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LTD., a California Corporation

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS

IBLA # 2014 - 180) CACA 45618, 45619
)
) **ANSWER OF TEARLACH RESOURCES**
) **(CALIFORNIA), LTD. TO APPELLANT**
) **WESTERN STATES INTERNATIONAL,**
) **INC.'s STATEMENT OF REASONS**
WESTERN STATES)
INTERNATIONAL, INC., a Corporation,))
Appellant,)
)
vs.)
)
BUREAU OF LAND MANAGEMENT,)
an Agency of the DOI.)

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:
INTERVENING PARTY TEARLACH RESOURCES (CALIFORNIA), LTD.
HEREBY RESPONDS TO THE STATEMENT OF REASONS OF APPELLANT
WESTERN STATES INTERNATIONAL, INC. ("WSI") AS FOLLOWS:

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ANSWER OF TEARLACH RESOURCES (CALIFORNIA), LTD. TO APPELLANT
WESTERN STATES INTERNATIONAL, INC.'s STATEMENT OF REASONS

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I. INTRODUCTION.

Appellant WESTERN STATES INTERNATIONAL, INC. (hereafter occasionally referred to as “WESTERN STATES”) filed a Notice of Appeal and accompanying Petition for Stay seeking, in effect, to prevent the registration of lease interests in favor of Interested Party TEARLACH RESOURCES (CALIFORNIA), LTD. (hereafter “TEARLACH”) which have been confirmed by ruling and judgments of the California Superior Court and two United States District Courts, and which have survived challenges by Appellant in the California Court of Appeal and the California Supreme Court.

Appellant WESTERN STATES, in its petition and appeal, regurgitates the same arguments unsuccessfully argued in several State and Federal Courts, and fails to meet the standards set forth in 43 CFR §4.21(b). “The appellant requesting the stay bears the burden of proof to demonstrate that a stay should be granted.” [43 CFR § 42.1(b)(2)] Appellant has not, and cannot, meet its burden, as State and Federal courts have already ruled.¹

Following many years of litigation before the Eastern District Court, the Central District, Kern County Superior Court, the Court of Appeal, and the California Supreme Court, TEARLACH has secured Judgment against Western States International (“Western States”) and its principal, Ingrid Aliet-Gass in the amount of \$23,747,423.18, plus interest from November 21, 2013. [Tearlach May 22, 2014 Opposition to Petition for Stay, Exhibits A and C.] The Judgment now totals more than \$23,747,423.18 (\$25,147,799.30 as of August 5, 2014), and TEARLACH has obtained State Court Writs of Execution for Los Angeles, Kern, and Sacramento Counties (and has recorded abstracts of judgment and a state lien).

¹ On July 14, 2014, the Interior Board of Land Appeals denied Western States’ Petition for Stay, holding that “WSI Has Not Shown a Likelihood of Success on the Merits.” This Board stated “Our review of the record reveals little or no support for WSI’s contentions” and that “Unsubstantiated allegations simply do not carry WSI’s burden to prove that it has a likelihood of succeeding on appeal.” [July 14, 2014 Order, page 3, citing *Powder River Basin Res. Council*, 180 IBLA 119, 126 (2010).]

1 On May 12, 2014, upon Tearlach's Application to have the Federal Court register its
2 interests in the subject leases, the United States District Court entered an Order that "IT IS
3 ORDERED and adjudicated that Tearlach Resources (California) Ltd. holds all right, title,
4 and interest in One-Hundred Percent (100%) of those certain oil and gas leases" and "The
5 United States Marshal's Service is hereby ordered to recording this Order with the Kern
6 County Recorder; and

7 The United States Bureau of Land Management is hereby ordered to Register
8 Tearlach Resources (California) Ltd.'s 100% interest in the aforementioned leases, consistent
9 with this Order."

10 Subsequent to this Order, Western States filed a number of objections (including a
11 claim that it was not served with Tearlach's Application), causing the District Court to vacate
12 its order and invite a further Application from Tearlach; the Court has yet to rule on
13 Tearlach's renewed Application. The District Court has held, however, that "Tearlach holds
14 a 60% interest in the leases." [Docket # 136, page 4, lines 10-11.]

15 For reasons set forth herein, the latest attempt of WESTERN STATES to circumvent
16 the courts through this Appeal (and its now-denied Petition for Stay), should be denied.

17 **II. THE ALREADY-ADJUDICATED PROPERTY THAT IS SUBJECT TO**
18 **WESTERN STATES' PETITION FOR STAY.**

19 The property against which TEARLACH has an ownership, lien and security
20 interest—as well as an appellate-confirmed State Court Judgment—consists of:

21 Parcel 1 - A.P.N.: 07405032; a Bureau of Land Management federal oil and gas
22 leasehold (Lease No. CACA 45618), commonly referred to as the Mitchel Lease, consisting
23 of approximately 160 acres of leased lands, with oil wells and related production facilities,
24 located in the North Kern Front oil field area of Kern County, California (part of Section 34,
25 Township 27 South, Range 27 East, MDB&M);

26 Parcel 2 - A.P.Ns.: 48101103, 48101113, and 48101124; a Bureau of Land
27 Management federal oil and gas leasehold (Lease No. CACA 45619), commonly referred to

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1 as the Witmer B West, Witmer A and Sentinel A Leases, consisting of approximately 279
2 acres of leased lands, with oil wells and related production facilities, located in the North
3 Kern Front oil field area of Kern County, California (part of Section 2, Township 28 South,
4 Range 27 East, MDB&M).

