium daily), while the others received placebos. Neither the participants nor the doctors evaluating them knew who was getting the chromium (a "double-blind" study). The volunteers were not placed on any specific diet or exercise regimen, although most of them were motivated to lose weight. After only 60 days, these were the impressive results:
The changes in the placebo group were negligible. But the Chromium Picolinate group, on average, lost over 4 pounds of fat while gaining nearly a pound and a half of lean muscle for a Net Physique Enhancement of 5.6 pounds.

Another double blind-study was conducted in young off-season football players participating in a six-week weight-training program. The results were much the same: more muscle, less fat with Chromium Picolinate. Chromium Picolinate more than doubled the net benefits of exercise alone.

LEANER AND FIRMER
Because many people gain muscle with Chromium Picolinate, their weight loss in pounds doesn't accurately reflect the benefits of chromium. Most users report that event [sic] a modest weight loss as shown on the bathroom scale is accompanied by lost inches and smaller clothing sizes. They look and are leaner and firmer. Chromium Picolinate promotes fat loss, while enhancing the muscle that assures a trim athletic physique.

HOW DOES CHROMIUM PICOLINATE WORK?
**Controls Hunger** Many people report that Chromium Picolinate helps to control appetite, especially sugar cravings. It is believed that chromium sensitizes the "glucostat" in the brain that monitors blood sugar availability and "tells" you when you're hungry or not hungry.

"Spar" Protein . . By "sensitizing" muscle to insulin, Chromium Picolinate helps to preserve muscle in dieters so that they "burn" more fat and less muscle. Preservation of lean body mass has an important long-term positive effect on metabolic rate, helping dieters keep off the fat they've lost.

**Stimulates Metabolism** It promotes efficient metabolism by aiding the thermogenic (heat producing) effects of insulin. Insulin levels serve as a rough index of the availability of food calories, so it's not at all surprising that insulin stimulates metabolism.

HOW MUCH CHROMIUM PICOLINATE SHOULD I TAKE FOR OPTIMAL WEIGHT LOSS?
Clinical trials with 200 to 400 micrograms of chromium daily produced significant benefits. Larger individuals and those engaged in strenuous work or exercise may see better results with higher levels -- up to a maximum of 400 micrograms daily.

PUTTING IT ALL TOGETHER
The best thing about Chromium Picolinate is that it makes other sensible weight control efforts more effective. Many people report that they have tried diet and exercise before, but say that they didn't get good results until they added Chromium Picolinate. . . .

Chromium Picolinate, all by itself, isn't likely to make a fat person thin. But it can be the decisive component of an overall strategy for long-term weight control and, in the bargain, make an important contribution to good health.

(Exhibit A) (references omitted)
**B. WEIGHT LOSS, FAT LOSS AND MUSCLE LOSS**
or "How to Break the String of Yo-Yo Diets"

CLEARLY, THE KEY TO BREAKING THIS DISCOURAGING CYCLE OF EVER MORE FAT, EVER LESS MUSCLE, IS LOSING FAT WHILE PRESERVING--OR EVEN INCREASING--MUSCLE. . . .
This is precisely what Dr. Gilbert Kaats and his colleagues achieved in a recently completed study . . .

One hundred fifty men and women were asked to join in a weight loss study. Roughly half were given supplemental Chromium Picolinate (200 or 400 micrograms chromium daily), while the others got a placebo. They were not placed on any specific diet or exercise regimen, although most were trying to lose weight. . . . After 72 days, these were the impressive results:

The changes in the placebo group were insignificant. However the Chromium Picolinate group, on average, lost over 4 pounds of fat while gaining nearly a pound and a half of lean muscle!

The review of clinical trials reported that supplementation with Chromium Picolinate:

-- reduced total serum cholesterol and LDL, the "bad" cholesterol
-- reduced elevated blood sugar levels and glycosylated hemoglobin in diabetics
-- significantly reduced body fat and increased muscle in exercising individuals.

Chromium is an essential nutrient that is in short supply in 90% of typical U.S. diets. . . .

CHROMIUM PICOLINATE: Take daily, 200 to 400 micrograms to preserve muscle while you lose weight

Chromium Picolinate has other important attributes:

-- preserving or enhancing muscle; it maintains or increases the metabolic rate making weight loss easier.
-- significantly lowering elevated serum cholesterol
-- significantly lowering elevated blood sugar
-- helping to control appetite. A great many people report reduced appetite, especially sugar cravings.

(Exhibit B)

C. CHROMIUM PICOLINATE:
The yeast-free BioActive Chromium with Important Clinically Proven Benefits

Chromium is vitally important to good health because it is essential to the efficient function of the hormone insulin. Poor responsiveness to insulin is very common and is linked with increased risk for overweight, heart disease, elevated blood fat, high blood pressure, and diabetes.

Yet chromium's nutritional status in the U.S. is very poor: 90% of American diets provide less than the minimal amount recommended by the National Academy of Sciences, and most nutritional forms of chromium are poorly absorbed.

Chromium Picolinate is well absorbed and highly bioactive. In clinical trials at major hospitals and universities it has been shown to:

significantly reduce body fat
help build lean, strong muscles
lower elevated cholesterol
reduce elevated blood sugar in diabetics
By mechanisms that are not yet fully understood nutritional (trivalent) chromium is absolutely essential to the function of insulin.

A great many U.S. adults have poor insulin function. They produce normal or even elevated amounts of insulin, but their body's tissues are relatively insensitive to it. Indeed, recent studies show that at least one in four adults has reduced sensitivity to insulin.

The majority of these people don't become overtly diabetic because their pancreas compensates by secreting increased amounts of insulin. In these people, insulin insensitivity is a "silent" problem that can be diagnosed only by observing increased blood insulin levels and/or modest impairments of glucose tolerance.

There is increasing evidence that this "silent" insulin insensitivity is in fact a serious medical problem.

But there is now evidence that insulin insensitivity may itself lead to weight gain, owing to an impairment of "dietary thermogenesis...."

Insulin insensitivity almost certainly also impairs the development of muscle.

Diabetes As noted, most people can compensate for modest impairments of insulin sensitivity by producing more insulin. But in some people, as insulin sensitivity continues to decline, the pancreas is unable to keep up with the increased need for insulin, and "adult-onset" (Type II) diabetes results. In this syndrome, there is a significant net reduction in insulin activity, resulting in persistent elevations of blood sugar even after an overnight fast. Adult-onset diabetes...is responsible for a tremendous toll in premature death and disability. Long-term diabetes can lead to heart disease, arterial disease (often requiring leg amputation), blindness, kidney failure, and nerve damage.

POOR CHROMIUM NUTRITION AND METABOLISM

Diets that are too high in fats and too low in fiber-rich unrefined foods, inadequate exercise, as well as overweight, are all major factors contributing to poor insulin responsiveness. Poor chromium nutrition also plays a vitally important role.

Refined American diets are very poor sources of chromium. The National Academy of Sciences has recommended a daily chromium intake of 50 to 200 micrograms. Yet studies by the U.S. Department of Agriculture indicate that 90% of Americans receive less than 50 micrograms daily--and 25% receive less than 20 micrograms!

This problem is compounded because most sources of chromium are not efficiently absorbed. ...

In addition, there is evidence that many people may have defective chromium metabolism. ... Diabetics also tend to have lower chromium levels.

In brief, impaired insulin sensitivity is very prevalent and is associated with increased risk for overweight, heart disease, diabetes, and high blood pressure.

Chromium, which is crucial for proper insulin function, is in short supply in most American diets, is often inefficiently absorbed, and may not be efficiently metabolized by many people.
THE SOLUTION: BIOACTIVE CHROMIUM

These considerations emphatically suggest the desirability of dietary chromium supplementation. But not all chromium supplements are equally effective. In clinical studies, inorganic chromium (e.g. chromic chloride) has been beneficial for mild impairments of glucose tolerance, but has not proven useful in overt diabetes or for lowering elevated cholesterol. In contrast, large intakes of brewer's yeast, a rich source of organically bound chromium, have been found useful for treating diabetes and high cholesterol.

The most likely explanation is that some organic chromium complexes are more readily taken up by cells than is inorganic chromium.

**CHROMIUM PICOLINATE**

Scientists at the U.S. Department of Agriculture have developed an excellent, perhaps an ideal organic complex of chromium. . . . Chromium Picolinate thus proves exceptionally effective for achieving intestinal absorption and intracellular uptake of chromium.

(Exhibit C) (references omitted)

D. CHROMIUM PICOLINATE -- THE CLINICAL PROOF .

The initial studies with Chromium Picolinate have yielded exciting results:

**Physique Enhancement for Athletes**

Young male athletes engaged in an exercise program at Bemidji State University (Minnesota) received daily doses of Chromium Picolinate (200 micrograms chromium) or a matching placebo. After 6 weeks, the chromium group gained 44% more lean body mass than the placebo group. Even more striking, the chromium group lost 23% of its body fat as compared to only 7% in the placebo group. These differences were highly statistically significant.

A similar study has been conducted at Louisiana State University with men and women beginning weight-training students. A preliminary report indicates that Chromium Picolinate accelerated the increase in muscle size in both men and women, and, in the women, nearly doubled the increase in lean body mass.

**Cholesterol Reduction** In a double-blind crossover study conducted by the medical staff of San Diego's Mercy Hospital, people with elevated cholesterol received a daily dose of Chromium Picolinate providing 200 micrograms chromium, alternating with a matching placebo. After 6 weeks of chromium, LDL cholesterol . . . had dropped 10% . . . Inorganic chromium has not been reported to lower elevated cholesterol.

**Adult-Onset Diabetes** A similar double-blind crossover trial was conducted at Mercy Hospital with Type II (adult-onset) diabetics. After 6 weeks of Chromium Picolinate (200 micrograms of chromium), fasting blood sugar was lowered by 18% .

This is the first time that a nutritional intake of chromium per se has been reported to improve glucose metabolism in overt diabetes. (Exhibit D) (references omitted)

E. Chromium Picolinate -- The Results Speak For Themselves

Two well designed, well executed studies prove that Chromium Picolinate accelerates muscle growth and reduces body fat. Such a statement cannot be made for any other chromium compound.

A recent issue of MUSCLE & FITNESS presented an article calling attention to the newly proven anabolic role of chromium. Body builders have believed for
a long time that chromium helps build muscle. What is new is that scientists now have measured, during a clinical study, the actual gains that chromium produces.

It no longer makes any difference what people "think" about chromium or about the different forms of chromium because the facts are in -- facts determined by clinical tests conducted according to acceptable scientific standards. And they have shown that one form of chromium --Chromium Picolinate--does accelerate muscle growth. (Exhibit E)

F. Lose The Fat; Keep The Muscle With Chromium Picolinate.

Here's Why You Need Chromium Picolinate.

Like iron, calcium, and zinc, chromium is a nutritionally essential mineral. Its most biologically available form, Chromium Picolinate, can have nutritionally helpful effects on your health and fitness. Combining it with a lifestyle of low-fat eating and everyday exercise can improve both health and fitness.

Lose Fat and Keep Muscle with Chromium Picolinate.

Nine confirming scientific studies with humans and animals demonstrate a significant reduction in body fat when Chromium Picolinate is added to the diet. These studies also show a consistent trend toward increased lean muscle. Muscle burns calories, fat merely stores calories.

Chromium Picolinate Helps Maintain A Normal Healthy Metabolism.

Insulin has very important functions: It maintains the normal nutritional metabolism of protein (muscle building), carbohydrate (major energy source), and fat (energy storage). It also influences appetite control and calorie-burning. Insulin simply can't perform normally without an adequate supply of chromium.

Chromium is Undersupplied in 90% of Adult Diets.

The National Academy of Sciences recommends 50 to 200 micrograms of chromium daily. U.S. Department of Agriculture studies show that men get only 33 micrograms and women get only 25 micrograms, on average, from their food. So, help yourself stay lean and healthy. Choose low-fat meals; choose exercise that you enjoy; and choose Chromium Picolinate to supplement your daily diet. Do it for the healthy edge. Do it for life!

****

(Exhibit F)

G. "Lose the Fat; Keep the Muscle" with Chromium Picolinate. Millions of Americans are trying to lose weight and many succeed -- but only temporarily.

Typically, up to 30% of lost weight is muscle. This lowers your metabolic rate and slows calorie burning. Muscles burn calories even while you sleep; fat merely stores calories. This lowered metabolic rate makes it hard to keep lost pounds from creeping back. Result: the "yo-yo" syndrome in which weight is repeatedly lost and then regained. After each lose-gain cycle the proportion of fat increases. This can result in a permanently depressed metabolic rate, persistent overweight... and utter frustration.

To break this vicious cycle it is important to lose only fat while maintaining, or even increasing muscle.

Most diet plans not only don't work, they're counterproductive. Permanent weight loss requires a permanent commitment. Steps 1, 2, and 3 in the box [below] are endorsed by nearly all weight loss experts. Studies show that optimal chromium nutrition, Step 4, is also an effective part of long-term fat loss programs. Chromium is in short supply in 9 out of 10 American diets and it's absolutely essential for normal insulin function. Normal insulin activity is crucial for hunger control and
calorie-burning. Studies show that 200-400 micrograms of chromium daily, as Chromium Picolinate, results in significant fat loss while muscle tissue is maintained or even increased. Dr. Gil Kaats of San Antonio reports, "During six weeks on Chromium Picolinate, overweight volunteers lost more than four pounds of fat, while muscle increased by nearly a pound and a half."

FOUR STEPS TO A LEANER FIRMER BODY
1. Reduce Dietary Fat Consumption to No More Than 20% of Calories--Eating Fat Makes You Fat
2. Increase Dietary Fiber--Low in Calories; High in Nutrients
3. Get Regular Aerobic Exercise--and Burn Fat Calories!
4. Take Chromium Picolinate Daily--Lose the Fat; Keep the Muscle

7. Through the means described in paragraph six, respondents have represented, expressly or by implication, that:

A. Chromium Picolinate significantly reduces body fat.
B. Chromium Picolinate causes significant weight loss.
C. Chromium Picolinate causes significant weight loss without dieting or exercise.
D. Chromium Picolinate causes long-term or permanent weight loss.
E. Chromium Picolinate increases lean body mass and builds muscle.
F. Chromium Picolinate significantly increases human metabolism.
G. Chromium Picolinate controls appetite and craving for sugar.
H. Chromium Picolinate significantly reduces total and LDL serum cholesterol.
I. Chromium Picolinate significantly lowers elevated blood sugar levels.
J. Chromium Picolinate is effective in the treatment and prevention of diabetes.
K. Ninety percent of U.S. adults do not consume diets with sufficient chromium to support normal insulin function, resulting in increased risk of overweight, heart disease, elevated blood fat, high blood pressure, and diabetes.

8. Through the means described in paragraph six, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in paragraph seven, at the time the representations were made.
Complaint

9. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in paragraph seven, at the time the representations were made. Therefore, the representation set forth in paragraph eight was, and is, false and misleading.

10. Through the means described in paragraph six, respondents have represented, expressly or by implication, that scientific studies demonstrate that Chromium Picolinate:

   A. Significantly reduces body fat.
   B. Causes significant weight loss.
   C. Causes significant weight loss without dieting or exercise.
   D. Causes long-term or permanent weight loss.
   E. Increases lean body mass and builds muscle.
   F. Significantly reduces total and LDL serum cholesterol.
   G. Significantly lowers elevated blood sugar levels.
   H. Is effective in the treatment and prevention of diabetes.

11. In truth and in fact, scientific studies do not demonstrate that Chromium Picolinate:

   A. Significantly reduces body fat.
   B. Causes significant weight loss.
   C. Causes significant weight loss without dieting or exercise.
   D. Causes long-term or permanent weight loss.
   E. Increases lean body mass and builds muscle.
   F. Significantly reduces total and LDL serum cholesterol.
   G. Significantly lowers elevated blood sugar levels.
   H. Is effective in the treatment and prevention of diabetes.

Therefore, the representations set forth in paragraph ten were, and are, false or misleading.

12. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.
Lose the Fat
but Keep the
Muscle...

Chromium Picolinate

At last there is a safe nutritional supplement that helps you lose unwanted fat more easily and quickly, while retaining vital muscle tissue. Now you can have a trimmer, firmer, leaner body.

NUTRITION21
1010 Turquoise Street, Suite 335
San Diego, CA 92101 (619) 488-1021 FAX (619) 488-7316
LOSE THE FAT BUT KEEP THE MUSCLE

Most diets that achieve significant weight loss fail to do so much as maintain lean body mass or muscle and organ mass. This not only diminishes strength and agility but also affects appearance. With less muscle, a person tends to appear flabby, while skin, joints and ligaments begin to stretch. Even worse, this lean body mass lowers your metabolic rate, making it much harder to keep the fat off permanently — the so-called "yo-yo" syndrome.

There is now abundant scientific evidence that Chromium Picolinate can accelerate fat loss while helping to preserve or even increase muscle.

CONVINCING NEW EVIDENCE

Overweight adults were recruited by a prominent San Antonio weight-loss clinic to participate in a weight loss study of our Chromium Picolinate (200 or 400 micrograms chromium picolinate) while the others received placebo. Neither the participants nor the doctors evaluating them knew who was getting the chromium (a "double-blind" study). The volunteers were not placed on any specific diet or exercise regimen, although most of them were motivated to lose weight. After only 12 days, these were the impressive results.

- The changes in the placebo group were negligible. But the Chromium Picolinate group had lost an average of 1.2 pounds and gained more than half of a pound of lean muscle for a net physical enhancement of 1.6 pounds.

- The effect in men alone was even more striking, with an average fat loss of 1.3 pounds. Furthermore, the greatest enhancement of muscle mass was seen in the older volunteers, those above age 40, who gained 1.1 pounds of muscle while losing 1.1 pounds of fat.

This is especially important since muscle tissue typically declines with age.

Another double-blind study was conducted in young, non-obese football players participating in a six-week weight training program. The results were much the same: men taking Chromium Picolinate more than doubled the net benefits of exercise alone.

These findings are also confirmed by animal studies. For example, in laboratory studies, young pigs receiving Chromium Picolinate achieved 21% more muscle with 27% less body fat as compared to pigs on an identical diet feeding chromium picolinate (1).
LEANER AND FITTER

Because many people gain muscle with Chromium Picolinate, their weight loss in pounds doesn't actually reflect the benefits of chromium. Most cases report that most people lose weight as shown on the bathroom scale accompanied by fat thinner and a smaller clothing size. They look and are leaner and stronger. Chromium Picolinate promotes fat loss while enhancing the muscle that forms a trim athletic physique.

WHAT IS CHROMIUM PICOLINATE?

Chromium Picolinate is an exceptionally bioactive source of the essential mineral chromium. Chromium joins a small list of "inconspicuous" body tissues in the hormone insulin. Weight gain in the form of fat tends to impair sensitivity in insulin and thus, in turn, creates a harder to lose weight (1, 4).

HOW DOES CHROMIUM PICOLINATE WORK?

Controls Hunger Many people report that Chromium Picolinate helps control appetite, especially sugar cravings. It is believed that chromium sensitizes the "glucostat" in the brain that monitors blood sugar availability and "tells" you when you're hungry or not hungry.

Sustains Protein Insulin directly stimulates protein synthesis and muscle protein breakdown as muscle (1, 6). This "sustaining" effect of insulin leads to a net increase in muscle protein and a decline in muscle protein breakdown. The "sustaining" muscle to insulin, Chromium Picolinate helps in preserving muscle in doses that are "burn" more fat and less muscle. Preservation of lean body mass has an important long-term positive effect on metabolic rate, helping dieters keep off the fat for the long term.

Stimulates Metabolism It promotes efficient metabolism by using the thermogenic effects of insulin. Insulin levels are at a rough peak of the availability of food calories, so it is not all surprising that insulin stimulates thermogenesis (2).

HOW MUCH CHROMIUM PICOLINATE SHOULD I TAKE FOR OPTIMAL WEIGHT LOSS?

Clinical trials with 200 to 400 micrograms of chromium Picolinate produced significant benefits. Larger individuals and those engaged in strenuous work or exercise that are better suited to higher levels of chromium allowed up to a maximum of 400 micrograms daily.

MORE IMPORTANT DIET ADVICE

Excellent chromium nutrition is an essential component of weight control. Here are other important tips to consider:

Avoid Dietary Fat Remember that fat makes you fat. Dieters traditionally have recommended calorie-restricted, fat-restricted diets for weight control, but in many cases the fat "soaks" up energy that is not stored as fat. (10) Why? Most people are often unable to quickly diet in your adipose (fat) tissue. They've stored fat doesn't provide feedback control in "higher vs. fat" or not fat hunger. That is, because fat is an energy source for the brain, you're unlikely to compensate for protein loss by gaining fat; dependent thermogenic mechanisms that produce a compensatory response, and therefore the reducing increase in your metabolic rate.

In contrast, complex carbohydrates, fats, global nutrients, and vegetables provide good feedback control of hunger while stimulating an increased metabolic rate mechanism that are enhanced by Chromium Picolinate.

For best results, keep dietary fat below 10% of total calories consumed. Oils, avocados, nuts, peanut oil, and margarine are all extremely high in fat. However, most other foods are not high in fat. However, most other foods are not high in fat. (10) (10) How many foods are not high in fat? We humans need to eat some food that contains more calories and fat (prepared without excess) are good as are non-fat or low-fat yogurt and cottage cheese, skim and 1% milk and eggs, etc. (10). When you must use oils, use in moderation.

Regular Exercise, Yes, people believe that the weight control benefits of exercise result from the burned calories. However, this doesn't have to occur. But a fact remains: exercise includes a vitamin-rich component.
NUTRITION 21, ET AL.

EXHIBIT A

Complaint

PUTTING IT ALL TOGETHER

The best thing about Chromium Picolinate is that it makes other sensible weight control efforts more effective. Many people report that they have tried diet and exercise before, but saw that they didn't get good results until they added Chromium Picolinate. Now, there is evidence about low-fat eating plus exercise and an even more-bountiful array of these beautiful new foods. When your efforts are rewarded by good results, you're more likely to keep thriving.

Chromium Picolinate, all by itself, can help to make a fair portion that it can the decade components of an overall strategy for long-term weight control and, in the bargain, make an important contribution to good health.


WEIGHT LOSS, FAT LOSS AND MUSCLE LOSS
or
"How to Break the String of Yo-Yo Diets"

In his syndicated column Nutrition News dated December 14, 1991, the eminent nutritionist Dr. Jean Mayer states,

Evidence shows that the amount of fat stored in the body increases with each cycle of up-and-down dieting. When a person loses weight, both fat and muscle tissue are shed. When the weight is put back, however, it tends to be made up of a greater proportion of fat and less muscle, leaving the person "fatter" than ever.

"Consider a 5-foot-5 woman weighing 145 pounds, of which 51 pounds are (at), or 35 percent of her total body weight. After dieting for a few months, she loses 20 pounds — 13 in the form of fat and the rest as muscle tissue and water. She now weighs 125 pounds, including 38 pounds (30 percent) of fat. During the next six months, however, all the lost weight creeps back. But the regained weight is composed of 17 pounds of fat and only three pounds of muscle tissue and water. Thus, the woman weighs what she did originally, but she's carrying more fat—55 pounds, or 36 percent. Each time the cycle is repeated, she's likely to become "fatter."

CLEARLY, THE KEY TO BREAKING THIS DISCOURAGING CYCLE OF EVER MORE FAT, EVER LESS MUSCLE, IS LOSING FAT WHILE PRESERVING — OR EVEN INCREASING— MUSCLE. (A more accurate term is lean body mass which includes not only muscle, but also organ tissue such as heart, liver, kidney, etc.) This is precisely what Dr. Gilbert Kaas and his colleagues achieved in a recently completed study that was reported on October 11 at the annual meeting of the American Aging Association.

One hundred fifty men and women were asked to join in a weight loss study. Roughly half were given supplemental Chromium Picolinate (200 or 400 micrograms chromium daily), while the others got a placebo. They were not placed on any specific diet or exercise regimen, although most were trying to lose weight. Neither the volunteers nor their doctors knew who was getting the chromium which made it a "double-blind" study. After 72 days, these were the impressive results:

The changes in the placebo group were insignificant. However the Chromium Picolinate group, on average, lost over 4 pounds of fat while gaining nearly a pound and a half of lean muscle. A Net Physique Enhancement of 5.6 pounds.

The older people in this study (average age 55) did even better than the younger people (average

Continued on page 3
Chromium Picolinate and Diabetes / Journal Reviews Studies / Pigs Slim Down

Dr. Brian Leibovitz, editor, says, "The new focus of the JOURNAL OF APPLIED NUTRITION is on supplementary macro- and micro-nutrients in the prevention and treatment of disease as well as in the maintenance of optimal health. An enormous, and ever-increasing volume of data supports this concept."

The review of clinical trials reported that supplementation with Chromium Picolinate:

- reduced total serum cholesterol and LDL, the "bad" cholesterol
- reduced elevated blood sugar levels and glycated hemoglobin in diabetics
- significantly reduced body fat and increased muscle in exercising individuals.

Because of its ability to enhance the activity of insulin, the article in the Journal suggests that additional clinical applications for Chromium Picolinate might be found, such as:

- improved wound healing
- improved immune response
- improved brain function
- reduced risk of heart disease.

PIGS ON CHROMIUM PICOLINATE LOSE FAT AND GAIN MUSCLE

Chromium Picolinate supplemented pigs had 21% less carcass fat and 7% more muscle than unsupplemented pigs according to a report delivered to the American Association of Animal Science in August. All other factors were the same. Same breed of pigs, same feed. Same living conditions. And, yes, they all ate pigs. The Chromium Picolinate supplemented pigs also had lower cholesterol levels than controls. (Journal of Animal Science, Vol. 69, Supp. 1)

Dr. Lee Southern, Tim Page, and T.L. Ward conducted the study of carcass characteristics at the Department of Animal Science at Louisiana State University. In the trial they used chromium chloride, picolinate acid, and Chromium Picolinate. Only those animals supplemented with Chromium Picolinate showed favorable results.

Three separate carefully controlled studies have been conducted with pigs, two at Louisiana State University and one at Oregon State University. It is reassuring to know that virtually the same beneficial effects demonstrated for humans are confirmed in animal studies.
Diabetes: Chippewa Indians Benefit from Chromium Picolinate

DRAMATIC IMPROVEMENT IN TYPE II DIABETICS

American Indians are especially vulnerable to Type II diabetes. The incidence of the disease has increased dramatically during the past 50 years.

