

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW  
EL PATIO BUILDING

117 NORTH GUADALUPE  
POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

September 11, 2001

TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

**HAND DELIVERED**

Ms. Lori Wrotenbery, Director  
Oil Conservation Division  
1220 South Saint Francis  
Santa Fe, New Mexico 87505

Case 12734

01 SEP 11 PM 3:09

OIL CONSERVATION DIV.

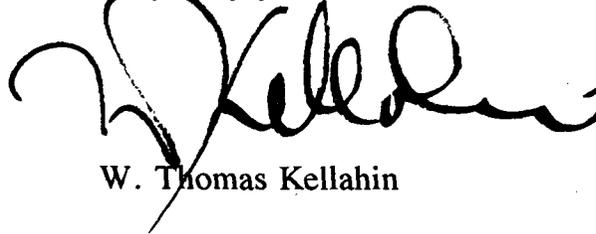
**Re: SPECIAL "INFILL WELL" AREA**  
*Application of Richardson Operating Company to establish a special project area within the Basin-Fruitland Coal Gas Pool as an exception from Rule 4 of the special rules for this pool, San Juan County, New Mexico*

Dear Ms. Wrotenbery:

On behalf of Richardson Operating Company, please find enclosed our referenced application which we request be set for hearing on the Examiner's docket now scheduled for October 4, 2001.

Also enclosed is our proposed advertisement of this case for the NMOCD docket.

Very truly yours,



W. Thomas Kellahin

cc: Richardson Operating Company  
Attn: Cathy Colby

*Application of Richardson Operating  
Co.  
Record on Appeal, 1230.*

**PROPOSED ADVERTISEMENT**

Case 1273.4: Application of Richardson Operating Company to establish a Special "infill Well" Area within the Basin-Fruitland Coal Gas Pool as an exception from Rule 4 of the special rules for this pool, San Juan County, New Mexico. Applicant seeks the establishment of a Special "Infill Well" Area consisting of Section 36 of T30N, R15W, Section 1 of T29N, R15W, Sections 16, 19, 20, 21, 28 through 33 of T30N, R14W, Sections 4, 5 and 6 of T29N, R14W within the Basin-Fruitland Coal Gas Pool, as an exception from Rule 4 of the Special Rules and Regulations for this pool to allow the drilling of a second well within a standard 320-acre spacing unit. The Special "Infill Well" Area is located approximately 2 miles north of Kirkland, New Mexico.

*Application of Richardson Operating  
Co.  
Record on Appeal, 1231.*

**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:**

CASE NO. 12734

**APPLICATION OF RICHARDSON OPERATING COMPANY  
TO ESTABLISH A SPECIAL "INFILL WELL" AREA WITHIN  
THE BASIN-FRUITLAND COAL GAS POOL AS AN  
EXCEPTION FROM RULE 4 OF THE SPECIAL RULES  
FOR THIS POOL, SAN JUAN COUNTY, NEW MEXICO**

**APPLICATION**

Comes now Richardson Operating Company ("Richardson") and applies to the Division for the establishment of a special "infill well" area consisting of Section 36 of T30N, R15W, Section 1 of T29N, R15W, Sections 16, 19, 20, 21, 28 through 33 of T30N, R14W, Sections 4, 5 and 6 of T29N, R14W within the Basin-Fruitland Coal Gas Pool, as an exception from Rule 4 of the Special Rules and Regulations for this pool to allow the drilling of a second well within a standard 320-acre spacing unit.

In support of its application, Richardson states:

(1) Effective October 17, 1988, Division Order R-8768 created the Basin-Fruitland Coal Gas Pool, established special rules and regulations for this pool ("Pool Rules") and authorized the production of gas from the coal seam within the Fruitland formation.

(2) Rule 4 of the Pool provides for one parent well and for an exception from Rule 4 for "specifically defined areas of the pool" for the drilling of an optional second well within a 320-acre gas proration and spacing unit ("GPU") providing this **one optional** "infill well" to be located on the opposite 160-acres from the 160-acres containing the original well ("the initial well") **and** further providing that these infill wells were not closer than 660 feet to the outer boundary of the GPU and not closer than 10 feet to any quarter, quarter-quarter line or subdivision inner boundary.

