

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202	DATE FILED: July 31, 2023 3:11 PM FILING ID: 6ACB4E459A6CB CASE NUMBER: 2023CV32226
<b>Plaintiff:</b>  HOBE MINERALS LIMITED LIABILITY COMPANY  v.  <b>Defendants:</b>  BONANZA CREEK ENERGY OPERATING COMPANY, LLC and CIVITAS RESOURCES, INC.	<p style="text-align: center;"><b>↑ COURT USE ONLY ↑</b></p>
<b>Attorneys for Plaintiff:</b> Steven Louis-Prescott, No. 46330 Emily N. Ostrander, No. 55432 Hamre, Rodriguez, Ostrander & Prescott, P.C. 188 Inverness Drive West, Suite 430 Englewood, Colorado 80112 Phone Number: 303.779.0200 Email: sprescott@hroplaw.com eostrander@hrodllaw.com	Case No. 2023CV _____  Division/Courtroom: _____
<b>COMPLAINT AND JURY DEMAND</b>	

Plaintiff Hobe Minerals Limited Liability Company (“Hobe”), by and through its undersigned counsel, for its Complaint against Defendants Bonanza Creek Energy Operating Company, LLC and Civitas Resources, Inc. (collectively, “Bonanza”), states as follows:

**NATURE OF THE ACTION**

1. This Complaint requests the Court to reject Bonanza’s attempt to hold two terminated and forfeited oil and gas leases covering minerals owned by Hobe.
  
2. Two oil and gas leases that Hobe issued to Bonanza terminated because Bonanza stopped selling and producing oil and gas from the leases for over a year and ceased to produce and sell oil and gas in paying quantities. Rather than acknowledge the leases terminated as required by the leases and Colorado law, Bonanza embarked on a cryptocurrency mining (“CCM”) scheme involving seven-figure payments to a CCM company to take gas from eight separate oil and gas locations on a rotating basis to intermittently produce oil and gas from the

wells, resulting in periods of no production and non-commercial production, designed to present the fiction that Bonanza is holding the leases, when in fact, the leases terminated.

3. The leases terminated under their plain terms, and no provision of the leases allows Bonanza to revive them using cryptocurrency mining equipment in the stop-and-go, marginal manner undertaken by Bonanza that produces oil and gas for only about 15% of the time.

4. This Complaint also requests the Court to rule Bonanza forfeited both leases by breach of their implied covenants, including the duties to diligently develop, protect against drainage, operate prudently, and market the oil and gas.

5. Forfeiture occurs when a lessee breaches the covenants implied in every oil and gas lease. The implied covenants mandate development for the mutual profit of the parties, protection against drainage of the lessor's minerals, diligence, and prudence in operating that would be reasonably expected of a similarly situated operator, and diligence in marketing including expenditures that a prudent operator would make.

6. Upon obtaining the leases from Hobe, Bonanza represented that it would drill 20 horizontal wells per unit in eight separate units to economically (profitably) develop Hobe's eight mineral tracts covered by the two leases along with other lands. Bonanza only drilled one well in each of the eight units to attempt to "hold" the leases rather than develop and produce them for the lessor's and lessee's benefit, thereby failing to comply with its own representations and industry standards of diligent, prudent, and economic development and operation of the leases.

7. Bonanza refused to pay a reasonable price to install a gas pipeline, choosing instead to flare the gas from the eight wells resulting in no sale of gas or gas royalty payments to Hobe. When regulations passed that prohibited flaring, Bonanza still refused to install a pipeline, choosing instead to pay a CCM company to drive a truck to each of the eight well sites to use the gas so it could intermittently produce oil in attempts to hold the leases.

8. Upon beginning the CCM operations in 2023, Bonanza began selling oil and paying associated royalties to Hobe at prices far below market rates.

9. The leases were forfeited when Bonanza failed to timely and reasonably develop them diligently, failed to protect the minerals against drainage, failed to prudently operate them, and failed to market the oil and gas in a reasonable and prudent nature.

### **THE PARTIES, JURISDICTION, AND VENUE**

10. Hobe is a family-owned Colorado limited liability company that owns minerals in Weld County, Colorado. Hobe's principal place of business is 7475 Highland Drive, Lakewood, Colorado 80214.

11. Civitas Resources, Inc. (“Civitas”) is a Delaware corporation and is a publicly traded energy exploration and production company.

12. Bonanza Creek Energy Operating Company, LLC (“Bonanza Creek”) is a Delaware limited liability company and is an oil and gas operating company affiliated with Civitas.

13. Bonanza’s principal place of business is 555 Seventeenth Street, Suite 3700, Denver, Colorado 80202.

14. Bonanza paid royalties to Hobe pursuant to the Leases.

15. The lands and minerals subject to the Leases (“Lands” and “Minerals”) are in the Denver-Julesburg Basin and Wattenberg Field in Weld County, Colorado.

16. This Court has jurisdiction over the parties to this dispute pursuant to C.R.S. § 13-1-124, as Bonanza owns property and/or transacts business within this State.

17. Venue in Denver County is proper pursuant to Colo. R. Civ. P. 98(c) because Bonanza’s principal place of business is in Denver County and performance under the Leases was to be performed in Denver County.