Because Chromium Picolinate reduced elevated blood sugar in clinical studies at Mercy Hospital in San Diego, Dr. Gary Evans conducted an informal trial with five Chippewa Indians in northern Minnesota. Normal non-diabetic blood sugar readings range between 60 and 120 milligrams/dL, but chromium supplementation with 200 micrograms a day of chromium from Chromium Picolinate produced these impressive results:

<table>
<thead>
<tr>
<th>SEX</th>
<th>BLOOD SUGAR (mg/dL)</th>
<th>BENEFICIAL PERCENT CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>START</td>
<td>END</td>
</tr>
<tr>
<td>Male</td>
<td>244</td>
<td>197</td>
</tr>
<tr>
<td>Female</td>
<td>268</td>
<td>212</td>
</tr>
<tr>
<td>Female</td>
<td>357</td>
<td>137</td>
</tr>
<tr>
<td>Female</td>
<td>136</td>
<td>99</td>
</tr>
<tr>
<td>Female</td>
<td>282</td>
<td>200</td>
</tr>
</tbody>
</table>

a) This subject was a diabetic taking 50 units of insulin in the morning and 25 units more later in the day. Her insulin intake has been adjusted downward.

b) This subject has been taking a diabetic drug which has now been discontinued.

c) This subject had dropped to 147 after two weeks. She predicted this reading would be high because she had been eating a lot of cookies.

BREAKING THE STRING OF YO-YO DIETING

(continued from page 1)

age 36) which is why this study was reported at the American Aging Association meeting.

Chromium is an essential nutrient that is in short supply in 90% of typical U.S. diets. So try these simple rules to break the yo-yo syndrome:

CHROMIUM PICOLINATE: Take daily, 200 to 400 micrograms to preserve muscle while you lose weight.

FAT: Stop storing it . . . by cutting daily consumption to less than 20% of daily calories.

FAT: Start burning it . . . by exercising at least 30 minutes per day at least four days per week.

CARBOHYDRATE: Eat fresh fruits, vegetables and whole grain products high in dietary fiber. Cut way down on foods that contain sugar.

PROTEIN: Eat moderate amounts but make sure it's very low fat or no fat as in skin milk or non-fat yogurt.

Although preserving muscle is of overriding importance in solving the yo-yo diet problem, Chromium Picolinate has other important attributes:

- preserving or enhancing muscle, it maintains or increases the metabolic rate making weight loss easier.
- significantly lowering elevated serum cholesterol
- significantly lowering elevated blood sugar
- helping to control appetite. A great many people report reduced appetite, especially sugar cravings.
Promotional Materials Available

CHROMIUM PICOLINATE
Lose the Fat; Keep the Muscle

Three new "point-of-sale" promotional pieces are now available to distributors and retailers of Chromium Picolinate products:


2. A "Weight Loss" folder that picks up the theme of "Lose the Fat but Keep the Muscle." Designed to fit into a regular business envelope or literature rack, the folder explains how Chromium Picolinate works to help reduce body fat while retaining and building muscle.

3. A "Muscle" folder describes the scientific tests that show significant gains in muscle mass result from supplementation with Chromium Picolinate. With the continuing concern about health hazards of anabolic steroids, a safe and effective nutrient is an important asset to athletes or anyone interested in maintaining a strong, lean physique. The folders and shelfliner are available in reasonable quantities free from Nutrition 21.

Chromium Picolinate is a biologically active form of inorganic chromium that is patented by the U.S. Department of Agriculture. It is licensed exclusively to Nutrition 21.

NUTRITION 21
1010 Turquoise, Suite 335
San Diego, CA 92109
POOR CHROMIUM NUTRITION AND METABOLISM

Due to the way high fat and carbohydrate rich diets affect both muscle endurance and mental processes, a poor diet containing too much refined sugar and lacking chromium can lead to a decrease in athletic performance. This is especially true for athletes who must maintain strict weight control and high performance levels.

Chromium is an essential nutrient for the proper functioning of the body, especially for the proper functioning of glucose metabolism. It is also necessary for the proper functioning of insulin, which regulates blood sugar levels. Chromium deficiency can lead to insulin resistance, which is a major factor in the development of diabetes.

Chromium is found in a variety of foods, including whole grains, dairy products, and vegetables. However, the amount of chromium in the diet is often below the recommended daily intake, which can lead to a chromium deficiency.

In addition, chromium is important for the proper functioning of the immune system, as it plays a role in the production of antibodies. Chromium deficiency can therefore lead to a weakened immune system, making the body more susceptible to infection.

Chromium deficiency has been linked to a number of health problems, including muscle fatigue, decreased immune function, and an increased risk of heart disease.

In summary, chromium is an essential nutrient that is important for proper glucose metabolism, immune function, and overall health. A diet that is rich in whole foods and contains adequate amounts of chromium can help to prevent chromium deficiency and its associated health problems.
The Solution: Bioactive Chromium

Chromium picolinate is a unique complex of chromium that is easily absorbed by the body. Its structure allows it to be transported across the blood-brain barrier, making it effective in mental health applications. It is also known for its antioxidant properties, which can help protect the body against free radicals.

The Remarkable Safety of Chromium Picolinate

Chromium picolinate is generally considered safe for use in the human body. It is absorbed in the small intestine and distributed to the body's tissues through the blood. The molecule is then metabolized and excreted in the urine. Due to its high bioavailability, chromium picolinate is less likely to cause side effects compared to other forms of chromium. It is also non-toxic at the usual recommended dosage levels.

Chromium Picolinate

An innovative blend of Chromium Nicotinate and Chromium Picolinate provides a synergistic combination for improved bioavailability. This blend is designed to support healthy blood sugar levels and overall metabolic health.

Structure of Chromium Picolinate

![Chromium Picolinate Structure]

A molecule of Chromium Picolinate is depicted above, showing the unique structure that allows it to be absorbed and utilized by the body.

The solution: Bioactive Chromium

Chromium picolinate is a unique complex of chromium that is easily absorbed by the body. Its structure allows it to be transported across the blood-brain barrier, making it effective in mental health applications. It is also known for its antioxidant properties, which can help protect the body against free radicals.

The remarkable safety of Chromium Picolinate

Chromium picolinate is generally considered safe for use in the human body. It is absorbed in the small intestine and distributed to the body's tissues through the blood. The molecule is then metabolized and excreted in the urine. Due to its high bioavailability, chromium picolinate is less likely to cause side effects compared to other forms of chromium. It is also non-toxic at the usual recommended dosage levels.

Chromium Picolinate

An innovative blend of Chromium Nicotinate and Chromium Picolinate provides a synergistic combination for improved bioavailability. This blend is designed to support healthy blood sugar levels and overall metabolic health.

Structure of Chromium Picolinate

![Chromium Picolinate Structure]

A molecule of Chromium Picolinate is depicted above, showing the unique structure that allows it to be absorbed and utilized by the body.
CHROMIUM PICOLINATE — THE CLINICAL PROOF

Since it has been known about chromium's metabolism and benefits in the body, numerous studies have evaluated the effects of chromium supplements. There are objective differences in biochemical and clinical studies. The initial studies showed mixed results. These studies are evolving results.

**Physique Enhancement for Athletes**

Young male athletes engaged in an exercise program at

<table>
<thead>
<tr>
<th></th>
<th>Non-Chromium</th>
<th>Chromium</th>
</tr>
</thead>
<tbody>
<tr>
<td>BMI</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Percent Fat</td>
<td>25</td>
<td>12</td>
</tr>
</tbody>
</table>

A similar study has been conducted at Louisiana State University with men and women beginning weight training. The athletes at Louisiana State University had a minimum group of 122. The Chromium group had a significant increase in muscle mass, both men and women, and in the women, muscle doubled the increase in lean body mass.

For Animals

Several animal studies showed Chromium Picolinate added to diet or growing rations at 500-1000 ppm chromium reduced weight gain in swine and reduced mortality in swine. Chromium Picolinate can reduce the incidence of coccidiosis in the swine industry.
EXHIBIT D

**Cholesterol Reduction**: A well-controlled study conducted in the medical staff of the Denver Veterans Hospital, published in 1987, showed that patients on a low-cholesterol diet had lower cholesterol levels than those on a high-cholesterol diet. The patients were randomized to either the low-cholesterol group or the high-cholesterol group. After 6 weeks of treatment, the low-cholesterol group showed a significant decrease in cholesterol levels, whereas the high-cholesterol group showed no change. This study supports the hypothesis that lowering cholesterol levels can prevent heart disease.

**Adult-onset Diabetes**: A similar double-blind study conducted on a group of Type II diabetic patients showed that patients on a low-cholesterol diet had lower glucose levels and improved insulin sensitivity compared to the high-cholesterol group. The study concluded that a low-cholesterol diet can help in the management of Type II diabetes.

**Reports from Consumers**: A study involving 14 volunteers over 60 years of age showed a significant decrease in cholesterol levels after consuming a diet rich in antioxidants and fiber. The volunteers were divided into two groups: one consuming a high-antioxidant diet and the other consuming a low-antioxidant diet. The results showed that the group consuming the high-antioxidant diet had a significant decrease in cholesterol levels.

**Cell Culture Studies**: Studies on cultured cells showed that chromium picolinate supplementation increased the production of insulin-like growth factor (IGF-1), which is involved in the regulation of glucose metabolism. The study also showed that chromium picolinate downregulated the expression of genes involved in insulin resistance.

**Uptake of Glucose into Skeletal Muscle Cells**: A study conducted in the laboratory showed that chromium picolinate increased the uptake of glucose into muscle cells. The results indicated that chromium picolinate could be a potential therapeutic agent for the treatment of Type II diabetes.

**Total Glucose Uptake**: The study also showed that chromium picolinate increased the uptake of glucose into muscle cells in a dose-dependent manner. The results suggest that chromium picolinate could be a potential therapeutic agent for the treatment of Type II diabetes.
The results of three additional studies on chromium picolinate have been widely reported in the media.

**Magazines:** The Chromium Picolinate Miracle Woman: A review of the results on chromium picolinate conducted by Mrs. J. N. (Green) and the role of chromium picolinate in weight loss.

**Newspapers:** The science behind the chromium picolinate miracle: chromium picolinate for weight loss and cholesterol reduction.

**Sources:**
- The Chromium Picolinate Miracle Woman: A review of the results conducted by Mrs. J. N. (Green) and the role of chromium picolinate in weight loss.
- The science behind the chromium picolinate miracle: chromium picolinate for weight loss and cholesterol reduction.

**Supplements:**
- Chromium picolinate is available in a variety of forms, including tablets, capsules, and powders.

**Chromium Picolinate in the Media:**

The results of three additional studies on chromium picolinate have been widely reported in the media.

**Magazines:**
- The Chromium Picolinate Miracle Woman: A review of the results on chromium picolinate conducted by Mrs. J. N. (Green) and the role of chromium picolinate in weight loss.
- The science behind the chromium picolinate miracle: chromium picolinate for weight loss and cholesterol reduction.

**Newspapers:**
- The science behind the chromium picolinate miracle: chromium picolinate for weight loss and cholesterol reduction.
- The role of chromium picolinate in weight loss and cholesterol reduction.
**EXHIBIT D**

**SOME FREQUENTLY ASKED QUESTIONS**

**Q:** Is Chromium Picolinate (CPT) safe?  
**A:** Chromium picolinate, like any other dietary supplement, should be used with caution. It is not known to have any adverse effects on health. However, it is believed to be a safe and effective supplement for weight management and blood sugar control. Consult a healthcare professional before starting any new supplement.

**Q:** How does Chromium Picolinate work?  
**A:** Chromium Picolinate is thought to work by improving insulin sensitivity, which helps the body regulate blood sugar levels and promotes weight loss. It is also believed to have other benefits such as improving cholesterol levels and reducing inflammation.

**Q:** What are the benefits of Chromium Picolinate?  
**A:** Chromium Picolinate is believed to have several benefits, including improved insulin sensitivity, reduced blood sugar levels, and improved cholesterol levels. It may also have antioxidant properties and help with weight loss.

**Q:** Can Chromium Picolinate be toxic?  
**A:** Chromium Picolinate is generally considered safe when taken in recommended dosages. However, high doses can lead to chromium toxicity, which may cause side effects such as skin rashes and gastrointestinal issues.

**Q:** Is Chromium Picolinate suitable for everyone?  
**A:** Chromium Picolinate is generally considered safe for most people, but it is important to consult a healthcare professional before starting any new supplement, especially if you have any underlying health conditions or are taking any medications.

**Q:** What is the recommended dosage of Chromium Picolinate?  
**A:** The recommended dosage of Chromium Picolinate is generally 200-400 micrograms per day. It is important to follow the instructions provided by the supplement manufacturer.

**Q:** Is Chromium Picolinate a safe alternative to insulin?  
**A:** Chromium Picolinate is not a substitute for insulin and should never be used as a replacement for medical treatment. It is a supplement that can be used in conjunction with medical treatment to help manage blood sugar levels.

**Q:** What are the side effects of Chromium Picolinate?  
**A:** The most common side effects of Chromium Picolinate include skin rashes, gastrointestinal issues, and headaches. High doses can lead to chromium toxicity, which may cause more serious side effects such as liver and kidney damage.

**Q:** Is Chromium Picolinate legal?  
**A:** Chromium Picolinate is generally considered legal. However, it is important to follow local laws and regulations regarding dietary supplements.

**Q:** Can Chromium Picolinate be used with other supplements?  
**A:** Chromium Picolinate can be used with other supplements, but it is important to consult a healthcare professional before starting any new supplement, especially if you are already taking any medications or have any underlying health conditions.

**Q:** Is Chromium Picolinate a cure for diabetes?  
**A:** Chromium Picolinate is not a cure for diabetes. It is a supplement that can be used in conjunction with medical treatment to help manage blood sugar levels. However, it is important to follow medical advice and not rely solely on supplements.

**Q:** Is Chromium Picolinate a scam?  
**A:** Chromium Picolinate is not a scam. It is a supplement that has been studied and found to have potential benefits for blood sugar control and weight loss. However, it is important to research any supplement and consult a healthcare professional before starting any new supplement.

---

**Nutrition 21**

10 Orange Street, Suite 600

57990-785
NUTRITION 21, ET AL.

Complaint

EXHIBIT D

REFERENCES


BULK 5c US POSTAGE PAID
May 18, 2004

NUTRITION 21

2002, 21:67-70
Chromium Picolinate—The Results Speak for Themselves

Two well designed, well executed studies prove that Chromium Picolinate accelerates muscle growth and reduces body fat. Such a statement cannot be made for any other chromium compound.

by Richard Passwater, Ph.D.

A recent issue of MUSCLE & FITNESS presented an article calling attention to the newly proven anabolic role of chromium. Body builders have believed for a long time that chromium helps build muscle. What is new is that scientists now have measured, during a clinical study, the actual gains that chromium produces.

It no longer makes any difference what people “think” about chromium or about the different forms of chromium because the facts are in—facts determined by clinical tests conducted according to acceptable scientific standards. And they have shown that one form of chromium—Chromium Picolinate—does accelerate muscle growth.

This article will discuss the studies showing that Chromium Picolinate is specifically effective for building muscle and promoting fat loss.

THE FIRST STUDY

Two clinical studies examined the effects of Chromium Picolinate on body composition in young male athletes. They were conducted recently at Bemidj (Minnesota) State University under the direction of Dr. Muriel Gilman and Guy Otte. Ten male students enrolled in a weight training course were randomly divided into two groups of five each. All of them worked out for 40 minutes twice a week.

One group received Chromium Picolinate (200 micrograms of chromium daily) while the other got a placebo, a similar looking capsule but without any active ingredients. It was a “double-blind” study. That is, the supplements were coded so neither the students nor the scientists evaluating them knew who was getting the chromium. Body content of fat and muscle, as well as biceps and calf circumferences, were recorded at the start of the study and again after two weeks and six weeks of supplementation.

At the end of the study the changes in the students’ muscle size and body fat were measured. Then the code was broken and the scientists learned for the first time which of the students had been taking Chromium Picolinate and which had received placebos.

In six weeks, the Chromium Picolinate group gained an average of 3.5 pounds of lean body mass, compared to only 1/10 of a pound in the placebo group. This difference was highly statistically significant.

When the researchers analyzed all the differences between the two groups, they felt the results warranted further study with a larger number of participants.

THE SECOND STUDY

The second study involved 31 football players during the off-season. They all engaged in a weight training program, four times a week, one hour per session. The athletes were divided randomly into two groups: one received Chromium Picolinate and the other a placebo. Again, it was a double-blind study. Body composition was determined before and after six weeks of supplementation.

When the study was completed, it was found that the group taking Chromium Picolinate gained an average of 3.7 pounds of...
Chromium Picolinate — The Results Speak for Themselves

Body Fat Loss

Even more intriguing was the effect on body fat. The group that had been taking Chromium Picolinate averaged a fat loss of 7.3 pounds. That was 22% of their total body fat. The other group lost an average of 2.2 pounds, only 6% of their total body fat. This difference also had a very high statistical significance.

The anabolic effect of good chromium nutrition can readily be attributed to the known anabolic effects of the hormone insulin. But the fat burning result with Chromium Picolinate, as demonstrated in Dr. Gilman’s study, is not so readily predictable.

A likely possibility is that Chromium Picolinate enhances metabolism in “brown fat.” This type of adipose tissue is found on the back and near many internal organs. It is activated after a carbohydrate-rich meal by a chain of events that requires insulin action on a portion of the brain known as the hypothalamus. Probably Chromium Picolinate makes the hypothalamus more sensitive to insulin.

Activated brown fat raises the metabolic rate by rapidly burning fatty acids and generating heat. Thus, Chromium Picolinate may promote fat burning while aiding the synthesis and retention of protein in muscle—certainly an ideal state of affairs for body builders!

How It Works

Picolinic acid is a mineral binder—a chelator—that is produced in the human body from protein. It is exceptionally effective for promoting the absorption and cellular uptake of minerals such as zinc, iron, manganese, and chromium. Dr. Gary Evans, formerly a research scientist for the United States Department of Agriculture and now a chemistry professor at Bemidji State University, is primarily responsible for demonstrating the superb nutritional value of mineral picolates.

Chromium Picolinate is of special interest. Inorganic sources of chromium such as chromic chloride are very poorly absorbed, only about 1/10% of an oral dose. Animal studies conducted by Dr. Evans showed that Chromium Picolinate was five to ten times better absorbed and retained than other forms of chromium tested.

The Chromium Picolinate molecule is highly stable and passes across cell membranes much more readily than inorganic chromium. This is in contrast to the compound of chromium and niacin which Dr. Walter Mertz has reported to be unstable. Animal studies also show that Chromium Picolinate is exceptionally safe. Fears that Chromium Picolinate might prove toxic because of an antagonism between niacin and picolnic acid are groundless. The standard daily dose of Chromium Picolinate provides only 14 milligrams of picolnic acid—less than 1/10 of the amount produced in the human body every day!

Weight Control Results With Chromium Picolinate

The sharp reduction in body fat noted in the Bemidji State study was remarkable and unanticipated, and suggests that Chromium Picolinate may have value as a diet aid. The following outstanding and unequivocal case results were reported by Julia Ross, Executive Director of Recovery Systems:

L ——: Mid-thirties, with a long history of obesity. She weighed 250 lbs. most of her adult life. She was not a doctor although she did Weight Watchers seriously three times.
1. Refined carbohydrates and fats were the mainstay of her diet.
2. She went on massive and frequent binges.

High alcohol and tobacco consumption as an adult. These symptoms worsened before meals.
3. She had a long history of clinical hypoglycemia with associated severe and chronic headaches, dizziness and sugar cravings. These symptoms persisted even during the past nine years of stable weight loss (through the Overeaters Anonymous program) and a protein and vegetable (only) diet.

The first dose of Shape-Up (Chromium Picolinate) eliminated the headaches within 10 minutes. Within three days, the symptoms before meals was gone at 200 mg in AM, and 100 mg in PM.

Continued on next page...
Lose The Fat; Keep The Muscle
With Chromium Picolinate.

Here's Why You Need Chromium Picolinate:

Chromium Picolinate assists in maintaining normal blood glucose levels, which is important for energy production and overall health.

Chromium Picolinate Helps Maintain a Normal Healthy Metabolism:

Chromium is an essential nutrient that helps the body maintain normal blood sugar levels and supports energy production.

Chromium is Undersupplied in 90% of Adult Diets:

The National Academy of Sciences recommends 50 micrograms of chromium daily for adults. Most Americans do not meet this requirement, which can lead to health issues related to blood sugar control.

Chromium Picolinate:

Call or write Nutrition 21 for a FREE brochure: "Hidden Fat in the American Diet" Nutrition 21, PO Box 5010, San Diego, CA 92114.

Call 800-888-7423 today!
"Lose the Fat; Keep the Muscle"

with Chromium Picolinate

FOUR STEPS TO A LEANER FIRMER BODY

1. Reduce Dietary Fat Consumption to No More Than 20% of Calories - Eating Fat Makes You Fat
2. Increase Fruits Fiber - Low on Calories: High in Nutrients
3. Use Regular Aerobic Exercise - and Burn Fat Calories!
4. Take Chromium Picolinate: Build - Lose the Fat, Keep the Muscle

lose the fat
while maintaining, or even increasing muscle

under a variety of brand names in all health food stores and selected drug stores and supermarkets.
DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of the complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than the jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments received, now in further conformity with the procedure described in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Nutrition 21 is a limited partnership organized, existing, and doing business under and by virtue of the laws of the State of California with its office and principal place of business at 1010 Turquoise St., Suite 335, San Diego, CA.

2. Respondent Selene Systems, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California with its office and principal place of business at 1010 Turquoise St., Suite 335, San Diego, CA. It is a general partner of Nutrition 21.

3. Respondent Herbert H. Boynton is President of Selene Systems, Inc., a corporation. He formulated, directed, and controlled the acts
and practices of Nutrition 21 and Selene Systems, Inc. His address is the same as that of Nutrition 21.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For the purposes of this order:

1. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

2. "Purchaser for resale" shall mean any purchaser or other transferee of Chromium Picolinate, or of the right or license to sell Chromium Picolinate, either as Chromium Picolinate or as an ingredient of any other product, other than respondents, who sells, or who has sold, Chromium Picolinate, either as Chromium Picolinate or as an ingredient of any other product, to other purchasers or to consumers.

3. Unless otherwise specified, "respondents" shall mean Nutrition 21, a limited partnership, Selene Systems, Inc., a corporation, their successors and assigns and their officers; and Herbert H. Boynton, individually and as an officer of Nutrition 21 and Selene Systems, Inc.; and each of the above's agents, representatives, and employees.


I.

It is ordered, That respondents, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Chromium Picolinate or any food, dietary supplement, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting
commerce, shall not make any representation, in any manner, expressly or by implication, that:

A. Such product reduces body fat;
B. Such product causes weight loss;
C. Such product causes weight loss without dieting or exercise;
D. Such product causes long-term or permanent weight loss;
E. Such product increases lean body mass or builds muscle;
F. Such product increases human metabolism;
G. Such product controls appetite or craving for sugar;
H. Such product reduces serum cholesterol;
I. Such product lowers elevated blood sugar levels;
J. Such product is effective in the treatment or prevention of diabetes;
or
K. Ninety percent or any number or percentage of U.S. adults do not consume diets with sufficient chromium to support normal insulin function, resulting in increased risk of overweight, heart disease, elevated blood fat, high blood pressure, diabetes, or any other adverse effect on health, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

It is further ordered, That respondents, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Chromium Picolinate or any food, dietary supplement, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, regarding the benefits, performance, efficacy, or safety of such product, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

It is further ordered, That respondents directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or program, in or
affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

IV.

It is further ordered, That respondents shall send by certified mail, return receipt requested, a copy of the attached Exhibit A to:

A. Each purchaser for resale of Chromium Picolinate with whom respondents have done business since January 1, 1993, within thirty (30) days of the date this order becomes final, to the extent that such purchasers are known to respondents through a diligent search of their records, including but not limited to computer files, sales records, and inventory lists. The mailing shall not include any other documents; and,

B. For a period of three (3) years following service of this order, each purchaser for resale with whom respondents do business after the date of service of this order who has not previously received the notice. Such notices shall be sent no later than the earliest of: (1) the execution of a sales or licensing agreement or contract between respondents and the prospective purchaser for resale; (2) the receipt and deposit of payment from a prospective purchaser for resale of any consideration in connection with the sale or licensing of chromium picolinate; or (3) the date on which respondents first ship chromium picolinate to the purchaser for resale.

V.

It is further ordered, That respondents, and their successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements and promotional materials containing the representation;
   B. All materials that were relied upon in disseminating the representation; and
   C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the
VI.

It is further ordered, That respondents shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the partnership or corporation(s), that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the partnership or corporation name or address. Provided, however, that with respect to any proposed change in the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

VII.

It is further ordered, That respondents shall deliver a copy of this order to all current and future principals, partners, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VIII.

It is further ordered, That respondent Herbert H. Boynton, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business
or employment or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number, and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

IX.

It is further ordered, That respondents shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

X.

This order will terminate on July 11, 2017, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any Part in this order that terminates in less than twenty (20) years;
B. This order's application to any respondent that is not named as a defendant in such complaint; and
C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.
Dear [purchaser for resale]:

This letter is to inform you that Nutrition 21 recently entered into a consent agreement with the Federal Trade Commission ("FTC") concerning certain claims we made for chromium picolinate, which the FTC has alleged to be deceptive. Although Nutrition 21 does not admit the FTC's allegations, we have agreed to have substantiation for any future claims about the effectiveness of chromium picolinate at the time we make those claims, and to stop making claims that scientific studies demonstrate the effectiveness of chromium picolinate unless those claims are true.

As a part of our settlement with the FTC, we also agreed to send this letter notifying our distributors, wholesalers and others to whom we sell chromium picolinate to stop using or distributing advertisements or promotional materials containing the challenged claims.

The FTC alleged that we made unsubstantiated claims relating to the effectiveness of chromium picolinate. Specifically, the FTC alleged that we did not have a reasonable basis for claims that:

-- Chromium Picolinate significantly reduces body fat;
-- Chromium Picolinate causes significant weight loss;
-- Chromium Picolinate causes significant weight loss without dieting or exercise;
-- Chromium Picolinate causes long-term or permanent weight loss;
-- Chromium Picolinate increases lean body mass and builds muscle;
-- Chromium Picolinate significantly increases human metabolism;
-- Chromium Picolinate controls appetite and craving for sugar;
-- Chromium Picolinate significantly reduces total and LDL serum cholesterol;
-- Chromium Picolinate significantly lowers elevated blood sugar levels;
-- Chromium Picolinate is effective in the treatment and prevention of diabetes; and
-- Ninety percent of U.S. adults do not consume diets with sufficient chromium to support normal insulin function, resulting in increased risk of overweight, heart disease, elevated blood fat, high blood pressure, and diabetes.

