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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**UNITED PACIFIC ENERGY
OPERATIONS AND CONSULTING, INC.,
etc., et al.,**

Plaintiffs,

vs.

**GAS AND OIL TECHNOLOGIES, INC.,
etc. et al.,**

Defendants.

CASE NO. 1:11-CV-0756-OWW-SMS

**ORDER GRANTING PLAINTIFF’S
MOTION OBJECTING
TO SUFFICIENCY OF UNDERTAKING,
CONTINUING THE HEARING OF
PLAINTIFF’S PETITION TO INVALIDATE
THIRD PARTY CLAIM AND ISSUING
PRELIMINARY INJUNCTION**

The Petition (“Petition”) to Invalidate Third Party Claim and the Notice of Motion and Motion Objecting to Sufficiency of Undertaking of Tearlach Resources (California) Ltd. (the “Motion”) of Plaintiff and Judgment Creditor UNITED PACIFIC ENERGY OPERATIONS AND CONSULTING, INC. (“Plaintiff”), both came on for hearing on June 9, 2011, at 1:30 p.m. in Courtroom 3 of the above- entitled Court, Judge Oliver W. Wanger presiding. Jack A. Draper appeared in court fo Plaintiff and Richard D. Farkas appeared telephonically for the third party claimant Tearlach Resources (California) Ltd. (“TRC”). The matter was argued, testimony was taken and the matter was then submitted. Having duly considered the matter, and good cause

1 appearing therefore, the court makes the following findings of fact and conclusions of law and
2 issues the following orders:

3 1. The amount of the undertaking to be provided in this matter is governed by CCP
4 Section 720.630 which requires an undertaking in the amount required to satisfy the creditor's
5 judgment or twice the market value of the property concerned.

6 2. Based on the testimony given in this matter and the admitted Plaintiff's Exhibits 6-1, 6-
7 2 and 6-3, the court finds that the value of the lease is such that the Motion is granted and the
8 undertaking of TRC is ruled to be insufficient and is hereby ordered exonerated and expunged,
9 and an undertaking of \$100,000 is required if TRC chooses to provide a subsequent undertaking
10 in this matter. The court further finds provisionally on the evidence submitted at the hearing and
11 without precluding the matter for a further or different finding at trial, that Western States
12 International Inc. is the 100% lease owner of the BLM Lease Nos. CACA 45618 and 45619 as of
13 June 7, 2011.

14 3. The court further orders, without objection by counsel, that the concurrently noticed
15 Plaintiff's Petition hearing be continued from this date to a trial date to be held August 2, 2011.
16 A telephonic pre-trial conference is set for July 22, 2011 at 12:00 p.m. in Courtroom 3 of this
17 court, telephonic appearances permitted by counsel. The court relieves counsel of the full
18 requirements of pre-trial rules for this special proceeding, except that a joint pre-trial statement
19 with witness lists, exhibit lists and a stipulation as to the exchange and marking of exhibits
20 thereunder on or before the pre-trial date, and a stipulation that no jury is required, shall be
21 provided to the court in a proposed joint pre-trial statement, which counsel are directed to meet
22 and confer about promptly. After such meet and confer is undertaken in good faith by counsel,
23 Plaintiff's counsel shall prepare the proposed joint pre-trial statement and file it with the court on
24 or before July 19, 2011.

25 4. Without objection by TRC counsel, and because the court finds that irreparable injury
26 would occur to Plaintiff if the Leases were to be released or otherwise disposed of due to
27 expiration of the court's currently in force temporary restraining order ("TRO")enjoining the
28 release of the Leases by the U.S. Marshals Service, before the ultimate resolution of Plaintiff's

1 Petition to Invalidate the TRC Third Party claim (“Petition”) which is pending before this Court,
2 the Court further orders that this Court’s previously issued temporary restraining order in this
3 case dated May 27, 2011 is hereby replaced effective immediately by a preliminary injunction
4 issued hereby enjoining the U.S. Marshals Service and its agents and officers from releasing the
5 Leases until the by further order the Court dissolves such preliminary injunction in connection
6 with a final resolution of the Petition occurs by trial or other disposition approved by this Court.

7 5. Plaintiff shall serve this Order on the U.S. Marshal, and the judgment debtor, by fax or
8 email by June 10, 2011, followed by mail service thereon by June 13, 2011. TRC shall be deemed
9 served by the court’s CM/ECF system which TRC counsel subscribes to.

10 6. The Court finds that this Order is justified because without issuance of a preliminary
11 injunction, the current TRO would expire and Plaintiff would lose rights to object to the
12 sufficiency of TRC’s undertaking and because the loss of such rights would result in irreparable
13 injury to Plaintiff since Plaintiff would then lose adequate recourse to a surety to compensate
14 Plaintiff for damages due to any loss of security in valuable oil properties in case of invalidity of
15 TRC’s third party claim, which could prevent Plaintiff from satisfying its judgment.

16 IT IS SO ORDERED.

17 DATED: June 10, 2011.

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19 /s/ Oliver W. Wanger
20 Oliver W. Wanger
21 United States District Judge
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