## **GENERAL ALLEGATIONS**

### **The Leases**

18. Hobe and Bonanza entered into two oil and gas leases:

- a. In 2015, Hobe and Bonanza entered into an oil and gas lease and addendum dated effective May 31, 2015 by and between Hobe Minerals Limited Liability Company, as Lessor, and Bonanza Creek Energy Operating Company, LLC, as Lessee, and recorded with the Weld County, Colorado Clerk and Recorder on September 9, 2015 at Reception No. 4141044 covering certain minerals in Sections 4, 10, and 12, Township 3 North, Range 63 West, 6th P.M., and Sections 22, 24, 26, 28, 34, Township 4 North, Range 63 West, 6th P.M., Weld County, Colorado (the “2015 Lease”), covering 3,361.29 acres. The 2015 Lease is attached as Exhibit 1.
- b. In 2016, Hobe and Bonanza entered into an oil and gas lease and addendum dated effective October 11, 2016 by and between Hobe Minerals Limited Liability Company, as Lessor, and Bonanza Creek Energy Operating Company, LLC, as Lessee, and recorded with the Weld County, Colorado Clerk and Recorder on October 17, 2016, at Reception No. 4245394 covering

certain minerals in Sections 24 and 26, Township 4 North, Range 63 West, 6th P.M., Weld County, Colorado (the “2016 Lease” and together with the 2015 Lease, the “Leases”), covering 320 acres. The 2016 Lease is attached as Exhibit 2.

19. The terms of the 2015 Lease and the 2016 Lease are materially identical, except that the Leases cover different lands and minerals in Weld County.

20. The Leases granted Bonanza the rights for the “economical operation” of the land and to explore and develop “for the production, saving and taking care of oil and gas” and required Bonanza to pay Hobe royalties based on a percentage of oil and gas produced and sold.

21. The Leases have a primary term and continue in effect “as long hereafter as oil and gas, or either of them, is produced from the Leased Premises or from the lands pooled or unitized with th[e] Lease[s].”

22. The Leases required Bonanza to keep the Leases in effect, if at all, on a pooled unit by pooled unit basis by producing oil and/or gas from each individual pooled unit or otherwise hold the pooled unit in accord with the Lease terms. The Lease Addenda require,

Subject to the continuous operations provision in paragraph C.3 of this Lease Addendum, if a pooled area is established, . . . and the pooled area includes any non-unitized Leased Premises, then production from the pooled area shall maintain this Lease only as to that portion of the non-unitized Leased Premises included within the pooled area upon cessation of the continuous operations provision in paragraph C.3 of this Lease Addendum.

Lease Addenda, Paragraph B.3.

23. Under Paragraph B.3, Bonanza must hold, or not, each pooled unit on an independent and separate basis. Bonanza cannot attribute production, operations, or other actions that may occur on or as to one pooled unit as production or operations to a different pooled unit.

24. The Leases also provide that production must be “in paying quantities” to hold the Leases in the secondary term. The Leases provide,

If after the primary term this Lease is not otherwise being maintained in force, but Lessee is then engaged in operations, . . . this Lease shall remain in force so long as any one or more of such operations are prosecuted with no interruption of more than 90 (ninety) consecutive days, and if any such operations result in production of oil and gas, as long thereafter as there is production in paying quantities from the Leases Premises.

Leases, Paragraph 11.

25. Generally in Colorado, “production” means “production in paying quantities” or “commercial” production, which requires a well to produce sufficient oil and gas to generate revenue that exceeds costs associated with the well and leases, including royalties, overriding royalties, taxes, operating costs, and marketing costs, which in this case includes the price Bonanza pays the CCM company to take its gas.

26. The Leases allow Bonanza to keep the Leases in effect without production by paying shut-in royalties, but only for a limited duration. The Leases provide,

[T]he Lease shall not be extended more than a cumulative total of two years by payment of shut-in royalties, . . . In addition to the two year cumulative total limit, the payment of shut-in royalties shall not be deemed to constitute constructive production unless actual production and sales are reestablished within 12 consecutive months from the date of any cessation of sales of production from the Leased Premises or lands pooled or unitized therewith.

Lease Addenda, Paragraph G.

27. If Bonanza did not maintain production on a pooled unit and paid a shut-in royalty but did not reestablish “production and sales . . . within 12 months from the date of any cessation of sales of production,” the Leases would terminate as to that pooled unit lacking actual production and sales and Bonanza would have to release the terminated portions of the Leases within the pooled unit. Leases, Paragraph 6; Lease Addenda, Paragraphs B.3 and G.

28. Production that is not “commercial” production fails to fulfill Bonanza Lease obligations referenced herein.

29. The Leases also allow Bonanza to keep the Leases in effect through various “operations” which specifically pertain to drilling, reworking, and completion operations (Lease Addenda, Paragraph F.); CCM operations do not qualify.

30. Bonanza must release any portion of the Leases that terminated within 60 days of such termination. The Lease Addenda require,

[F]or each tract of land or formation which is to be released under the Lease, Lessee shall be obligated to record in the county records a release of this Lease insofar as it covers such nonproducing lands or formations within 60 days following the date this Lease terminates as to that tract of land or formation.

Lease Addenda, Paragraph D.

31. Colorado law requires Bonanza to surrender any portion of the Leases that expired within 90 days of such expiration. C.R.S. § 38-42-104 provides,

When any oil, gas, or other mineral lease given on land situated in any county of Colorado and recorded therein becomes forfeited or expires by its own terms, it is the duty of the lessee, his successors, or assigns, within ninety days from April 30, 1957, if the forfeiture or expiration occurred prior thereto and within ninety days after the date of the forfeiture or expiration of any other lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, acknowledged, and placed on record in the county where the leased land is situated without cost to the owner of the leased premises.

C.R.S.A. § 38-42-104.