*Application of Richardson Operating  
Co.  
Record on Appeal, 1232.*

(3) In accordance with Rule 4 of the Pool, Richardson seeks the creation of a Special "Infill Well" Area which is within the western edge of the Basin Fruitland Coal Gas Pool. See Exhibit "A".

(4) Richardson is the current operator of wells in the Basin Fruitland Coal Gas Pool and within the proposed Special "Infill Well" Area.

(5) Portions of the Special "Infill Well" Area are subject to certain State of New Mexico oil and gas leases issued by the Commissioner of Public Lands for New Mexico which authorize Richardson, among other things, to drill, complete and produce coalbed methane wells for gas production from the Fruitland Coal Gas Pool.

(6) Other portions of the Special "Infill Well" Area are subject to certain Federal oil and gas leases issued by the Bureau of Land Management ("BLM") which authorize Richardson, among other things, to drill, complete and produce coalbed methane wells for gas production from the Fruitland Coal Gas Pool.

(7) In 1991, part of the Special "Infill Well" Area is defined as being the "Deep Lease" was leased by the State of New Mexico to San Juan Coal Company for the underground mining of coal from the coal seams within the Fruitland formation.

(8) Richardson's state oil and gas lease for that portion of the Deep Lease area was issued in 1949, some 42 years before the state coal lease was issued.

(9) In 2001, part of the Special "Infill Well" Area is defined as being the "Deep Lease Extension" was leased by the BLM to San Juan Coal Company for the underground mining of coal from the coal seams within the Fruitland formation.

(10) Richardson's federal oil and gas leases for the Deep Lease Extension area were issued in 1973, 1975 and 1996 and predate the federal coal lease.

(11) In 1991 part of the Special "Infill Well" Area is defined as being in the "Deep Lease Extension" Area was leased by the State of New Mexico to San Juan Coal Company for the underground mining of coal from the coal seams within the Fruitland formation.

(12) With the exception of one lease issued in 1997 involving approximately 80 acres of overlap with the coal lease, Richardson's state oil and gas leases for the "Deep Lease Extension" Area were issued in 1950, 1952, and 1975 and predate the state coal lease.

(13) None of the federal oil & gas leases contain any special stipulations limiting oil and gas exploration, drilling or production because of the presence of coal.

(14) San Juan Coal Company has a mining plan which will unreasonably interfere with Richardson's ability and right to produce the coalbed methane gas within the Fruitland Coal-Gas formation.

~~(15) In order to minimize the adverse consequences of San Juan Coal Company's mining plan, Richardson requests that the Division establish a Special "Infill Well" Area to provide an opportunity to accelerate the production of gas from the Fruitland formations prior to having that gas wasted by the mining operations of San Juan Coal Company.~~

(16) Copies of this application have been sent to all appropriate parties as required by the Division Order R-8768. See Exhibit "B".

(17) Approval of this application is in the best interests of conservation, the prevention of waste and the protection of correlative rights.