5 This property consists of lease interests belonging to TEARLACH, confirmed by a
6 judicial declaration in Kern County Superior Court case number Case No. S-1500-CV-
7 264931-DRL (Consolidated with S-1500-CV-266707, SPC), dated March 2, 2011.
8 [Tearlach's Opposition to Petition for Stay, Exhibit A.]

10 III. FACTS IN SUPPORT OF TEARLACH'S ANSWER AND OPPOSITION

11 The facts upon which TEARLACH's Answer and Opposition are based are as
12 follows:

13 TEARLACH acquired a 60% interest in the subject property described above in 2006.
14 It has already been finally adjudicated that "WESTERN STATES INTERNATIONAL, INC.
15 transferred, effective on or before December 13, 2006, to TEARLACH RESOURCES
16 (CALIFORNIA) LTD. a sixty percent (60%) working interest in the oil and gas property
17 known as the Kern Front Field described in the TEARLACH RESOURCES
18 (CALIFORNIA), LTD. Cross-complaint in Kern County Superior Court case number Case
19 No. S-1500-CV-264931-DRL (Consolidated with S-1500-CV-266707, SPC) (and Exhibit T
20 to the Charles Ross Declaration signed on February 18, 2010 and filed in that case on
21 February 22, 2010), including the Witmer A, B West and Sentinel A Lease (CACA 045619)
22 and the Mitchel Lease (CACA 045618)." [See, Amended Judgment, attached to Tearlach's
23 Opposition to Petition for Stay as Exhibit A, page 2, lines 21-27. *See also*, Administrative
24 Record Lease 2, Tab 23.]² Therefore, the property subject to WESTERN STATES' Appeal

26 ² Even without that Judgment, the undisputable fact remains that the 60% interest was
27 transferred to TEARLACH in 2006, and the Superior Court confirmed that fact in its ruling.
28 WSI has exhausted its appeals through the California Supreme Court. TEARLACH further

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1 should remain registered to TEARLACH.³ With respect to WSI’s Statement of Reasons, this
2 Board has already observed “in this case, the dispute in fact has been resolved in State
3 court.” [July 14, 2014 IBLA Order, page 4.] The Board further noted that “BLM correctly
4 deferred to that ruling.” [July 14, 2014 IBLA Order, page 5.]

5 **IV. HISTORICAL BACKGROUND LEADING TO TEARLACH’S**
6 **JUDGMENT.**

7 Tearlach Resources Limited (“Tearlach Canada” or “the “Company”) is a Canadian
8 public company whose shares are listed on the TSX Venture Exchange (“TSX-V”). Tearlach
9 Canada is engaged in the business of exploration and development of natural resource
10 properties directly and through its wholly owned subsidiary Tearlach Resources (California)
11 Ltd. (“TEARLACH” or “Tearlach California”).

12 Commencing in early 2006, the Company entered into discussions with Western
13 States International, Inc. (“WSI,” the Appellant in this case, and a judgment debtor of
14 TEARLACH) and its affiliate company, Gas & Oil Technologies, Inc. (“G&O”), represented
15 by their senior officers and principal shareholders, including defendant Ingrid ALIET-GASS
16 and Glen MORINAKA (collectively, “Western States”).⁴ TEARLACH was represented by

17
18 seeks registration of the remaining 40% through its Judgment, court orders and Writs of
19 Execution.

20 ³ Moreover, Judgment has been entered in favor of TEARLACH, against WESTERN
21 STATES INTERNATIONAL, INC., a Delaware corporation; and UNITED PACIFIC
22 ENERGY CORPORATION, a Delaware corporation, (formerly known as GAS AND OIL
23 TECHNOLOGIES, INC.), and INGRID ALIET-GASS, an individual, and each of them,
24 JUDGMENT OF EIGHTEEN-MILLION, SEVEN-HUNDRED AND TWENTY-FOUR
25 THOUSAND, NINE-HUNDRED AND ONE DOLLARS AND FIFTY-EIGHT CENTS
26 (\$18,724,901.58). This Judgment remains unsatisfied and outstanding. With accrued
27 interest, the Judgment was in excess of \$23,747,423.18, as of November 21, 2013 when the
28 State Court Writs of Execution were issued. As of August 5, 2014, the Judgment with
accrued interest is \$25,147,799.30.

⁴ Defendant Ingrid Aliet-Gass, a principal of Western States, apparently filed for Chapter 13
bankruptcy protection on August 9, 2010 (case number 2:10-bk-43110-VZ). That case was

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1 Malcolm Fraser (“FRASER,” who resides in Canada) and Charles Ross (“ROSS,” another
2 individual in Canada), both of whom are directors and officers of TEARLACH, and who are
3 also judgment Creditors. [Tearlach Opposition to Petition for Stay, Exhibit A.]