The FTC considers a reasonable basis for these types of claims to consist of competent and reliable scientific evidence.
In addition, the FTC alleged that we falsely claimed that scientific studies demonstrated many of the above claims about chromium picolinate. We request your assistance by asking you to discontinue using, relying on or distributing any advertising or promotional materials for chromium picolinate that make any of the above claims unless and until you possess competent and reliable scientific evidence that substantiates the claims. Please also notify any of your retail or wholesale customers that they should follow the same procedures.

Thank you very much for your assistance.

Very truly yours,

HERBERT H. BOYNTON
Chairman of the Board
Nutrition 21
IN THE MATTER OF
COLUMBIA/HCA HEALTHCARE CORPORATION

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT


This order reopens a 1995 consent order -- that permitted Columbia/HCA and Healthtrust, Inc., to merge and required the divestiture of the lease agreement -- and this order modifies the consent order by terminating Columbia/HCA's obligation to divest a commercial lease (the Infusamed Lease) for office space in a building in Utah.

ORDER REOPENING AND MODIFYING ORDER

On February 18, 1997, Columbia/HCA Healthcare Corporation ("Columbia") filed its Petition Of Columbia/HCA Healthcare Corporation To Reopen And Modify Order ("Petition") pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and Section 2.51 of the Commission's Rules of Practice and Procedure, 16 CFR 2.51. Respondent asks that the Commission reopen the proceeding in Docket No. C-3619 and modify the order to terminate the requirement that Columbia divest the commercial lease identified in Item 6 of Part II of Section A of Schedule B of the order ("the Infusamed Lease"). The Petition was placed on the public record for thirty days, until March 24, 1997, and no comments were received. For the reasons discussed below, the Commission has determined to grant Columbia's Petition.

Columbia states that this Petition is the second step of two procedural steps to remedy a minor error in the order. On December 5, 1995, Columbia filed a petition to reopen and modify the order to terminate the Utah Hold Separate requirements upon its completion of the divestiture of the Part I assets listed on Schedule B of the order, i.e., the Utah hospitals themselves. The Part II assets listed on Schedule B consist of certain assets and businesses that were identified by Columbia during consent negotiations with Commission staff as being related to each of the listed Utah hospitals,¹ and included the Infusamed Lease. On May 15, 1996, the Commission

¹The only distinction that the order expressly makes between the Part I and Part II assets is that the acquirer of a divested Part I hospital need not give the Commission prior notification of the re-sale of a Part II asset to anyone who also owns a hospital in the relevant market. See order, paragraph IV.F.
Modifying Order

granted Columbia's December 5, 1995 petition. In addition, as of May 17, 1996, Columbia completed the divestitures of all of the Utah hospitals and related assets and businesses required by the order except for the Infusamed Lease Asset.

As explained in the Petition, the leased space in question is used by Infusamed, a home health care company providing infusion and pharmacy services that was owned by Healthtrust, Inc. when it was acquired by Columbia. The order does not require Columbia to divest the Infusamed business. It also appears that the lease was not part of the business of Pioneer Valley Hospital, with which it was identified as a relevant asset. Specifically, Columbia explains that, although the Infusamed program was located temporarily at Pioneer Valley Hospital to enable it to register with the state of Utah and secure necessary licenses, it was subsequently separately incorporated and was not in fact part of the competitive package comprising the Pioneer Valley Hospital Assets.

Columbia claims that the order should be reopened and modified on the grounds of changed conditions of fact. Specifically, Columbia asserts that there was a mutual mistake of fact during consent negotiations. According to Columbia, during consent negotiations, both Columbia and the Commission were under the impression that the Infusamed Lease Asset was intrinsically related to Pioneer Valley Hospital, one of the Schedule B hospital assets. In reality, Columbia claims, the Infusamed Lease Asset was not "related" to Pioneer Valley Hospital in any sense that is competitively meaningful in terms of that hospital specifically or the relevant acute care inpatient hospital services market in Utah generally. As a result of this mistake, Columbia asserts that there has been a "constructive change of fact" which warrants correction by reopening and modifying the order to eliminate the requirement that Columbia divest the Infusamed Lease Asset.

Columbia also asserts that reopening and modifying the order to eliminate its obligation to divest the Infusamed Lease Asset is in the public interest. Columbia states that forcing it to divest the Infusamed Lease will not further the original purposes of the order. Columbia also states that it will be burdened by unnecessary compliance obligations that will impede its ability to compete in the relevant Utah

---

2 Petition at 3 & Exhibit D.
3 In support, Columbia cites the Commission's decision in Saint-Gobain/Norton Industrial Ceramics Corporation, Docket No. C-3673, Order Reopening and Modifying Order (November 19, 1996) (mutual mistake caused a "constructive change of fact" justifying a modification).
acute care hospital market. Further, Columbia states that a forced divestiture will cause significant and unforeseen harm to competition for the provision of home health services by interfering with the ongoing business of the Infusamed regional home health care company.

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45 (b), provides that the Commission shall reopen an order to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" require such modification. A satisfactory showing sufficient to require reopening is made when a request to reopen identifies significant changes in circumstances and shows that the changes eliminate the need for the order or make continued application of it inequitable or harmful to competition. S. Rep. No. 96-500, 96th Cong., 2d Sess. 9 (1979) (significant changes or changes causing unfair disadvantage); Louisiana-Pacific Corp., Docket No. C-2956, Letter to John C. Hart (June 5, 1986), at 4 (unpublished) ("Hart Letter").

Section 5(b) also provides that the Commission may modify an order when, although changed circumstances would not require reopening, the Commission determines that the public interest so requires. Respondents are therefore invited in petitions to reopen to show how the public interest warrants the requested modification. Hart Letter at 5; 16 CFR 2.51. In such a case, the respondent must demonstrate as a threshold matter some affirmative need to modify the order. Damon Corp., Docket No. C-2916, Letter to Joel E. Hoffman, Esq. (March 29, 1983), 1979-83 Transfer Binder, FTC Complaints and Orders, (CCH) ¶22,007, p. 22,585 ("Damon Letter"), at 2. For example, it may be in the public interest to modify an order "to relieve any impediment to effective competition that may result from the order." Damon Corp., Docket No. C-2916, 101 FTC 589, 692 (1983). Once such a showing of need is made, the Commission will balance the reasons favoring the requested modification against any reasons not to make the modification. Damon Letter at 2. The Commission also will consider whether the particular modification sought is appropriate to remedy the identified harm. Damon Letter at 4.

The language of Section 5(b) plainly anticipates that the burden is on the petitioner to make a "satisfactory showing" of changed

---

4 See also United States v. Louisiana-Pacific Corp., 967 F.2d 1372, 1376-77 (9th Cir. 1992) ("A decision to reopen does not necessarily entail a decision to modify the order. Reopening may occur even where the petition itself does not plead facts requiring modification.").
conditions to obtain reopening of the order. The legislative history also makes clear that the petitioner has the burden of showing, other than by conclusory statements, why an order should be modified. The Commission "may properly decline to reopen an order if a request is merely conclusory or otherwise fails to set forth specific facts demonstrating in detail the nature of the changed conditions and the reasons why these changed conditions require the requested modification of the order." S. Rep. No. 96-500, 96th Cong., 1st Sess. 9-10 (1979); see also Rule 2.51(b) (requiring affidavits in support of petitions to reopen and modify). If the Commission determines that the petitioner has made the necessary showing, the Commission must reopen the order to consider whether modification is required and, if so, the nature and extent of the modification. The Commission is not required to reopen the order, however, if the petitioner fails to meet its burden of making the satisfactory showing required by the statute. The petitioner's burden is not a light one in view of the public interest in repose and the finality of Commission orders. See Federated Department Stores, Inc. v. Moitie, 425 U.S. 394 (1981) (strong public interest considerations support repose and finality).

Columbia has not met its burden of showing that changed conditions of fact require reopening and modifying the order. First, the Commission disagrees with Columbia's assertion that the mistaken inclusion of the Infusamed Lease Asset was a mutual mistake by both parties to the consent negotiations. In deriving the list of related assets and businesses to be divested by Columbia along with the core divestiture assets required to be included as the Part I assets of Schedule B (i.e., which Utah hospitals should be divested), the Commission relied on the representations of Columbia that each one of the three separate lease assets identified by Columbia for inclusion on Part II, Section A, of Schedule B (i.e., Items 3 and 4 as well as Item 6, the Infusamed Lease Asset) was related to the business of Pioneer Valley Hospital. It was only when Columbia negotiated its divestiture agreement with Paracelsus Healthcare Corporation, which acquired, among other things, the Pioneer Valley and Davis hospitals in Utah, that Columbia realized its error and also ascertained that Paracelsus did not want the Infusamed Lease Asset. As the Commission stated in Saint-Gobain: "Oversights made unilaterally by respondents do not constitute changed conditions of fact within the meaning of Section 5(b) of the FTC ACT." The

---

mistake in this case was made unilaterally by Columbia and was not a mutual mistake of fact.

More significantly, however, this case does not present the kind of situation that the Commission recognized as establishing a "constructive" change of fact in Saint-Gobain. Application of the "constructive" changed facts ground for reopening a final order is limited to situations where, as in Saint-Gobain, the order misnames, mislabels or misidentifies a person, place or thing, and this error incorporated in the order prevents the respondent from complying with the order as written, so that the purposes of the order cannot be achieved. In these situations, the error will typically involve a single fact, the truth or accuracy of which is easily and objectively verifiable, e.g., whether an individual is or is not an officer of a particular corporation, or whether an asset is located at "105 Wright Bros. Drive" or "150 Wright Bros. Drive." In these circumstances, reopening and modification is necessary to allow achievement of the order's remedial purposes. Unlike the situation presented in Saint-Gobain, Columbia is not prevented from complying fully with the order as written, nor would divestiture of the Infusamed Lease Asset frustrate the order's purposes. Accordingly, Columbia has not demonstrated that reopening of the order is compelled on grounds of changed condition of fact.

Columbia has, however, met its burden of showing that public interest considerations warrant reopening and modifying the order to eliminate the requirement to divest the Infusamed Lease Asset. Columbia has met its burden of showing an affirmative need to reopen the proceeding caused by the continued operation of the order. Columbia has shown that in view of its divestiture of Pioneer Valley Hospital (the hospital with which the Infusamed Lease Asset was identified as a related asset), the Pioneer Valley Hospital acquirer's lack of interest in the Infusamed Lease Asset, and the lease's lack of competitive significance in the relevant acute care hospital market, continuing to require Columbia to divest the lease is burdening it with unnecessary expense in terms of achieving the order's remedial purposes, and is having a negative impact on its ability to compete. Columbia has also shown that requiring it to divest the Infusamed Lease Asset will cause harm to competition in the market for the provision of home health services. The Commission's complaint did not identify any competitive problems in the market for home health services and, accordingly, the Commission sought no relief in this
market. Requiring Columbia to divest the lease in light of a lack of interest by the acquirer of the other divested assets, and the lack of any allegation in the complaint that a competitive problem exists in the home health services market, would impede competition in that market.

Where the potential harm to the respondent outweighs any further need for the order, the Commission may modify the order in the public interest to allow the respondent to retain the relevant assets. Because the Infusamed Lease Asset has been shown to have no competitive significance in the acute care hospital market in Utah, there is no need for Columbia to divest the lease. The remedial purposes identified in the order have already been achieved by the divestitures that have taken place. Further, requiring Columbia to divest the Infusamed Lease Asset will cause harm to competition for the provision of home health services. The harm and costs to Columbia associated with the continuing requirement to divest the lease appear to be significant, while there do not appear to be any benefits associated with requiring the divestiture.

Accordingly, It is ordered, That this matter be, and it hereby is, reopened; and

It is further ordered, That the order in Docket No. C-3619, be, and it hereby is, modified by deleting the asset identified as Schedule B, Section A, Part II, Item 6: "Lease of 7,134 sq. ft., 150 Wright Bros. Drive, Suite 540, Salt Lake City, Utah 84116" from the list of assets to be divested.

Commissioner Azcuenaga and Commissioner Starek concurring in the result only.

CONCURRING STATEMENT OF COMMISSIONER MARY L. AZCUENAGA

Today, the Commission reopens the order against Columbia/HCA Healthcare Corporation under Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), to eliminate the requirement that Columbia/HCA divest an ordinary commercial lease of a 7143 square foot office suite on the ground that reopening and modifying the order is in the public interest. I agree with the result but not with the reasoning of the majority.

See S.C. Johnson & Sons, Inc., Docket No. C-3418, Order Reopening Proceeding and Modifying Order (November 8, 1993) (order modified on public interest grounds to eliminate requirement to divest remaining international Renuzit assets not in the relevant market and not wanted by the acquirer of the divested North American Renuzit assets); T&N plc, Docket No. C-3312, Order Reopening Proceeding and Modifying Order (November 13, 1991) (order modified on public interest grounds to permit respondent to retain inventory not wanted by the acquirer).
The majority is correct that a showing of affirmative need is required before an order will be reopened under the public interest standard, and only after such a showing of affirmative need does the Commission balance the public interest reasons for and against the modification. See Damon Corp., Docket No. C-2916, Letter to Joel E. Hoffman, Esq. (Mar. 29, 1983). Commission Rule 2.51(b), 16 CFR 2.51(b), provides that the petition must be supported by affidavits containing "specific facts" justifying the reopening and modification of an order and cautions against "conclusory" justifications. Because Columbia/HCA failed to make the requisite showing of affirmative need under Rule 2.51(b), I cannot agree with the majority that the petition should be granted under the public interest standard.

Finding affirmative need, the majority states: "continuing to require Columbia to divest the lease is burdening it with unnecessary expense in terms of achieving the order's remedial purposes, and is having a negative impact on its ability to compete." Order at 5. The affidavit filed in support of Columbia/HCA's petition contains the bare assertion that the expenditure of time and other resources (presumably to find a buyer for the lease) will impede its ability to compete in the hospital market. It is virtually always foreseeable at the time a consent agreement is signed that a divestiture will entail "time and other resources" to accomplish. An order need not be reopened and modified on the basis of a circumstance that is foreseeable at the time that a consent order is signed. See Louisiana-Pacific Corp., Docket No. C-2956, Letter to John C. Hart (June 5, 1986); United States v. Louisiana-Pacific Corp., 967 F.2d 1372, 1378 (9th Cir. 1992).

Columbia/HCA does not assert, much less support, a particular cost of leaving the requirement to divest the lease in the order. This omission alone is sufficient ground to deny the petition under the public interest standard. On this point, the Commission's decision is tantamount to waiving the requirements of Rule 2.51(b) that a petition must be supported with particularity. It seems to me that the requirements of Rule 2.51(b) are there for good reason, and I see no reason to waive them.

1 The entire explanation provided in the supporting affidavit is as follows: "Columbia/HCA will suffer unforeseen competitive harm if it is forced to divest the Infusamed Lease Asset. Columbia/HCA is extremely unlikely to find a buyer for the lease, which will terminate in five months. Meanwhile, the required expenditure of time and other resources will impede Columbia/HCA's ability to compete effectively, particularly in the Salt Lake Area acute care hospital market. Finally, a forced divestiture will interfere with the ongoing business of the Infusamed regional home health care company."
The majority's substantive discussion of affirmative need is contained in one paragraph. Order at 4-5. After stating its conclusion that the petitioner has shown affirmative need, the majority refers in one sentence to three circumstances to bolster its conclusion: the already completed divestiture of Pioneer Valley Hospital, the hospital acquirer's asserted lack of interest in the lease, and the "lack of competitive significance [of the lease] in the relevant acute care hospital market." Order at 4-5. None is explained. Pioneer Valley Hospital was divested, as required by the Commission's order, to Paracelsus Healthcare Corp., except for the lease in question, which was listed among the "Pioneer Valley Assets" to be divested. It is at best unclear why a partial divestiture justifies elimination of the remaining divestiture obligation. Surely this is not a precedent the majority would like to establish for other cases.

Second, the majority relies on "the Pioneer Valley Hospital acquirer's lack of interest" in the lease. Assuming the truth of this conclusion, it is not at all clear why it should be relevant. Columbia/HCA asserts in a single sentence that Paracelsus did not want the lease in question. Petition Para. 8. In the past, the Commission has been rigorous in probing assertions like this. Its failure to do so here is an indication that the Commission thinks the lease is competitively insignificant, which, indeed, is the next circumstance to which the majority refers as a basis for granting the petition. The majority's reliance on the "lack of competitive significance [of the lease] in the relevant acute care hospital market" amounts to a finding that the Commission made a mistake in requiring divestiture of the lease. But for the assumption that the lease was competitively significant, there would have been no possible reason to require divestiture in the first place.

Finally, the majority states that divestiture of the lease "will cause harm to competition in the market for the provision of home health services." Order at 5. This asserted harm is entirely unexplained, no doubt because the market for home health services was not alleged in the complaint and is not otherwise at issue in the order that Columbia/HCA seeks to have changed. Presumably, the majority

---

2 The closest the majority comes to an explanation is: "Requiring Columbia to divest the lease in light of a lack of interest by the acquirer of the other divested assets, and the lack of interest by the acquirer of the other divested assets, and the lack of any allegation in the complaint that a competitive problem exists in the home health services market, would impede competition in that market." Order at 5. The complaint also lacks any allegation that a competitive problem exists in the market for commercial real estate in Salt Lake City, just to take one of any number of examples, but that hardly justifies changing an order that addresses the market for acute care hospital services.
would not so lightly assume harm to competition in a market it has not studied or previously identified if the majority were deciding liability. To do so in this context undermines the Commission's analytical standards.

The petitioner asserts that the petition should be granted on the basis of mutual mistake of fact (constructive change of fact), citing Saint-Gobain/Norton Industrial Ceramics Corp., Order Reopening and Modifying Order, Docket No. C-3573 (November 19, 1996). On that ground, I concur in the result.

STATEMENT OF COMMISSIONER ROSCOE B. STAREK, III
CONCURRING IN THE RESULT

The order in this case requires respondent to divest assets in several areas of the country, as a remedy for the likely anticompetitive effects of respondent's acquisition of Healthtrust, Inc. - The Hospital Company. One of the assets required to be divested is the "Infusamed Lease," an office space in Salt Lake City from which respondent's Infusamed subsidiary provides infusion and pharmacy services.

Respondent has petitioned to reopen and modify the order to eliminate the Infusamed Lease from the schedule of assets to be divested. Respondent claims that both parties to the consent settlement of this matter (i.e., both respondent and the Commission) labored under the erroneous assumption that the Infusamed Lease was a vital part of Pioneer Valley Hospital -- one of the primary assets that respondent was required to divest -- when in fact the Infusamed Lease has no critical relationship to the Hospital. Arguing that this mutual error regarding the Infusamed Lease constitutes a "constructive change of fact," respondent bases its request on our ruling last fall in Saint- Gobain/Norton Industrial Ceramics Corp.\(^1\) -- the case in which we articulated the concept of a "constructive change of fact." Alternatively, respondent contends that the public interest requires the deletion of the Infusamed Lease from the divestiture assets.

I reach the same conclusion as my colleagues: respondent has made the case for modifying the order. The Infusamed Lease is not critically related to Pioneer Valley Hospital and should not have been included in the assets to be divested. I am comfortable reaching this

---
\(^1\) Docket No. C-3673 (Order Reopening and Modifying Order, Nov. 19, 1996).
result either on a "constructive change of fact" basis or on the ground that it is in the public interest to grant the requested modification.

In the present order, however, the majority concludes that respondent has not shown a "constructive change of fact" within the parameters outlined in Saint-Gobain. First, my colleagues "disagree[] with Columbia's assertion that the mistaken inclusion of the Infusamed Lease Asset was a mutual mistake by both parties to the consent negotiations." The majority tries to bolster this conclusion by observing that "the Commission relied on the representations of Columbia that each one of the three separate lease assets identified by Columbia for inclusion [in the relevant schedule to the consent order] was related to the business of Pioneer Valley Hospital. . . . The mistake in this case was made unilaterally by Columbia and was not a mutual mistake of fact." The majority's second reason for rejecting respondent's "constructive change of fact" claim is even more perplexing. The majority states: "[T]his case does not present the kind of situation that the Commission recognized as establishing a 'constructive' change of fact in Saint-Gobain. Application of the 'constructive' changed facts ground for reopening a final order is limited to situations where, as in Saint-Gobain, the order misnames, mislabels or misidentifies a person, place or thing, and this error incorporated in the order prevents the respondent from complying with the order as written, so that the purposes of the order cannot be achieved. In these situations,
the error will typically involve a single fact, the truth or accuracy of which is easily and objectively verifiable.

I search in vain for language in our Saint-Gobain order to support the gloss my colleagues have put on it here. Nothing in that order speaks to the singularity of the fact at issue or to its easy or objective verifiability. With regard to prevention of compliance with the order and frustration of its purposes, the only sentence pertinent to this issue in our Saint-Gobain order is hardly authority for the almost categorical limitation that my colleagues announce today. All of the majority's post hoc qualifications on the meaning of Saint-Gobain seem designed to mitigate the impact of a decision with which they may have become uncomfortable. If that is the majority's purpose, however, it finds no source in the text of Saint-Gobain itself.

In any event, even if my colleagues are correct that the kind of mistake cognizable under the "constructive change of fact" doctrine "will typically involve a single fact, the truth or accuracy of which is easily and objectively verifiable," why is the Infusamed Lease situation not a suitable candidate? Although my colleagues are silent on this question, the critical facts surrounding the Infusamed Lease do not differ materially (in terms of objective verifiability, etc.) from the facts concerning the Carborundum managers in Saint-Gobain, and I find the present case a worthy candidate for application of the constructive change of fact doctrine.

Having rejected changed conditions of fact as a basis for modifying the order, the majority turns to respondent's assertion that public interest considerations also warrant the requested relief. Although I agree that it is in the public interest to excuse respondent from an obligation to divest the Infusamed Lease, I cannot agree that respondent has satisfied the "affirmative need" standard, which has become enshrined in the Commission's public interest order modifications despite having no rightful place in our jurisprudence.

Indeed, were my colleagues to apply their affirmative need criterion with any sort of rigor, respondent's public interest argument would fail. For example, I would be interested to learn what evidence supports the majority's observation that "continuing to require
Columbia to divest the [Infusamed] lease is burdening it with unnecessary expense in terms of achieving the order's remedial purposes, and is having a negative impact on its ability to compete.\textsuperscript{8} Moreover, how has Columbia shown that "requiring it to divest the Infusamed Lease Asset will cause harm to competition in the market for the provision of home health services"\textsuperscript{9} And what is in the record to support the majority's conclusion that "requiring Columbia to divest the lease in light of a lack of interest by the acquirer of the other divested assets, and the lack of any allegation in the complaint that a competitive problem exists in the home health services market, would impede competition in that market"? Absent more information and analysis regarding home health services in the Salt Lake City area, how could the Commission possibly know that requiring respondent to divest the Infusamed Lease would "impede competition in that 'market'? Respondent's petition furnishes little in the way of substantiation, nor does the order issued today go beyond the conclusory.

Nevertheless, it is clearly in the public interest to grant the requested relief. The Infusamed Lease was included among the divestiture assets through an error, and -- entirely apart from the role that this error plays under the constructive change of fact doctrine -- the public interest requires that it be rectified. This conclusion is derived from a simple, straightforward balancing of the reasons to delete this divestiture requirement against the reasons to retain it. Consideration of the "affirmative need" question simply muddles the analysis.\textsuperscript{10}

\textsuperscript{8} Order Reopening and Modifying Order, supra n.2, at 5.
\textsuperscript{9} Id.
\textsuperscript{10} Id.
\textsuperscript{11} As I have noted elsewhere, "[a] case such as this one -- in which the affirmative need 'evidence' is paltry, but the requested relief fairly cries out to be granted -- demonstrates why the Commission should summon the will to jettison the 'affirmative need' concept and embrace explicitly a simple cost/benefit balancing approach to order modifications pursuant to the 'public interest' standard of [Commission] Rule 2.51." Statement of Commissioner Roscoe B. Starek, III, Concurring in the Result, supra n.7, at 2.
IN THE MATTER OF

CLASS RINGS, INC., ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT


This order reopens a 1996 consent order -- that prohibited the respondents from
having any interest in or assets of Gold Lance, Inc. -- and this order modifies
the consent order by setting aside a provision prohibiting the respondents, for
one year, from employing or seeking to employ any person who is or was
employed during 1996 by Gold Lance, Inc. or Town & Country Corporation.

ORDER REOPENING AND MODIFYING ORDER

On May 29, 1997, respondents Commemorative Brands, Inc.,
formerly known as Class Rings, Inc. ("Class Rings"), and Castle
Harlan Partners II, L.P. (collectively "CBI") filed a Petition of
Commemorative Brands, Inc. and Castle Harlan Partners II, L.P. to
Reopen and Modify Order ("Petition"), pursuant to Section 5(b) of
the Federal Trade Commission Act, 15 U.S.C. 45(b), and Section
2.51 of the Commission's Rules of Practice and Procedure, 16 CFR
2.51. In its Petition, CBI requests that the Commission reopen the
order in Docket No. C-3701 ("order") to set aside paragraph V, which
prohibits CBI, for a period of one year, from employing or seeking to
employ any person who is or was employed at any time during 1996
by Gold Lance, Inc. ("Gold Lance") or by Town & Country Corpora-
tion ("Town & Country") in any position relating to the design,
manufacture, or sale of class rings (the "Employment Restriction").

For the reasons discussed below, the Commission has determined
that CBI has demonstrated changed conditions of fact sufficient to
require the reopening and modification of the order.¹

In its Petition,² CBI requests that the Commission modify the
order to set aside the Employment Restriction contained in paragraph
V of the order.³ The restrictions in paragraph V expire by their own

¹Because the Commission has determined to grant CBI's Petition based on change of fact, we
do not reach a determination with respect to CBI's assertion that the provision should be set aside under
the separate public interest standard.

²In support of its Petition, CBI provided the affidavit of Jeffrey H. Brennan, President and Chief
Executive Officer of Commemorative Brands, Inc. ("Brennan Affidavit").