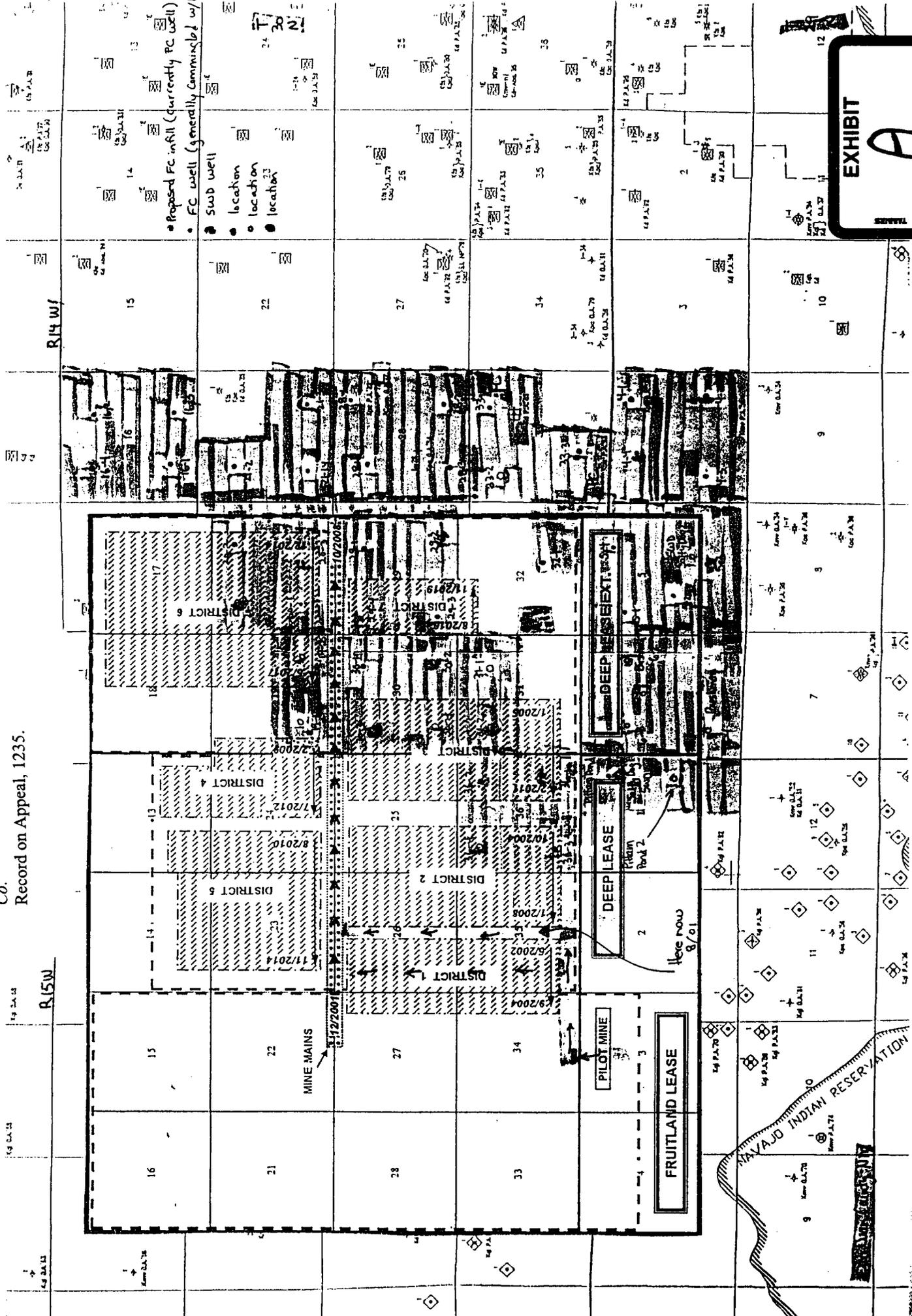
WHEREFORE Applicant requests that this matter be set for hearing on October 4, 2001 before a duly appointed Examiner of the Oil Conservation Division and that after notice and hearing as required by law, the Division enter its order granting this application.

Respectfully submitted



W. Thomas Kellahin  
KELLAHIN and KELLAHIN  
P. O. Box 2265  
Santa Fe, New Mexico 87504

Application of Richardson Operating  
Co.  
Record on Appeal, 1235.



