

CAUSE NO. C-1-PB-16-000096

IN RE:

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IN THE PROBATE COURT

OF

TEL OFFSHORE TRUST

TRAVIS COUNTY, T E X A S

**TRUSTEES' OBJECTIONS TO NOTICE OF DEPOSITION OF THE BANK OF  
NEW YORK MELLON TRUST COMPANY, N.A.**

The Bank of New York Mellon Trust Company, N.A. ("BONY"), as Corporate Trustee, and Gary C. Evans, Jeffrey S. Swanson, and Thomas H. Owen, Jr., as Individual Trustees (collectively "Trustees") of the TEL Offshore Trust ("Trust"), serve the following Objections to Attorney Ad Litem's Notice of Deposition of the Bank of New York Mellon Trust Company, N.A. ("Notice").

**GENERAL OBJECTIONS**

1. Trustees object to the Notice to the extent it seeks information that is protected by the attorney-client privilege and/or work product privilege.
2. Trustees object to the Notice to the extent it seeks to impose a greater burden than is permitted by the Texas Rules of Civil Procedure.
3. Trustees object to the Notice to the extent it seeks confidential information obtained from a third-party that has not authorized Trustees to disclose such information.
4. Trustees object to the Notice to the extent it seeks information for an overly broad and burdensome time period. Events occurring prior to 2008 have no bearing on the issues relevant to this Suit.

5. Any objection asserted in response to any topic designation herein is not a waiver of the general objections set forth above. Each general objection is incorporated, to the extent applicable, into the specific objections below.

### **OBJECTIONS TO TOPICS AT DEPOSITION**

1. The Trustees' attorneys' fees and expenses in connection with the Suit, including the terms of the engagement of the Trustees' attorneys.

#### **OBJECTION:**

Trustees object to this Topic to the extent it seeks information which is protected by the attorney-client privilege or work-product privilege.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

2. The negotiation and drafting of the Trust Agreement.

#### **OBJECTION:**

Mr. Ulrich is not being designated as a corporate representative of the Bank of New York Mellon Trust Company, N.A. on this Topic.

3. The negotiation and drafting of the Plan.

#### **OBJECTION:**

Mr. Ulrich is not being designated as a corporate representative of the Bank of New York Mellon Trust Company, N.A. on this Topic.

4. The negotiation and drafting of the TEL Partnership Agreement.

#### **OBJECTION:**

Mr. Ulrich is not being designated as a corporate representative of the Bank of New York Mellon Trust Company, N.A. on this Topic.

5. Any projections, forecasts or estimates of the TEL Partnership's share of operating costs of the Royalty Properties, for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

6. Any projections, forecasts or estimates of the TEL Partnership's share of income from the Royalty Properties, for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

7. Any projections, forecasts or estimates of Trustee compensation for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

8. Any projections, forecasts or estimates of Trust expenses, including but not limited to administrative costs, for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

9. Any projections, forecasts or estimates of distributions to Unit Holders for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

10. Any projections, forecasts or estimates of oil, gas or other hydrocarbon production from the Royalty Properties for any year from and including 2003 through the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

11. Any projections, forecasts or estimates of the value of the Royalty Interests, or any of them, for any year from and including 2003 through the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

12. Any reserve studies, concerning the estimated amount of recoverable oil, gas or hydrocarbons in the Royalty Properties from and including the year 2003 through the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

13. Any contracts or agreements for the sale or exchange of any Royalty Interest.

**OBJECTION:**

Trustees object to the extent that this Topic seeks information that is subject to third-party confidentiality agreement(s). Furthermore, responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

14. TEL Partnership's share of operating costs from the Royalty Properties, for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Furthermore, Trustees assert that the information sought may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

15. TEL Partnership's share of income from the Royalty Properties, for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Furthermore, Trustees assert that the information sought may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

16. Trustee compensation for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Furthermore, Trustees assert that the information sought may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

17. Trust expenses, including but not limited to administrative costs, for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Furthermore, Trustees assert that the information sought may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

18. Distributions to the Unit Holders for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees also object to the extent that the information sought is a public record that is equally available to Ad Litem.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

19. Oil, gas or other hydrocarbon production from the Royalty Properties for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad, unduly burdensome, and vague as written. Furthermore, responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

20. The value of the Royalty Interests, or any of them, for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object that this Topic is overly broad, unduly burdensome, and vague as written. Furthermore, responsive information may be protected by the attorney-client and/or work product privileges. Trustees further object to the extent this Topic seeks information that is a public record that is equally available to Ad Litem.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

21. The Trust financial records, including all general ledgers, profit and loss statements, balance sheets and other financial statements and/or accounting records for the Trust from and including the year 2003 through the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

22. BONY's organizational structure, including its parents, subsidiaries, affiliates, divisions or departments, and/or chain of command within each organization, including the positions and person holding those positions.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees further object to this Topic because it seeks information that is immaterial and irrelevant to the issues of this lawsuit and is not reasonably calculated to lead to the discovery of admissible evidence. The scope of discovery is confined by the subject matter of the case and reasonable expectations of obtaining information

that will aid resolution of the dispute. Additionally, Defendant objects to this Topic because it constitutes a “fishing expedition.”