4 Western States represented that it was developing a number of resource projects in the
5 U.S., Russia and Indonesia, including an oil and gas project located near Bakersfield,
6 California known as the “Kern Front Property” (the “Property”) with a value of U.S. \$10 to
7 \$60 million, and wanted to find a Canadian public company such as TEARLACH to acquire
8 the properties in exchange for public company shares.

9 As a result of various inducements and false representations by the Western States
10 parties (outlined in the action filed in Canada, which resulted in a \$18,043,691.74 Judgment
11 in favor of TEARLACH, Tearlach Trial Exhibit PPP, and attached to Tearlach’s Opposition
12 to WSI’s Petition for Stay as Exhibit B), TEARLACH entered into an agreement (hereafter,
13 the “Letter Agreement”, Tearlach Trial Exhibit M) dated for reference April 21, 2006
14 (Tearlach’s Trial Exhibit M) among TEARLACH, as purchaser, Western States, Gas & Oil
15 Technologies as vendors (the “Vendors”) and certain direct or indirect principal shareholders
16 of Western States and Gas & Oil Technologies as covenanters (the “Shareholders”) which
17 provided for the purchase and sale of a 60% working interest in the Property in exchange for
18 the issuance by TEARLACH of 7,500,000 common shares of TEARLACH and a royalty on

19 dismissed on August 30, 2010, because she “failed to file all of the documents required”
20 under the *Federal Rules of Bankruptcy Procedure*.

21 G&O, Ingrid Aliet-Gass and Glen Morinaka had previously been subject to proceedings by
22 the U.S. Securities and Exchange Commission (the “SEC”) arising from preparation of
23 misleading disclosure documents resulting in various sanctions, including cease and desist
24 orders against each of G&O, Ingrid Aliet-Gass and Glen Morinaka and termination of GM’s
25 right to appear or practice as an accountant before the SEC. In noting that registration
26 statements they prepared “contained affirmative material misrepresentations,” the SEC stated
27 “Gass and Morinaka assisted in the preparation and drafting of the disclosures in the
28 registration statement. They were intimately familiar with the company’s business and knew
very well that it had no factories, no sales of product, no cash and no operations.” [SEC
Cease and Desist Order, File No. 3-10858.]

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1 the Property convertible into up to 30,000,000 additional common shares on and subject to
2 the conditions set out in the agreement including approval of the TSX Venture Exchange, a
3 copy of which was attached to the Plaintiffs' complaint in Kern County Superior Court case
4 number Case No. S-1500-CV-264931-DRL (Consolidated with S-1500-CV-266707, SPC).

5 Various disputes and differences arose between WESTERN STATES and
6 TEARLACH, which led TEARLACH's parent company to file a lawsuit against the
7 WESTERN STATES parties. That lawsuit was filed in Canada, because the Letter
8 Agreement provided for venue in Canada with the application of Canadian law.⁵ Judgment
9

10 _____
11 ⁵ All of the allegations of the Canadian action filed by Tearlach are complex, and need not be fully
12 developed and documented within this Answer, since the Court has already entered Judgment in
13 favor of Tearlach and against all of WSI's claims. Essentially, Tearlach, its subsidiary and its
14 principals maintain that the Western States parties deliberately and fraudulently:

- 15 a. Mised Tearlach to believe WSI had wells in production on the Property when they
16 did not;
- 17 b. Purported to cause WSI and G&O to sell an interest in three leases – Judkins, Witmer
18 B East and Sentinal B – which they knew they did not then own;
- 19 c. Grossly overstated oil production from the Property;
- 20 d. Grossly understated lifting costs and management costs on the Property;
- 21 e. Concealed the fact that WSI had received formal notice of termination on the Judkins
22 lease and had received formal notice of cancellation of the Witmer B East and Sentinal B
23 leases prior to Closing;
- 24 f. Concealed the fact that WSI did not have proper surface rights or access agreements
25 on the Property sufficient to authorize the work required to be done thereon;
- 26 g. Concealed the fact that the agreements WSI did have were all ready in default due to
27 serious arrears in payments;
- 28 h. Concealed the fact that they were not able to produce oil from the Property on an
economic basis using the methods they were employing;
- i. Concealed the fact that they had not met the requirements for maintaining the Snow
lease and were in danger of losing the lease, until after it had already been lost;

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j. Withheld accurate accounting and production information from Tearlach, in spite of repeated requests, in order to prevent or delay Tearlach in its attempts to discover the true state of affairs with respect to the Property;

k. Misrepresented their level of skill and experience in operating oil fields like the Property or at all.

Tearlach also maintained, in the Canadian action that led to the \$18,043,691.74 judgment in favor of Tearlach, that the Plaintiffs in this subsequently-filed case engaged in gross mismanagement of the Property, as evidenced by, among other things:

- a. Failing to prepare and deliver accounting and production reports;
- b. Failing to consult with Tearlach prior to commencing operations on the Property;
- c. Failing to prepare and deliver any AFE's for proposed or completed work on the Property;
- d. Failing to file required reports with government authorities;
- e. Failing to achieve economic production;
- f. Failing to maintain good title to the Property;
- g. Failing to obtain surface rights and access agreements that permitted the type of operations carried on by them on the Property and failing to maintain such agreements;
- h. Failing to keep equipment in proper repair;
- i. Failing to advise Tearlach of pending difficulties, including potential loss of leases due to non-payment or other action or inaction by them;
- j. Failing to make government rental payments including, in particular, a \$420.00 payment that resulted in the termination of an important lease which, but for corrective action taken by Tearlach and its staff, would have been lost permanently;
- k. Failure to pay operating expenses as and when due;
- l. Conducting themselves in a manner so as to attract litigation affecting, not only Western States and its principals, but the Property and Tearlach and its principals also;
- m. Selecting production methods they knew or should have known would be uneconomic for the type of hydrocarbons and oil bearing formations located on the Property;
- n. Continuing to focus substantially all of the efforts and expenditures on the Property on the Judkins lease even after receiving formal notice of termination, resulting in a complete loss of the work, effort and expenditures, including Tearlach's share thereof, and continuing to

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ANSWER OF TEARLACH RESOURCES (CALIFORNIA), LTD. TO APPELLANT WESTERN STATES INTERNATIONAL, INC.'s STATEMENT OF REASONS

1 in the Canadian action was entered by the Canadian court (for \$18,043,691.74) and can be
2 entered in California, pursuant to the Uniform Foreign-Country Money Judgments
3 Recognition Act (“UFCMJRA” or “revised Act”), California *Code of Civil Procedure* §§
4 1713-1724. [The Canadian Judgment is attached to Tearlach’s Opposition to Petition for Stay
5 as Exhibit B.]

6 Tearlach Resources (California) Ltd. (not a party to the Canadian action) had different
7 and additional claims against the Western States parties, which it asserted in a cross-
8 complaint in Kern County Superior Court case number Case No. S-1500-CV-264931-DRL
9 (Consolidated with S-1500-CV-266707, SPC). This state court action also included a
10 successful fifth cause of action for declaratory relief as to the date and validity of the
11 property transferred to TEARLACH. [See, Exhibit A to Tearlach’s Opposition to WSI’s
12 Petition for Stay, page 2, lines 21-28.]

13 Judgment was rendered in favor of TEARLACH after presentation of evidence at the
14 scheduled trial (which was not by “default” as often claimed by WSI⁶). The trial court
15 received and considered a mountain of documentary evidence and declarations, in addition to

16
17 do so (and attempting to coerce Tearlach to contribute to the cost of such efforts) even after
18 final judgment confirming effectiveness of that termination had been granted.

19
20 ⁶ “Docket” references herein refer to the docket in the United States Eastern District Court
21 case number 1:11-CV-756-LJO-SMS, the Federal case in which BLM was directed to
22 register Tearlach’s interest. At the Kern County trial proceeding, the Court opened by stating
23 “Let me clarify something. Those corporations have appeared by answer. And it’s my
24 understanding the matter does not technically proceed by way of default. It has to proceed
25 by way of a trial, but those parties may not be heard because they’re not represented in that
26 trial; and, therefore, it is in the nature of a default, but I don’t think it can be done like a
27 default upon declaration.” [Trial transcript, Docket #129-1, page 3, lines 4-11.] Charles Ross
28 and Tearlach’s attorney then proceeded to testify as to the content of their written
declarations and submitted exhibits that “run from letter A through, I believe, OOO and
another set of numbered exhibits, probably 1 through 40 or 60.” [Docket # 129-1, page 7,
lines 22-24.]

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1 the oral testimony of attorney Richard Farkas and Judgment Creditor Charles Ross at trial,
2 which incorporated and reaffirmed their written declarations and exhibits.

3 At the trial in Kern County Superior Court case number Case No. S-1500-CV-
4 264931-DRL (Consolidated with S-1500-CV-266707, SPC), based on the evidence presented
5 (in support of the facts enumerated in footnote 5, above), Judgment was granted in favor of
6 TEARLACH, with the Court specifically declaring, as part of the Judgment, that “Defendant
7 WESTERN STATES INTERNATIONAL, INC. transferred, effective on or before
8 December 13, 2006, to TEARLACH RESOURCES (CALIFORNIA) LTD. a sixty percent
9 (60%) working interest in the oil and gas property known as the Kern Front Field described
10 in the TEARLACH RESOURCES (CALIFORNIA), LTD. Cross-complaint in Kern County
11 Superior Court case number Case No. S-1500-CV-264931-DRL (Consolidated with S-1500-
12 CV-266707, SPC) (and Exhibit T to the Charles Ross Declaration signed on February 18,
13 2010 and filed in that case on February 22, 2010), including the Witmer A, B West and
14 Sentinal A Lease (CACA 045619) and the Mitchel Lease (CACA 045618).” [See, Amended
15 Judgment, attached to Tearlach’s Opposition to Petition for Stay as Exhibit A.]