**EXHIBIT**  
**A**

**EXHIBIT "B"**

Dugan Production Corp.  
P. O. Box 420  
Farmington, New Mexico 87499-0420

Questar Exploration & Production Company  
1331 17th Street, Suite 800  
Denver, CO 80202

Calpine Natural Gas Company  
1000 Louisiana Street, Suite 800  
Houston, Texas 77002

**JAMES BRUCE**  
ATTORNEY AT LAW

POST OFFICE BOX 1056  
SANTA FE, NEW MEXICO 87504

324 MCKENZIE STREET  
SANTA FE, NEW MEXICO 87501

(505) 982-2043  
(505) 982-2151 (FAX)

June 14, 2002

**Hand Delivered**

Lori Wrotenbery  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

OIL CONSERVATION DIV.  
02 JUN 14 PM 4:57

Re: Order No. R-11775/Richardson Operating Company

Dear Ms. Wrotenbery:

Enclosed are an original and two copies of San Juan Coal Company's ("SJCC's") Application for Hearing *De Novo* in the above matter. The Division hearing on this case lasted 1½ days. Because Commission hearings are normally on Fridays, SJCC suggests that a special hearing date may be necessary.

Also enclosed are an original and four copies of SJCC's Application for Stay of Order No. R-11775. If you desire oral argument on the stay application, please let us know.

Thank you for your attention to this matter.

Very truly yours,



James Bruce  
Attorney for San Juan Coal Company

cc: David K. Brooks  
Stephen C. Ross  
W. Thomas Kellahin

*Application of Richardson Operating  
Co.  
Record on Appeal, 1237.*

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION  
FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF RICHARDSON OPERATING  
COMPANY TO ESTABLISH A SPECIAL "INFILL  
WELL" AREA WITHIN THE BASIN-FRUITLAND  
COAL GAS POOL AS AN EXCEPTION TO RULE 4  
OF THE SPECIAL RULES FOR THIS POOL,  
SAN JUAN COUNTY, NEW MEXICO.

Case No. 12734

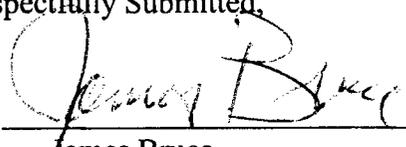
02 JUN 14 PM 4:57  
OIL CONSERVATION DIV.

SAN JUAN COAL COMPANY'S  
APPLICATION FOR HEARING DE NOVO BEFORE THE  
OIL CONSERVATION COMMISSION  
ON ORDER OF THE DIVISION NO. R-11775

Pursuant to NMSA § 70-2-13 1978 and Oil Conservation Division Rule 1220, San Juan Coal Company ("San Juan"), a party of record adversely affected, hereby applies for hearing de novo before the Commission regarding the June 6, 2002 Order of the Division, Order No. R-11775, attached to this Application as Exhibit A. San Juan requests that the Oil Conservation Commission conduct a de novo hearing in this matter, in accordance with applicable regulations.

Respectfully Submitted,

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

  
James Bruce  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
Telephone: (505) 982-2043

*Application of Richardson Operating  
Co.  
Record on Appeal, 1238.*

-and-

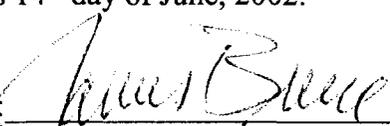
Larry P. Ausherman  
Walter E. Stern  
Modrall, Sperling, Roehl, Harris, & Sisk, P.A.  
Post Office Box 2168  
Albuquerque, New Mexico 87103-2168  
Telephone: (505) 848-1800

-and-

Charles E. Roybal  
San Juan Coal Company  
300 W. Arrington, Suite 200  
Farmington, New Mexico 87401  
Telephone: (505) 598-4358

ATTORNEYS FOR SAN JUAN COAL COMPANY

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was hand-delivered to counsel for the OCD, the Commission and Richardson Operating Company and mailed to counsel for Dugan Production Corporation this 14<sup>th</sup> day of June, 2002.

By: 

Jim Bruce

W0234662.DOC

*Application of Richardson Operating  
Co.  
Record on Appeal, 1239.*

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION  
FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF RICHARDSON OPERATING  
COMPANY TO ESTABLISH A SPECIAL "INFILL  
WELL" AREA WITHIN THE BASIN-FRUITLAND  
COAL GAS POOL AS AN EXCEPTION TO RULE 4  
OF THE SPECIAL RULES FOR THIS POOL,  
SAN JUAN COUNTY, NEW MEXICO.