### **Wells and Pooled Units**

32. After entering into the Leases and continuing until late 2021 and early 2022, Bonanza established eight pooled units, and drilled, completed, and operated eight oil and gas wells (one in each unit) that produced from the pooled units, each one covering one of the eight tracts subject to the Leases, including:

- a. Mustang-V41-27-28XRLNB (API 05-123-45804);
- b. Mustang-B11-23-24XRLNB (API 05-123-45803);
- c. State Longhorn D14-11-12XRLNB (API 05-123-45086);
- d. Longhorn V41-10-9XRLNB (API 05-123-44703);
- e. Longhorn V41-3-4XRLNB (API 05-123-44702);
- f. Mustang D14-26-25XRLNB (API 05-123-44700);
- g. Mustang V41-34-33XRLNB (API 05-123-46001); and
- h. Mustang X44-22-21XRLNB (API 05-123-44704) (collectively, the “Wells”).

33. The initial production dates for the Wells range from December 2017 to July 2018.

34. In 2017, Bonanza presented evidence to the Colorado Oil and Gas Conservation Commission (n/k/a the Colorado Energy and Carbon Management Commission or “ECMC”) showing that drilling 20 wells in each of the pooled units would provide a 14.31% rate of return assuming \$50/bbl WTI oil price and \$2.50/mcf NYMEX gas price resulting in the proposed

development being economically justified. Bonanza further presented evidence showing the 20 proposed wells in each unit would “significantly increase recovery from the reservoir and thereby prevent waste” in addition to protecting “correlative rights, by ensuring the pool as a whole may be efficiently and economically developed, without prejudice to the rights of other leasehold or mineral owners.”

35. Based on the evidence presented by Bonanza, the ECMC approved the drilling of 20 horizontal wells in each of the eight units.

36. Bonanza acquired the surface rights necessary to drill from eight well pads and develop the 8 units.

37. In 2017 and 2018, Bonanza drilled a single well in each of the eight units (the 8 Wells) but failed to further develop the units.

38. Until late 2021 and early 2022 (depending on the Well), Bonanza consistently produced oil from the Wells, stored it in tanks, and sold it resulting in royalties paid to Hobe on that oil production. During that same time, Bonanza also produced gas from the Wells, flared all of the gas and did not pay Hobe on that gas production.

39. For reasons unknown to Hobe, in the seven or eight years since entering into the Leases, Bonanza chose not to install a gas gathering pipeline to take the produced gas from the eight existing Wells to sell, despite the existence of a market for gas produced in the Wattenberg Field and the common practice among operators in the surrounding area being to construct gas gathering pipelines to well sites in order to transport gas away from the well.

40. Bonanza initially sought permission from the ECMC to flare gas by citing a \$5 million cost to install the gas gathering pipeline, a cost that is both a standard cost incurred by operators in the area to diligently and prudently develop and operate horizontal wells and far outweighed by the rate of return Bonanza represented it would enjoy by completing its 160 horizontal well development plan on the Leases.

41. Two of the eight wells have produced about 10% of the oil of the other six wells, not due to bad geology but due to bad drilling and operating practices by Bonanza.

42. The Mustang-V14-34-33XRLNB and State Longhorn-D14-11-12XRLNB Wells generally produced 1,000 to 2,000 barrels of oil per month, compared to the other Wells which generally produced 5,000 to 10,000 barrels of oil per month prior to initiation of shut-in periods and CCM operations.

43. According to Bonanza, the low production for the two Wells was due to operational issues and reworking the Wells, which is permitted by the Leases, would have cured the problems.

44. For reasons unknown to Hobe, Bonanza refused to rework the two Wells to improve their production as a typical operator would.

### Cryptocurrency Mining

45. After shutting in all of the wells in late 2021 and early 2022, Bonanza failed to reestablish actual production and sales.

46. After shutting in two of the Wells but before shutting in the other six Wells, the ECMC prohibited Bonanza from flaring gas produced from the Wells. As a result, Bonanza shut in the remaining six Wells.

47. Without the ability to flare gas from the Wells and without having constructed a gas gathering pipeline, Bonanza stopped producing oil and gas from all of the Wells. Bonanza did this despite the ability to produce oil without producing gas evidenced by Bonanza's own certified production reports showing months of oil production and no gas production.

48. When Bonanza stopped producing oil and gas from the Wells, Bonanza also stopped selling oil and gas from the Wells aside from small amounts of oil that had been previously produced and remained in tanks at the Well sites.

49. After (or shortly before) the Leases terminated, Bonanza belatedly sought permits to dispose of the gas produced from the Wells using a process called "cryptocurrency mining" (CCM).

50. According to Bonanza, it cycles trailers containing CCM equipment among the Wells, so that Bonanza can intermittently produce oil and gas from the Wells and dispose of the gas by burning it to power a third party's CCM equipment.

51. According to Bonanza, Bonanza paid "seven figures" for the third party CCM company to conduct these operations, as opposed to marketing and selling the gas to generate revenue and royalties.

52. Despite paying the CCM company to take its gas, Bonanza certified that the gas was "sold" and paid de minimis sums as royalties on the "sold" gas to Hobe in 2023 in an attempt to hide its conduct and lack of production and sale of gas.

53. In comparison to the volumes produced before Bonanza shut in the Wells, production volumes from the Wells dropped precipitously when Bonanza began to mine cryptocurrency on the Leases because Bonanza only produced the Wells for a small fraction of the time.



54. For example, production records Bonanza submitted to the COGCC show that prior to Bonanza's foray into CCM, the Mustang B11-23-24XRLNB well produced an average of 5,900 barrels of oil and gas per month.