16 Judgment in favor of the TEARLACH parties Tearlach Resources, Ltd., TEARLACH
17 California, ROSS and FRASER) was reinstated and affirmed by the California Court of
18 Appeal, Fifth Appellate District (in a published Opinion in case number F065511), and
19 Western States’ subsequent Petition for Review by the California Supreme Court was denied
20 (California Supreme Court case number S214095).⁷

21 Following the Kern County Judgment, Notice of Judgment Lien was recorded with
22 the California Secretary of State [TEARLACH Trial Exhibit 59, Docket #61-14] against “all

23 _____
24 ⁷ Even at a trial proceeding in the District Court case in which Tearlach’s Judgment was
25 collaterally attacked [Docket #92], which Defendant/Respondent Ingrid Aliet-Gass attended
26 and in which she participated as a party, the trial judge stated, on the record, “Well, let me
27 say this. What you haven’t proved, Mr. Draper [then-counsel for UPEOC], is **you haven’t**
28 **proved that the Kern County judgment is void, unenforceable or otherwise improper.**”
[Reporter’s Transcript of Proceedings, Docket # 92] August 3, 2011, page 333, lines 16-18.]

1 property subject to enforcement of a money judgment against [WSI] to which a judgment
2 lien on personal property may attach.” Also, an Abstract of Judgment was issued on June 8,
3 2011 [Tearlach Trial Exhibit 60]. As previously noted, monetary Judgment was granted in
4 favor of Tearlach in the amount of \$18,724,901.58 [Docket # 111, Exhibit A.] Again, this
5 interest was granted in 2006.

6 **V. A CALIFORNIA JUDGMENT WAS ENTERED AGAINST WESTERN**
7 **STATES, WITH THE SUPERIOR COURT FURTHER DECLARING**
8 **AND ADJUDICATING TEARLACH’S INTEREST IN THE SUBJECT**
9 **LEASES.**

10 In the Amended Judgment entered in Kern County Superior Court case number Case
11 No. S-1500-CV-264931-DRL (Consolidated with S-1500-CV-266707, SPC), dated March
12 2, 2011, it was adjudicated that “WESTERN STATES INTERNATIONAL, INC.
13 transferred, effective on or before December 13, 2006, to TEARLACH RESOURCES
14 (CALIFORNIA) LTD. a sixty percent (60%) working interest in the oil and gas property
15 known as the Kern Front Field described in the TEARLACH RESOURCES
16 (CALIFORNIA), LTD. Cross-complaint in Kern County Superior Court case number Case
17 No. S-1500-CV-264931-DRL (Consolidated with S-1500-CV-266707, SPC) (and Exhibit T
18 to the Charles Ross Declaration signed on February 18, 2010 and filed in that case on
19 February 22, 2010), including the Witmer A, B West and Sentinal A Lease (CACA 045619)
20 and the Mitchel Lease (CACA 045618).” [See, Amended Judgment, Tearlach’s Trial Exhibit
21 58.] Notice of Judgment Lien was recorded with the California Secretary of State
22 [TEARLACH Trial Exhibit 59], and an Abstract of Judgment was issued on June 8, 2011
23 [Tearlach Trial Exhibit 60]. Monetary Judgment was also granted in favor of TEARLACH
24 in the amount of \$18,724,901.58 [Exhibit A.] This interest was granted in 2006.

25 **VI. THE UNITED STATES DISTRICT COURT SUBSEQUENTLY**
26 **AFFIRMED TEARLACH’S INTEREST IN THE LEASES.**

1 On October 16, 2013, counsel for TEARLACH sent Valerie Duran of the U.S.
2 Marshal's office a copy of the March 2, 2011 Amended Judgment After Court Trial (Docket
3 #111, Exhibit A), as well as a copy of the June 8, 2011 Abstract of Judgment, a copy of the
4 September 10, 2013 Certified Published Opinion from the Court of Appeal, ratifying the
5 original Judgment, and a copy of the September 17, 2013 Order from the Court of Appeal
6 correcting a Court error on the Amended Judgment date. At that time, TEARLACH advised
7 the Marshal that it was asserting its right to the property held by the U.S. Marshal. A copy of
8 the cover letter sent to the Marshal was attached to Tearlach's Application as Exhibit C
9 [Docket #111, Exhibit C].

10 On June 5, 2012, the case that led to the initial seizure by the U.S. Marshal (the
11 UPEOC action) was dismissed in its entirety. (WSI successfully argued that the Stipulated
12 Judgment in that case was invalid and unenforceable, because it was not represented by
13 counsel when executed.) A copy of the Order of Dismissal by the Central District Court is
14 attached to Docket # 111 as Exhibit D.⁸

15 On November 21, 2013, TEARLACH obtained, from the Kern County Superior
16 Court, a Writ of Execution directed to the Sheriff or Marshal of the County of Sacramento, in
17 the amount of \$23,747,423.18. A copy of this Writ of Execution was attached to Docket #
18 111 as Exhibit E. The Judgment, with accrued interest, was \$25,147,799.30 as of August 5,
19 2014).

20 On November 25, 2013, TEARLACH's counsel sent the State Court's Writ of
21 Execution (Money Judgment) to the U.S. Marshal, along with the Federal Court's Dismissal

22 _____
23 ⁸ Although this Court afforded them Notice and opportunity to be heard (Docket #114, also
24 served on all parties of record), the Tearlach Applications and this Court's resulting Orders
25 did not impact any valid interests of WSI or Aliet-Gass. The subject property and lease
26 interests had been seized by the U.S. Marshal years earlier (pursuant to the later-vacated
27 Stipulated Judgment in the UPEOC action), and this case was reopened by Tearlach at the
28 direction of the U.S. Marshal, which required an Order from a Federal Court to release
property pursuant to Tearlach's State court Writ of Execution.

