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November 21, 2016

Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Re: Case No. 15-0780, *BMT O & G Tx, L.P. et al. v. Clayton Williams Energy, et al.*

To the Honorable Court:

Texas Land & Mineral Owners Association is a statewide advocacy organization whose members are farmers, ranchers, and royalty owners. TLMA advocates for a business and legal environment that promotes the production of oil and natural gas in a manner that respects the property rights of landowners. We write this letter to urge the Court to grant Petitioners' motion for rehearing of their Petition for Review. This case presents issues common to many land and mineral owners in the State, and the opinion of the Court of Appeals, if allowed to stand, will put in question many provisions in oil and gas leases negotiated in good faith and with the understanding that courts will enforce the intent of the parties to those agreements. No fees have been or will be paid for the preparation of this letter.

Paragraph 10 of the oil and gas lease construed by the Court of Appeals contains a negotiated provision requiring that "Lessee shall be designated Operator as to all operations of every nature conducted on the Leased Premises ..." The Court of Appeals erroneously held (1) that this provision did not prohibit Clayton Williams Energy, Inc. from drilling and operating a well on the leased premises even though it was

not the lessee but was, instead, a mere farmee under a farmout from Chesapeake Exploration and (2) that such operations did not constitute a violation of the lease. The Court of Appeals' strained construction of the lease in essence writes this provision out of the lease and disregards Paragraph 10's express language that "[a]dherence to the provisions of this paragraph is material to the granting of the lease."

Many modern oil and gas leases restrict the rights granted to the lessee. Those restrictions can take many forms and are often heavily negotiated terms. For example, in order to protect the surface and/or mineral estates, a lessor may deem it important to have some degree of control over who will have the right to operate on the leased premises. Different operators have different financial capabilities and different reputations as to how they treat the surface estate of the land they lease and how well they work with surface owners to minimize the impact of oil and gas operations. Exploration companies also have differing reputations and expertise in drilling and producing wells, and a lessor may grant a lease based on a particular company's reputation. Poor operators have been known to damage formations rendering producible oil and gas reserves unrecoverable in the process; thus, operator selection is not a trivial matter. We have personal knowledge of a horizontal well in Texas where the operator put too large a frac on the well, which resulted in massive water infiltration from an adjacent formation rendering the well useless and totally wasting its reserves. All of these factors are considered in negotiating provisions relating to who may be the operator of an oil and gas lease.

TLMA believes that the Court of Appeals' opinion evidences a basic lack of understanding of the nature and role of the operator of an oil and gas lease and fails to discern and enforce the clear intent of the parties that no operator other than the lessee, Chesapeake, could conduct operations on the leased premises without the consent of the Lessors. The Court of Appeals' decision, if allowed to stand, will throw into question many similar restrictions in oil and gas leases now covering thousands of acres of Texas land.

TLMA respectfully requests that the Court grant Petitioners' Petition for Review.

Texas Land & Mineral Owners Association

By: /s/ Laura Buchanan
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served upon counsel via electronic filing on November 21, 2016:

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