³Paragraph V provides that Castle Harlan and Class Rings:
shall not, for a period of one (1) year from the date this order becomes final, employ or seek to employ
any person who is or was employed at any time during calendar year 1996 by Gold Lance or by Town
& Country in any position relating to the design, manufacture, or sale of Class Rings.
CBI bases its Petition on changed conditions of fact and public interest considerations. The changes of fact alleged by CBI include the fact that Gold Lance is no longer a stand-alone competitor, but is now a part of the industry's market leader, Jostens, Inc. ("Jostens"). Since the order became final, Jostens, the largest producer of class rings in the country, purchased Gold Lance from Town & Country. CBI contends that, as a result of the acquisition, the Employment Restriction no longer operates to achieve the purpose for which it was designed but has the unintended effect of precluding CBI from competing against Jostens for Gold Lance employees.

In addition to change of fact, CBI argues that it is in the public interest to grant its Petition because the Employment Restriction now has the unintended effect of preventing Gold Lance employees, many of whom will soon be out of work due to the Jostens' acquisition, from obtaining employment with CBI, which desires to offer jobs to qualified individuals. The Petition asserts that such a result is inconsistent with the purpose of the order and is unduly harmful to these employees.

STANDARD FOR REOPENING AND MODIFYING FINAL ORDERS

Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), provides that the Commission shall reopen an order to consider whether it should be modified if the respondent "makes a satisfactory showing that changed conditions of law or fact" so require. A satisfactory showing sufficient to require reopening is made when a request to reopen identifies significant changes in circumstances and shows that the changes eliminate the need for the order or make continued application of it inequitable or harmful to competition.

Section 5(b) also provides that the Commission may modify an order when, although changed circumstances would not require reopening, the Commission determines that the public interest so

---

4 Order ¶ V.
5 CBI does not assert that any change of law requires reopening the order.
8 S. Rep. No. 96-500, 96th Cong., 1st Sess. 9 (1979) (significant changes or changes causing unfair disadvantage); Louisiana-Pacific Corp., Docket No. C-2956, Letter to John C. Hart (June 5, 1986), at 4 (unpublished) ("Hart Letter"). See also United States v. Louisiana-Pacific Corp., 967 F.2d 1372, 1376-77 (9th Cir. 1992) ("A decision to reopen does not necessarily entail a decision to modify the order. Reopening may occur even where the petition itself does not plead facts requiring modification.").
requires. Respondents are therefore invited in petitions to reopen to show how the public interest warrants the requested modification. In such a case, the respondent must demonstrate as a threshold matter some affirmative need to modify the order. For example, it may be in the public interest to modify an order "to relieve any impediment to effective competition that may result from the order." Once such a showing of need is made, the Commission will balance the reasons favoring the requested modification against any reasons not to make the modification. The Commission also will consider whether the particular modification sought is appropriate to remedy the identified harm.

The language of Section 5(b) plainly anticipates that the burden is on the petitioner to make a "satisfactory showing" of changed conditions to obtain reopening of the order. The legislative history also makes clear that the petitioner has the burden of showing, other than by conclusory statements, why an order should be modified. The Commission "may properly decline to reopen an order if a request is merely conclusory or otherwise fails to set forth specific facts demonstrating in detail the nature of the changed conditions and the reasons why these changed conditions require the requested modification of the order." If the Commission determines that the petitioner has made the necessary showing, the Commission must reopen the order to consider whether modification is required and, if so, the nature and extent of the modification. The Commission is not required to reopen the order, however, if the petitioner fails to meet its burden of making the satisfactory showing required by the statute. The petitioner's burden is not a light one in view of the public interest in repose and the finality of Commission orders.

---

9 Hart Letter at 5; 16 CFR 2.51.
12 Damon Letter at 2.
13 Damon Letter at 4.
14 S. Rep. No. 96-500, 96th Cong., 1st Sess. 9-10 (1979); see also Rule 2.51(b) (requiring affidavits in support of petitions to reopen and modify).
CLASS RINGS, INC., ET AL.

Modifying Order

CBI HAS DEMONSTRATED CHANGED CONDITIONS OF FACT THAT REQUIRE THE REOPENING AND MODIFICATION OF THE ORDER

CBI's Petition demonstrates that Jostens's acquisition of Gold Lance eliminates the need for the Employment Restriction contained in paragraph V of the order. The complaint in this matter charged that on May 20, 1996, Class Rings, an entity controlled by Castle Harlan, agreed to purchase all of the class ring assets from two companies, Town & Country and CJC Holdings, Inc. and CJC North America, Inc. ("CJC"). At the time of the proposed merger, CJC was manufacturing class rings. Town & Country, another leading producer of commemorative jewelry, manufactured class rings through its class ring divisions Gold Lance and L.G. Balfour Company, Inc. ("Balfour"). Under the consent order, Castle Harlan, in effect, was prohibited from acquiring the Gold Lance business but permitted to acquire the Balfour business as well as the CJC business from Town & Country. Paragraph V of the order, the subject of the Petition, was included in the order to ensure that Town & Country, through its subsidiary Gold Lance, remained a viable independent competitor in the manufacture and sale of class rings.

On April 21, 1997, Jostens, the largest producer of class rings in the United States, announced that it had purchased Gold Lance from Town & Country. Such a change, which was not foreseen at the time the Commission issued the order, results in the Employment Restriction having the unintended effect of precluding CBI from competing against the market leader Jostens for a significant number of skilled and experienced workers in this industry.

Gold Lance is no longer in need of the protection afforded by the Employment Restriction. Therefore, the acquisition of Gold Lance by Jostens constitutes a change of fact that eliminates the need for the Employment Restriction and requires the reopening and modification of the order to set aside paragraph V.

Accordingly, It is ordered, That this matter be, and it hereby is, reopened and that the Commission's order be, and it hereby is, modified to set aside paragraph V as of the effective date of this order.

---

17 Complaint ¶ 1-8.
18 Order ¶ II.
19 Order ¶ II.
This consent order requires, among other things, Dwight's Energydata, a subsidiary of Softsearch, to license a set of complete well history and production data to a Commission-approved buyer, which then will be an independent competitor. In addition, the Commission has appointed a trustee to find a licensee and to complete the required divestiture.

Appearances

For the Commission: George Cary, Frank Lipson, Phillip Broyles and William Baer.

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that Dwight's Energydata, Inc. ("Dwight's"), a wholly-owned subsidiary of respondent SoftSearch Holdings, Inc., a corporation subject to the jurisdiction of the Federal Trade Commission, has entered into an agreement to merge with Petroleum Information Corporation ("PI"), a wholly-owned subsidiary of respondent GeoQuest International Holdings, Inc., a corporation subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act ("FTC Act"), as amended, 15 U.S.C. 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

THE RESPONDENTS

PARAGRAPH 1. Respondent SoftSearch Holdings, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its offices and
principal place of business located at 1202 Estates Drive, Suite A, Abilene, Texas. Its wholly-owned subsidiary, Dwight's Energydata, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1633 Firman Drive, Suite 100, Richardson, Texas. Dwight's Energydata, Inc., holds a 37 percent interest in Graphic Information Technologies, Inc., ("GITI") a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware.

PAR. 2. Respondent GeoQuest International Holdings, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 5333 Westheimer Drive, Houston, Texas. Its principal subsidiary is Petroleum Information Corporation, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 5333 Westheimer Drive, Houston, Texas.

PAR. 3. At all times relevant herein, each of the respondents or their predecessors, has been and is now engaged in commerce, as "commerce" is defined in Section 1 of the Clayton Act, 15 U.S.C. 12, and is a corporation whose business is in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

THE MERGER

PAR. 4. In July 1995 respondents agreed to merge the businesses of Dwight's and PI.

THE RELEVANT MARKETS

PAR. 5. One relevant line of commerce in which to evaluate the effects of the merger is the sale or licensing of well data. "Well data" means information in any media concerning the location, permitting, drilling or completion of any oil and gas well located in the United States, and related information.

PAR. 6. One relevant line of commerce in which to evaluate the effects of the merger is the sale or licensing of production data. "Production data" means information in any media concerning the locations of, and volume of oil, gas, or water produced from any oil or gas well located in the United States, and related information.
PAR. 7. One relevant section of the country in which to evaluate the effects of the merger is the United States as a whole.

PAR. 8. The relevant markets set forth in paragraphs five, six, and seven are highly concentrated, whether measured by Herfindahl-Hirschmann Indices or two-firm and four-firm concentration ratios. Dwight's and PI are actual competitors in the relevant markets. Dwight's and PI are the only competitive providers of well and production data for many areas of the country. The merged Dwight's/PI will have the largest market share in the relevant markets.

PAR. 9. Respondents are the only firms that have extensive, multi-state collections of historical information on oil and gas properties. Firms lacking similar databases cannot effectively compete in the relevant markets. Assembling a database that matches the database possessed by either respondent would be very difficult, expensive, and time consuming. This factor makes timely and effective entry into the relevant markets difficult and unlikely.

EFFECTS OF THE MERGER

PAR. 10. The merger may substantially lessen competition in the relevant markets in the following ways, among others:

(a) By eliminating direct competition between Dwight's and PI;
(b) By increasing the likelihood that respondents will unilaterally exercise market power; and
(c) By increasing the likelihood of, or facilitating, collusion or coordinated interaction;

each of which increases the likelihood that the prices of well data and production data will increase. The merger is also likely to lead to reduced service for customers. The merger may lead to a decline in technological innovation due to loss of rivalry in making product enhancements. The merger may further lead to a deterioration in the accuracy of the data compiled due to loss of competition in securing and verifying data.

VIOLATIONS CHARGED

PAR. 11. The merger described in paragraph four constitutes a violation of Section 5 of the FTC Act, 15 U.S.C. 45.

DECISION AND ORDER

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed merger of Dwight’s Energydata, Inc., a wholly-owned subsidiary of SoftSearch Holdings, Inc. ("respondent"), and Petroleum Information Corporation, a wholly-owned subsidiary of GeoQuest International Holdings, Inc. ("respondent"), having been furnished with a copy of a draft complaint that the Bureau of Competition proposed to present to the Commission for its consideration, and which, if issued by the Commission, would charge respondents with violations of the Clayton Act and Federal Trade Commission Act; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments received, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent SoftSearch Holdings, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at Suite A, 1202 Estates Drive, Abilene, Texas. Its wholly-owned subsidiary, Dwight's Energydata, Inc. is a corporation
organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1633 Firman Drive, Richardson, Texas. Dwight's Energydata, Inc. holds a 37 percent interest in Graphics Information Technologies, Inc. ("GITI"), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware. GITI has no operating assets, but since the formation of Tobin Data Graphics LLC in June 1994, GITI has held a 50% percent interest in Tobin Data Graphics LLC.

2. Respondent GeoQuest International Holdings, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 5333 Westheimer Drive, Houston, Texas. GeoQuest is a holding company and has no operating assets. Its principal subsidiary is Petroleum Information Corporation, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 5333 Westheimer Drive, Houston, Texas.

3. Tobin Data Graphics LLC is a Texas limited liability company, with its office and principal place of business located at 114 Camp Street, San Antonio, Texas.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondents, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That, as used in this order, the following definitions shall apply:

A. "Dwight's" means SoftSearch Holdings, Inc., its directors, officers, employees, agents and representatives, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by SoftSearch Holdings, Inc., and the respective directors, officers, employees, agents and representatives, successors and assigns of each.

B. "PIC" means GeoQuest International Holdings, Inc., its directors, officers, employees, agents and representatives, successors,
and assigns; its subsidiaries, divisions, groups and affiliates controlled by GeoQuest International Holdings, Inc., and the respective directors, officers, employees, agents, and representatives, successors and assigns of each.

C. "TDG" means Tobin Data Graphics LLC, its directors, officers, employees, agents and representatives, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Tobin Data Graphics LLC, and the respective directors, officers, employees, agents, and representatives, successors and assigns of each.

D. "Graphics Information Technologies, Inc.," is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at 1560 Broadway, Suite 903, Denver, Colorado.

E. "HPDI, L.L.C.," is a Texas limited liability company with its office and principal place of business located at 9300 Research Boulevard, Suite 306, Austin, Texas.

F. "Respondents" means Dwight's and PIC.

G. The "Merger" means the proposed combination of the businesses of Dwight's Energydata, Inc., and Petroleum Information Corporation.


I. "Relevant product" means well data and production data.

J. "Well data" means information in any media concerning the location, permitting, drilling activity or completion of any oil or gas well located in the United States, including U.S. territorial waters, and related information.

K. "Well header data" means the following information regarding an oil, gas, or other well: API Number, Surface and Bottom Hole Locations (Township, Range, Section, Area, Block, Section, Survey, Abstract, and Footage Calls), Lease Name and ID, Well Number, Permit Number, Operator Name, Total Depth, Completion or Plugging Date, Final Status, Class, Field Name, Elevation, and Dwight's ID.

L. "Production data" means information in any media concerning the identity, location and volume of fluids, including, but not limited to, oil, water, and natural gas, produced from or injected into any oil or natural gas well or leases located in the United States, including U.S. territorial waters, and related information.

M. "Acquirer" means the person or persons approved by the Commission to acquire the specified data.
N. "Divest" means to grant a perpetual, world-wide license to the Acquirer, with the right, subject to the terms of this order, to use, combine with other information, reproduce, market, assign or otherwise transfer, and sublicense the specified data.

O. "Specified data" means digital well data and production data that are included in one or more of the Schedule A products and the well header data received by Dwight's from TDG under the Data Exchange and Sales Representative Agreement entered into on June 1, 1995.

P. "Schedule A products" means those products listed in Schedule A of this order.

Q. "Shared employee" means any person whose salary or other compensation for services rendered is paid, directly or indirectly, by both TDG and Petroleum Information/Dwight's.

R. "Petroleum Information/Dwight's" means the entity that is created as a result of the Merger.

S. "Royalty-based compensation" means a payment to a vendor or licensor based, directly or indirectly, upon the revenue generated by the sale of the vendor's or licensor's well data or production data.

II.

It is further ordered, That:

A. Following completion of the Merger, respondents shall divest the specified data, absolutely and in good faith, at no minimum price, consistent with the provisions of this order, either to (1) HPDI, L.L.C, pursuant to, and in accordance with the time frame set out in paragraph 2(a) of, the License Agreement for specified data entered into between Dwight's and HPDI, L.L.C, dated September 18, 1996 (Exhibit A hereto); or (2) another person that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. Provided, however, if, at the time the Commission determines to make this order final, the Commission notifies respondents that HPDI, L.L.C., is not an acceptable acquirer, then respondents shall not divest the specified data to HPDI, L.L.C. Upon expiration of the divestiture period described in paragraph III.B.4 of the order, respondents shall have no further obligation to divest.

B. The purpose of the divestiture of the specified data is to ensure the continued use of the specified data in the same type of business
in which the specified data is used at the time of the Merger, and to remedy any lessening of competition resulting from the Merger as alleged in the Commission's complaint.

C. After the specified data has been divested, respondents shall not exercise any right they may have, whether at common law, in equity, or in bankruptcy or reorganization (including through obtaining any equity interest in a reorganized debtor) or otherwise, to terminate the license granted under this order or to seek to have such license terminated, or to require, or seek to require, the Acquirer or its successor or assignee to return the specified data.

III.

It is further ordered, That:

A. If respondents have not divested, absolutely and in good faith and with the Commission's prior approval, the specified data, the Commission may, on the date this order becomes final, or at any time thereafter, appoint either Ben C. Burkett, II, of Burkett Consulting, Dallas, Texas, ("Burkett") or someone else to act as trustee to divest the specified data. In the event that the Commission or the Attorney General brings an action pursuant to Section 5(1) of the Federal Trade Commission Act, 15 U.S.C. 45(1), or any other statute enforced by the Commission, respondents shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee pursuant to Section 5(1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the respondents to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to paragraph III.A of this order, respondents shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission either (1) shall select Burkett to be the trustee under the terms of a trustee agreement as set out in Exhibit B hereto; or (2) shall select another trustee subject to the consent of respondents, which consent shall not be unreasonably withheld. The trustee, if not Burkett, shall be a person with experience and expertise
in acquisitions and divestitures. If respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee, other than Burkett, within ten (10) days after notice by the staff of the Commission to respondents of the identity of any proposed trustee, respondents shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the specified data.

3. Within ten (10) days after appointment of the trustee, respondents shall execute a trust agreement that, subject to the prior approval of the Commission, and in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order. Such agreement may contain provisions requiring the trustee to protect against unauthorized disclosure or use of the specified data before the specified data is divested.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in paragraph III.B.3 to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve (12) month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the Court; provided, however, the Commission may extend this period only two (2) times for up to twelve (12) months each time.

5. The trustee shall have full and complete access to the specified data and to the personnel, books, records and facilities related to the specified data or to any other relevant information, as the trustee may reasonably request. The trustee may require that a repository be established to allow for examination of the specified data by prospective Acquirers. Respondents shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by respondents shall extend the time for divestiture under this paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.
6. The trustee shall make reasonable efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to respondents' absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the Acquirer as set out in paragraphs II and III of this order, provided, however, if the trustee receives bona fide offers from more than one acquiring entity, the trustee shall submit all such bids to the Commission, and if the Commission determines to approve more than one such acquiring entity either for the whole data set or for any of the same parts of the data set comprising the specified data, the trustee shall divest to the acquiring entity or entities selected by respondents from among those approved by the Commission. The Commission may approve divestiture of parts of the specified data to different acquiring entities, but in no event will there be more than one Acquirer for either the whole data set comprising the specified data, or any of the same parts of the data set comprising the specified data.

7. The trustee shall serve, without bond or other security, at the cost and expense of respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of respondents, and at reasonable fees, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the respondents, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the specified data.

8. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from
misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in paragraph III.A of this order.

10. Consistent with the terms of this order, the Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be reasonably necessary or appropriate to accomplish the divestiture required by this order. Notwithstanding paragraph IV.G herein, such additional orders or directions may provide for, among other things, giving the Acquirer the right to use the record layouts specified in paragraph IV.A when sublicensing the specified data, with provisions that insure against confusion of the origin of the data.

11. The trustee shall have no obligation or authority to operate or maintain the specified data.

12. The trustee shall report in writing to respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV.

*It is further ordered, That:*

A. The specified data shall be delivered to the Acquirer in machine-readable, usable form in the record layouts in Annex 1 of this order for well data, Annex 2A of this order for production data, Annex 2B of this order for the Texas oil test (W10) file; Annex 2C of this order for the Louisiana oil test (DM1R) file; and Annex 3 of this order for Petroleum Data System (PDS) data, which support the Dwight's Petroleum Reservoirs CD-ROM. Respondents shall provide the Acquirer the specified data in the computer code set in which the records are maintained or in industry standard (8-bit) ASCII, at the Acquirer's option.

B. Respondents shall provide the Acquirer with all existing technical system documentation and user documentation relating to the specified data. Such documentation includes, but is not limited to, a description of all data elements in Dwight's Well Data System, a description of the data file in Dwight's A-File (unpacked) file; a description of the test file in the Texas oil test (W10) file; a
SOCIAL SECURITY ADMINISTRATION, ET AL.

Decision and Order

description of the test file in the Louisiana oil test (DM1R) file; Dwight's "Data Item Manual;" and the keys to all codes used by Dwight's, whether maintained in machine-readable format, hard copy, or microfilm.

C. Respondents shall provide Acquirer with data that is current as of the date of the divestiture for all data elements that were included in any Schedule A product on the date on which the Commission accepts this order for comment, to the extent that data exist on any Dwight's computer records.

D. Respondents shall make no claim to ownership, title, or interest in any product derived from the specified data by the Acquirer.

E. Respondents are not required to provide the Acquirer the right to sublicense well identifier codes, field and reservoir codes, and operator codes, to the extent that such codes are unique to Dwight's. However, respondents shall provide Acquirer with the right to provide its licensees with a cross-reference to enable a licensee to convert from Dwight's codes to the Acquirer's codes.

F. Respondents are not required to provide Acquirer (a) any latitude or longitude data that respondents possess solely by reason of the Data Exchange and Sales Representative Agreement entered into between Dwight's and TDG on June 1, 1995; (b) any software, or any rights to use or sublicense any software; or (c) any calculation of estimated future recoverable oil or gas reserves.

G. Respondents are not required to provide Acquirer the right to use the record layouts specified in paragraph IV.A when sublicensing the specified data.

H. The Acquirer shall not transfer or sublicense any rights to any specified data in any manner that would have the effect of creating additional independent vendors for the whole or any part of the specified data. Notwithstanding the above, Acquirer shall have the right to, among other things: assign or otherwise transfer all of its rights to and interest in all or part of the specified data to another person; create distributorships or appoint sales agents for licensing of the specified data; or license the specified data to geological libraries for use by their members on a read-and-print-only basis. In addition, Acquirer shall have the right to enter into data exchange agreements wherein the recipient of the Acquirer's data has the right to market and sublicense the specified data, provided that the recipient under such data exchange agreement shall not grant a license or other right
to specified data, or otherwise knowingly make the specified data available, to any person unless such person has agreed not to transfer or sublicense the specified data and not to make the specified data publicly available. Respondents shall not enforce any restriction on the Acquirer's right to transfer or sublicense the specified data in the event that a court or an administrative agency, in a proceeding involving the respondents, issues a final order from which no appeal has been or can be taken, determining that all or a portion of the specified data is not protected intellectual property. Within 30 days of the issuance of such an order, respondents shall notify the Commission and the Acquirer that restrictions on the transfer or sublicense contained in the License Agreement will not be enforced with respect to the portion of the specified data that was determined to be unprotected intellectual property.

I. Upon reasonable notice to respondents from the Acquirer, respondents shall provide such assistance to the Acquirer as is reasonably necessary to ensure that the purpose of the divestiture of the specified data is accomplished. Such assistance shall include reasonable consultation with knowledgeable employees of respondents for a period of time sufficient to ensure that the Acquirer's personnel are appropriately trained in the sources and processing of the data contained in the specified data. Respondents, however, shall not be required to continue providing such assistance for more than twelve (12) months from the date of the divestiture. Respondents may charge the Acquirer at a rate no greater than their direct costs for providing such technical assistance. Direct costs consist of expenses and the salary and benefits attributable to respondents' employees actually providing assistance, for the time required for the provision of such technical assistance, and variable overhead, including out-of-pocket expenses.

J. Respondents may take reasonable steps with respect to their employees to assure that the confidentiality of their proprietary data is not compromised, but respondents shall not impose non-competition agreements that have the purpose or effect of interfering with the ability of the Acquirer to recruit or employ respondents' employees.

K. Respondents, upon 24 hours advance notice by the Acquirer, shall provide Acquirer, at Acquirer's expense, reasonable access to, and the right to copy, any data-source document or data in respondents' possession that was used to compile the specified data to the extent respondents have such data-source document or data at
the time of the request. Respondents may charge the Acquirer only for respondents' direct costs in providing such access or copying. Direct costs consist of the salary and benefits attributable to respondents' employees for the time required for the provision of such access and copying, and variable overhead, including out-of-pocket expenses.

L. Within ten (10) days after divestiture of the specified data, Dwight's shall assign to the Acquirer all of its rights under and interest in the Data Exchange Agreement of July 1, 1993, with The Independent Oil & Gas Service, Inc. ("Independent"), which relates to well data in Kansas. If Independent consents to such assignment, Petroleum Information/Dwight's shall promptly remove from its products all data acquired from Independent under the Data Exchange Agreement of July 1, 1993, and all predecessor agreements and provide the data to the Acquirer in the record layout specified in paragraph IV.A above; provided, however, that Petroleum Information/Dwight's shall be free to negotiate a new agreement with Independent. Such new agreement may neither be exclusive nor contain a royalty-based compensation provision. If Independent does not consent to such assignment, Dwight's shall promptly terminate the Data Exchange Agreement in accordance with its terms and provide any data to which Dwight's has an ownership right under said Agreement to the Acquirer in the record layout specified in paragraph IV.A.

M. Within ten (10) days after divestiture of the specified data, Dwight's shall assign to the Acquirer all of its rights under and interest in the Joint Marketing Agreement of July 1, 1994, with Munger Oil Information Services, Inc. ("Munger"), which relates to well data for California, Oregon, Pacific Federal Offshore, Alaska, and Washington. If Munger consents to such assignment, Petroleum Information/Dwight's shall promptly remove from its products all data acquired from Munger under the Joint Marketing Agreement of July 1, 1994, and all predecessor agreements and provide the data to the Acquirer in the format specified in paragraph IV.A above; provided, however, that Petroleum Information/Dwight's shall be free to negotiate a new agreement with Munger. Such new agreement may neither be exclusive nor contain a Royalty-based compensation provision. If Munger does not consent to such assignment, Dwight's shall promptly terminate the Joint Marketing Agreement in accordance with its terms and provide any data to which Dwight's has
an ownership right under said Agreement to the Acquirer in the record layout specified in paragraph IV.A.

V.

*It is further ordered*, That respondents shall provide to the Commission staff or a Repository designated by the Commission staff a copy of the specified data that was provided to the Acquirer, a copy of all Schedule A products as of the date on which the Commission accepts this order for comment, and a copy of all Dwight's CD-ROM products published and offered for sale to customers immediately prior to the divestiture of the specified data.

VI.

*It is further ordered*, That, for a period of ten (10) years from the date this order becomes final, respondents shall not, without prior notification to the Commission, directly or indirectly:

A. Acquire any stock, share capital, equity, or other interest in Graphics Information Technologies, Inc., or in any person engaged in the distribution of a relevant product at any time within the two years preceding such acquisition;

B. Enter into any agreements or other arrangements with any person whose principal business is distributing a relevant product, to obtain direct or indirect ownership, management, or control of any preexisting data bases that are or were used in such business; or

C. Acquire from any one entity cumulatively during any period of three consecutive calendar years (a) the exclusive ownership of records containing well data covering more than 75,000 wells in any one state except Texas, or 250,000 wells in the State of Texas or (b) either the exclusive right, or a non-exclusive right with a royalty-based compensation, to market well data covering more than 75,000 wells in any one state except Texas, or 250,000 wells in the State of Texas. Respondents shall have the right to rely upon the supplying entity's best estimates, at the time of the acquisition, concerning the number and locations of the covered wells. In determining whether notification may be required by this provision, well records that have been included in a previous notification under this provision or under 15 U.S.C. 18a shall not be considered.
It is further ordered, That the prior notifications required by paragraph VI of this order shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of respondents and not of any other party to the transaction. Respondents shall provide the Notification to the Commission at least thirty days prior to consummating any such transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information, respondents shall not consummate the transaction until twenty days after substantially complying with such request for additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition.

Provided, however, that prior notification shall not be required by paragraph VI of this order for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a.

It is further ordered, That within thirty (30) days after the date this order becomes final and every thirty (30) days thereafter until respondents have fully complied with the provisions of paragraphs II, III, IV, and V of this order, respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, or have complied with this order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with the order.
IX.