1 of case number CV07-04436-CJC (the UPEOC case). At that time, it was requested that the
2 property being held by the U.S. Marshal be delivered to counsel for TEARLACH, pursuant
3 to the State Court Writ of Execution. The U.S. Marshal declined to do so, however, on the
4 basis that the Writ of Execution was issued by a State Court, and it could only respond to a
5 directive from the Federal Court.

6 On January 21, 2014, TEARLACH's counsel sent another letter to the U.S. Marshal,
7 asking that it reconsider its determination that the U.S. Marshal cannot act on the State Court
8 Writ, noting that the judgment Creditors (TEARLACH) "are not seeking to have the U.S.
9 Marshal act upon a Writ of Execution against third parties. Rather, we only seek to have
10 your office honor the Writ." A copy of this request for reconsideration, with additional
11 explanation, was attached to Docket # 111 as Exhibit G.

12 The office of General Counsel for the U.S. Marshal's Service responded with a
13 February 4, 2014 letter stating that the U.S. Marshal's Service "will not remit any of the
14 funds held by it in this case to you or your client **until specifically ordered to do so by the**
15 **U.S. District Court for the Eastern District of California.**" A copy of this letter was
16 attached to Docket # 111 as Exhibit H (emphasis added). It is for this reason that
17 TEARLACH requested that the District Court order the U.S. Marshal's Service to release all
18 of the property it had been holding that had been seized from the judgment Debtors (WSI).

19 At the time of Tearlach's February 6, 2014 Application, the U.S. Marshal's Service
20 was holding cash and oil and gas lease interests of the judgment Debtors (i.e., the remaining
21 40% interest), against which there were no judgment claims other than Tearlach's (since the
22 original District court case was dismissed on June 5, 2012, as indicated in Exhibit D to
23 Docket # 111). The U.S. Marshal, however, stated that it would only release the property it
24 holds upon being "ordered to do so by the U.S. District Court for the Eastern District of
25 California." [Docket # 111, Exhibit H]

26 Based on the foregoing, the Application submitted to the District Court by Tearlach
27 on February 6, 2014 (Docket # 111) was submitted with a Federal Writ of Execution in favor

28 RICHARD\C:\CASE FILES\TEARLACH RESOURCES\BLM - BUREAU OF LAND MANAGEMENT -- APPEAL\TEARLACH -- RESPONSE OF TEARLACH RESOURCES TO WESTERN STATES STATEMENT OF REASONS.DOCX

1 of the Tearlach parties (Docket # 111-2), to facilitate the recovery of the remaining 40%
2 interest (by its application, Tearlach was in effect seeking a turnover order that required no
3 writ of execution). The District Court signed the Proposed Order (Docket # 118, signed at
4 Docket # 120) providing for registration of the 100% interest in favor of Tearlach. That
5 Proposed Order had previously been presented to the Bureau of Land Management for its
6 approval as to form.⁹

7 As Tearlach noted in its Opposition to the WSI “Objections and Request to Vacate,”
8 “The 100% interests were seized years ago from WSI and ALIET-GASS, without objection,
9 following their stipulation to judgment (which they later had vacated through a “lack of
10 corporate counsel” maneuver). The initial 60% interest was adjudicated to belong to
11 Tearlach in the Superior Court action (upheld despite challenges up to the California
12 Supreme Court), and the remaining interests were properly subject to Tearlach’s huge
13 monetary judgments and Writs of Execution. The Orders of this Court have been proper.”

14 The lease interests remaining with the U.S. Marshal would have been the remaining
15 40%, previously seized pursuant to the UPEOC Writ of Execution. Tearlach’s 60% interest
16 had been assigned to it in 2006, and affirmed by the Kern County Court’s Judgment of
17 March, 2011.

18 When UPEOC sought to enforce its (later-vacated) Stipulated Judgment, its attempt to
19 invalidate Tearlach’s third party claim was denied. [Docket # 93, page 12, lines 22-23.]¹⁰

20 ⁹ Tearlach’s counsel filed a Declaration on May 7, 2014 stating, in part, “I submitted the
21 accompanying proposed order to the Bureau of Land Management for comment and/or
22 approval, and this morning, May 7, 2014, I received an email from the Land Law Examiner
23 for the Bureau of Land Management stating, in pertinent part, ‘While I can not [*sic*] commit
24 to approval until receipt and review of the final signed and certified court document, this
25 order you are proposing is clear and together with the qualification statement is something I
feel we could work with.’ Based on this email, I am submitting the proposed order at this
time.” [Docket #118-1, paragraph 8.]

26 ¹⁰ In its ruling, the Court wrote: “UPEOC attempts to collaterally attack the Kern County
27 Superior Court’s judgment by arguing that it does not mean what it says. UPEOC also
28 contends that the judgment was entered in excess of the Superior Court’s jurisdiction.