55. Since starting cryptocurrency mining operations, production from the Wells plummeted by 80% to 96%.

<b>Well Name</b>	<b>Monthly Average barrels of oil produced BEFORE cryptocurrency mining</b>	<b>Monthly Average barrels of oil produced AFTER cryptocurrency mining</b>	<b>Percentage DECREASE as a result of cryptocurrency mining</b>
Mustang B11-23-24XRLNB	5,945	209	▼ 96%
Mustang #V41-27-28XRLNB	7,756	1,069	▼ 86%
State Longhorn D14-11-12XRLNB	1,941	296	▼ 84%
Longhorn V41-10-9XRLNB	7,862	1,214	▼ 85%
Longhorn V41-3-4XRLNB	5,683	293	▼ 95%
Mustang D14-26-25XRLNB	6,221	478	▼ 92%
Mustang V41-34-33XRLNB	1,354	269	▼ 80%
Mustang X44-22-21XRLNB	6,184	425	▼ 93%

56. After Bonanza began to support the CCM, the Wells never consistently produced oil and gas, and the small quantities that Bonanza has produced from the Wells does not constitute production in paying quantities.

57. An alternative option that Bonanza did not pursue involves the installation of CCM equipment at each well site, allowing for full time production as opposed to the intermittent, minimal production generated from Bonanza's imprudent decision to cycle a CCM truck around the eight Well sites.

58. The Leases do not permit Bonanza to hold the pooled units by disposing of gas using CCM equipment in the stop-and-go manner undertaken by Bonanza.

59. Bonanza is using cryptocurrency mining as a ruse to maintain the Leases by producing a small fraction of the Wells' potential, while slashing Hobe's royalties by 80 % to 96% and operating in a way that no reasonable operator would operate.

60. After the Leases terminated, Hobe began returning every royalty check received from Bonanza, not because they were substantially smaller than they should be, but because the Leases had terminated resulting in improper revenue calculations and payments associated with continuing to produce Hobe's unleased minerals.

*The Mustang B11-23-24XRLNB Well*

61. Bonanza produced an average of 5,945 barrels of oil per month and 10,283 MCF of gas from the Mustang B11-23-24XRLNB well over the 42 months that it produced before Bonanza shut in the well in late 2021.

62. Upon shutting-in the Mustang B11-23-24XRLNB well, Bonanza paid a shut-in royalty to Hobe, stopped producing oil and gas from the well, and in October 2021, Bonanza stopped selling production from the well.

63. No more than twelve months later, in October 2022, the 2016 Lease terminated as to the pooled unit for the Mustang B11-23-24XRLNB well because Bonanza failed to "reestablish actual production and sales within 12 consecutive months of any cessation of sales of production" from the pooled unit, as required by Paragraph G in the Lease Addenda.

64. After the 2016 Lease terminated as to the pooled unit for the Mustang B11-23-24XRLNB well, according to Bonanza's certified records, Bonanza resumed production from the well.

65. Bonanza's records that were certified as "true, correct, and complete" indicate that in November 2022, Bonanza produced a mere 433 barrels of oil from the Mustang B11-23-24XRLNB well, which was an astounding drop from the previous production average of 5,945 barrels of oil per month.

66. In December 2022, Bonanza shut in the Well and did not produce any oil or gas from it.

67. The following month, in January 2023, Bonanza produced the Well for seven days, reporting 79 MCF of gas and no oil.

68. In February 2023, Bonanza produced the Well for only two days, reporting 54 barrels of oil and no gas.

69. In March 2023, the Well produced for twelve days, reporting 160 barrels of oil and no gas.

70. In April 2023, the Mustang B11-23-24XRLNB well produced for only three days, reporting 72 barrels of oil and no gas during that time.

71. Over seven months, from October 2022 to April 2023, Bonanza produced small volumes of oil and gas from the Mustang B11-23-24XRLNB well for a total of only 26 days.

72. Per the express terms of the Lease, upon termination of a portion of the Lease, “the underlying mineral estate as to such portion shall no longer be committed to any unit agreement or pooled unit.”

73. Six hundred forty (640) of Hobe’s mineral acres were committed to the Leases within the pooled unit for the Mustang B11-23-24XRLNB well.

74. When Bonanza produced oil and gas from the Mustang B11-23-24XRLNB well in November 2022 and intermittently thereafter, Bonanza trespassed on Hobe’s minerals, converted Hobe’s minerals, and Bonanza was unjustly enriched by the trespass.

75. Notably, Bonanza shut-in and stopped selling oil from another Well, the Mustang-V41-27-28XRLNB Well, in November 2021 and, upon receiving notice from Hobe in November, 2022 of the 12-month shut-in Bonanza subsequently reported minimal (175 barrels of oil) production and sale for October 2022 to allegedly limit the period of non-production and sale to 11 months and attempt to avoid the 12-month automatic termination under the plain terms of the Lease.

#### Seven Additional Wells

76. Bonanza embarked on a similar sequence with the seven additional Wells (aside from the Mustang B11-23-24XRLNB well) and pooled units.

77. On various dates from November 2021 to March 2022, Bonanza shut in the other seven Wells that produced from the Leases and stopped selling production from them.

78. After twelve months, the Leases terminated as to the pooled units associated with the other seven Wells because Bonanza failed to reestablish commercial production and sales within 12 months of any cessation of sales of production from the pooled units for those other Wells.

79. According to Bonanza’s certified records, after the Leases terminated as to the pooled units for the other seven Wells, Bonanza intermittently produced small volumes of oil and/or gas from the Wells in an on-and-off manner intended to present the fiction that it was holding the terminated Leases.

80. The production records Bonanza certified to Hobe prove that the seven additional Wells only produced intermittently, with the vast majority of days with no production at all and insufficiently to generate a profit after considering the costs incurred by Bonanza.