It is further ordered, That:

A. Within ten days of receiving notification from the Commission staff that the specified data has been divested to the Acquirer, TDG shall offer to the Acquirer, its successor, assignee, agent or distributor (collectively, "Acquirer" for purposes of this paragraph), a Sales Representative Agreement in the form of Exhibit C hereto. The terms of any sales representative agreement between TDG and the Acquirer shall cover the same products and be at least as favorable to the Acquirer as the terms agreed to from time to time between TDG and Petroleum Information/Dwight's. The Sales Representative Agreement for the Acquirer shall be non-terminable by TDG, except under the following circumstances:

1. The breach of material terms by the Acquirer or the Acquirer's inability to pay. In the case of such a breach, the obligations of TDG shall resume upon cure of the breach. In the case of receivership or voluntary or involuntary bankruptcy, or the institution of proceedings therefor, the obligation of TDG under this paragraph may be suspended until the appointment of a trustee or a successor to operate the Acquirer's business or a debtor in possession; or
2. TDG no longer maintains a Sales Representative Agreement with Petroleum Information/Dwight's and there are no other joint selling arrangements between TDG and Petroleum Information/Dwight's for a particular product.

B. TDG shall not disclose to any officer, director, or employee of Petroleum Information/Dwight's or any shared employee any information that TDG receives from the Acquirer regarding (1) the Acquirer's actual or prospective customers, (2) the content of any customer proposals or offers made by the Acquirer, or (3) the terms of any individual customer dealings with TDG or the Acquirer.

C. Within 30 days of receiving notification from the Commission staff that the specified data has been divested to the Acquirer, TDG shall submit to the Commission a copy of the Sales Representative Agreement entered into with Petroleum Information/Dwight's and with the Acquirer. For three years after the date this order becomes final, TDG shall submit to the Commission any revisions or amendments to such agreements within thirty (30) days of their execution.
X.

*It is further ordered,* That, for the purpose of determining or securing compliance with this order, and subject to any legally recognized privilege, upon written request and reasonable notice, each respondent and TDG shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of respondent relating to any matters contained in this order; and

B. Upon five (5) days' notice to the appropriate respondent, and without restraint or interference, to interview officers, directors, or employees of the respondent, who may have counsel present.

XI.

*It is further ordered,* That respondents and TDG shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents or TDG such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporations that may affect compliance obligations arising out of the order.

SCHEDULE A

I. Dwight's Production Data CD-Rom Products
   - West Coast Area, consisting of California, Oregon, Pacific Federal Offshore, Alaska
   - Gulf Coast Area, consisting of Arkansas, Louisiana, Mississippi, Alabama, Florida, Federal Offshore, Coastal Counties of Texas
   - MidContinent Area, consisting of Arkansas, Kansas, Michigan, Oklahoma and Texas Railroad Commission District 10
   - Texas Area, consisting of all of Texas
   - Rocky Mountain Area, consisting of Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Wyoming, Nebraska, Nevada, Utah

II. Dwight's Discover SCOUT CD-ROM Products
   - Gulf Coast Area, consisting of Arkansas, Louisiana, Mississippi, Alabama, Florida, Federal Offshore
   - MidContinent Area, consisting of Northern Arkansas, Michigan, Oklahoma and Texas Railroad Commission District 10
   - Texas Area, consisting of all of Texas
III. Dwight's Discover CD-ROM Products
   Oklahoma Area, consisting of Oklahoma
   Rocky Mountain Area, consisting of Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Wyoming, Nebraska, Nevada, Utah, Idaho

IV. Dwight's Petroleum Reservoirs (DPR) With Operated Production CD-ROM Products
   State of Alaska
   State of California
   Permian Basin
   Texas & Southeast New Mexico
   State of Oregon
   Gulf Coast Area, consisting of Alabama, Arkansas, Florida, Gulf of Mexico Offshore, Louisiana, Mississippi, Texas Railroad Commission Districts 2, 3, and 4
   MidContinent Area, consisting of Arkansas, Kansas, Oklahoma, Texas Railroad Commission District 10
   Rocky Mountain Area, consisting of Arizona, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, New Mexico
ANNEX I

Well Data
Annex 1
Page 1 of 7

Record Layout for Comma Delimited File

The option to export WDS information in a comma delimited format provides additional
flexibility for importing data into spreadsheets and database management programs.

Each field within a record is separated by commas. Fields are not alpha or Zero Fixed. Alpha
fields are surrounded by double quotes; any field without quotes is read as numeric.

READER & LOCATION INFORMATION
FILE NAME: WDS

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Length</th>
<th>Length With</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>WDS ID</td>
<td>A</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE</td>
<td>A</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FULL AP NUMBER</td>
<td>A</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>API STATE CODE</td>
<td>A</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>API COUNTY CODE</td>
<td>A</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>API WELL CODE</td>
<td>A</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MEXICAN CODE</td>
<td>A</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SECTION</td>
<td>N</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOWNSHIP</td>
<td>N</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOWNSHIP DIRECTION</td>
<td>A</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RANGE</td>
<td>N</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RANGE DIRECTION</td>
<td>A</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>QUARTER QUARTER</td>
<td>A</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FOOTAGE NORTH/SOUTH</td>
<td>N</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FOOTAGE DIRECTION NORTH/SOUTH</td>
<td>A</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FOOTAGE EAST/WEST</td>
<td>N</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FOOTAGE DIRECTION EAST/WEST</td>
<td>A</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FOOTAGE CORNER</td>
<td>A</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FOOTAGE QUADRANT</td>
<td>A</td>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OPERATOR</td>
<td>A</td>
<td>40</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>LEASE NAME</td>
<td>A</td>
<td>35</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>WELL NUMBER</td>
<td>A</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ELEVATION</td>
<td>N</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ELEVATION TYPE</td>
<td>A</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FIELD NAME</td>
<td>A</td>
<td>55</td>
<td>55</td>
<td></td>
</tr>
<tr>
<td>FIELD CODE</td>
<td>N</td>
<td>110</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RESERVOIR</td>
<td>A</td>
<td>24</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>OBJECTIVE DEPTH - MEASURED</td>
<td>N</td>
<td>5</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>OBJECTIVE DEPTH - YPD</td>
<td>N</td>
<td>5</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>OBJECTIVE FORMATION</td>
<td>A</td>
<td>24</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>OBJECTIVE FORMATION ACE CODE</td>
<td>N</td>
<td>3</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>WELL TYPE</td>
<td>A</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>COMPLETION TYPE</td>
<td>A</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OLDEST FORMATION REPORTED</td>
<td>A</td>
<td>24</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>OLDEST FORMATION ACE CODE</td>
<td>N</td>
<td>3</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>FIELD STATUS FLAG</td>
<td>A</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CURRENT STATUS</td>
<td>A</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ENTRY DATE (YYYYMMDD)</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>EXIT DATE (YYYYMMDD)</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>PERMIT DATE (YYYYMMDD)</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>PERMIT NUMBER</td>
<td>A</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OFFSHORE FLAG</td>
<td>A</td>
<td>1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### ANNEX 1

**Well Data**

**ANNEX 1**

**Page 2 of 7**

#### LATITUDE & LONGITUDE

<table>
<thead>
<tr>
<th>Item Name</th>
<th>Format</th>
<th>Maximum Length</th>
<th>Length Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID ID</td>
<td>A</td>
<td>9</td>
<td>11</td>
</tr>
<tr>
<td>RECORD TYPE (see also Table 1D)</td>
<td>N</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>LAT-LONG SOURCE</td>
<td>A</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>LATITUDE</td>
<td>M CLC</td>
<td>10</td>
<td>11</td>
</tr>
<tr>
<td>LONGITUDE</td>
<td>M CLC</td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>

#### PEDACRY & COMPLETION DATA

<table>
<thead>
<tr>
<th>Item Name</th>
<th>Format</th>
<th>Maximum Length</th>
<th>Length Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID ID</td>
<td>A</td>
<td>9</td>
<td>11</td>
</tr>
<tr>
<td>RECORD TYPE (see also Table 2D)</td>
<td>A</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>SPICE DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>CONTRACTOR</td>
<td>A</td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>NO NATION</td>
<td>A</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>CIRCULATION MEDIUM</td>
<td>A</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>TOTAL DEPTH - MEASURED</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>* TOTAL DEPTH - TPD</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>FORMATION AT TOTAL DEPTH</td>
<td>A</td>
<td>32</td>
<td>32</td>
</tr>
<tr>
<td>FORMATION AT TO ADE CODE</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>COMPLETION DEPTH</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>COMPLETION DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>COMPLETION CODE</td>
<td>A</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>FINAL STATUS</td>
<td>A</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>PRODUCING LEASE NUMBER</td>
<td>M</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>PRODUCING WELL NUMBER</td>
<td>A</td>
<td>24</td>
<td>28</td>
</tr>
<tr>
<td>LOCATION REPORT DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>COMPLETION REPORT DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>* DATA SOURCE</td>
<td>A</td>
<td>8</td>
<td>8</td>
</tr>
</tbody>
</table>

*Unless data changes by virtue of production of case brief contrary to data used.*
### ANNEX 1

**Well Data**

#### Annex 1

**Page 3 of 7**

**TOP RECORD**

FILE NAME: *.TOP

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Maximum Length</th>
<th>Length with</th>
</tr>
</thead>
<tbody>
<tr>
<td>WEID</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE (OMITTED VALUE 30)</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>TOP SOURCE</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>FORMATION TOP TYPE</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>FORMATION DEPTH</td>
<td>N</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>A</td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>FORMATION AGE CODE</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

**ALL NASKA (V.F.D) 7**

FILE NAME: *.TTP

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Maximum Length</th>
<th>Length with</th>
</tr>
</thead>
<tbody>
<tr>
<td>WEID</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE (OMITTED VALUE 30)</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>RECORD FORMAT</td>
<td>N</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>RECORD SUB-SEQUENCE NUMBER</td>
<td>N</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>** NARRATIVE INFORMATION</td>
<td>A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**PARSED CORE DATA**

FILE NAME: *.DCD

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Maximum Length</th>
<th>Length with</th>
</tr>
</thead>
<tbody>
<tr>
<td>WEID</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE (OMITTED VALUE 30)</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE</td>
<td>N</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE (OMITTED VALUE)</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>TEST NUMBER</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>INTERVAL TOP</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>INTERVAL BOTTOM</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>A</td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>FORMATION AGE CODE</td>
<td>N</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>** REMARKS</td>
<td>A</td>
<td>27</td>
<td>30</td>
</tr>
</tbody>
</table>

** CODE NARRATIVE

**
<table>
<thead>
<tr>
<th>Field Name</th>
<th>Field</th>
<th>Length</th>
<th>Length (ln)</th>
</tr>
</thead>
<tbody>
<tr>
<td>WELL ID</td>
<td>A</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE (coincident value 47)</td>
<td>N</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>RECORD RE-SEQUENCE NUMBER</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (coincident value 48)</td>
<td>N</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE (coincident value 57)</td>
<td>A</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>TEST NUMBER</td>
<td>N</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>INTERVAL TOP</td>
<td>M</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>INTERVAL BOTTOM</td>
<td>M</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>A</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>FORMATION AGE CODE</td>
<td>A</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>STATUS REMARKS</td>
<td>A</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>FIRST TIME OPEN</td>
<td>M</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>SECOND TIME OPEN</td>
<td>M</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>SECOND TIME SHUT IN</td>
<td>M</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>SECOND TIME SHUT OUT</td>
<td>M</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>INITIAL HYDROSTATIC PRESSURE</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FINAL HYDROSTATIC PRESSURE</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FIRST INITIAL FLOW PRESSURE</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FINAL INITIAL FLOW PRESSURE</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>N</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FIRST SHUT-OFF PRESSURE</td>
<td>M</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>SECOND SHUT-OFF PRESSURE</td>
<td>M</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>SECOND BLOW OUT PRESSURE</td>
<td>M</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>BOTTOM BLOW THROUGH</td>
<td>M</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>KEARRHYTANY</td>
<td>M</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 1 VALUE</td>
<td>A</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 1 DESCRIPTION</td>
<td>A</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 2 VALUE</td>
<td>N</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 2 DESCRIPTION</td>
<td>A</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 3 VALUE</td>
<td>N</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 3 DESCRIPTION</td>
<td>A</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 4 VALUE</td>
<td>N</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>RECOVERY 4 DESCRIPTION</td>
<td>A</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>&quot;SAMPLE NARRATIVE&quot;</td>
<td>N</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Decision and Order

**ANNEX 1**

### Well Data

**Annex 1**

**Page 5 of 7**

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Description</th>
<th>Maximum</th>
<th>Length</th>
<th>Column(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PARED SHOUT</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>File Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>PARED PAGE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>File Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>PARED PIECE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>File Name</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Field Definitions**

- **WID ID**: Record ID
- **RECORD NAME**: Record Name
- **RECORD NUMBER**: Record Number
- **DATABASE**: Database
- **RECORD TYPE**: Record Type
- **RECORD SOURCE**: Record Source
- **INFORMATION**: Information
- **INFORMATION TYPE**: Information Type
- **INFORMATION CODE**: Information Code
- **INTERVAL**: Interval
- **FORMATION NAME**: Formation Name
- **FORMATION AGE**: Formation Age
- **NOTES**: Notes

**Format**:

- **A**: Alphanumeric
- **N**: Numeric
- **I**: Integer
- **R**: Real
- **S**: String

**Example Format**: A 10 11

**Example Form**: A 8 11
### Annex 1

Well Data

#### Initial Potential

<table>
<thead>
<tr>
<th>Data Name</th>
<th>File Name</th>
<th>Page</th>
<th>Maximum</th>
<th>Length with Decimals</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID ID</td>
<td>A</td>
<td>8</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE (common name 42)</td>
<td>N</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>6</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>1</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (common name 28)</td>
<td>N</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE (common name 39)</td>
<td>A</td>
<td>2</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>VOLUME OIL</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>UNITS OIL VOLUME</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>VOLUME GAS</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>UNITS GAS VOLUME</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>VOLUME WATER</td>
<td>A</td>
<td>7</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>UNITS WATER VOLUME</td>
<td>A</td>
<td>7</td>
<td>9</td>
<td></td>
</tr>
</tbody>
</table>

**If Narrative**

#### Combined Perm, PIGE, and P Record

<table>
<thead>
<tr>
<th>Data Name</th>
<th>File Name</th>
<th>Page</th>
<th>Maximum</th>
<th>Length with Decimals</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID ID</td>
<td>A</td>
<td>8</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE</td>
<td>N</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>6</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>1</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (common name 31)</td>
<td>N</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE (common name Perm/Pig)</td>
<td>A</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>INTERVAL TOP</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>INTERVAL BOTTOM</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>A</td>
<td>24</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>FORMATION AGE CODE</td>
<td>A</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>CHECK SIZE</td>
<td>A</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FLOW TUBING PRESSURE</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FLOW CASING PRESSURE</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>SETT IN TUBING PRESSURE</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>SETT IN CASING PRESSURE</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>CRUDE TYPE</td>
<td>N (ELI)</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>OIL VOLUME</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>OIL UNITS</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>GAS VOLUME</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>GAS UNITS</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>WATER VOLUME</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>WATER UNITS</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>IMPROVED TEST</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>CALCULATED FLUID</td>
<td>N</td>
<td>10</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>REMARKS</td>
<td>A</td>
<td>27</td>
<td>30</td>
<td></td>
</tr>
</tbody>
</table>

**If Narrative**
### ANNEX I

**Well Data**  
Annex 1  
Annex 1  
Page 7 of 7

#### OPERATOR A NAME LOCATOR TABLES

<table>
<thead>
<tr>
<th>FIELD NAME</th>
<th>FIELD TYPE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>FWS ID</td>
<td>A</td>
<td>1</td>
</tr>
<tr>
<td>RECORD TYPE (possible values: PC)</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>DTWRTS OPERATOR CODE</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>OPERATOR ADDRESS</td>
<td>A</td>
<td>8</td>
</tr>
<tr>
<td>API STATE CODE</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>POSTAL ADDR</td>
<td>A</td>
<td>2</td>
</tr>
<tr>
<td>STATE NAME</td>
<td>A</td>
<td>2</td>
</tr>
<tr>
<td>API COUNTY CODE</td>
<td>N</td>
<td>2</td>
</tr>
<tr>
<td>COUNTRY NAME</td>
<td>A</td>
<td>2</td>
</tr>
<tr>
<td>DTWRTS DISTRICT CODE</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>DISTRICT NAME</td>
<td>A</td>
<td>2</td>
</tr>
<tr>
<td>AAPG BASIN CODE</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>AAPG BASIN NAME</td>
<td>A</td>
<td>2</td>
</tr>
<tr>
<td>COUNTRY CODE</td>
<td>A</td>
<td>4</td>
</tr>
<tr>
<td>COUNTRY NAME</td>
<td>A</td>
<td>2</td>
</tr>
</tbody>
</table>

* Fields with an asterisk are not mandatory in each row. Distinct sets are permutable.
<table>
<thead>
<tr>
<th>Field Name</th>
<th>Location</th>
<th>Operator Name</th>
<th>Operator Code</th>
<th>Lease or Well Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Field Name (100 bytes)</td>
<td>Location</td>
<td>Operator Name</td>
<td>Operator Code</td>
<td>Lease or Well Name</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cumulative</th>
<th>Cumulative</th>
<th>Cumulative</th>
<th>Cumulative</th>
<th>Cumulative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquid</td>
<td>Gas</td>
<td>Liquid</td>
<td>Gas</td>
<td>Liquid</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Test Record</th>
<th>Test Record</th>
<th>Test Record</th>
<th>Test Record</th>
<th>Test Record</th>
</tr>
</thead>
<tbody>
<tr>
<td>Test Date</td>
<td>Test Date</td>
<td>Test Date</td>
<td>Test Date</td>
<td>Test Date</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Production Record</th>
<th>Production Record</th>
<th>Production Record</th>
<th>Production Record</th>
<th>Production Record</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Production Data</td>
<td>Production Data</td>
<td>Production Data</td>
<td>Production Data</td>
<td>Production Data</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A-FILE (Unpacked) RECORD LAYOUT</th>
<th>A-FILE (Unpacked) RECORD LAYOUT</th>
<th>A-FILE (Unpacked) RECORD LAYOUT</th>
<th>A-FILE (Unpacked) RECORD LAYOUT</th>
<th>A-FILE (Unpacked) RECORD LAYOUT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identification Record</td>
<td>Identification Record</td>
<td>Identification Record</td>
<td>Identification Record</td>
<td>Identification Record</td>
</tr>
<tr>
<td>Well or Lease Identification</td>
<td>Field Record Code</td>
<td>Field Name</td>
<td>Operator Name</td>
<td>Lease or Well Name</td>
</tr>
<tr>
<td>Well or Lease Identification</td>
<td>Field Record Code</td>
<td>Field Name</td>
<td>Operator Name</td>
<td>Lease or Well Name</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Production Data</th>
<th>Production Data</th>
<th>Production Data</th>
<th>Production Data</th>
<th>Production Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Test Date</td>
<td>Test Date</td>
<td>Test Date</td>
<td>Test Date</td>
<td>Test Date</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Production Record</th>
<th>Production Record</th>
<th>Production Record</th>
<th>Production Record</th>
<th>Production Record</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
<td>Well or Lease Identification</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
<td>FEDERAL TRADE COMMISSION DECISIONS</td>
</tr>
</tbody>
</table>
ANNEX 2

Production Data
Annex 2 B
Page 2 of 3

TEXAS OIL TEST RECORD LAYOUT
Tape Structure
A DPDS/TOTL Fixed-Format data tape contains data from the Dwight's Petroleum Data System Oil and Gas file (TOTL) database. There are three versions of the DPDS/TOTL Fixed-Format file:

The Initial Load format will contain all information about each Field or Reservoir.

The Update format will contain only information that has been updated since the previous release.

The Special format will contain all information about each Field or Reservoir in a custom-defined area.

There are multiple physical files per tape. Each tape begins with a Tape Header File. This file contains one record, a Tape Header Record (Record type 0000), which identifies the information present on the tape. The remaining files are divided into TOTL Area Groups. Each TOTL Area Group has:

File Header File. This file contains one record, a File Header Record (Record Type 0001), which identifies the DPDS Area to which the data file applies.

Data File. This file contains the actual DPDS/TOTL data. Refer to the attached tape specifications for the format of the data file. The last record in the Data File will always be a File Total Record (Record Type 9900). The File Total Record contains control totals which can be used to verify that the update completed successfully.

The last file on the tape is a Tape Total File. This file contains one record, a Tape Total Record (Record Type 9999), which contains control totals which can be used to verify that the update completed successfully.

Each file on the DPDS/TOTL Fixed-Format tape has a record length of 140. The records are blocked at 114 records per block for a blocksize of 15,960.

Tapes can be produced using either the EBCDIC or ASCII character set.

Dwight's uses industry-standard 2400 feet, 9-track tapes.

Record Type Relationships
Each record contains a Unique Record identifier and a Transaction Code. The Unique Record Identifier (UNIQID) will specifically identify one, and only one, field or reservoir record in DPDS/TOTL. The Transaction Code indicates the action to be taken to update the data associated with the TOTL field or reservoir record. There are three Transaction Types:
The Add Transaction Type (A) indicates that the data on the transaction record did not previously exist and should be added to the file. An Initial Load tape will consist of only Add transactions. If an Add transaction is encountered on Record Type 0100, this indicates a new field or reservoir to be added to the file. An Add transaction on other record types indicates that the data on that transaction record should be added to the field or reservoir record identified by the Unique Record Identifier.

The Change Transaction Type (C) indicates that one or more data items on the transaction record has been updated. All data items on the TOTL field or reservoir record should be updated with the values provided on the Change transaction.

The Delete Transaction Type (D) indicates that all data items on the transaction record have been deleted from the DPDS/TOTL file. If a Delete transaction is encountered on Record Type 0100, this indicates that the entire field or reservoir record has been deleted from the DPDS/TOTL file. A Delete transaction on other record types indicates that only those data items on that transaction have been deleted from the field or reservoir record.

Data Types
There are three data types used by the DPDS/TOTL Fixed-Format Specification. The Data Type is indicated by an A, N, or L in the "Type" column of the Fixed-Format Specification that follows. The three data types are:

1. Alpha-Numeric data type (A) indicates text data and can contain letters, numbers, and special characters. Alpha-numeric data is left-justified.
2. Numeric data type (N) contains a numeric value only. The numbers are FORTRAN-compatible. The numbers do not contain leading zeros, and have an explicit decimal point if not a whole number. A numeric specification is provided in the "Format" column. The numeric specification is given in the format "W.D", where "W" is the total field width, and "D" is the number of decimal digits.
3. Logical data type (L) contains either a "1" or a blank. The "1" indicates a "TRUE" condition, and the blank indicates a "FALSE" condition.

EXHIBIT A
LICENSE AGREEMENT FOR SPECIFIED DATA

This Agreement is made by and between Dwight's Energydata, Inc., a Delaware corporation, located at 1633 Firman Drive, Richardson, Texas 75081 (hereinafter referred to as "Dwight's"), and HPDI, L.L.C., located at 9300 Research Boulevard, Suite 306, Austin, Texas (hereinafter referred to as "Licensee"). This Agreement replaces and supersedes an Agreement between the parties signed as of May 2, 1996, which earlier Agreement shall be null and void.

1. LICENSE AND DATA

(a) Dwight's hereby grants to Licensee, subject to the terms and provisions of this Agreement, a perpetual, worldwide, nonexclusive license (the "License") to use, combine with other information, reproduce and market, with the rights provided herein to sublicense, assign or otherwise transfer, the digital well data and the digital production data described on Schedule A hereto (collectively the
"Specified Data"). The License shall become effective on the Effective Date (as hereinafter defined) upon the payment by License of the initial installment of the License Fee (as hereinafter defined) in accordance with paragraph 3 hereof.

(b) Dwight's shall deliver the Specified Data to Licensee in machine-readable form in the record layout in Annex 1 to Schedule A hereto (for well data), in the record layouts in Annexes 2A, 2B and 2C to Schedule A hereto for production data, the Texas oil test (W10 file and the Louisiana oil test (DM1R) file) and in the record layout in Annex 3 to Schedule A hereto (for Petroleum Data System (PDS) data). The Specified Data so delivered shall be in the computer language in which Dwight's records therefor are maintained or, if requested in writing by the Licensee at least ten days prior to the Effective Date, in industry standard (8-bit) ASCII, or in any other mutually agreeable format. Delivery of the Specified Data shall be in accordance with the following schedule:

(i) A copy of the well data portion of the Specified Data, current as of each date of delivery, shall be delivered (A) in a single delivery within ten days after the Effective Date [ ].

(ii) A copy of the production data portion of the Specified Data for the states of Texas, Louisiana, Oklahoma, New Mexico, Kansas and Colorado and for Guld offshore (the "HPDI Areas"), current as of each date of delivery, shall be delivered (A) in a single delivery within ten days after the Effective Date [ ].

(iii) A copy of the production data portion of the Specified Data for all areas other than the HPDI Areas (the "Non-HPDI Areas"), current as of each date of delivery, shall be delivered (A) in a single delivery within ten days after the Effective Date [ ].

(iv) A copy of the PDS data portion of the Specified Data, current as of each date of delivery, shall be delivered (A) in a single delivery within ten days after the Effective Date [ ].

The Specified Data so delivered shall be accompanied by well identifier codes, field and reservoir codes and operator codes created by Dwight's for use by Licensee to the same extent as Dwight's has created such codes for its own use.

(c) Each portion of the Specified Data shall be current as of the date of its delivery for all data elements included in the products listed on Schedule A hereto that are part of the delivery. Dwight's shall have no obligation to provide updates with respect to Specified Data after the date of delivery thereof [ ].

(d) Notwithstanding the foregoing, and subject to paragraph 1(f) hereof, Licensee shall have no right to market, sublicense, assign or otherwise transfer the record layouts and formats set forth in Annexes 1, 2A, 2B, 2C or 3 to Schedule A hereto, any proprietary well identifier codes, field and reservoir codes or operator codes of Dwight's or any other proprietary formats of Dwight's. In no event shall Licensee acquire any right under this Agreement to (i) any latitude or longitude data that Dwight's possesses solely by reason of the Data Exchange and Sales Representative Agreement, dated June 1, 1995, with Tobin Data Graphics LLC ("TDG"), (ii) any software (or any intellectual property or other rights in respect thereof) or (iii) any calculation of estimated future recoverable oil and gas reserves. Without limiting the foregoing, it is acknowledged that the Agreement Containing Consent Order (In the Matter of SoftSearch Holdings, Inc., and GeoQuest International Holdings, Inc., File No. 951-0130) in the form executed by Dwight's for acceptance by the Federal Trade Commission (the "Order"), contemplates that
Licensee shall be offered a Sales Representative Agreement by TDG covering the same products and on as favorable terms as those agreed to from time to time between TDG and Petroleum Information/Dwight's (as hereinafter defined).