Case No. 12734

OIL CONSERVATION DIV.  
02 JUN 14 PM 4:57

APPLICATION OF SAN JUAN COAL COMPANY  
FOR STAY OF ORDER NO. R-11775

San Juan Coal Company ("San Juan") respectfully requests pursuant to Commission Rule 1220, that the Director of the New Mexico Oil Conservation Division ("OCD") stay the effectiveness of the June 6, 2002 Order of the Division, Order No. R-11775, pending consideration of this matter by the Oil Conservation Commission ("Commission") pursuant to San Juan's Application for hearing de novo and thereafter, if necessary, pending any subsequent review by the Secretary of the Energy, Minerals, and Natural Resources Department. Specifically, while the Commission hears and decides this matter, San Juan requests that the Director prevent Richardson Operating Company ("Richardson") or others from pursuing any drilling, recompletion, or fracturing of wells, or related activities purportedly authorized under Order No. R-11775. As grounds for this Application, San Juan states:

1. Concurrent with the filing of this Application for Stay, San Juan is filing its Application for Hearing De Novo of Order No. R-11775. To preserve the status quo while the Commission considers San Juan's Application, neither Richardson nor others should be allowed

to drill, recomplete, or fracture wells in the Basin-Fruitland Coal Gas Pool within the area encompassed by the Order.

2. Denial of a stay would prevent San Juan from obtaining meaningful review by the Commission (and the Secretary) of significant issues stemming from the conflict between coal bed methane ("CBM") and coal development. That is, if Richardson is allowed to proceed with drilling, recompletion or fracturing activities before the Commission decides this matter, the damage that San Juan seeks to avoid through Commission review will have already occurred. Moreover, the Commission and Secretary will have been deprived of the opportunity to decide the important policy issues presented by this precedent-setting case before the damage is done. Therefore, the Director should preserve the status quo by granting the stay.

3. Consistent with Commission Rule 1220B, a stay is necessary to protect public health and the environment; to "prevent gross negative consequences" to San Juan; and to prevent waste of the coal resource. Each reason is addressed in turn below.

4. A stay is necessary to protect public health and the environment. The drilling, recompletion, and fracturing activities of wells that are authorized by the Order irrevocably and significantly increase the risk of spontaneous combustion and explosion during subsequent coal mining operations. The subbituminous coal at San Juan Mine is prone to spontaneous combustion, and explosions or mine fires that result from spontaneous combustion prompted by CBM well development and operation could cause injuries or fatalities. To a limited degree, some of the hazards to health and safety posed by CBM development under the Order might be mitigated by bypassing blocks of coal. But the very process of bypassing coal increases significantly the risk of spontaneous combustion because the attendant long delays in mining can complicate the ventilation that is necessary to prevent spontaneous combustion. Moreover, San

Juan will present evidence to the Commission, as it has in these proceedings to date, that ~~precluding or restricting~~ additional drilling and fracturing activities, not requiring the bypass of coal, is the appropriate means to address safety concerns. Without a stay, the dangerous conditions San Juan seeks to avoid could be permanently inflicted by CBM development before the Commission, or possibly the Secretary, has the opportunity to consider it.

5. A stay is necessary to prevent gross negative consequences to San Juan. Drilling, recompletion and fracturing of wells authorized by the Order will irrevocably damage San Juan. San Juan is currently developing a world class underground coal seam at its San Juan Mine, with an initial capital investment of \$146,000,000. Longwall production is planned to be operational this year. Drilling, recompletion or fracturing of wells in the coal seam is incompatible with longwall mining of these areas because it requires San Juan to bypass the wells. Bypass of wells damages San Juan by lost coal and by down time. Bypass of a single well leaves a block of approximately 330,000 tons of unmineable coal. Also, it takes about one month of downtime to move the longwall mining equipment in order to bypass the coal surrounding a well. The number of wells to be bypassed permanently increases the damage in lost coal and production time to San Juan. The loss of coal caused by increasing the number of wells can be even greater than the product of approximately 330,000 tons times the number of wells; if more than 2 or 3 wells are located in a coal panel, it may be necessary to bypass an entire panel of coal, and panels are generally almost 2 miles long. Unless a stay is granted, the drilling, recompletion or fracing of wells authorized by the Order will create irreversible mining conditions that will cause great damage to San Juan over time.