81. Such production is summarized as follows:

<b>Well Name</b>	<b>Number of Days Each Well Produced Each Month</b>	<b>Ratio of Production Days to Total Days</b>	<b>Percentage of Production Days to Total Days</b>
Mustang #V41-27-28XRLNB	October 2022: <b>4</b> November 2022: <b>0</b> December 2022: <b>26</b> January 2023: <b>0</b> February 2023: <b>11</b> March 2023: <b>0</b> April 2023: <b>0</b>	41:212	19%
State Longhorn D14-11-12XRLNB	November 2022: <b>4</b> December 2022: <b>0</b> January 2023: <b>5</b> February 2023: <b>0</b> March 2023: <b>12</b> April 2023: <b>0</b>	21:181	12%
Longhorn V41-10-9XRLNB	December 2022: <b>3</b> January 2023: <b>3</b> February 2023: <b>0</b> March 2023: <b>8</b> April 2023: <b>9</b>	23:151	15%
Longhorn V41-3-4XRLNB	December 2022: <b>3</b> January 2023: <b>10</b> February 2023: <b>0</b> March 2023: <b>21</b> April 2023: <b>4</b>	38:151	25%
Mustang D14-26-25XRLNB	November 2022: <b>1</b> December 2022: <b>2</b> January 2023: <b>5</b> February 2023: <b>21</b> March 2023: <b>5</b> April 2023: <b>0</b>	34:181	19%
Mustang V41-34-33XRLNB	October 2022: <b>3</b> November 2022: <b>0</b> December 2022: <b>3</b> January 2023: <b>3</b> February 2023: <b>0</b> March 2023: <b>10</b> April 2023: <b>11</b>	30:212	14%

Well Name	Number of Days Each Well Produced Each Month	Ratio of Production Days to Total Days	Percentage of Production Days to Total Days
Mustang X44-22-21XRLNB	November 2022: <b>4</b> December 2022: <b>0</b> January 2023: <b>1</b> February 2023: <b>11</b> March 2023: <b>0</b> April 2023: <b>0</b>	16:181	9%

82. When Bonanza produced oil and gas from the eight Wells after the Leases terminated, Bonanza trespassed on Hobe’s minerals, converted Hobe’s minerals, and Bonanza was unjustly enriched by the trespass.

83. Another operator leased other of Hobe’s minerals in the Longhorn V41-10-9XRLNB well’s pooled unit, and in recognition that Bonanza’s Well is not sufficiently producing to hold its lease has paid shut-in royalties under its lease (which does not have the 12-month shut-in automatic termination language present in the Leases).

*Hobe’s Requests and Bonanza’s Refusals*

84. On May 26, 2022, when Bonanza first informed Hobe of its intention to utilize CCM to use the natural gas from the Wells to keep producing oil and try to hold the Leases, Hobe warned Bonanza of its need to comply with the express and implied terms of the Leases and offered Bonanza the opportunity to amend the Leases. Bonanza did not respond to the opportunity.

85. After the Leases terminated, Hobe sent letters dated November 10, 2022, December 7, 2022, and February 9, 2023 via certified mail to Bonanza pursuant to C.R.S. § 38-42-104 and Lease Paragraph 19, notifying Bonanza that the Leases terminated as to the pooled units and requesting Bonanza to surrender the Leases, as required by C.R.S. § 38-42-104 and Lease Addendum Paragraph D.

86. Hobe requested that Bonanza release the Leases as to the pooled units and notified Bonanza that if it did not execute a release, Hobe would pursue its remedies under C.R.S. § 38-42-105, including money damages and attorney fees. Hobe also notified Bonanza that any attempt by Bonanza to produce the Leases from the Wells amounts to a bad faith trespass.

87. Bonanza refused to release the Leases as to the pooled units and insisted that it was holding the Leases as to each pooled unit by producing the Wells to mine cryptocurrency.

88. Hobe sent Bonanza requests pursuant to C.R.S. § 34-60-118.5(2.5) seeking all production reporting records about the Wells, which Bonanza is required to maintain under C.R.S. § 34-60-106(1)(e).

89. Bonanza provided production records in response to Hobe's Form 37 requests and certified the records as "true, correct, and complete."

90. Bonanza's certified production records prove that after the Leases terminated, Bonanza attempted to create the fiction that the Leases were in fact alive by sporadically and intermittently producing small volumes of oil and/or gas from each Well through the CCM operation.

91. Bonanza did not produce the Wells consistently, as it did before the COGCC ordered Bonanza to stop flaring, because its new method of production entailed rotating cryptocurrency mining trailers among the Wells.

92. As of this filing, Bonanza continues to minimally produce oil and gas from the Leases in an on-and-off manner without authorization and continues to trespass on Hobe's Minerals.

93. Civitas continues to send checks to Hobe purporting to be significantly reduced royalty payments for production from the Leases.

94. Because the Leases are terminated as to the pooled units associated with the Wells and Hobe's Minerals are now unleased, Hobe returned the royalty checks to Civitas as inaccurate accounting of the revenue due to Hobe as an unleased and unpooled owner under the Wells.

#### Implied Covenants

95. Leases are construed in favor of development and include the implied covenants to drill or explore, to develop after discovery in paying quantities, to protect against drainage, and the covenant of diligent and prudent operation, which includes the duty to market the product.

96. Bonanza's representations to the ECMC in 2017 and 2018 regarding the number of wells it would drill to economically and efficiently develop the Leases and other lands without harm to Hobe and other mineral owners and to protect against drainage set the standard for Bonanza's implied duties under the Leases.

97. When the primary term of the one of the Leases expired in November 2017, Bonanza emailed Hobe to provide updates with respect to the eight Wells, confirming Bonanza was in compliance with the continued operations clause of the Lease despite not having any production and representing further that future development was planned, calling Hobe's minerals the "crown jewel of our company going forward."

98. In the eight years since the Leases were signed, Bonanza has only drilled eight of the planned 160 horizontal wells, one of the 20 wells planned for each unit covering each of Hobe's 8 mineral tracts and has no plans to drill additional wells.

