



MODRALL SPERLING  
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LAWYERS

August 10, 2006

VIA HAND DELIVERY

Ms. Florene Davidson  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

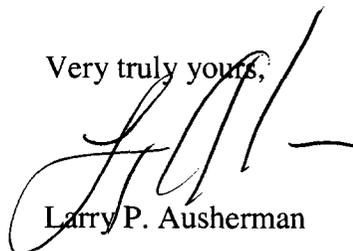
Larry P. Ausherman  
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Fax: 505.848.9710  
lpausherman@modrall.com

Re: (1) Unopposed Motion for Continuance and Request for Prehearing Conference, and (2) Prehearing Statement; In the Matter of the Application of Lynx Petroleum Consultants, Inc. for Permit to Drill in Potash Area, Eddy 'BD' State No. 2 Well, Eddy County, New Mexico; Oil Conservation Division Case No. 13762

Dear Ms. Davidson:

Enclosed for filing in the above referenced are the original and two copies each of Intrepid Potash-New Mexico, LLC's (1) Unopposed Motion for Continuance and Request for Prehearing Conference, and (2) Intrepid's Prehearing Statement. Please return an endorsed copy of the Motion and Statement to me in the enclosed self-addressed, stamped envelope. Because this involves a matter that is scheduled for hearing, please forward this to the appropriate Examiner for scheduling. Thank you for your attention to this matter.

Very truly yours,



Larry P. Ausherman

LPA:cpc  
Enclosures  
cc:w/enclosure

Charles N. Lakins  
Steve Richardson

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Roehl Harris & Sisk P.A.

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

**IN THE MATTER OF THE APPLICATION OF  
LYNX PETROLEUM CONSULTANTS, INC.  
FOR PERMIT TO DRILL IN POTASH AREA,  
EDDY 'BD' STATE NO. 2 WELL,  
EDDY COUNTY, NEW MEXICO.**

Case No. 13762

2006 AUG 10 PM 2 36

**UNOPPOSED MOTION FOR CONTINUANCE  
AND REQUEST FOR PREHEARING CONFERENCE**

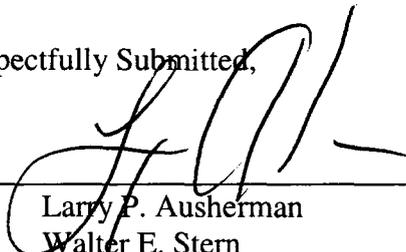
Intrepid Potash-New Mexico, LLC ("Intrepid") hereby (1) moves for a continuance of the hearing in this matter currently scheduled for August 17, 2006, and (2) requests a prehearing conference. As grounds for this Motion and Request, Intrepid states:

1. Intrepid representatives and witnesses have scheduling conflicts with the August 17, 2006 hearing date in this matter and need additional time.
2. Holding a prehearing conference prior to rescheduling the hearing would be helpful to estimate the necessary length of hearing, witnesses and issues to be presented, and to schedule a mutually convenient time for hearing.
3. Intrepid estimates that its case in chief may take several hours, and therefore it could be preferable to schedule a hearing date that is separate from regularly scheduled public hearings of the Oil Conservation Division where multiple matters are heard.
4. Counsel for Intrepid and Lynx Petroleum Consultants, Inc. ("Lynx") request a telephonic prehearing conference on Monday, August 21. If that date is not available for the

Division Examiner holding the prehearing conference, then we would request the telephonic conference be held as soon thereafter as is possible.

5. Counsel for Intrepid contacted counsel for Lynx by telephone about this matter, and counsel for Lynx concurs in this Motion and Request.