6. Without a stay, there is great risk that coal resources will be wasted. The magnitude of the potential waste of coal is illustrated in part by the volume of coal that the

existence of a wellbore may cause to be bypassed. One well may cause the bypass of 330,000 tons of coal, with an estimated royalty loss of \$800,000.00, assuming an 8% royalty rate; bypass of an entire panel may cause a loss ten times greater. As more CBM wells are drilled, the greater the potential for waste of the coal reserves that will not be mined by San Juan. This results in irreparable harm to the United States, the State of New Mexico, and the coal reserve. The Order determines that “[t]he New Mexico Oil and Gas Act has specific statutory mandates concerning the prevention of waste of potash in addition to prevention of the waste of oil and gas; however, no such specific mandates exists concerning waste of coal.” See Order, Finding No. 26. While the Order may be correct that there is no “specific mandate” concerning waste of coal, the Oil and Gas Act does not ignore other mineral resources, such as coal, and the legislature expressly charges the Secretary with authority to consider, upon any Secretarial review of the decision, to consider a matter “having due regard for the conservation of the state’s oil, gas, **and mineral resources....**” (Emphasis added.) NMSA § 70-2-26 1978. At a minimum, even if the OCD and Commission do not expressly consider waste of mineral resources such as coal, it should preserve the status quo to allow the Secretary to do so, as required by the legislature, in factual circumstances where the damage has not already occurred for failure to issue a stay.

7. Beyond the considerations for granting a stay identified in Rule 1220B, other factors also support the issuance of a stay: avoidance of irreparable harm to San Juan; preserving the opportunity for the Commission, and possibly the Secretary, to determine new and important issues; consideration of the public interest; and comparison of great harm to San Juan with mere delay to Richardson. These considerations are described below.

8. A stay is necessary to avoid irreparable harm to San Juan. If pursuant to the Order, Richardson fractures additional wells, those actions will permanently burden the coal

seam with additional instability and spontaneous combustion risk. The damage is irreversible. It is impossible to “unfrac” a well. Drilling and recompletion pose similar risk. Damage from these activities is perhaps not as irreversible as fracturing because the Commission could require that new wells or recompletions be plugged, abandoned and milled out upon a favorable ruling by the Commission, but major inefficiencies would result.

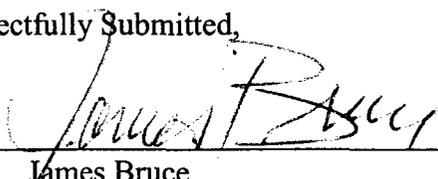
9. A stay is necessary to provide meaningful opportunity for the Commission, or possibly the Secretary, to decide important new issues of public concern. If upon authority of the Order alone, Richardson takes the action that San Juan seeks to prevent, then the damage is done before the Commission has the opportunity to consider and decide these issues. To deprive the Commission and Secretary of meaningful review undercuts the authority of the Commission and the Secretary. For example, the Commission or Secretary presumably would like to decide whether it is good policy to issue a decision that causes the bypass of millions of tons of coal, where the State’s share of the lost royalty that is associated with that coal is worth many multiples more than the value of the corresponding gas royalty.

10. Public interest justifies a stay. The Secretary is required by NMSA '70-2-26 1978 to consider the “public interest,” with due regard not just for oil and gas, but also for other “mineral resources.” The value of the coal to be bypassed as a result of CBM wells is vastly greater than the value of the CBM. On the federal leases alone, total coal royalties are estimated to be in excess of \$250 million; half of that amount goes to the State. In addition, the state’s royalty share of the two state sections in San Juan Mine is at risk. It is not appropriate to accelerate development of far less valuable gas resource before the Commission and/or Secretary have the opportunity to decide what is in the public interest, when such acceleration threatens the viability of a much more valuable coal resource.

