

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

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

**CASE NO. 13367 (DE NOVO)**

**APPLICATION OF BASS ENTERPRISES  
PRODUCTION CO. FOR AN ORDER  
AUTHORIZING THE DRILLING OF A WELL IN  
THE POTASH AREA, EDDY COUNTY, NEW  
MEXICO.**

**PRE-HEARING STATEMENT**

This Pre-Hearing Statement is submitted by Holland & Hart LLP as required by the Oil Conservation Division.

**APPEARANCES OF PARTIES**

**APPLICANT**

Bass Enterprises Production Co.  
Attn: J. Wayne Bailey  
201 Main Street, Suite 2900  
Ft. Worth, Texas 76102  
(817) 390-8671

**ATTORNEY**

William F. Carr  
Holland & Hart LLP  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
(505) 988.4421

**OPPOSITION**

Mosaic Potash Carlsbad, Inc.  
Attn: Dan Morehouse

**ATTORNEY**

Charles C. High, Jr.  
Kemp Smith LLP  
Post Office Box 2800  
El Paso, Texas 79999-2800  
(915) 533-4424

**STATEMENT OF CASE**

**APPLICANT**

Applicant seeks an order approving the drilling of its proposed James Ranch Unit Well No. 93 within the Potash Area at a location 660 feet from the North and East lines (Unit A) of Section 7, Township 23 South, Range 31 East, NMPM, Eddy County, New Mexico. This well will be drilled to an approximate depth of 14,800 to test all formations from the surface to the base of the Morrow formation, Los Medanos-Morrow Gas Pool and will be at a standard location in all formations. Said location is within the Potash Area and approximately 10 miles east of Carlsbad, New Mexico.

**PROPOSED EVIDENCE**

**APPLICANT**

**WITNESSES**

(Name and Expertise)

**ESTIMATED TIME**

**EXHIBITS**

**J. Wayne Bailey (Landman)**

**Approximately 15 Minutes**

**11**

Mr. Bailey will review Bass Enterprises Production Co.'s efforts to develop the oil and gas minerals under the 40-acre tract comprised of the NE/4 NE/4 of Section 7, Township 23 South, Range 31 East, NMPM, Eddy County, New Mexico. Mr. Bailey's testimony will show that Bass holds the oil and gas lease on the tract on which it proposes to drill. He will show that, pursuant to the provisions of Order No. R-111-P, Bass has reached agreement with the owners of the potash rights under these lands and all of these owners desire to have their oil and gas minerals developed prior to the potash reserves, if any. Bass filed its APD for this well and pursuant to Order No. R-111-P notified all potash lessees within one mile. No objection was timely filed and Bass' APD was approved. Thereafter IMC (now Mosaic Potash) wrote the Division and objected to the well because its location falls in an LMR (area designated as containing Life of Mine Reserves).

Mr. Bailey's testimony will show that Mosaic owns no potash rights in this tract and that Mosaic is asking the Commission to deny the owners of the oil and gas minerals and the potash reserves the right to develop their constitutionally protected property rights.

Mr. Bailey will ask the Commission to approve its application and find, as the Division has on several prior occasions, that:

A. "Order No. R-111-P makes no provision for an LMR determination when the proposed well is located on fee lands, nor does Order No. R-111-P authorize a potash lessee to designate an LMR over lands not leased to a potash lessee;"

B. "Sub-part G (e) 3 of these rules, provides that 'application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of the lessor and lessees of both potash and oil and gas interests;" and

C. That the surface and all mineral owners have consented to the proposed well and desire to have their oil and gas minerals developed first in preference to any potash reserves underlying the subject acreage.

**William R. Daniels (Engineer)      Approximately 5 Minutes      1**

Mr. Daniels will testify briefly and show that the proposed casing and cementing program for the well meets the criteria established by Order No. R-111-P.

**Stacy Mills (Mineral Owner)      Approximately 10 Minutes      None**

Mr. Mills will appear and testify that he is an owner of the mineral estate, including potash rights, under the subject spacing unit. He will confirm that the oil and gas rights under this tract have been leased to Bass and that an agreement has been reached between the mineral owners and Bass for the development of their oil and gas minerals before the potash resources, if any, are mined. He will testify that the oil and gas rights under this tract have been leased to oil companies for over 20 years and to date, no minerals, either oil and gas or potash, have been produced from these lands.

### **PROCEDURAL MATTERS**

Bass Enterprises Production Co. will request that this case and Cases No. 13368 and 13372 be consolidated for the purposed of hearing.

  
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William F. Carr

Attorney for Bass Enterprises Production Co.

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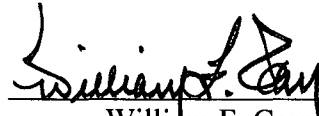
**BASS ENTERPRISES PRODUCTION COMPANY**  
**INDEX OF EXHIBITS**

Exhibit No. 1	Plat of Bass Leases and Potash Leases in the subject area.
Exhibit No. 2	Five Fee Oil and Gas Leases covering the NE/4 NE/4 of Section 7, Township 23 South, Range 31 East, NMPM, Eddy County, New Mexico.
Exhibit No. 3	Application for permit to drill the James Ranch Unit Well No. 93.
Exhibit No. 4	APD approved on September 15, 2004.
Exhibit No. 5	IMC objection letter Dated September 17, 2004.
Exhibit No. 6	OCD letter rescinding the APD dated September 18, 2004.
Exhibit No. 7	Mineral Owner affidavit
Exhibit No. 8	Mineral Owner Affidavit
Exhibit No. 9	Oil Conservation Division Order No. R-12402
Exhibit No. 10	Drilling schematic.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of May 2006, I have caused to be delivered by facsimile a copy of Bass Enterprises Production Co.'s Pre-Hearing Statement and hearing exhibits in the above-captioned case to the following:

Charles C. High, Jr.  
Kemp Smith LLP  
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El Paso, Texas 79999-2800  
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William F. Carr