Respectfully Submitted,

By: 

Larry P. Ausherman  
Walter E. Stern

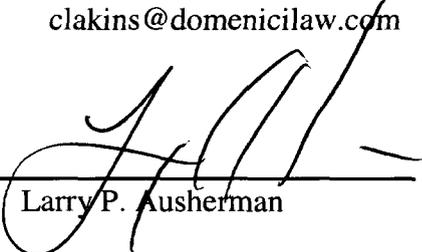
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ATTORNEYS FOR INTREPID

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record via facsimile this 10th day of August 2006:

Charles N. Lakins  
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320 Gold Ave. SW, Suite 1000  
Albuquerque, NM 87102  
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By: 

Larry P. Ausherman

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

**IN THE MATTER OF THE APPLICATION OF  
LYNX PETROLEUM CONSULTANTS, INC.  
FOR PERMIT TO DRILL IN POTASH AREA,  
EDDY 'BD' STATE NO. 2 WELL,  
EDDY COUNTY, NEW MEXICO.**

**Case No. 13762**

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**PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by Intrepid Potash – New Mexico, LLC (“Intrepid”) as required by the Oil Conservation Division.

**APPEARANCES**

**APPLICANT**

Lynx Petroleum Consultants, Inc.

**APPLICANT’S ATTORNEY**

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**OPPONENT**

Intrepid Potash – New Mexico, LLC  
1996 Potash Mine Rd.  
Carlsbad, NM 88220

**OPPONENT’S ATTORNEY**

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**STATEMENT OF THE CASE**

Lynx Petroleum Consultants, Inc. (“Lynx”) filed an application for a permit to drill (“APD”) the Eddy “BD” State No. 2 well, located at 660’ FNL & 1980’ FEL, Section 32, T20S, R30E, Eddy County, New Mexico (“Lynx Well”) in a Known Potash Leasing Area. The

location of the Lynx Well that is the subject of the APD is within Intrepid's potash lease. Intrepid has objected to the APD.

Intrepid objects to Lynx' proposed APD because drilling and operation of the Lynx Well will result in waste of potash leased by Intrepid from the State of New Mexico. The location of the Lynx Well and adjoining lands contain commercial deposits of potash. The Bureau of Land Management's map of mineable potash reflects that the area around the well contains measured potash ore. Drilling and producing operations associated with the APD would have the effect unduly to reduce the total quantity of commercial deposits of potash leased by Intrepid which may reasonably be recovered in commercial quantities. Moreover, such operations would interfere unduly with the orderly commercial development of such potash deposits.

Intrepid acquired thousands of acres of potash leases and related facilities from Mississippi Potash, Inc. in 2004. Intrepid is currently undertaking an extensive data collection and evaluation project that serves to define more fully the geology, distribution, and extent of potash deposits within the Known Potash Leasing Area ("KPLA"), which includes Section 32 where the Lynx Well is proposed. Intrepid is also evaluating aspects of oil and gas operations throughout the KPLA. Intrepid is evaluating data from thousands of potash coreholes and oil and gas well logs, and it is seeking to delineate accurately the multiple ore zones that occur within the KPLA. The project is complex, and Intrepid is committed to using good and thorough science to achieve accurate results. The process of collecting, evaluating, and interpreting data for such an undertaking is an extremely time consuming effort, and Intrepid is approaching this project in a scientifically valid and systematic manner.

Intrepid has been coordinating closely with the New Mexico Energy, Minerals and Natural Resources Department concerning Intrepid's ongoing project in the Known Potash

Leasing Area. Intrepid has met repeatedly with representatives of the New Mexico Energy, Minerals and Natural Resources Department, including Secretary Prukop, about the ongoing data evaluation project.

The data generated from this ongoing project was not available when the present Intrepid LMR was filed with the State of New Mexico. Even though Lynx asserts that its well would lie outside the current LMR of Intrepid and associated buffer, Intrepid's current LMR has not yet been updated to reflect the results of Intrepid's extensive ongoing data collection and evaluation project. Intrepid expects to update its LMR in the coming months, and that revision will establish, among other things that there is commercially recoverable potash in Section 32 where the Lynx Well is located such that the area of the Lynx Well should be included within the Intrepid LMR. Intrepid will amend its LMR as results from the project are finalized, but Intrepid has not sought to amend the LMR in a piecemeal manner. Intrepid will continue to gather and evaluate the necessary data, and confirm interpretations upon which any amendments will be based.