11. If the stay is denied, the threatened harm to San Juan far outweighs any possible harm to Richardson (or others) if the stay is granted. Most of the leases Richardson holds have been in existence for decades without the production Richardson now seeks. Any additional delay in drilling, recompletion, or fracturing by Richardson of a few months during which the Commission can hear and decide this case are not unreasonable. In particular, there is no credible threat that gas of Richardson's will be lost during the few months it takes for review by the Commission and possibly the Secretary. As reflected in BLM's September 25, 2001 letter to Peter A. Bjork, Richardson's counsel, BLM has determined that San Juan's current mining operations are not adversely affecting Richardson's claim to gas reserves. On the other hand, if Richardson were to proceed to drill, recomplete and fracture wells, the damage to the coal seam and San Juan's operations would be great and irreparable.

THEREFORE, San Juan Coal Company respectfully requests that the Director grant a stay of the effectiveness of the June 6, 2002 decision, Order No. R-11775, pending final decision by the Commission and the Secretary in this matter. A proposed form of Stay Order is attached as Exhibit A to this Application.

Respectfully Submitted,

By: 

James Bruce  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
Telephone: (505) 982-2043

-and-

Larry P. Ausherman  
Walter E. Stern  
Modrall, Sperling, Roehl, Harris, & Sisk, P.A.  
Post Office Box 2168  
Albuquerque, New Mexico 87103-2168

*Application of Richardson Operating  
Co.  
Record on Appeal, 1245.*

Telephone: (505) 848-1800

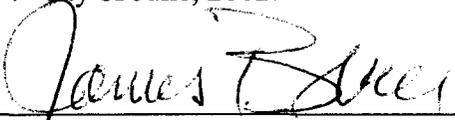
-and-

Charles E. Roybal  
San Juan Coal Company  
300 W. Arrington, Suite 200  
Farmington, New Mexico 87401  
Telephone: (505) 598-4358

ATTORNEYS FOR SAN JUAN COAL COMPANY

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was hand-delivered to counsel for the OCD, the Commission and Richardson Operating Company, and mailed to counsel for Dugan Production Corporation this 14<sup>th</sup> day of June, 2002.

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

  
Jim Bruce

w0234615.DOC

*Application of Richardson Operating  
Co.  
Record on Appeal, 1246.*

**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION  
FOR THE PURPOSE OF CONSIDERING:**

**APPLICATION OF RICHARDSON OPERATING  
COMPANY TO ESTABLISH A SPECIAL "INFILL  
WELL" AREA WITHIN THE BASIN-FRUITLAND  
COAL GAS POOL AS AN EXCEPTION TO RULE 4  
OF THE SPECIAL RULES FOR THIS POOL,  
SAN JUAN COUNTY, NEW MEXICO.**

Case No. 12734

**STAY ORDER  
APPLICATION OF SAN JUAN COAL COMPANY  
FOR STAY OF ORDER NO. R-11775**

This matter having come before the Director on San Juan Coal Company's Application for Stay of Order No. R-11775, the Director, having considered the Application and the surrounding circumstances, finds that the Application is well taken and should be granted.

Therefore, it is ORDERED that the June 6, 2002 Order of the Division, Order No. R-11775 is hereby stayed pending final decision of the Oil Conservation Commission, and final decision of the Secretary of the Energy, Minerals, and Natural Resources Department in the event any party invokes Secretarial review under the Oil and Gas Act, NMSA '70-2-26 1978. Neither Richardson Operating Company nor any others are permitted to take any action pursuant to Order No. R-11775.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

Dated: \_\_\_\_\_

\_\_\_\_\_  
LORI WROTENBERY, Director

**EXHIBIT A**

*Application of Richardson Operating  
Co.  
Record on Appeal, 1247.*