99. Another operator now has plans to fully develop Hobe's minerals through an approved Comprehensive Area Plan ("CAP") beginning next year, with surface sites and plans to construct oil and gas pipelines to prudently and diligently develop, operate, and market Hobe's oil and gas and the surrounding lands.

100. Accordingly, the other operator will take the prudent actions that Bonanza refused to take, such as paying the cost of a gas gathering pipeline to sell the gas rather than flare it or utilize CCM operations and drilling a sufficient number of wells to diligently develop and prudently operate Hobe's minerals.

101. Long before applying for the CAP, the other operator had a joint operating agreement with Bonanza, giving Bonanza operatorship of the area. Bonanza's failure to diligently develop, protect against drainage, and prudently operate and market led to the other operator deciding to develop the area, including Hobe's minerals, through the CAP.

102. Bonanza did not protest the other operator's request for the CAP, which will transfer operatorship of the area to the other operator, showing Bonanza has had no plans to further develop the Leases for some time.

103. Due to Bonanza's existing Well sites with only a single well on each, the other operator will have to develop the surface in a way that avoids Bonanza's footprint but will fully develop the very same minerals Bonanza minimally developed. The other operator will develop the area, including Hobe's minerals, from up to 11 locations and with up to 209 horizontal wells, with most locations planned for 12-22 horizontal wells. The new horizontal wells will be drilled in the same orientation as Bonanza's 8 Wells (east to west).

104. Bonanza has been attempting to hold the Leases based on speculation that it would participate in the other operator's wells or sell the Leases to the other operator, but with no intent to rework its low producing wells, sell the produced gas, or further develop.

105. The lands surrounding Hobe's minerals have been fully developed by various operators, including Bonanza Creek and another operator affiliated with Civitas, with 10 to 16 horizontal wells drilled per similarly sized units.

106. The horizontal development on the surrounding lands utilizes gas gathering pipelines to transport gas so as to sell it for lessor and lessee benefit and avoid the situation Bonanza created on the Leases involving the costly and detrimental practices of flaring gas and third party CCM operations.

107. The well sites for horizontal development of the surrounding lands are within one to two miles of Bonanza's Well sites, meaning interconnection of gas gathering lines would be relatively easy and commercially reasonable.

108. Bonanza failed to sell Hobe's gas, and chose to utilize commercially unreasonable practices that generate no benefit to Hobe, including flaring the gas and paying a third party CCM to use the gas, the latter practice resulting in payment for, rather than sale of, Hobe's gas.

109. Bonanza's flaring caused drainage of Hobe's gas without benefit or profit to Hobe, and Bonanza's CCM operations resulting in turning the Wells on and off impacts the reservoir pressure, further causing drainage and the inability to as efficiently produce Hobe's oil and gas.

110. When Bonanza began paying royalties again based on limited sales of oil in 2023 in coordination with its CCM operations, the prices were \$3 to \$5 lower than average Colorado oil prices resulting in oil royalty payments to Hobe below market rates and below the rates (relative to average Colorado oil prices) paid by Bonanza in 2021, prior to the shut-in periods and CCM operations and prior to Civitas being formed through a merger and acquisition involving Bonanza Creek.

111. Hobe seeks a declaration that the Leases terminated as to each of the eight pooled units, a declaration that upon termination of the Leases Bonanza was required to comply with C.R.S. § 34-60-116 requiring Bonanza to offer Hobe new leases in good faith or an opportunity to participate in the Wells, a declaration that the Leases were forfeited as to each of the eight pooled units, alternatively a declaration that the Leases terminated due to Bonanza's anticipatory breach and repudiation, monetary damages for Bonanza's trespasses, conversion of Hobe's minerals, and breaches, or unjust enrichment in the alternative; and an accounting to determine the full extent of Bonanza's trespasses and conversion.

### **FIRST CLAIM FOR RELIEF**

#### **Declaratory Judgment Pursuant to C.R.C.P. 57 and 105 – Termination of Leases**

112. Hobe hereby incorporates the allegations contained in paragraphs 1 through 111 of this Complaint as though fully set forth herein.

113. Bonanza's intermittent, marginal production from the Wells is not sufficient to hold the Leases as to each pooled unit under the Leases' terms.

114. The Leases terminated independently and separately as to each of the eight pooled units associated with the Wells when Bonanza stopped producing and selling oil and gas production from the Wells and Bonanza did not reestablish "actual production and sales" for over a year.



115. The Leases terminated as to all eight of the Wells' pooled units for lack of commercial production no later than February 5, 2023.

116. Hobe and Bonanza dispute whether the Leases terminated as to all eight pooled units.

117. Hobe requested Bonanza to release the terminated portions of the Leases.

118. Bonanza refused to release the Leases or stop producing, selling, using, and disposing of Hobe's Minerals.

119. Bonanza failed to economically operate the Leases and failed to produce, save, and take care of the oil and gas.

120. Hobe seeks declaratory relief providing that the Leases terminated independently and separately as to each of the eight pooled units associated with the Wells under Paragraph 6 of the Leases and Paragraphs B.3 and G of the Lease Addenda because, as to each pooled unit, Bonanza did not maintain production on each of the Wells' pooled units and did not reestablish commercial production and sales one year after ending oil and gas sales from the Wells.

121. Hobe is an interested person under the Leases, and, as alleged elsewhere in this Complaint, its rights, status, and legal relations are affected by the contractual terms of the Leases. A declaratory judgment in Hobe's favor would end the uncertainty or controversy giving rise to this proceeding.

### **SECOND CLAIM FOR RELIEF**

#### **Failure to Surrender Leases Under C.R.S. §§ 38-42-104 and 38-42-105**

122. Hobe hereby incorporates the allegations contained in paragraphs 1 through 121 of this Complaint as though fully set forth herein.