In response to the Lynx APD, however, Intrepid has increased the collection and detailed interpretation of all of the available geologic and well data in the vicinity of the proposed Lynx Well in order to assess adequately the occurrence, grade, and thickness of the potash resource. In addition, Intrepid is evaluating potential alternative locations for oil and gas well sites and confirming the status and location of existing wells that are plugged and abandoned.

The current results of Intrepid's evaluation of the potash resource in the vicinity of the proposed Lynx Well indicate that there are commercial deposits of mineable potash in the immediate area of the proposed Lynx Well that will be destroyed if the Lynx Well is approved

for drilling. Intrepid confirms that Section 32 and the area in the vicinity of the Lynx APD will be within its LMR and submitted as such at the time of the next amendment to its LMR.

The economic value of the potash in Intrepid's leases far exceeds the economic value of the oil and gas in the same area. More specifically, the economic value of potash that would be wasted if the APD is granted is likely to far exceed the economic value of the oil and gas that may be recovered from the Lynx Well. Lynx states that no additional spoilage of potash reserves would occur as a result of the Lynx Well because previous oil and gas development surrounds the proposed location of the Lynx Well. (See paragraph 10 of Lynx' Application for Adjudicatory Hearing on Permit to Drill.) Intrepid disagrees with Lynx' statement. Through Intrepid's evaluation of the well status of existing wells in the area, Intrepid believes that many of the wells Lynx references as surrounding the proposed location of the Lynx Well have been plugged and abandoned. Therefore, assuming proper plugging and abandonment, these old wells would not prevent the mining of potash in the area of Section 32.

Intrepid requests that the OCD discharge its obligation under the Oil and Gas Act to prevent the waste of potash by denying the APD for the Lynx Well. NMSA 1978 §70-2-3.F. The assertion that the Lynx Well lies outside the Intrepid LMR and buffer does not replace or negate the obligation of the OCD to prevent waste of potash. This is especially true where extensive data developed by Intrepid establishes the existence of commercially recoverable potash in areas beyond the current LMR boundaries, including the location of the Lynx Well. That data will be used by Intrepid to amend and expand the boundaries of its current LMR. Intrepid requests that Lynx' APD be denied.

#### **PROPOSED WITNESSES OF INTREPID**

Intrepid expects to call the following witnesses:

Robert P. Jornayvaz – Owner and Manager, Intrepid

Hugh E. Harvey, Jr. – Owner and Manager, Intrepid

James Lewis -- Geologist

Mr. Lewis has expertise in geology and in particular concerning Intrepid's data collection and evaluation project and the existence of commercially recoverable potash at the location of the Lynx Well.

Lee Jirik -- Geologist

Mr. Jirik has expertise in geology and in particular concerning Intrepid's data collection and evaluation project and the existence of commercially recoverable potash at the location of the Lynx Well.

Tom McGuire -- Mine Engineer

Mr. McGuire has expertise in potash mining methods and obstacles posed by oil and gas wells.

Intrepid reserves the right to add or delete witnesses.

#### **ESTIMATED TIME TO PRESENT INTREPID'S CASE**

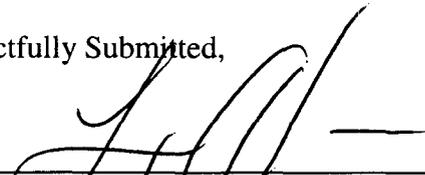
Intrepid estimates that presentation of its case will take three to four hours.

#### **PROCEDURAL MATTERS**

Intrepid has filed an Unopposed Motion for Continuance and Request for Prehearing Conference.

Respectfully Submitted,

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

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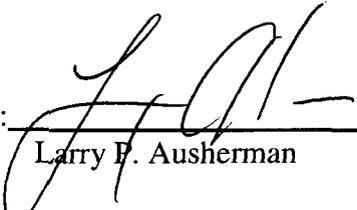
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By: \_\_\_\_\_

  
Larry F. Ausherman

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