1 Later, when the Stipulated Judgment in favor of UPEOC was vacated, the 40% interest it
2 sought became subject to Tearlach Notice of Judgment Lien (Docket #61-14) and State Court
3 Writs of Execution [Docket # 111, pages 25-27.] Because the Marshal required a Federal
4 directive, Tearlach appropriately filed its February 6, 2014 Application with the District
5 Court [Docket # 111] and Proposed Federal Writ of Attachment [Docket # 111-2.] Because
6 of the nature of the property being sought (oil and gas leases), Tearlach maintains that the
7 District Court's Order [Docket # 120] affirming Tearlach's 100% interest in the leases and
8 providing "The United States Bureau of Land Management is hereby ordered to Register
9 Tearlach Resources (California) Ltd.'s 100% interest in the aforementioned leases, consistent
10 with this Order" was appropriate.

11 Western States thereafter submitted a number of Objections to Tearlach's Application,
12 causing the District Court to reconsider its Order for the 100% interest (a renewed Application
13 is pending). Nonetheless, with respect to the lease interests now before this Board, the
14 District Court has clearly stated "the record establishes that Tearlach holds a 60% interest in
15 the leases." [Docket # 136, page 4, lines 11-12].

16 Tearlach believes that the District Court's finding with respect to the leases in this
17 appeal should be binding on this administrative board. If WSI is unsuccessful in its
18 administrative appeal, its recourse is to the District Court¹¹, so Tearlach maintains that this

19 Federal district courts have no authority to review the validity of state court judgments. *See,*
20 *e.g., Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 859 (9th Cir. 2008)(noting that federal
21 district courts are prohibited from exercising subject matter jurisdiction over a suit that is a
22 de facto appeal from a state court judgment). The court may not disturb the Kern County
23 Superior Court's judgment based on UPEOC's arguments." [Docket # 93, page 9, lines 2-
12.]

24 ¹¹ IBLA decisions are appealable to the federal district court where the land or property at
25 issue is situated, or the Federal District Court for the District of Columbia. [28 U.S.C. §
26 1391(e) (1988).] The principal standard for reviewing an IBLA decision is whether it is
27 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.
28 [See 5 U.S.C. § 706(2)(A) (1988).]

1 Court's Orders should take precedence. When a federal court rules in a particular case on an
2 issue that lies within its jurisdiction, the IBLA must follow that ruling. [*Oregon Portland*
3 *Cement Co.*, 84 IBLA 186, 189 (1984) (on judicial remand).]¹²

4 **VII. ALL OF THE ARGUMENTS IN WESTERN STATES' STATEMENT OF**
5 **REASONS HAVE BEEN ADJUDICATED.**

6 Western States continues to falsely argue that Tearlach's Judgment is "void," although
7 this argument has been explicitly rejected by the California Court of Appeal and the District
8 Court. The arguments raised in its "Legal Discussion" sections B ("Tearlach's Continuing
9 Breach of Contract"), (C) ("The Assignments were fraudulent and/or fraudulently obtained"),
10 have been fully and finally adjudicated by the State Court, and WSI has exhausted its appeals
11 through the California Supreme Court.¹³

12 The remaining arguments of WSI in sections A of its Statement of Reasons ("Lack of
13 Notice"), (D) (Non-Compliance with Bonding Requirement"), (E) ("It is Inequitable to Raise
14 the Bonding Requirement"), and (F) ("IBLA's has the Power to Void and Rescind a BLM

15 ¹² In its July 14, 2014 Order, this Board has already stated that "in this case, the dispute in
16 fact has been resolved in State Court." [July 14, 2014 Order, page 4. See also, Order,
17 footnote 2.] Similarly, as noted in footnote 10, above, in upholding Tearlach's Judgment, the
18 Eastern District Court held: "Federal district courts have no authority to review the validity
19 of state court judgments. See, e.g., *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 859 (9th
20 Cir. 2008)(noting that federal district courts are prohibited from exercising subject matter
21 jurisdiction over a suit that is a de facto appeal from a state court judgment). The court may
22 not disturb the Kern County Superior Court's judgment based on UPEOC's arguments."
23 [Docket # 93, page 9, lines 5-12.]

24 ¹³ It should be noted that Western States and its principal, Aliet-Gass, filed a number of
25 complaints in the Kern County State Court against Tearlach in 2009, including a variety of
26 causes of action such as breach of agreement, fraud and deceit, intentional misrepresentation,
27 fraud and deceit, negligent misrepresentation, concert of action, alter ego, declaratory relief,
28 and the like. The cases were actively litigated for years, with the State Court ultimately
ruling in Tearlach's favor on the claims asserted against it. Interestingly, during all those
years of litigation, neither Western States nor Aliet-Gass ever raised their fanciful and
ridiculous claims that she was pressured into signing the assignments with death threats as
now raised in the (likely-inadmissible) declarations attached to WSI's Statement of Reasons.

1 Decision Made Contrary to Regulations”) were effectively addressed by this Board’s July 14,
2 2014 Order Denying WSI’s Petitions for Stay. For example, this Board stated, “any
3 possibility that WSI was deprived of adequate notice of BLM’s decision vanished when it
4 appealed that decision to this Board.” [July 14, 2014 IBLA Order, page 4.] It further noted
5 that “WSI does not point to any law or policy that mandates consultation or notification with
6 the assignor before acting on a pending assignment, and we are aware of none.” [July 14,
7 2014 IBLA Order, page 4.]