123. The Leases terminated as to all eight of the Wells' pooled units no later than February 5, 2023.

124. Pursuant to C.R.S. § 38-42-104, Bonanza was required to surrender the Leases in writing.

125. On November 10, 2022 and December 7, 2022, Hobe's counsel sent two letters by certified mail to Bonanza's counsel requesting that Bonanza issue releases of the Leases pursuant to C.R.S. § 38-42-104 and Lease Addendum Paragraph D for the pooled units associated with the Mustang-V41-27-28XRLNB and Mustang-B11-23-24XRLNB wells.

126. On February 9, 2023, Hobe's counsel sent a third letter by certified mail to Bonanza's counsel requesting that Bonanza issue releases of the Leases pursuant to C.R.S.

§ 38-42-104 and Lease Addendum Paragraph D for the pooled units associated with the six additional Wells: (1) the State Longhorn D14-11-12XRLNB (API 05-123-45086); (2) Longhorn V41-10-9XRLNB (API 05-123-44703); (3) Longhorn V41-3-4XRLNB (API 05-123-44702); (4) Mustang D14-26-25XRLNB (API 05-123-44700); (5) Mustang V41-34-33XRLNB (API 05-123-46001); and (6) Mustang X44-22-21XRLNB (API 05-123-44704).

127. Bonanza refused to surrender the Leases as to the Wells' pooled units and is in violation of C.R.S. § 38-42-104.

128. Pursuant to C.R.S. § 38-42-105, Hobe is entitled to release of the Leases as to the eight pooled units, a writ of attachment, one hundred dollars, costs, attorneys' fees, and additional damages to be determined at trial.

**THIRD CLAIM FOR RELIEF**  
**Declaratory Judgment Pursuant to C.R.C.P. 57 and 105 – Forfeiture/Equitable Termination of Leases**

129. Hobe hereby incorporates the allegations contained in paragraphs 1 through 128 of this Complaint as though fully set forth herein.

130. Bonanza has not diligently developed the Leases since drilling the eight Wells in 2017 and 2018, one into each of the eight pooled units covering the eight distinct mineral tracts owned by Hobe subject to the Leases.

131. Bonanza's representations to the ECMC, the production from the Wells prior to Bonanza shutting them in, surrounding development, and another operator's plans for development show the profitability, geologic and technical feasibility, and operator willingness related to diligently and full development of Hobe's minerals.

132. Other operators would not have flared gas or paid millions to utilize CCM operations but would have and will install a gas gathering line to prudently operate the lands and market the oil and gas, as shown by the use of pipelines at well sites surrounding the Leases and the other operator's plans for development of Hobe's minerals in the future.

133. Other operators would have sold the gas rather than flare it for no benefit to Hobe or the environment.

134. Other operators would have reworked the sub-standard Wells to increase production and revenue.

135. Other operators would have either installed a gas gathering pipeline or utilized CCM equipment at each well site to avoid having to turn the wells on and off resulting in decreases in reservoir pressure.

136. Bonanza breached its implied covenants to diligently develop, protect against drainage, prudently operate, and prudently market by (among other things): failing to conduct itself as a prudent operator, i.e., as another operator would; failing to diligently drill additional wells from the Well sites approved by ECMC into the units approved by the ECMC after representing that it would and economically could; failing to install a gas gathering line despite having nearby connection points and representing that it could do so at a commercially reasonable price; flaring the gas rather than selling it; paying a third party CCM company millions of dollars to travel to the various Well sites to use the gas produced intermittently; shutting in the Wells for an extended period of time after it stopped flaring then intermittently shutting them in to accommodate the CCM operations; failing to pay royalties monthly; failing to rework the Wells when they were low producers; failing to produce the Wells at their full capacity; misrepresenting production and sale data to the ECMC and Hobe; selling Hobe's oil for sub-market prices; knowing profitable reserves remain undeveloped and choosing to speculate that another operator would develop the Leases someday; lowering the downhole pressure and ultimate productivity of the formations by its on-off operations associated with the CCM operations; and failing to surrender the Leases despite their clear termination and forfeiture.

137. Hobe seeks declaratory relief providing that the Leases were forfeited because Bonanza breached its implied duties to diligently and prudently develop, protect, operate, and market the Leases.

138. Bonanza was placed on notice of its breaches of the implied covenants and refuted the same.

139. Hobe is an interested person under the Leases, and, as alleged elsewhere in this Complaint, its rights, status, and legal relations are affected by the contractual terms of the Leases. A declaratory judgment in Hobe's favor would end the uncertainty or controversy giving rise to this proceeding.

**FOURTH CLAIM FOR RELIEF**  
**Declaratory Judgment Pursuant to C.R.C.P. 57 and C.R.S. 34-60-116**

140. Hobe hereby incorporates the allegations contained in paragraphs 1 through 135 of this Complaint as though fully set forth herein.

141. When the Leases terminated and were forfeited, Hobe's minerals were no longer pooled into the pooled units for the Wells.

142. As such, in order to produce Hobe's minerals, C.R.S. 34-60-116 required Bonanza to offer Hobe a good faith fair market lease and opportunity to participate in the Wells.

143. Bonanza failed to submit such offers.

144. Hobe seeks a declaration that it is an unleased mineral owner within the eight pooled units and, as such, is entitled to 100% of the revenue generated from its Minerals by the Wells from the earlier date of termination or forfeiture of the Leases unless and until Bonanza complies with the requirements of C.R.S. 34-60-116 with respect to pooling Hobe's unleased minerals.

#### **FIFTH CLAIM FOR RELIEF**

##### **Trespass**

145. Hobe hereby incorporates the allegations contained in paragraphs 1 through 140 of this Complaint as though fully set forth herein.