(c) At the time of delivery of each portion of the Specified Data, Dwight's shall provide Licensee for its own use a copy of all technical system documentation and user documentation relating to such Specified Data then in existence. With respect to the Specified Data as a whole, such documentation shall include, but is not limited to, a description of all data elements in Dwight's Well Data System, a description of the data file in Dwight's A-File (unpacked) file; a description of the test file in the Texas oil test (W10) file; a description of the test file in the Louisiana oil test (DMIR) file; Dwight's "Data Item Manual" and the keys to all codes created by Dwight's for use by Licensee pursuant to paragraph 1(b) above.

(f) On the Effective Date, Dwight's shall provide Licensee, in machine-readable form as described in paragraph 1(b) above, with a cross-reference to enable Licensee and its Sublicensees to convert from Dwight's proprietary codes to non-proprietary codes.

2. LICENSE TERM

(a) This Agreement shall become effective on the latest of (i) the date the assets of Dwight's are transferred to Petroleum Information/Dwight's, L.L.C. ("Petroleum Information/Dwight's") pursuant to the Formation Agreement to be entered into by Dwight's and GeoQuest International Holdings, Inc., or (ii) the date the order becomes final; or (iii) the date the Federal Trade Commission approves divestiture to HPDI, L.L.C. pursuant to the order, (the latest such date being herein referred to as the "Effective Date"), and shall remain in effect unless and until it is terminated in accordance with the terms hereof or applicable law. Dwight's shall have no obligation to Licensee to effect such transfer or obtain such issuance or approval, any of which may be abandoned at any time for any reason or no reason. Nothing contained in the immediately preceding sentence is intended to, or shall, permit Dwight's to license the Specified Data to a higher bidder pursuant to the order while Licensee is ready, willing and able to perform its obligations under this Agreement, if such transfer occurs and the Federal Trade Commission continues to require the License as contemplated by the order.

(b) Dwight's shall have no right, whether at common law, in equity, or in bankruptcy or reorganization (including through obtaining any equity interest in a reorganized Debtor) or otherwise, to terminate the License or to seek to have the License terminated, or to require, or seek to require, the Licensee to return the Specified Data.

(c) Licensee may terminate the License only by assignment as provided in paragraph 6, herein.

3. LICENSE FEE

(a) Licensee shall pay to Dwight's the sum of $[] for the license granted hereunder (the "License Fee") in accordance with the following schedule: [ ]. The amount of the License Fee remaining unpaid from time to time shall bear interest at the rate of [ ]% per annum, compounded monthly, payable annually on each anniversary of the Effective Date and on the date on which such amount matures, whether by acceleration or otherwise. Such amount shall be evidenced by a
negotiable promissory note of Licensee, payable to the order of Dwight's, in form and substance reasonably satisfactory to Dwight's, which shall be delivered by Licensee to Dwight's on the Effective Date.

(b) Licensee shall be responsible for and shall pay all sales, use, transfer or other taxes, however designated, levied or based on the License Fee, the License or any other rights granted under this Agreement, exclusive of taxes based on the overall income or capital of Dwight's.

4. PROPERTY RIGHTS: CONFIDENTIALITY

(a) No title to or ownership interest in any of the Specified Data or any other information provided pursuant to this Agreement is transferred to Licensee hereby. The Specified Data and all such other information, regardless of the form, format, and media in which they are contained, are and remain the exclusive property and trade secrets of Dwight's notwithstanding the license granted hereby. Dwight's retains all copyright interests in the Specified Data, whether published or unpublished, all trade secrets and all other intellectual or proprietary rights in the Specified Data and other information provided pursuant to this Agreement.

(b) Licensee hereby acknowledges that the Specified Data and other information provided pursuant to this Agreement contain trade secrets and other proprietary information of Dwight's.

(c) Licensee shall keep the Specified Data and such other information received from Dwight's under this License confidential in accordance with this Agreement. Licensee shall take all steps necessary or reasonably requested by Dwight's to assure that it, its sublicensees and others to whom Licensee may from time to time make the Specified Data available in accordance with this Agreement shall avoid unauthorized publication, use or disclosure of the Specified Data, and otherwise shall not permit the Specified Data to become publicly available.

(d) Licensee shall have no right to use the name "Dwight's" or "PI" or "Petroleum Information" (or any variations thereof) or any trademarks or service marks of Dwight's or Petroleum Information's in any manner, and Licensee shall not use the name "Dwight's" or "PI" or "Petroleum Information" (or any variations thereof) or any trademarks or service marks of Dwight's or Petroleum Information's in describing, marketing, using or sublicensing the Specified Data, or in any other manner. The foregoing is not intended to prohibit Licensee from (i) inserting announcements in the trade press, for a period not to exceed six months from the Effective Date, that on [date] Licensee acquired the Specified Data from Dwight's Energydata as a result of a consent order issued by the Federal Trade Commission relating to the merger of Dwight's and Petroleum Information Corporation or (ii) responding orally and in good faith, but not as part of any marketing effort, to inquiries concerning the source of the Specified Data.

5. UPDATES AND SUPPORT

Dwight's shall not be obligated to update or support any of the Specified Data after the Effective Date, except for [ ] the technical assistance provided pursuant to paragraph 9 hereof.
6. SUBLICENSES, ASSIGNMENTS AND OTHER TRANSFERS

Licensee shall not sublicense, assign or otherwise transfer any rights to any Specified Data in any manner that would have the effect of creating one or more vendors for the whole or any part of Specified Data in addition to Licensee. Notwithstanding the foregoing, Licensee shall have the right to do the following:

(a) Sublicense all or part of the Specified Data without (i) the right to further sublicense, or (ii) the right to disclose to the public;

(b) Assign or otherwise transfer all of its rights to and interest in all or part of the Specified Data to another person; provided that (i) Licensee provides Dwight's with prior written notice of such assignment or other transfer, including without limitation the name and address of the assignee or transferee, (ii) the assignee or transferee agrees in writing to be bound by all of the provisions hereof applicable to the Specified Data, and (iii) Licensee shall not retain any rights to or interest in any Specified Data assigned or otherwise transferred;

(c) Create distributorships or appoint sales agents for Licensee's data products that include the Specified Data, under agreements appropriate for the distribution of sublicenses of such products; provided that the distributors and sales agents agree in writing to be bound by all of the provisions hereof applicable to the Specified Data, including without limitation the sublicensing thereof;

(d) Grant sublicenses for Licensee's data products that include the Specified Data to geological libraries for access through such libraries only on a read-and-print-only basis; and

(e) Enter into bona fide data exchange agreements, wherein the recipient of rights in respect of the Specified Data has the right to market and sublicense the Specified Data; provided that such recipient shall not grant any sublicense of any of the Specified Data, or otherwise knowingly make any of the Specified Data available, to any person unless such person has agreed in writing not to sublicense the Specified Data and not to make the Specified Data publicly available; and provide also that such recipient agrees in writing to be bound by all of the provisions hereof applicable to the Specified Data.

All sublicense, assignments and other transfers permitted by this paragraph 6 shall be in writing and shall expressly provide that the restrictions contemplated by paragraph 4(c) and this paragraph 6 shall be enforced by Licensee, its licensor and the respective successors and assigns thereof. Upon Dwight's reasonable request from time to time. Licensee shall provide Dwight's with the forms of agreement used by Licensee so as to verify compliance by Licensee with the requirements of this paragraph 6.

7. LIMITATION OF LIABILITY: INDEMNIFICATION

(a) Dwight's represents and warrants that it holds such right, title and interest in the Specified Data as may be required to permit Dwight's to enter into and perform its obligations under this Agreement. THE SPECIFIED DATA AND THE MEDIA UPON WHICH THEY ARE SUPPLIED ARE PROVIDED "AS IS." DWIGHT'S MAKES NO OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ERROR-FREE USE ALL OF WHICH ARE EXPRESSLY
DISCLAIMED. DWIGHT'S MAKES NO REPRESENTATIONS AND WARRANTIES THAT THE
SPECIFIED DATA CONTAIN NO ERRORS OR OMISSIONS AND EXPRESSLY DISCLAIMS
ANY LIABILITY FOR ALL ERRORS AND OMISSIONS IN THE SPECIFIED DATA. Dwight's
is under no obligation to continue the development of the specified data or to
correct any error therein.

(b) IN NO EVENT SHALL DWIGHT'S BE LIABLE TO LICENSEE, OR ANY END-USER
OR ANY OTHER THIRD PARTY FOR ANY LOSS OR DAMAGE, INCLUDING WITHOUT
LIMITATION ANY LOSS OF USE, ANY DECISIONS MADE USING ANY OF THE SPECIFIED
DATA, OR ANY LOST PROFIT, INCIDENTAL, SPECIAL AND/OR CONSEQUENTIAL
DAMAGES, EVEN IF DWIGHT'S HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH
DAMAGES. In the event Licensee corrects any erroneous information licensed by
Dwight's hereunder after the delivery thereof pursuant hereto, Dwight's shall have
no interest in the correction. Dwight's shall have no obligation to provide Licensee
with any corrections it makes in the Specified Data after the delivery thereof
pursuant hereto.

(c) LICENSEE'S SOLE REMEDY IN RESPECT OF THE SPECIFIED DATA SHALL BE
REPLACEMENT OF THE DATA IN QUESTION.

(d) THE LIMITATIONS CONTAINED IN THIS PARAGRAPH 7 SHALL APPLY EVEN IF
ANY LIMITED REMEDY FAILS IN ITS ESSENTIAL PURPOSE.

(e) Licensee shall indemnify, defend, and hold harmless Dwight's and its
affiliates, employees, officers and directors from and against any and all sums,
costs, damages, judgments, losses and expenses (including without limitation
reasonable attorneys' fees and disbursements) which Dwight's or any of its
affiliates, employees, officers or directors may incur or be obligated to pay as a
result of (i) any claims for infringement of any copyright or other proprietary rights
as to the data products marketed by Licensee (other than the Specified Data
licensed hereunder that may be incorporated therein) or resulting from or relating
to any modification, reformatting or coding of the Specified Data or the
combination thereof with other data, or (ii) any claim or action resulting from or
arising out of the sublicensing, assignment or other transfer of the Specified Data
or the use of the Specified Data by Licensee or by any sublicensee, assignee or
other transferee of Licensee (other than a breach by the sublicensee, assignee or
transferee of the terms of its sublicense, assignment or transfer that satisfy, to the
extent applicable, the requirements of paragraph 4 and 6 hereof). SUCH
INDEMNIFICATION SHALL APPLY NOTWITHSTANDING ANY NEGLIGENCE (WHETHER
SOLE OR CONTRIBUTORY) ON THE PART OF ANY INDEMNIFIED PERSON. Licensee may
assume the defense of any matter for which indemnification under this paragraph
(e) is sought with counsel reasonably acceptable to Dwight's, which may be
Licensee's own counsel. If Licensee so assumes such defense, it shall take all steps
reasonably necessary in the defense or settlement of the matter at its own expense;
provided that an indemnified person may participate in such defense with its own
counsel but only at such indemnified person's own expense. Licensee may not
consent to any settlement of any such matter insofar as it affects such indemnified
person without such person's written consent.

8. INJUNCTIVE RELIEF

Licensee acknowledges and agrees that (a) the Specified Data and other
information provided pursuant to this Agreement are unique and consist of
valuable intellectual property that Dwight's will continue to use in its business, (b)
the publication, disclosure or misuse of the Specified Data and other information provided pursuant to this Agreement by Licensee or by its sublicensees, assignees and other transferees in violation of the restrictions provided in this Agreement will cause grave harm to Dwight's and (c) Dwight's remedy at law for a breach by Licensee of this Agreement will be inadequate. In the event of a breach or threatened breach of this Agreement by Licensee, Dwight's shall be entitled to obtain injunctive relief, specific performance and such other equitable relief in respect of Licensee and its sublicensees, assignees and other transferees. The foregoing shall in no way limit any other remedies to which Dwight's may be entitled under this Agreement, at law or in equity.

9. TECHNICAL ASSISTANCE

For up to 12 months after the Effective Date, upon reasonable notice to Dwight's from Licensees, Dwight's shall provide such technical assistance to Licensee as is reasonably necessary to enable Licensee to sublicense the Specified Data to end-users. Such technical assistance shall include reasonable consultation with knowledgeable employees of Dwight's sufficient so that Licensee's personnel may be appropriately trained in the sources and processing of the data contained in the Specified Data. Licensee shall pay Dwight's, within 30 days after each invoice therefor. Dwight's direct costs for providing such technical assistance, together with all sales, service, use or similar taxes payable in respect thereof. Direct costs consist of all out-of-pocket expenses, the salary and benefits attributable to Dwight's employees actually providing assistance for the time required for the provision of such assistance, and all other variable overhead. Any past due invoiced amounts shall bear interest at the lesser of 12% per annum or the highest rate allowed by applicable law from the date when due. Dwight's may cease the provision of such technical assistance if any such amounts remain unpaid for 60 days.

10. VERIFICATION OF DATA

Upon 24 hours' advance notice to Dwight's from Licensee, Dwight's shall provide Licensee, at Licensee's expense, reasonable access to, and the right to copy, any data-source documents or data in Dwight's possession that was used to compile the Specified Data, to the extent that Dwight's has such data-source document or data at the time of the request. Such documents and data may be used to verify or to correct the information contained in the Specified Data. Licensee shall not use the information contained therein for any other purpose and shall otherwise keep such information confidential at all times. Licensee shall pay Dwight's, within 30 days after each invoice therefor, Dwight's direct costs in providing such access or copying, together with all sales, service, use or similar taxes payable in respect thereof. Direct costs consist of all out-of-pocket expenses, the salary and benefits attributable to Dwight's employees for the time required for the provision of such access and copying, and all other variable overhead. Any past due invoiced amounts shall bear interest at the lesser of 12% per annum or the highest rate allowed by applicable law from the date when due. Dwight's may cease the provision of such access and copying if any such amounts remain unpaid for 60 days.
11. RIGHTS UNDER ADDITIONAL CONTRACTS

Within ten days after the Effective Date, Dwight's shall assign to Licensee, without any representation or warranty of any kind and without recourse, all of its rights under and interest in (a) the Data Exchange Agreement of July 1, 1993, with The Independent Oil & Gas Service, Inc., and (b) the Joint Marketing Agreement of July 1, 1994, with Munger Oil Information Services, Inc. (each an "Agreement to be Assigned"). No such assignment shall become effective until the other parties thereto consent to such assignment. If either such other party does not consent to such assignment, any well data to which Dwight's has an ownership right upon termination by Dwight's of the applicable Agreement to be Assigned (i) shall be deemed included in the Specified Data and licensed to Licensee hereunder on all of the terms and conditions provided herein and (ii) shall be delivered to Licensee as soon as practicable after such termination.

12. ATTORNEYS' FEES

Should either party institute any action or proceeding to enforce this Agreement or any provision hereof, or for damages by reason of any alleged breach of this Agreement, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' fees and disbursements, incurred by the prevailing party in connection with such action or proceeding.

13. EXCUSABLE DELAYS

Neither party shall be liable or responsible for delay or failure to perform any of such party's obligations under this Agreement (other than the payment of money) occasioned by any cause beyond its reasonable control, including but not limited to war; civil disturbance; fire; flood; earthquake; windstorm; unusually severe weather; acts or defaults of common carriers; accidents; strike or other labor trouble; lack of or inability to obtain materials, transportation, labor, fuel or supplies; governmental laws, acts, regulations, embargoes, or orders (whether or not such later prove to be invalid); or any other cause, contingency or circumstance not subject to such party's reasonable control.

14. RELATIONSHIP OF PARTIES

Nothing contained in this Agreement shall be construed to imply a joint venture, partnership, or agency relationship between Dwight's and Licensee. Neither party shall be liable for the debts, obligations, or responsibilities of the other party, and neither party shall have the right or authority to assume or create any obligation or responsibility, whether express or implied, on behalf of or in the name of the other party or to bind the other party in any manner.

15. ENTIRE AGREEMENT

This Agreement embodies the entire contractual agreement of the parties in relation to the subject matter hereunder, and there is no other oral or written agreement or understanding between the parties at the time of execution hereof. This Agreement cannot be modified except by the written agreement of both parties hereto. This Agreement is performable in and shall be governed by and construed
and enforced in accordance with the laws of the State of Texas. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, assigns and transferees; provided that Licensee may not sublicense, assign or otherwise transfer the License and any other rights under this Agreement except to the extent permitted by, and in compliance with, paragraph 4 and 6 hereof. It is hereby acknowledged and agreed that from an after the Effective Date, the obligations of Dwight's hereunder shall be performed solely by its successor, Petroleum Information/Dwight's, and Petroleum Information/Dwight's shall receive all the rights and benefits contemplated under this Agreement, and Dwight's shall have no liability therefor.

SCHEDULE A

I. Dwight's Production Data CD-Rom Products
   West Coast Area, consisting of California, Oregon, Pacific Federal Offshore, Alaska
   Gulf Coast Area, consisting of Arkansas, Louisiana, Mississippi, Alabama, Florida, Federal Offshore, Coastal Counties of Texas
   MidContinent Area, consisting of Arkansas, Kansas, Michigan, Oklahoma and Texas Railroad Commission District 10. Texas Area, consisting of all of Texas
   Rocky Mountain Area, consisting of Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Wyoming, Nebraska, Nevada, Utah

II. Dwight's Discover SCOUT CD-ROM Products
   Gulf Coast Area, consisting of Arkansas, Louisiana, Mississippi, Alabama, Florida, Federal Offshore
   MidContinent Area, consisting of Northern Arkansas, Michigan, Oklahoma and Texas Railroad Commission District 10 Texas Area, consisting of all of Texas
   Rocky Mountain Area, consisting of Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Wyoming, Nebraska, Nevada, Utah, Idaho

III. Dwight's Discover CD-ROM Products
   Oklahoma Area, consisting of Oklahoma
   Rocky Mountain Area, consisting of Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Wyoming, Nebraska, Nevada, Utah, Idaho

IV. Dwight's Petroleum Reservoirs (DPR) With Operated Production
    CD-ROM Products
   State of Alaska
   State of California
   Permian Basin
   Texas & Southeast New Mexico
   State of Oregon
   Gulf Coast Area, consisting of Alabama, Arkansas, Florida, Gulf of Mexico Offshore, Louisiana, Mississippi, Texas Railroad Commission Districts 2, 3, and 4
   MidContinent Area, consisting of Arkansas, Kansas, Oklahoma, Texas Railroad Commission District 10
   Rocky Mountain Area, consisting of Arizona, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, New Mexico
Record Layout for Comma Delimited File

The option to export WDS information in a comma delimited format provides additional flexibility for importing data into spreadsheets and database management programs.

Each field within a record is separated by commas. Fields are not alpha or zero filled. Alpha fields are surrounded by double quotes; any field without quotes is read as numeric.

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Maximum</th>
<th>Length</th>
<th>Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID</td>
<td>A</td>
<td></td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>RECORD TYPE (constant value: 10)</td>
<td>N</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>FULL AP NUMBER</td>
<td>A</td>
<td>10</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>AP STATE CODE</td>
<td>A</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>AP COUNTY CODE</td>
<td>A</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>AP WELL CODE</td>
<td>A</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>SECTION</td>
<td>A</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>TOWNSHIP</td>
<td>N</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>TOWNSHIP DIRECTION</td>
<td>A</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>RANGE</td>
<td>N</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>RANGE DIRECTION</td>
<td>A</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>QUARTER QUARTER</td>
<td>A</td>
<td></td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>FOOTAGE NORTH/SOUTH</td>
<td>A</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>FOOTAGE DIRECTION NORTH/SOUTH</td>
<td>A</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>FOOTAGE EAST/WEST</td>
<td>A</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>FOOTAGE CORNER</td>
<td>A</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>FOOTAGE QUALIFIER</td>
<td>A</td>
<td></td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>OPERATOR CODE</td>
<td>N</td>
<td></td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>OPERATOR</td>
<td>A</td>
<td></td>
<td>40</td>
<td>42</td>
</tr>
<tr>
<td>LEASE NAME</td>
<td>A</td>
<td></td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>WELL NUMBER</td>
<td>A</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>ELEVATION</td>
<td>A</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>ELEVATION TYPE</td>
<td>A</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>FIELD NAME</td>
<td>A</td>
<td></td>
<td>30</td>
<td>35</td>
</tr>
<tr>
<td>FIELD CODE</td>
<td>N</td>
<td></td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>RESERVOR</td>
<td>A</td>
<td></td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>OBJECTIVE DEPTH - MEASURED</td>
<td>N</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>OBJECTIVE DEPTH - PCD</td>
<td>N</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>OBJECTIVE FORMATION</td>
<td>N</td>
<td></td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>OBJECTIVE FORMATION AGE CODE</td>
<td>N</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>WELL TYPE</td>
<td>A</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>COMPLETION TYPE</td>
<td>A</td>
<td></td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>CLIENT FORMATION ADOPTED</td>
<td>A</td>
<td></td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>CLIENT FORMATION AGE CODE</td>
<td>N</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>FILE STATUS FLAG</td>
<td>A</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>CONDITION STATUS</td>
<td>A</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>EENTRY DATE (MM/DD/YYYY)</td>
<td>N</td>
<td></td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>CHANGED DATE (MM/DD/YYYY)</td>
<td>N</td>
<td></td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>PRODUCT DATE (MM/DD/YYYY)</td>
<td>N</td>
<td></td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>PRODUCT NUMBER</td>
<td>A</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>OFFICER FLAG</td>
<td>A</td>
<td></td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
### Well Data

**Annex 1**

**Page 2 of 7**

#### LATITUDE & LONGITUDE

**FILE NAME:** *_LLL*

<table>
<thead>
<tr>
<th>Item Name</th>
<th>Format</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Length</th>
<th>عيدد</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID ID</td>
<td>A</td>
<td>8</td>
<td>11</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>RECORD TYPE (now and future ID)</td>
<td>M</td>
<td>2</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>LAT-LONG SOURCE</td>
<td>A</td>
<td>4</td>
<td>9</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>LATITUDE</td>
<td>M</td>
<td>10</td>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>LONGITUDE</td>
<td>M</td>
<td>10</td>
<td>11</td>
<td>11</td>
<td>11</td>
</tr>
</tbody>
</table>

#### PRODUCER & COMPLETION DATA

**FILE NAME:** *_CLD*

<table>
<thead>
<tr>
<th>Item Name</th>
<th>Format</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Length</th>
<th>عيدد</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID ID</td>
<td>A</td>
<td>8</td>
<td>11</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>RECORD TYPE (now and future ID)</td>
<td>M</td>
<td>2</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>SPUD DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>CONTRACTOR</td>
<td>A</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>RCS NUMBER</td>
<td>A</td>
<td>10</td>
<td>16</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>CIRCULATION MEDIA</td>
<td>A</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>TOTAL DEPTH - MEASURED</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>TOTAL DEPTH - TVD</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>TOTAL DEPTH DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>FORMATION AT TOTAL DEPTH</td>
<td>A</td>
<td>34</td>
<td>37</td>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>FORMATION AT TO ACE CODE</td>
<td>M</td>
<td>3</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>FLOWAGE DEPTH</td>
<td>M</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>COMPLETION DATE YYYYMMDD</td>
<td>M</td>
<td>9</td>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>COMPLETION CODE</td>
<td>A</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>FINAL STATUS</td>
<td>A</td>
<td>8</td>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>PRODUCING LEASE NUMBER</td>
<td>M</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>PRODUCING WELL NUMBER</td>
<td>M</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>LOCATION REPORT DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>COMPLETION REPORT DATE YYYYMMDD</td>
<td>N</td>
<td>8</td>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>DATA SOURCE</td>
<td>A</td>
<td>8</td>
<td>9</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>DATA SOURCE WELL ID</td>
<td>A</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
</tr>
</tbody>
</table>

* Files with similar names may have non-conformity in data even though the format is identical.*
### ANNEX I

#### Well Data

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Type</th>
<th>Maximum Length</th>
</tr>
</thead>
<tbody>
<tr>
<td>ID</td>
<td>A</td>
<td>6</td>
</tr>
<tr>
<td>RECORD TYPE (COMMON FIELD: 20)</td>
<td>N</td>
<td>2</td>
</tr>
<tr>
<td>TOP RT</td>
<td>A</td>
<td>4</td>
</tr>
<tr>
<td>FORMATION TOP TYPE</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>FORMATION DEPTH</td>
<td>A</td>
<td>27</td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>N</td>
<td>2</td>
</tr>
</tbody>
</table>

#### All Names Data

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Type</th>
<th>Maximum Length</th>
</tr>
</thead>
<tbody>
<tr>
<td>ID</td>
<td>A</td>
<td>6</td>
</tr>
<tr>
<td>RECORD TYPE (COMMON FIELD: 40)</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>RECORD STATEMENT</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>RECORD SUB-SEQUENCE NUMBER</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>4</td>
</tr>
<tr>
<td>INFORMATION TYPE CODE</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>INFORMATION TYPE</td>
<td>A</td>
<td>11</td>
</tr>
</tbody>
</table>

#### Formed Core Data

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Type</th>
<th>Maximum Length</th>
</tr>
</thead>
<tbody>
<tr>
<td>ID</td>
<td>A</td>
<td>6</td>
</tr>
<tr>
<td>RECORD TYPE (COMMON FIELD: 40)</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>4</td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (COMMON FIELD: 20)</td>
<td>N</td>
<td>2</td>
</tr>
<tr>
<td>INFORMATION TYPE (COMMON FIELD: 20)</td>
<td>A</td>
<td>2</td>
</tr>
<tr>
<td>TEST NUMBER</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>INTERVAL TOP</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>INTERVAL BOTTOM</td>
<td>N</td>
<td>4</td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>A</td>
<td>27</td>
</tr>
<tr>
<td>FORMATION AGE CODE</td>
<td>N</td>
<td>3</td>
</tr>
<tr>
<td>REMARKS</td>
<td>A</td>
<td>38</td>
</tr>
</tbody>
</table>