Mr. Ulrich will testify to the Bank of New York Mellon Trust Company, N.A.’s organizational structure as it relates to the Trust.

23. Any determination of total future revenues attainable to the overriding royalty interest by independent petroleum engineers as discussed in Section 9.01 of the Trust Agreement and referred to in paragraph 9 of the Petition.

**OBJECTION:**

Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

24. The discussions and analysis concerning the decision to sell percentages of the royalty in October 2011 and October 2013, as discussed in paragraph 10 of the Petition.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

25. The oil, gas and/or other production from the royalty property from 2003 to the present.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

26. The plugging and abandonment of wells on Eugene Island 339, as referred to in paragraph 14 of the Petition.



**OBJECTION:**

Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

27. Partnership's share of operating costs for the royalty properties.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Trustees object that this Topic is duplicative of Topic 14. Trustees object to the extent this Topic seeks information that is protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

28. The "cost carry forward for the repairs and plugging and abandonment costs resulting from the hurricane damage" as discussed in paragraph 15 of the Petition.

**OBJECTION:**

Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

29. Any loans to the Trust from BONY, including, without limitation, the loans referred to in paragraph 18 of the Petition.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Furthermore, Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges. BONY, as defined in the Notice, did not make any loans to the Trust.

Subject to and without waiving the foregoing, with regard to this Topic, Mr. Ulrich will testify solely to the Corporate Trustees' knowledge of loans made to the Trust. Mr. Ulrich is not being designated as a corporate representative of the

Bank of New York Mellon Trust Company, N.A. regarding its or any of its affiliates' lending practices or lending decisions in relation to the Trust.

30. The "increase costs associated with federal securities, financial audits, and tax filings" as referred to in paragraph 21 of the Petition.

**OBJECTION:**

Trustees will be amending their Petition to remove the word "increase" from the above sentence.

Mr. Ulrich will testify to the "costs associated with federal securities, financial audits, and tax filings."

31. The Trustees consideration of all options available to the Trust as referred to in paragraph 24 of the Petition.

**OBJECTION:**

Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

32. Any advice of experts the Trustees requested or received on the termination of the Trust, as referred to in paragraph 24 of the Petition.

**OBJECTION:**

Trustees assert that responsive information may be protected by the attorney-client-privilege and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

33. Any loans or potential loans to the Trust from parties other than BONY.

**OBJECTION:**

Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify regarding loans or potential loans to the Trust from parties other than BONY since 2008.

34. Any loans or potential loans to the Trust from BONY.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome. Further, Trustees object that this Topic is duplicative of Topic 29. Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges. BONY, as defined in the Notice, did not make any loans to the Trust.

Subject to and without waiving the foregoing, with regard to this Topic, Mr. Ulrich will testify solely to the Corporate Trustees' knowledge of the loans made to the Trust. Mr. Ulrich is not being designated as a corporate representative of the Bank of New York Mellon Trust Company, N.A. regarding its or any of its affiliates' lending practices or lending decisions in relation to the Trust.

35. SEC filings by the Trust for any year from and including 2003 to the present.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

36. Budgets for the Trust for any year, from and including 2003.

**OBJECTION:**

Trustees object to this Topic because it is overly broad and unduly burdensome.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

37. The discussions and analysis concerning the decision to seek modification and termination of the Trust.

**OBJECTION:**

Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic.

38. Meetings of the Trustees in any year from and including 2003 through the present.

**OBJECTION:**

Trustees object that this Topic is overly broad and unduly burdensome. Further, Trustees assert that responsive information may be protected by the attorney-client and/or work product privileges.

Subject to and without waiving the foregoing, Mr. Ulrich will testify to this Topic since 2008.

Dated July 12, 2016

Respectfully submitted,

**ANDREWS KURTH LLP**

By: /s/ Georgia L. Lucier

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ATTORNEYS FOR TRUSTEES THE BANK OF NEW  
YORK MELLON TRUST GARY C. EVANS,  
JEFFREY S. SWANSON, and THOMAS H. OWEN, JR.

**CERTIFICATE OF SERVICE**

I hereby certify that on July 12, 2016, this document was served in accordance with this Court's orders.

s/ Georgia L. Lucier

Georgia L. Lucier