146. After the Leases terminated as to the Wells' pooled units, Bonanza continued to produce Hobe's Minerals without Hobe's permission.

147. Bonanza knew the Leases terminated and knew it did not have the right to produce the Minerals but still produced the Minerals without Hobe's permission.

148. Hobe is entitled to trespass damages, including an accounting and the total revenue generated from its share of production from the Wells, free of costs, the amount to be determined at trial.

#### **SIXTH CLAIM FOR RELIEF**

##### **Accounting**

149. Hobe hereby incorporates the allegations contained in paragraphs 1 through 144 of this Complaint as though fully set forth herein.

150. Bonanza sold oil and disposed of gas produced from the Wells but did not properly account to Hobe for producing and selling Hobe's unleased Minerals.

151. Bonanza is in exclusive control of the information required to calculate the amounts that Bonanza received from the Minerals.

152. Without such information, Hobe cannot determine the amount of Bonanza's wrongful benefit from production of Hobe's Minerals without a lease.

153. Under the circumstances, Hobe requests an accounting, conducted under the equitable authority of the Court.

**SEVENTH CLAIM FOR RELIEF**

**Conversion**

154. Hobe hereby incorporates the allegations contained in paragraphs 1 through 149 of this Complaint as though fully set forth herein.

155. Under Colorado law, the Minerals underlying the Lands are considered the real property of Hobe, but once severed from the Lands, the oil and gas produced are considered the personal property of Hobe.

156. By intentionally producing, selling, using, and/or disposing of Hobe's Minerals, Bonanza converted Hobe's personal property by committing a continuing series of intentional, unauthorized acts of dominion and control over Hobe's personal property.

157. Bonanza should be ordered to account and pay Hobe for the value of the Minerals converted.

158. As a direct and proximate result of Bonanza's conversion, Hobe has suffered damages, and continues to suffer damages, in an amount to be determined at trial.

**EIGHTH CLAIM FOR RELIEF**

**Unjust Enrichment**

159. Hobe hereby incorporates the allegations contained in paragraphs 1 through 154 of this Complaint as though fully set forth herein.

160. By producing, selling, using, and/or disposing of Hobe's Minerals without a lease, Bonanza received benefits at Hobe's expense.

161. Under the circumstances, it would be unjust for Bonanza to retain such benefits without commensurate compensation to Hobe.

162. Hobe has sustained substantial damages as a direct consequence of Bonanza's unjust enrichment and is entitled to judgment in its favor and against Bonanza in an amount to be determined at trial.

**NINTH CLAIM FOR RELIEF**

**Anticipatory Breach**

163. Hobe hereby incorporates the allegations contained in paragraphs 1 through 161 of this Complaint as though fully set forth herein.

164. In addition to terminating upon 12 consecutive months without sale and production, the Leases contain a clause that results in termination upon 24 non-consecutive months of non-production and sale.

165. The eight Wells individually have not produced and sold any oil or gas (notwithstanding consecutive months of non-production or months of uncommercial production) for a range of 11 to 18 months.

166. At the current shut-in rate related to the CCM operations, Bonanza will fail to commercially produce and sell oil and/or gas from each of the eight Wells in excess of 24 months before the other operator begins its operations.

167. If the Leases did not automatically or equitably terminate, they certainly will prior to future development based on Bonanza's known conduct and intentions.

168. Hobe filed this lawsuit due, in part, to Bonanza's repudiation of its express and implied obligations.

### **PRAYER FOR RELIEF**

WHEREFORE, Hobe respectfully requests this Court issue the following:

A. A declaration stating the Leases terminated as to each of the eight pooled units under Paragraph 6 of the Leases and Paragraphs B.3 and G of the Lease Addenda.

B. A declaration stating the Leases expired as to each of the eight pooled units within the meaning of C.R.S. § 38-42-104.

C. A declaration stating that Bonanza breached the Leases' implied covenants of diligent development, prudent operation, and prudent marketing.

D. In the alternative, a declaration stating that Bonanza repudiated its obligations resulting in termination of the Leases.

E. A declaration stating that Bonanza had to comply with C.R.S. 34-60-116 and its failure to comply resulted in damages to be awarded to Hobe to be determined at trial.

F. An award of breach of contract damages for breaching the Leases' implied covenants in an amount to be determined at trial.

G. A release of the Leases as to each of the eight pooled units, as provided in C.R.S. § 38-42-105 and in Lease Addenda Paragraph D.

H. A writ of attachment, as provided in C.R.S. § 38-42-105.

- I. An award of one-hundred dollars, as provided in C.R.S. § 38-42-105.
- J. An award of all costs, as provided in C.R.S. § 38-42-105.
- K. An award of attorneys' fees, as provided in C.R.S. § 38-42-105.
- L. An accounting to calculate the amounts that Bonanza received from the Minerals by production without a lease.
- M. An award of conversion and/or unjust enrichment damages to be determined at trial.
- N. An award of trespass damages, including an accounting and the revenue generated from Hobe's share of production from the Wells, free of costs, to be determined at trial.
- O. The greater of statutory or moratory interest on damages owed.
- P. Such other costs and fees as may be permitted in law or equity.
- Q. For such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Hobe requests a trial by jury on all claims so triable.

Respectfully submitted this 31st day of July 2023.

HAMRE, RODRIGUEZ, OSTRANDER & PRESCOTT, P.C.

**/s/ STEVEN LOUIS-PRESCOTT'S DULY SIGNED PHYSICAL COPY  
OF THIS DOCUMENT IS ON FILE AT THE OFFICE OF HAMRE,  
RODRIGUEZ, OSTRANDER & DINGESS, P.C. PURSUANT TO CRCP  
RULE 121, SECTION 1-26(9)**

By: \_\_\_\_\_  
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