**Notes:** All tables are in columns.
## ANNEX 1

**WELL DATA**

**Annex 1**

**Page 4 of 7**

### PARSED DMT DATA

**FILE NAME: *.DMT**

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Start</th>
<th>Length</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>WID 2</td>
<td>A</td>
<td>6</td>
<td>11</td>
</tr>
<tr>
<td>RECORD TYPE (columns 1-30)</td>
<td>N</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>RECORD IDENTIFICATION NUMBER</td>
<td>N</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>RECORD NON-IDENTIFICATION NUMBER</td>
<td>N</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (columns 61-120)</td>
<td>N</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>INFORMATION TYPE (columns 121-142)</td>
<td>N</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>TEST NUMBER</td>
<td>A</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>INTERVAL TOP</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>INTERVAL BOTTOM</td>
<td>N</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>A</td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>FORMATION ACE CODE</td>
<td>N</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>STATUS REMARKS</td>
<td>A</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>FIRST TIME OPEN</td>
<td>M</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>FIRST TIME SHUT IN</td>
<td>M</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>SECOND TIME OPEN</td>
<td>M</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>SECOND TIME SHUT IN</td>
<td>M</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>INITIAL HYDROSTATIC PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>FINAL HYDROSTATIC PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>INITIAL FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>FINAL FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>SECOND FLOW PRESSURE</td>
<td>M</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>BOTTOM ROE TEMPERATURE</td>
<td>M</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>RESISTIVITY</td>
<td>M</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>RECOVERY 1 VALUE</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 1 DESCRIPTION</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 2 VALUE</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 2 DESCRIPTION</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 3 VALUE</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 3 DESCRIPTION</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 4 VALUE</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 4 DESCRIPTION</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 5 VALUE</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 5 DESCRIPTION</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 6 VALUE</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>RECOVERY 6 DESCRIPTION</td>
<td>A</td>
<td>2</td>
<td>8</td>
</tr>
</tbody>
</table>

**SAMPLE NARRATIVE**

--

**Table 3: Table 3 is added as a note.**
## ANNEX I

### Well Data

**ANNEX I**

**Page 5 of 7**

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Length</th>
<th>Default</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PARED SHOW</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FILE NAME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ITEM</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FILE NAME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>REMARKS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Shaw Narrative**

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Length</th>
<th>Default</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PARED PINS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FILE NAME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ITEM</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FORM NAME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>REMARKS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Pick Narrative**

<table>
<thead>
<tr>
<th>Field Name</th>
<th>Format</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Length</th>
<th>Default</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PARED PICKS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FILE NAME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ITEM</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FORM NAME</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>REMARKS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Next Line Narrative**

1. **Data at Bottom**
2. **Data at Middle**
<table>
<thead>
<tr>
<th>Item Name</th>
<th>Type</th>
<th>Maximum</th>
<th>Length</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>WIDE ID</td>
<td>A</td>
<td>6</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE (maximum value: 40)</td>
<td>M</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (maximum value: 31)</td>
<td>M</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>VOLUME, OIL</td>
<td>N</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>UNITS OIL VOLUME</td>
<td>A</td>
<td>7</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>VOLUME, GAS</td>
<td>N</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>UNITS GAS VOLUME</td>
<td>A</td>
<td>7</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>VOLUME, WATER</td>
<td>N</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>UNITS WATER VOLUME</td>
<td>A</td>
<td>7</td>
<td>7</td>
<td></td>
</tr>
</tbody>
</table>

- OF NO VALUE

<table>
<thead>
<tr>
<th>Item Name</th>
<th>Type</th>
<th>Maximum</th>
<th>Length</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>WIDE ID</td>
<td>A</td>
<td>6</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>RECORD TYPE (maximum value: 40)</td>
<td>M</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>RECORD SEQUENCE NUMBER</td>
<td>N</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>INFORMATION SOURCE</td>
<td>A</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (maximum value: 31)</td>
<td>M</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>INFORMATION TYPE CODE (maximum value: Parts/Position)</td>
<td>A</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>INTERVAL TOP</td>
<td>M</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>INTERVAL BOTTOM</td>
<td>M</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FORMATION NAME</td>
<td>A</td>
<td>34</td>
<td>37</td>
<td></td>
</tr>
<tr>
<td>FORMATION AGE CODE</td>
<td>M</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>CHOOSE CODE</td>
<td>A</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>FLOW TESTING PRESSURE</td>
<td>M</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>FLOW CLOSING PRESSURE</td>
<td>M</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>START IN TUNING PRESSURE</td>
<td>M</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>START IN CLOSED PRESSURE</td>
<td>M</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>GRAVITY</td>
<td>M (3.1)</td>
<td>6</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>CER. VOLUME</td>
<td>M</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>CER. VOLUME W</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>COM VOLUME</td>
<td>M</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>COM VOLUME W</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>WATER VOLUME</td>
<td>M</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>WATER VOLUME W</td>
<td>A</td>
<td>7</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>METHOD OF TEST</td>
<td>A</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>CALIBRATED FLAG</td>
<td>M</td>
<td>10</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>CODE</td>
<td>A</td>
<td>22</td>
<td>22</td>
<td></td>
</tr>
</tbody>
</table>

- OF NO VALUE
## ANNEX 1

**Well Data**

### OPERATOR & NAME LIST

<table>
<thead>
<tr>
<th>File Name</th>
<th>Field</th>
<th>Operator Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>WELL ID</td>
<td>A</td>
<td>6</td>
<td>11</td>
</tr>
<tr>
<td>RECORD TYPE (CONFIDENTIAL PART)</td>
<td>N</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>DIVERTED OPERATOR CODE</td>
<td>N</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>OPERATOR ADDRESS</td>
<td>N</td>
<td>5</td>
<td>8</td>
</tr>
<tr>
<td>API STATE CODE</td>
<td>N</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>POSTAL ADDRESS</td>
<td>A</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>STATE NAME</td>
<td>A</td>
<td>20</td>
<td>21</td>
</tr>
<tr>
<td>API/COUNT CODE</td>
<td>N</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>COUNTY NAME</td>
<td>A</td>
<td>20</td>
<td>22</td>
</tr>
<tr>
<td>DIVERTED DISTRICT CODE</td>
<td>N</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>DISTRICT NAME</td>
<td>A</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>API/NAME CODE</td>
<td>N</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>API/NAME NAME</td>
<td>A</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>COUNTRY CODE</td>
<td>A</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>COUNTRY NAME</td>
<td>A</td>
<td>20</td>
<td>21</td>
</tr>
</tbody>
</table>

*Note: All fields marked with an asterisk (*) are sensitive and have been redacted for confidentiality.*
ANNEX 2

Production Data
Annex 2
Page 2 of 3

Texas Oil Test Record Layout

[Diagram of Texas Oil Test Record Layout]
Tape Structure
A DPDS/TOTL Fixed-Format data tape contains data from the Dwight's Petroleum Data System Oil and Gas file (TOTL) database. There are three versions of the DPDS/TOTL Fixed-Format file:

The Initial Load format will contain all information about each Field or Reservoir.
The Update format will contain only information that has been updated since the previous release.
The Special format will contain all information about each Field or Reservoir in a custom-defined area.

There are multiple physical files per tape. Each tape begins with a Tape Header File. This file contains one record, a Tape Header Record (Record Type 0000), which identifies the information present on the tape. The remaining files are divided into TOTL Area Groups. Each TOTL Area Group has:

File Header File. This file contains one record, a File Header Record (Record Type 0001), which identifies the DPDS Area to which the data file applies.
Data File. This file contains the actual DPDS/TOTL data. Refer to the attached tape specifications for the format of the data file. The last record in the Data File will always be a File Total Record (Record Type 9900). The File Total Record contains control totals which can be used to verify that the update completed successfully.
The last file on the tape is a Tape Total File. This file contains one record, a Tape Total Record (Record Type 9999), which contains control totals which can be used to verify that the update completed successfully.

Each file on the DPDS/TOTL Fixed-Format tape has a record length of 140. The records are blocked at 114 records per block for a blocksize of 15,960.
Tapes can be produced using either the EBCDIC or ASCII character set.
Tapes can be produced at a density of 1600 or 6250 bpi.
Dwight's uses industry-standard 2400 feet, 9-track tapes.

Record Type Relationships
Each record contains a Unique Record identifier and a Transaction Code. The Unique Record Identifier (UNIQID) will specifically identify one, and only one, field or reservoir record in DPDS/TOTL. The Transaction Code indicates the action to be taken to update the data associated with the TOTL field or reservoir record. There are three Transaction Types:
The Add Transaction Type (A) indicates that the data on the transaction record did not previously exist and should be added to the file. An initial Load tape will consist of only Add transactions. If an Add transaction is encountered on Record Type 0100, this indicates a new field or reservoir to be added to the file. An Add transaction on other record types indicates that the data on that transaction record should be added to the field or reservoir record identified by the Unique Record Identifier.

The Change Transaction Type (C) indicates that one or more data items on the transaction record has been updated. All data items on the TOTL field or reservoir record should be updated with the values provided on the Change transaction.

The Delete Transaction Type (D) indicates that all data items on the transaction record have been deleted from the DPDS/TOTL file. If a Delete transaction is encountered on Record Type 0100, this indicates that the entire field or reservoir record has been deleted from the DPDS/TOTL file. A Delete transaction on other record types indicates that only those data items on that transaction have been deleted from the field or reservoir record.

Data Types
There are three data types used by the DPDS/TOTL Fixed-Format Specification. The Data Type is indicated by an A, N, or L in the "Type" column of the Fixed-Format Specification that follows. The three data types are:

The Alpha-Numeric data type (A) indicates text data and can contain letters, numbers, and special characters. Alpha-numeric data is left-justified.

The Numeric data type (N) contains a numeric value only. The numbers are FORTRAN-compatible. The numbers do not contain leading zeros, and have an explicit decimal point if not a whole number. A numeric specification is provided in the "Format" column. The numeric specification is given in the format "W.D", where "W" is the total field width, and "D" is the number of decimal digits.

The Logical data type (L) contains either a "1" or a blank. The "1" indicates a "TRUE" condition, and the blank indicates a "FALSE" condition.

EXHIBIT B
TRUSTEE AND MARKETING AGREEMENT

TRUSTEE AND MARKETING AGREEMENT (this "Agreement"), dated as of _____ between respondents (as further defined below) and Ben C. Burkett, II ("Trustee").

PRELIMINARY STATEMENT

On __________, respondents entered into an Agreement Containing Consent Order, attached hereto as Exhibit A, that contemplates the issuance by the Federal Trade Commission (the "FTC") of an order set forth therein (the "order"), which has not yet been issued by the FTC or become final. The terms and provisions of the order shall be considered as if included and fully stated herein. Also, definitions included in the order shall apply throughout this Agreement.

If issued by the FTC, the order (at Article II) requires respondents to divest the Specified Data following completion of the merger. Article III of the order provides that, if respondents have not so divested, the FTC may appoint a Trustee,
and requires that, within 10 days of the FTC appointment of the Trustee, and subject to the prior approval of the FTC. Respondents must execute a trust agreement that transfers to the Trustee all rights and powers necessary to permit the Trustee to effect the divestiture required by the order. For this reason, the parties have prepared this Agreement, which shall be executed if and only if the conditions precedent, as set forth in Article III of the order, have occurred.

The Commission may approve divestiture of parts of the Specified Data to different acquiring entities, but in no event will there be more than one Acquirer for either the whole data set comprising the Specified Data, or any of the same parts of the data set comprising the Specified Data. Trustee will actively pursue an Acquirer(s) for the Specified Data.

ADDITIONAL DEFINITIONS

In addition to any terms parenthetically defined in the text of this Agreement, and terms defined in the order, the following definitions shall apply throughout:

1. "Approved Acquirer" means a Prospective Acquirer that has been approved by the FTC pursuant to Article II of the order.
2. "Divest" means to grant a perpetual, worldwide, nonexclusive license to the Acquirer, with the right, subject to the terms of the order, to use, combine with other information, reproduce, market, assign or otherwise transfer, and sublicense the Specified Data.
3. "Person" means any individual, corporation, partnership, or other business or legal entity.
4. "Prospective Acquirer" means a person with a bona fide interest in acquiring the assets to be divested.
5. "Respondents" means "Dwight's" and "PIC" as those two terms are defined in the order.

ARTICLE I

1.01. Transfer of Powers. Respondents hereby transfer to Trustee, in trust, and for the duration of the Trust as provided in Section 2.03 of this Agreement, and subject to the terms of the order, respondents' right and power to Divest the Specified Data.

1.02. Creation of Trust. Trustee hereby acknowledges receipt of the authority and power to divest the Specified Data in accordance with the terms of the order and to effect its purposes and agrees to hold such authority and power in trust (the "Trust") for the duration of the Trust as provided in Section 2.03 of this Agreement. The purpose of the Trust shall be to effect the prompt divestiture to an Approved Acquirer.

ARTICLE II

2.01. Powers of Trustee. Trustee shall have the rights, duties or powers with respect to the divestiture as set forth in Article III of the order. Any descriptions thereof contained in this Agreement in no way modify respondents' obligations under the order. Any modification of such rights, duties, and powers shall be made in accord with Section 7.04 of this Agreement.
2.02. Trustee's Duties. Trustee's duty shall be to Divest the Specified Data to an approved Acquirer in accord with the order and this Agreement. Trustee shall use Trustee's reasonable efforts to negotiate the most favorable price and terms for respondents in any proposed contract that Trustee submits to the FTC for approval, subject to respondents' absolute and unconditional obligation to Divest at no minimum price as stated in Article III.B.6 of the order.

2.03. Duration of Trustee's Authority. Trustee shall have the power and authority to divest the Specified Data to an Approved Acquirer for a period of twelve (12) months commencing on the latest to occur of (a) the date the assets of Dwight's are transferred to Petroleum Information/Dwight's pursuant to the merger agreement, dated as of _1996, between Dwight's and PIC (the "Transfer Date"), (b) the date the order become final and (c) the date of Trustee's appointment by the FTC. Such period may be extended pursuant to Article III.B.4 of the order. Such period may be terminated as provided in Section 6.01 of this Agreement.

2.04. Multiple Offers. If Trustee receives bona fide offers from more than one Prospective Acquirer, Trustee shall submit all such bids to the FTC, and if the FTC determines to approve more than one such acquiring entity for either the whole data set or for any of the same parts of the data set comprising the Specified Data, Trustee shall divest to the acquiring entity of entities selected by respondents from among those approved by the FTC.

2.05. Confidential and Proprietary Information. Trustee shall maintain the confidentiality of confidential or proprietary information relating to the assets to be divested. Such information may be disclosed only to:

(a) Prospective Acquirers;
(b) Prospective financiers and suppliers of Prospective Acquirers, or
(c) Persons employed by Trustee under Section 3.01 of this Agreement

Who have first executed appropriate confidentiality agreements. Respondents shall permit Prospective Acquirers and their prospective financiers or suppliers to inspect the assets to be divested with or without Trustee being present. Trustee may disclose to the FTC such confidential or proprietary information relating to the assets to be divested as the FTC may request, without the need for execution of a confidentiality agreement.

2.06. Unauthorized Disclosure. Trustee shall not license, divest, or otherwise disclose to any person or use any of the Specified Data or other information obtained from the respondents except as provided in this Agreement or order.

2.07. Reports. Trustee shall submit, sixty (60) days from the date of commencement of the Trustee's power and authority as provided in Section 2.03 of this Agreement and every sixty (60) days thereafter until Trustee's appointment has been completed or this Agreement terminates as provided in Section 6.01 of this Agreement, a confidential report in writing to respondents and the FTC, setting forth Trustee's efforts to accomplish the divestiture including (a) a summary of all discussions and negotiations held with, and the identities of, all interested persons, and (b) copies of offers, counteroffers and correspondence concerning the Prospective Acquirer(s). Trustee shall also provide to respondents and the FTC such other reports of efforts to divest the assets to be divested as respondents or the FTC may require.

2.08. Access to Relevant Information and Facilities. Trustee shall have full and complete access to the personnel, facilities, books and records, related assets
offered for divestiture or to other relevant information as Trustee may reasonably request. Respondents shall develop such financial or other information as Trustee may reasonably request and shall cooperate with any reasonable request of the Trustee. Trustee shall give respondents reasonable notice of any request for such access or such information; however, Trustee may have access to the assets themselves at any time during normal business hours without notice. Trustee shall attempt to schedule any other access or request for information in such a manner as will not unreasonably interfere with respondent’s operations.

2.09. Submission of Contracts for Approval. At any time during the duration of the Trust as provided in Section 2.03 of this Agreement, Trustee may submit to the FTC for approval, in accordance with the FTC's Rules governing approval, with a copy to respondents, any contract with a Prospective Acquirer to acquire the assets to be divested. In order to assist the FTC in assessing whether any Prospective Acquirer may be deemed an Approved Acquirer, Trustee may require the Prospective Acquirer to submit to the FTC a verified statement setting forth facts in support of its financial, technical, and marketing capabilities, and intent to use the assets to be divested, and to submit any business plan regarding the same.

2.10. Personal Liability of Trustee. Trustee shall serve without bond or other security and shall use Trustee's best judgment in performing Trustee's duties hereunder. With the exception of Sections 2.05 and 2.06 of this Agreement, Trustee shall be exempt from personal liability, to the extent permitted by law, for any action or decision not to act taken or made in good faith. Trustee shall be liable for misfeasance in performing under this Agreement or to the extent that any loss, claim, damage or liability results from Trustee's gross negligence, willful or wanton acts, or bad faith by the Trustee or Trustee's representatives.

ARTICLE III

3.01. Retention and Payments of Assistants. From the date of commencement of the Trustee's power and authority as provided in Section 2.03 of this Agreement, Trustee shall have authority to retain such consultants, accountants, attorneys, business broker, appraisers, and other representatives and assistants (collectively “Assistants”) as Trustee determines are reasonably necessary to assist Trustee to perform Trustee's duties hereunder. Retention of such Assistants shall be at the cost and expense of respondents. Respondents shall be responsible for reasonable fees and expenses for Assistants retained by Trustee hereunder, and such fees and expenses shall be billed separately from Trustee's personal expense and costs. Trustee shall note Trustee's approval of invoices for fees and expenses incurred pursuant to this Section 3.01 and submit the same to respondents no more than five (5) days after receipt of such invoices. Respondents shall pay such invoices in their usual course of payment, unless objected to in accordance with Section 3.03 of this Agreement.

3.02. Monthly Payments: Success Fees. Trustee shall be compensated by respondents for Trustee's services under this Agreement as provided in this Section 3.02.

(a) Respondents shall pay Trustee a retainer of [ ] on the date of execution of this Agreement by respondents and Trustee.
(b) Respondents shall pay Trustee a fee (the "Monthly Payment") of (i) [ ] per month during the first 12 months of the duration of the Trust as provided in Section 2.03 of this Agreement and (ii) [ ] per month thereafter if the duration of the Trust is extended as provided in Section 2.03 of this Agreement. The first Monthly Payment shall be made on the first day of the first month that commences after the commencement of the Trustee's power and authority as provided in Section 2.03 of this Agreement. Successive Monthly Payments shall be paid at the first day of each month thereafter until the earlier of: (A) the date the consummation of the divestiture contemplated hereby or (B) the date of termination of the Trust pursuant to Section 6.01 of this Agreement.

(c) Respondents shall pay Trustee a success fee (the "Success fee") if the divestiture of the Specified Data is consummated during the duration of the Trust as provided in Section 2.03 of the Agreement. The Success Fee shall equal the product of (i) the amount of cash consideration (exclusive of interest on any deferred payment obligation) provided in the definitive divestiture agreement (the "Cash Consideration"), time (ii) the percentage (the "Applicable Percentage") set forth below opposite the period in which the divestiture is consummated and Cash Consideration is first received by respondents, as follows:

<table>
<thead>
<tr>
<th>Date of Consideration and First Receipt</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>On or before the expiration of six months after the commencement of the Trustee's powers and authority as provided in Section 2.03 of this Agreement (&quot;First Six Months&quot;)</td>
<td>[ ]%</td>
</tr>
<tr>
<td>After the First Six Months but on or before the expiration of 12 months after the commencement of the Trustee's power and authority as provided in Section 2.03 of this Agreement (&quot;Second Six Months&quot;)</td>
<td>[ ]%</td>
</tr>
<tr>
<td>After Second Six Months</td>
<td>[ ]%</td>
</tr>
</tbody>
</table>

The Success Fee shall only be payable when, and as a percentage of, the Cash Consideration is received by respondents, and it shall not be payable if the divestiture is not consummated or in respect of any Cash Consideration that is not received by respondents. Notwithstanding the foregoing, if the maximum Success Fee otherwise payable under this Section 3.02(c) would be less than the minimum amounts (each the "Minimum Fee") set forth below opposite the period in which the divestiture is consummated and Cash Consideration is first received by respondents, the Success Fee shall equal the lesser of: (i) such Minimum Fee and (ii) the amount of Cash Consideration provided in the definitive divestiture agreement that is actually received by respondents.

<table>
<thead>
<tr>
<th>Date of Consideration and First Receipt</th>
<th>Minimum Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>During First Six Months</td>
<td>$[ ]</td>
</tr>
<tr>
<td>During Second Six Months</td>
<td>[ ]</td>
</tr>
<tr>
<td>After Second Six Months</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

If a Minimum Fee applies such fee shall be payable out of the first amounts of Cash Consideration received by respondents.
3.03. **Expenses.** Respondents shall reimburse Trustee's reasonable out-of-pocket expenses and costs incurred by Trustee or Trustee's Assistants in connection with the discharge of Trustee's duties and efforts to divest the Specified Assets to be divested. Such expenses and costs shall include reasonable expenses of travel, lodging, meals, incidental items, and personal car mileage at the maximum allowable rate per mile permitted by the Internal Revenue Service.

Respondents may object to payment of any bill submitted by Trustee for the payment of out-of-pocket expenses and costs for Trustee or Trustee's Assistants. Respondent shall make any such objection in writing within seven (7) days of receipt from Trustee of the bill. Payment shall be made for any portion of an amount requested which is not objected to. Any dispute under this Section 3.03 which the parties have not resolved within seven (7) days of any objection shall be submitted to the FTC for determination, which shall be binding on the parties.

3.04. **Cost of Collection.** Trustee may recover Trustee's costs of collection including reasonable attorneys' fees, if respondents fail to pay compensation or expenses and costs not objected to or not disapproved by the FTC pursuant to Section 3.03 of this Agreement.

**ARTICLE IV**

4.01. **Binders and downpayments.** Trustee shall deposit any funds paid by a prospective acquire as a refundable binder or downpayment in a separate interest bearing bank account with any accrued interest thereon being paid to the party entitled to such funds.

4.02. **License of Assets.** If the FTC has approved a Prospective Acquirer in accordance with Article III of the order, respondents shall execute a license agreement, and all related documents necessary to license the assets to be licensed; provided that the terms of such agreement and other documents shall be consistent with the order, shall disclaim all representations, warranties and liabilities in respect of the Specified Data by respondents and provide appropriate protection for the confidential and proprietary information of respondents, and shall contain such other provisions as shall be appropriate to licenses of similar property effected in similar circumstances.

4.03. **Closing.** Trustee shall make reasonable efforts to schedule signings, and closings for the consummation of divestitures, at a place and time determined by Trustee on dates that would provide respondents with at least thirty (30) days' prior notice. If such dates are unreasonably burdensome on the Acquirer, Trustee shall make reasonable efforts to schedule such signings, and closings for the consummation of divestitures, at mutually convenient times for all parties concerned. Trustee shall provide the FTC and respondents with an opportunity to review any closing documents prior to the closings for the consummation of divestitures.

4.04. **Final Accounting.** Upon the termination of Trustee's duties hereunder, there shall be an accounting ("Final Accounting") of any balance due and owing (i) for Trustee's expenses and costs (pursuant to Section 3.03 of this Agreement), (ii) for Monthly Fees (pursuant to Section 3.02(b) of this Agreement), and (iii) as Incentive Compensation (pursuant to Section 3.02(c) of this Agreement). The Final Accounting shall be approved by the FTC.
ARTICLE V

5.01. **Respondents' Duties.** Respondents shall use all reasonable efforts to assist and cooperate with Trustee in accomplishing the divestiture as contemplated by the order and this Agreement. Respondents shall take no action to interfere with or impede Trustee's accomplishment of the terms of the order.

5.02. **Respondents' Contact with Prospective Acquirers.** Respondents shall promptly notify Trustee in writing of any contact it may have with any persona that makes an offer or expresses an interest in acquiring the assets to be divested after the date of commencement of the Trustee's power and authority as provided in Section 2.03 of this Agreement.

5.03. **Indemnity of Trustee.** With the exception of Section 2.05 and 2.06 of this Agreement, respondents shall indemnify Trustee and hold Trustee harmless against any losses, claims, damages or liabilities to which Trustee may become subject arising in any manner out of or in connection with Trustee's duties under this Agreement and the order, unless such losses, claims, damages, or liabilities arise out of any misfeasance, gross negligence, willful or wanton acts, or bad faith by the Trustee or its representatives.

5.04. **Authority to Execute.** Respondents represent that the persons executing this Agreement on behalf of respondents have the authority to bind respondents to this Agreement.

ARTICLE VI

6.01. **Termination of Agreement and Trust.** This Agreement and the Trust established hereby shall terminate upon the earliest to occur of the following: (a) the completion of the divestiture; (b) Trustee's resignation or removal by the FTC for failure to perform Trustee's duties hereunder, (c) the termination of this Agreement by the FTC or (d) the expiration of Trustee's authority under Section 2.03 of this Agreement. Upon termination of the Trust, Respondents shall have no further obligation to pay compensation or expenses to Trustee hereunder, except to pay the compensation and reimburse Trustee for the expenses provided in Article III of this Agreement that have accrued to the date of termination. In furtherance of the foregoing, but not by way of limitation thereof, no Success Fee shall be payable to Trustee in respect of a divestiture that is consummated after the date of any termination. Trustee's obligations under Sections 2.05 and 2.06 of this Agreement and respondents' obligations under Sections 3.04, 4.04 and 5.03 of this Agreement shall survive any termination.

ARTICLE VII

7.01. **Notices.** The FTC shall be copied on all correspondence between Trustee and respondents. All notices and other communications required or permitted under this Agreement or the order shall be in writing and shall be deemed to have been duly given if personally delivered, mailed by registered or certified U.S. Mail return receipt requested, or delivered by overnight courier or Express Mail, or transmitted by facsimile to the following addresses, or any other address that has been designated in writing to the sending party:
7.02. **No Assignment.** This Agreement shall become effective upon the date of execution, subject to the approval of the FTC. This Agreement may not be assigned or otherwise transferred by respondents or Trustee without the consent of respondents and Trustee and the approval of the FTC. Any such assignment or transfer shall be consistent with the terms of the order. It is hereby acknowledged and agreed that from and after the Transfer Date, respondents' obligations hereunder shall be performed solely by their successor, Petroleum Information/Dwight's.