8 As in its Opposition in the Eastern District, this Board has correctly observed that
9 “WSI neither corroborates those assertions with citations to the record nor supports its claims
10 with appropriate legal authority. Our review of the record reveals little or no support for
11 WSI’s contentions.” [July 14, 2014 IBLA Order, page 3.] Observing similar arguments by
12 WSI, the Eastern District most recently stated “WSI’s pleadings since June 2014 are
13 borderline unintelligible, riddled with outlandish hyperbole, replete with petty and
14 unprofessional attacks on opposing counsel, unprofessionally written, and lacking necessary
15 citations to the record, evidence, and appropriate authority.” [Docket # 130, page 3, lines 7-
16 9.]

17 **VIII. CONCLUSION.**

18 As noted above, following many years of litigation before this Eastern District Court,
19 the Central District, Kern County Superior Court, the Court of Appeal, and the California
20 Supreme Court, TEARLACH has secured Judgment against Western States International
21 (“Western States”) and its principal, Ingrid Aliet-Gass in the amount of \$23,747,423.18, plus
22 interest from November 21, 2013. [Exhibits A and C to Tearlach’s Opposition to WSI’s
23 Petition for Stay.]

24 On November 21, 2013, TEARLACH obtained, from the Kern County Superior
25 Court, a Writ of Execution directed to the Sheriff or Marshal of the County of Sacramento, in
26

1 the amount of \$23,747,423.18. A copy of this Writ of Execution was attached to Tearlach’s
2 Opposition to Petition for Stay as Exhibit C.

3 Appellant astonishingly asserts that it “has a high likelihood of success on the merits.”
4 [Petition, page 2, line 19-20] It then sets forth, without a scintilla of evidence, twelve (12)
5 “reasons.” Again, none of the asserted “reasons” is supported by evidence.¹⁴ Many of them
6 have been adjudicated against Western States in the State and Federal Courts, as evidenced
7 by the various Judgments and Orders cited herein. Others are demonstrably false on their
8 face, such as Western States’ claim that the Assignment was “based upon a void California
9 state court Judgment,” which argument already failed in the California Court of Appeal and
10 California Supreme Court. The latest (inadmissible) “death threat” declarations are six years
11 too late, and cannot be taken seriously.¹⁵

12 TEARLACH has a valid State Court Judgment against Western States International,
13 Inc., United Pacific Energy Corporation (formerly known as Gas and Oil Technologies, Inc.)
14 and Ingrid Aliet-Gass in the amount of \$18,724,901.58 plus interest from March 2, 2011
15 (\$25,147,799.30 as of August 5, 2014). [Exhibit A to Tearlach’s Opposition to Petition for
16 Stay, page 3, lines 7 through 22.] In addition, it has a declaration that the specified oil and
17 gas leases had been transferred to TEARLACH effective on or before December 13, 2006.
18 [Exhibit A to Tearlach’s Opposition to Petition for Stay, page 2, lines 21-28.] It also has a

19 _____
20 ¹⁴ In this Board’s July 14, 2014 Order, it reviewed WSI’s “reasons” and observed that
21 “Unsubstantiated allegations simply do not carry WSI’s burden to prove that it has a
22 likelihood of succeeding on appeal.” [July 14, 2014 Order, page 3, citing *Powder River
Basin Res. Council*, 180 IBLA 119, 126 (2010).]

23 ¹⁵ Interestingly, despite years of litigation in various State, Federal, and Appellate Courts,
24 WSI and Aliet-Gass never asserted (themselves or through any of their several attorneys) that
25 the subject assignments were signed under duress or death threats. These claims (based on
26 inadmissible hearsay and lack of foundation) are raised herein for the first time, more than
27 six years after the assignments were signed. Moreover, neither Aliet-Gass nor Smushkevich
28 claim that anyone affiliated with Tearlach made any threats or applied any pressure; rather,
they cite unsupportable words of one Vahe Soghoian, who apparently died in 2008.

1 Canadian Judgment in the amount of \$18, 043,691.74. [Exhibit B to Tearlach’s Opposition to
2 Petition for Stay.] TEARLACH has also had a Writ of Execution in the amount of
3 \$23,747,423.18 plus daily interest of \$5,130.11 issued by the Kern County Superior Court.
4 [Exhibit C to Tearlach’s Opposition to Petition for Stay.] Following appellate review, the
5 Superior Court reinstated the Amended Judgment entered on March 2, 2011. [Exhibit D to
6 Tearlach’s Opposition to Petition for Stay.] The Eastern District Court, moreover, has stated
7 that “the record establishes that Tearlach holds a 60% interest n the leases.” [Docket # 136,
8 page 4, lines 10-11.]

9 Based on the foregoing, it is respectfully requested that Appellant’s Appeal be denied,
10 so that the Bureau of Land Management can properly act upon the valid assignments and
11 Court Orders.

12 Dated: August ____, 2014 LAW OFFICES OF RICHARD D. FARKAS
13

14
15 By _____
16 Richard D. Farkas,
17 Attorneys for Intervenor
18 TEARLACH RESOURCES
19 (CALIFORNIA), LTD.
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**ANSWER OF TEARLACH RESOURCES (CALIFORNIA), LTD. TO APPELLANT
WESTERN STATES INTERNATIONAL, INC.’s STATEMENT OF REASONS**