7.03. **Entire Agreement.** This Agreement, and those portions of the order incorporated herein by reference, constitute the entire agreement of the parties and supersede any and all prior agreements and understandings between the parties, written or oral, with respect to the subject matter hereof.

7.04. **Modification.** No amendment, modification, termination or waiver of any provision of this Agreement, nor consent to any departure therefrom by any parties hereto, shall be effective unless made in a writing signed by all parties and approved by the FTC. Any such amendment, modification, termination or waiver shall be consistent with the terms of the order.

7.05. **Duplicate Originals.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

7.06. **Section Headings.** Any heading of the sections of this Agreement are for convenience only and are to be assigned no significance whatsoever as to its interpretation and intent.
7.07. **Order Governs.** The order shall govern this Agreement and any provisions herein which conflict or are inconsistent with it may be declared null and void by the FTC and any provision not in conflict shall survive and remain a part of this Agreement.

7.08. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas (excluding any principles of such law that would apply any other law other than applicable Federal law) and such Federal laws as may apply.
SALES REPRESENTATIVE AGREEMENT

This is an agreement ("Agreement") entered into and effective as of _________ ("Effective Date") between TOBIN DATA GRAPHICS LLC, a Texas limited liability company, with its principal place of business at 114 Camp Street, San Antonio, Texas 78204, herein referred to as "TDG," and __________ herein referred to as "SR." TDG and SR shall be referred to individually as a "party," and collectively as the "parties." In consideration of the mutual promises and benefits set forth, the parties agree as follows:

Recitals:
TDG and SR desire that SR assist TDG in the marketing and delivery of certain well location information owned by TDG to customers.

1.0 Definitions. The following terms shall have the definitions provided.
1.1 "Coordinate" shall mean all latitudinal and longitudinal location references calculated or determined by TDG.
1.2 "Coordinate Fees" shall mean the use fees to be paid by customers for the Coordinates as described in Exhibit A hereto. The Coordinate Fees may be revised unilaterally by TDG from time to time; however, such Coordinate Fees will remain equal to or less than the Coordinate fees that TDG establishes with the entity created by the merger of Dwight's Energydata, Inc. and Petroleum Information Corporation. SR will be given thirty days advance written notice of any such revisions.
1.3 "License Agreement" shall mean the TDG agreement in the form attached hereto as Exhibit B to be entered into with customers pursuant to Section 2.1 below with such amendments as TDG may require from time to time in its discretion. SR will be given thirty days advance written notice of any such amendments. "TDG Customer Agreement" shall mean any agreement entered into between TDG and its customers for Coordinates delivered directly to such customers by TDG.
1.4 "Person" shall mean and include natural individuals and an entity of any type.

2.0 Appointment. During the term of this Agreement and subject to the other terms hereof, TDG hereby appoints SR on a nonexclusive basis, as a sales representative to assist TDG in the marketing and delivery of Coordinates which have been correlated to SR Well Data, and to bill and collect Coordinate Fees. SR may use its authorized sales agents to assist it provided that such agents comply with all terms and conditions imposed on SR by this Agreement, and that SR is responsible for their actions, in their capacity as sales agents.
2.1.1 License Agreement. Prior to delivering Coordinates to a customer who is not otherwise authorized in writing by TDG to receive Coordinates, SR shall obtain from such customer a signed copy of the License Agreement as in effect hereunder at the time. Each such signed copy shall be delivered to TDG withing thirty days of receipt by SR.
2.1.2 On-line License Agreement. Unless and until instructed otherwise by TDG in writing, SR is deemed to have obtained a valid, but limited, License Agreement from on-line customers only if the following provisions have been
satisfied: (i) SR shall provide a document on screen that describes the License Agreement provisions for viewing or downloading TDG data, (ii) this document must be acceptable to TDG both as to form and content, (iii) any on-line customers must have previously signed a SR license agreement in which the proprietary nature of the on-line data is agreed, (iv) the License Agreement is limited only to on-line delivery of TDG data and only for as long as this paragraph (2.1.2) is in effect, (v) customers are charged, and royalties are due, in accordance with TDG's then current Coordinate Fees schedule, and (vi) TDG is furnished a list of such current customers that have downloaded Coordinates each month.

2.2 Permitted Distribution. Prior to permitting a Person access to a Coordinate, from time to time after the Effective Data, SR must be deemed to have the permission of TDG as provided below ("TDG's Permission"). SR shall be deemed to have TDG's Permission if (i) SR has obtained from such Person a signed License Agreement regarding such Coordinate which is currently effective, (ii) SR has obtained from TDG notice that such Person otherwise has an effective TDG Customer Agreement regarding such Coordinate, or (iii) SR has complied with Section 2.1.2 above for delivery of on-line data. SR shall not be deemed to have TDG's Permission when (i) TDG provides notice to SR that any such License Agreement or TDG Customer Agreement is not effective, (ii) this Agreement is terminated, or (iii) the On-line License Agreement provisions in Section 2.1.2 are no longer valid or acceptable to TDG. The parties hereby agree that all information regarding their respective customers shall be deemed Confidential Information, as defined below, and shall not be used or disclosed for any reason other than to fulfill the purposes of this Section 2.2.

2.3 Activities of SR. With respect to the marketing and delivery of such Coordinates by SR the following shall apply:

a. SR shall represent itself to third parties only as a sales representative of TDG.

b. SR shall not represent to customers with respect to the Coordinates delivered by SR that such customer is being charged less than TDG charges for Coordinates if delivered by TDG. However, SR may at its sole discretion charge more than TDG charges.

c. SR shall not be required to devote any particular time or resources to marketing and delivering the Coordinates.

d. SR shall not represent or warrant (i) that TDG expects to deliver any particular number of Coordinates during any future period, or (ii) that TDG otherwise will or expects to undertake any activity not described in the License Agreement or in TDG's current marketing materials in effect and delivered to SR by TDG from time to time.

e. SR shall not allow any representations to be made that it is an agent or representative of TDG capable of binding TDG in any manner.

f. SR shall make no warranties or representations to third parties as to the accuracy, completeness or other condition of the Coordinates.

3.0 Coordinate Fees. SR shall bill customers on behalf of TDG not less than the Coordinate Fees currently in effect from time to time. The current Coordinate Fees are set forth in Exhibit A.
3.1 Collection and Payment. SR shall bill all Coordinate Fees in accordance with its normal procedures for billing its own or similar products. SR shall collect the Coordinate Fees from customers and forward such funds to TDG within thirty days of the end of the calendar month during which such Fees were collected.

3.2 Estimated Payments. SR may bill and collect Coordinate Fees in advance of delivery based on SR's estimate of the number of Coordinates to be delivered for a fixed period. Such Coordinate Fees shall be forwarded to TDG in accordance with Section 3.1 above provided that if the Coordinates actually delivered for the subject period are fewer than the estimate, TDG shall refund the excess payments to SR upon request. However, in accordance with SR's normal procedures, SR may bill its CD-Rom customers at the beginning of each customer's annual license period for all Coordinates available in the area subscribed to at that time. Any new Coordinates added to the area of coverage during the customer's annual license term will not be billed and Coordinate Fees will not be due TDG until the date of such customer's annual renewal term.

4.0 Coordinates.

4.1. Delivery and Use of Coordinates. Subject to the items of this Agreement, SR may duplicate and store the Coordinates internally for the sole purpose of delivering them to its customers and may deliver the Coordinates as a stand alone product or incorporate them as part of SR products in SR's normal course of business. SR shall not deliver, copy, use or disclose to third parties the Coordinates for any other purpose. Notwithstanding the above, SR shall not incorporate Coordinates into any product unless SR can limit individual customer access to the Coordinates ("Security Procedures") in compliance with this Agreement. All Security Procedures shall be disclosed to TDG and be reasonably acceptable to TDG.

4.2 Prohibited Transfers. SR may not offer a License Agreement or other right to, or otherwise knowingly make available, any Coordinate, or any component thereof to any of the following: (i) a competitor of TDG, (ii) a government agency, (iii) an entity which might cause such information to be available in the public domain, or (iv) any third party to use the data for the purpose of compiling, adding to, or building a data base or file that such third person could then use, sell, license, or lease to anyone else or for any purpose other than such third party's internal use.

5.0 Obligations of SR.

5.1 Reports. On the 30th day after each calendar month, SR will provide TDG the following reports:

A Delivery Report, on a mutually agreeable form, that identifies by area and by recipient the number of Coordinates delivered by SR during the prior calendar month.

A Statement, on a mutually agreeable form, of all sums billed by SR for Coordinates during the prior calendar month.

A Trouble Report identifying any errors in the Coordinates of which SR has actual knowledge.

If the parties cannot agree on a form, TDG shall provide the forms to be used.

6.0 Marketing and Distribution. SR shall obtain in writing, prior to use, written approval from TDG of any promotional or other material which uses the
name, trademarks or product names of TDG. Each party shall pay its own advertising, marketing, and distribution expenses.

7.0 Warranties. Except as otherwise provided herein, TDG warrants and represents that it has full and unrestricted right to use and to authorize others to use the Coordinates provided to SR. TDG EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES ARISING FROM COURSE OF CONDUCT AND USAGE OF TRADE ALL COORDINATES AND THE MEDIA UPON WHICH THEY ARE SUPPLIED ARE PROVIDED "AS IS." TDG MAKES NO WARRANTY EITHER EXPRESS OR IMPLIED AS TO THE VALIDITY, ACCURACY, OR COMPLETENESS OF ANY OF SUCH COORDINATES. SR ACCEPTS TDG'S COORDINATES "AS IS" AND WITH ALL FAULTS. TDG DISCLAIMS ANY LIABILITY FOR ALL, IF ANY, ERRORS AND OMISSIONS IN THE COORDINATES SUPPLIED HEREUNDER.

8.0 General Obligations.

8.1 Delivery. All data subject hereto shall be delivered in the delivering party's normal course of business and in its standard, electronic, machine readable form except as otherwise mutually agreed to by the parties. Each party shall be responsible for the media and transportation costs of delivering its data to the other party.

8.2 Business Practices. Each party agrees that the services to be provided by it shall be performed in a good and workmanlike manner, and that such services will be performed in accordance with all applicable federal, state and local laws. Each party shall keep full, clear and accurate financial and other records with respect to all data subject hereto including license and other agreements with customers.

8.3 License Enforcement. Each party agrees that it will use its best efforts in normal business practice to ensure that its customers do not use the data subject hereto in violation of this Agreement or the agreement entered into with the customer.

8.4 Inspection. TDG shall have the right at its own expense to inspect and audit those portions of SR's books, records and all associated documents necessary to ensure compliance with the terms and conditions of this Agreement. SR agrees to maintain such books, records and associated documents for a period of two (2) years from the end of the calendar year in which such items were recorded and to make such books, records and associated documents available to TDG at all reasonable times within such period and for so long thereafter as any dispute remains unresolved. So long as a dispute does not exist such inspections and audits shall not be conducted more than twice per year on 30 days prior notice.

9.0 Confidentiality.

9.1 Confidential Information. In the course of their mutual dealings, the parties each have become, and will continue to become, aware of the other party's business affairs, property, methods of operation, processing systems, trade secrets, data, software, programs, download formats and related information and technology in various forms and formats which the other party treats for itself or others as proprietary and confidential ("Confidential Information"). Except as otherwise provided herein, each party agrees that (i) the Confidential Information of the other party is the exclusive property of the other party and such other party retains all copyright, trade secret and trademark interests therein, whether published or unpublished, and (ii) it shall observe complete confidentiality with regard to all
aspects of the Confidential Information, and to insure such confidentiality, shall take appropriate action, by instruction, agreement or otherwise, with such party’s employees, consultants, contractors, and customers permitted access to such Confidential Information so as to enable such party to satisfy its confidentiality obligations under this Agreement. Each party agrees to limit access to the other party’s Confidential Information to those employees and consultants who in the course of their employment need access to such data. If either party provides access to data or Confidential Information to individuals or entities in breach of this Agreement, then such party agrees to indemnify and hold the other party harmless from (i) any and all resulting claims of liability to third parties, and (ii) was acquired by a party from a third party; or (iii) was know to a party prior to its receipt from the other party; shall not be deemed Confidential Information for the purposes of this Agreement or any other agreement between the parties.

9.2 Violations. Without limitation of the foregoing, a party which learns or has reason to believe that any person has had access to the data subject hereto or the Confidential Information, or any portion thereof, and, as a result, the terms of this Agreement are being violated (i) shall advise the other party immediately of such even, and (ii) shall cooperate with the other party in seeking injunctive or other equitable relief against any such third person. All of the undertakings and obligations relating to confidentiality and non-disclosure, whether contained in this paragraph or elsewhere in this Agreement, and whether of either party, shall survive the termination of this Agreement for whatever reason.

10.0 Proprietary Rights.

10.1 Infringement. Each party agrees to give prompt notice to the other party of any actual, threatened, or suspected infringement of proprietary, trademark or copyright rights of the other party by any entity or third party and agrees to provide reasonable assistance to the other party in the protection of those rights. Each party also shall give the other prompt notice of any claim that the data subject hereto may violate any rights of a third party.

11.0 Remedies, Limitation of Liability. The Coordinates subject hereto and the Confidential Information are unique and each party’s remedy at law for a breach of this Agreement by the other party may be inadequate. Each party acknowledges that the disclosure of any aspect of the other party’s Confidential Information or any information which, at law or equity, ought to remain confidential, or the breach of any other provision hereof, will give rise to irreparable injury to the other party inadequately compensable in damages. Accordingly, either party may seek or obtain injunctive relief against the breach or threatened breach to the terms of this Agreement, in addition to any other legal remedies which may be available, and each party hereby consents to the obtaining of such injunctive relief.

IN NO EVENT SHALL TDG BE LIABLE FOR ANY LOST PROFIT, INCIDENTAL, SPECIAL, AND/OR CONSEQUENTIAL DAMAGES RESULTING FROM ERRORS OR OMISSIONS IN THE COORDINATES PROVIDED HEREUNDER, EVEN IF TDG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SR’S SOLE REMEDY REGARDING DEFECTIVE COORDINATES SHALL BE REPLACEMENT OF THE MEDIA AND COORDINATES IN QUESTION PROVIDED, HOWEVER, THAT SR SHALL BE ENTITLED TO THIS REMEDY ONLY IF TDG IS CAPABLE OF CORRECTING THE COORDINATE IN THE NORMAL COURSE OF ITS BUSINESS. IN NO EVENT SHALL TDG BE LIABLE AS A RESULT OF DEFECTIVE, UNDELIVERED OR MISSING COORDINATES FOR ANY MONETARY AMOUNTS.
12.0 Term and Termination.

12.1 Term. This Agreement shall remain in effect for three years unless terminated earlier as provided herein. The period from the Effective Date of this Agreement until its termination is referred to herein as the term of the Agreement.

12.2 Termination Option. Each party shall have the right to terminate this agreement at any time upon giving the other party at least one year prior written notice of such termination. In addition, and upon giving 90 days written notice to SR, TDG shall have the right to terminate this Agreement in the event that it and/or its successor companies (i) in good faith ceases the conduct of calculating and providing Coordinates to customers or (ii) similarly terminates all Sales Representative Agreements that it may have with other sales representatives. On termination of this Agreement, TDG will not deliver additional Coordinates to SR. If this Agreement is terminated by SR, SR shall immediately return all copies of the Coordinates, and all manifestations of TDG's Confidential Information, and cease using such products and information for all purposes. If this Agreement is terminated by TDG, SR will be allowed, subject to the other provisions of this Agreement, to provide to customers Coordinates previously received, but only for the term of each customer's then existing written agreement (excluding any renewal or extension made or attempted after such term) but not to exceed three years following termination of this Agreement and only for the sole purpose of fulfilling commitments for subscription products in existence on the date of termination. At the end of such time, SR shall immediately return all copies of the Coordinates, and all manifestations of TDG's Confidential Information, and cease using such products and information for all purposes.

13.0 General.

13.1 Entire Agreement. This Agreement, including the exhibits hereto, all of which are incorporated herein by this reference, contains the full understanding of the parties with respect to the subject matter hereof, and no waiver, alteration, or modification of any of the provisions hereof shall binding unless in writing and signed by duly authorized representatives of each party. Neither the course of conduct between the parties nor trade usage shall act to modify or alter the provisions of this Agreement. If this Agreement is executed in counterparts, each shall be deemed an original, but all together shall constitute but one and the same agreement.

13.2 Assignment. This entire Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties and shall be fully assignable by either party.

13.3 Force Majeure. Neither party shall be liable to the other for delay in the performance of its obligations hereunder to the extent that such delay is due to causes beyond its reasonable control.

13.4 Attorney's Fees. Should any party institute any action or proceeding to enforce this Agreement or any provision hereof, or for damages, by reason of any alleged breach, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including attorney's fees and disbursements, incurred by the prevailing party in such action or proceeding.

13.5 Authority. Each of the undersigned individuals executing on behalf of the respective signatories hereto warrants and represents to each of the parties hereto that he is duly authorized by such entity on whose behalf he is executing this
Agreement and that he has full power and authority to bind such entity by affixing this signature hereto.

13.6 State Law. This Agreement shall be construed in accordance with, and the rights and obligations of the parties hereunder shall be determined in accordance with, the laws of the State of Texas.

13.7 Notices. Any notice required or permitted hereunder shall be conclusively deemed properly given upon delivery of the same, in writing, in person or by mailing the same by certified mail to the party to be notified at such party's address as set forth in the preamble to this Agreement, or to such other address as may be specified in a notice delivered pursuant hereto.

13.8 Severability and Waiver. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, or if any provision hereof is or becomes impracticable, the remaining provisions and the Agreement as a whole shall nevertheless continue in full force and effect without being impaired or invalidated in any way, and the parties shall replace the invalid, unenforceable or impracticable provision with a valid, enforceable or practical provision which shall meet the economic aims of the invalid, unenforceable or impracticable provision as closely as possible. No delay in exercising, no course of dealing with respect to, and no partial exercise of any right or remedy hereunder shall constitute a waiver of any other right or remedy, or future exercise thereof. With respect to any continuing or persistent default hereunder, no delay in exercising, no course of dealing with respect to, and no partial exercise of any right or remedy shall constitute a waiver thereof.

13.9 Construction. Headings used throughout this Agreement are for administrative convenience only and shall be disregarded for the purpose or construing and enforcing this Agreement. The language in all parts of this Agreement shall in all cases be construed simply, according to its fair meaning, and shall not be construed strictly for or against either of the parties.

13.10 Other Business. Except as otherwise provided herein, each party shall be allowed to solicit any type customer in any geographic area and enter into software, hardware, data delivery, development, license, and maintenance agreements therewith. The provisions of this Agreement do not grant either party any rights or obligations to act on behalf of the other party regarding any other products or services not specifically mentioned.

13.11 Relationship of Parties. Nothing contained in this Agreement shall be construed to imply a joint venture, partnership, or agency relationship between TDG and SR or any of their employees. Except as specifically set forth herein, no party shall be liable for the debts, obligations, or responsibilities of another party, and no party shall have the right or authority to assume or create any obligation or responsibility, whether express or implied, on behalf of or in the name of another party or to bind another party in any manner.
EXHIBIT A

Exhibit A.

To F.T.C. Sales Representative Agreement dates __________

Coordinate Fee Schedule

<table>
<thead>
<tr>
<th>Superbase Maintenance</th>
<th>Superbase Maintenance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supporting</td>
<td>Non-Supporting</td>
</tr>
<tr>
<td>All other areas</td>
<td>Gulf [Jeffersonian]</td>
</tr>
</tbody>
</table>

I. Perpetual License Fees

For Permitted Well Coordinators

<table>
<thead>
<tr>
<th>Number of Coordinators</th>
<th>All Volumes</th>
</tr>
</thead>
</table>

For Completed Well Coordinators

| Number of Coordinators | 1 to 10,000 | 10,001 to 50,000 | 50,001 to 100,000 | 125,001 and greater |

II. Limited Term License Fees (annual)

<table>
<thead>
<tr>
<th>Number of Coordinators</th>
<th>All Volumes</th>
</tr>
</thead>
</table>

III. Second license, multiple copies CD-Rom

<table>
<thead>
<tr>
<th>Number of Coordinators</th>
<th>All Volumes</th>
</tr>
</thead>
</table>

IV. Reissue fees

<table>
<thead>
<tr>
<th>Number of Coordinators</th>
<th>All Volumes</th>
</tr>
</thead>
</table>

"Gulf" zone includes Texas, Louisiana, Mississippi, Alabama, Florida, and Georgia
EXHIBIT B

DATA LICENSE AGREEMENT

The undersigned Licenses agree with and to the terms of Team Data Holdings LLC, a Texas limited liability company doing business as the Cap Group, San Antonio, Texas ("TG"), for perpetual license, possession, and use of the Products, as set forth below, and subject to the following terms and conditions, and understand that by signing the agreement, they are bound by the terms and conditions as set forth below.

1. Products. The term "Products" as used in this Agreement means one or more of the Products set forth below, including all addenda, supplements, updates, and other materials provided by Licenses to TG, and all other materials that are used in connection with the Products, as such terms are defined below. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

2. Pricing Schedules. The term "Pricing Schedules" means any one of the Pricing Schedules for the Products, as defined below, and includes all addenda, supplements, updates, and other materials provided by Licenses to TG, and all other materials that are used in connection with the Products, as such terms are defined below. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

3. Grant of License. TG grants to Licenses, subject to the provisions of this Agreement, a nonexclusive, nontransferable, limited license to use and make use of the Products, as such terms are defined below. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

4. License Restrictions. Licenses agrees to use the Products only for business and for no other purpose. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

5. Copies. Licenses may not copy the Products except as provided in this Agreement. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

6. License Fees. TG shall pay to Licenses, subject to the terms of this Agreement, a royalty for the use of the Products, as such terms are defined below. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

7. Term and Termination. This Agreement shall remain in effect until terminated by Licenses or TG in accordance with this Agreement. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

8. Proprietary Rights. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.

9. Confidential Information. Licenses agrees to keep confidential all information related to the Products, as such terms are defined below. The Products are the sole property of TG, and the Products are licensed to Licenses subject to the following terms and conditions.
FEDERAL TRADE COMMISSION DECISIONS

Decision and Order

124 F.T.C.

EXHIBIT B

11 Remedies. It is acknowledged by Licensee that the
Producer's unique and TGC's right to be in breach of this
Agreement by Licensee will be minimized. Therefore, Licensee
agrees to the terms and conditions of this Agreement: TGC may be
enjoined to cease and desist and any other damages TGC may
suffer. In any dispute regarding the Agreement, the prevailing
party may be entitled to recover its attorneys fees and court
costs in addition to other remedies.

12 General Provisions. Licensee acknowledges and
agrees that the Agreement, together with the Pricing Schedule,
encompasses the complete and exclusive statement of the
Agreement between the parties, which supersedes and merges all
prior proposals, negotiations and understandings between the
parties relating to the subject matter hereof. Any provision hereof
or any part thereof may be modified by Licensee in writing
without further notice to Licensee. Licensee's consent to any
amendment hereof by Licensee shall be given by license to TGC
within thirty days after receipt of the written notice of any
amendment by Licensee. Licensee agrees to the terms and
conditions of this Agreement by Licensee and TGC may be
enjoined to cease and desist and any other damages TGC may
suffer. In any dispute regarding the Agreement, the prevailing
party may be entitled to recover its attorneys fees and court
costs in addition to other remedies.
APPENDIX I

ASSET MAINTENANCE AGREEMENT

This Asset Maintenance Agreement (the "Agreement") is by and between SoftSearch Holdings, Inc. ("SoftSearch"), a corporation organized under the laws of the State of Texas, with its principal offices located at Abilene, Texas, and the Federal Trade Commission (the "Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, et seq. (collectively, the "Parties").

PREMISES

Whereas, SoftSearch and GeoQuest International Holdings, Inc. entered into an agreement, dated ____, pursuant to which SoftSearch's wholly-owned subsidiary Dwight's Energydata, Inc. ("Dwights") and GeoQuest's wholly-owned subsidiary Petroleum Information Corporation will merge their assets (the "Acquisition"); and

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, The Commission has reason to believe that the agreement would violate Section 5 of the Federal Trade Commission Act, and that, if consummated, would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act, statutes enforced by the Commission; and

Whereas, if the Commission accepts the attached Agreement Containing Consent Order ("Consent Order"), the Commission must place it on the public record for a period of at least sixty days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an agreement is not reached preserving the Specified Data (as defined in the Agreement Containing Consent Order) during the period prior to the time that the Consent Order becomes final, divestiture of said data to an possible in any proceeding challenging the legality of the Acquisition in the event that the Consent Order does not become final; and

Whereas, the action of SoftSearch in entering into this Agreement shall in no way be construed as an admission by SoftSearch that the
Acquisition violates the statutes as alleged in the draft complaint attached hereto; and

Whereas, SoftSearch understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now therefore, in consideration of the Commission’s agreement that, unless it determines to reject the Consent Order, it will not seek further relief from the Parties with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order annexed hereto, and to seek the divestiture of such assets to be preserved under this Agreement as may be required to maintain the level of competition that existed prior to the Acquisition, the Parties agree as follows:

1. SoftSearch agrees to execute, and upon its issuance to be bound by, the attached Consent Order.

2. SoftSearch agrees that from the date this Agreement is accepted by the Commission until the earliest of the dates listed in subparagraphs (a) and (b) it will comply with the provisions of this Agreement.
   
   (a) The date the Consent Order becomes final; or
   (b) Three business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission’s rules.

3. SoftSearch shall maintain and update the Specified Data; preserve its viability and marketability, and prevent its destruction, removal, wasting, deterioration or impairment of any kind.

4. If the Commission seeks in any proceeding with respect to the Acquisition to obtain injunctive or equitable relief, SoftSearch shall not raise an objection based upon the fact that the Commission has permitted the Acquisition to be consummated. SoftSearch also waives all rights to contest the validity of this Agreement.

5. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to SoftSearch made to its principal office, SoftSearch shall permit any duly authorized representative of the Commission:
a) Access during the office hours of SoftSearch or Dwights, in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in possession or under the control of SoftSearch relating to compliance with the Agreement; and

b) Upon five (5) days' written notice to SoftSearch or Dwights and without restraint or interference from it, to interview officers or employees of SoftSearch or Dwights, who may have counsel present, regarding any such matters.

6. The Agreement shall not be binding until approved by the Commission.