

September 24, 2008

VIA HAND DELIVERY

David K. Brooks, Legal Examiner
Terry Warnell, Technical Examiner
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

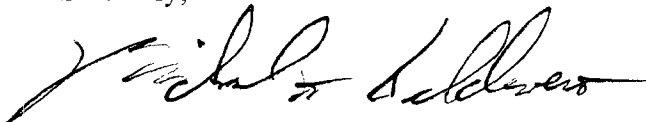
**Re: Case No. 14116: Application of Fasken Oil & Ranch to drill its
second well in Section 16, T-20-S, R-32-E.**

Gentlemen:

Pursuant to Mr. Brook's instructions at the August 20th status conference,
enclosed please find Fasken's proposed form of order for consideration with citations to
the record. An electronic copy has also been provided to you via email.

If you require anything further in connection with your consideration of this
matter, please contact me.

Sincerely,



Michael H. Feldewert

cc. Joseph E. Manges, w/ encl.

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

**APPLICATION OF FASKEN OIL &
RANCH LTD., FOR AN ORDER AUTHORIZING
AN ADDITIONAL WELL IN THE "POTASH AREA"
AT AN UNORTHODOX WELL LOCATION,
LEA COUNTY, NEW MEXICO**

CASE NO. 14116

BY THE DIVISION:

This case came on for hearing on June 27 and June 30, 2008 at Santa Fe, New Mexico, before Examiners David Brooks and Terry Warnell.

NOW, on this ____ day of _____, 2008, the Division Director, having considered the testimony, the record, and the recommendations of the Examiners,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and its subject matter.

History of Proceedings

(2) On September 24, 2003, after notice and hearing, the Division entered Order No. R-12031 authorizing the drilling of the Laguna "16" Well No. 1 as a wildcat deep gas well in the SE/4 of Section 16, Township 20 South, Range 32 East.

(3) The E/2 of Section 16 is dedicated to the Laguna No. 1 and this well is currently producing from the Morrow and the Strawn formations. *See* 1 Trans. 74:16-25 (Kvasnicka Testimony).

(4) Paragraph 14 of the Division's September 2003 Order contains the following finding:

"The evidence establishes that it is highly unlikely that commercial potash mining will take place in Section 16."

(5) Fasken now seeks authority from the Division to continue oil and gas development in Section 16 by drilling a second well, its proposed Laguna "16" State Well No. 2, at an unorthodox location in the NW/4 (Unit F) of Section 16. The W/2 of Section 16 is to be dedicated to this second well.

(6) On May 18, 2007, Fasken filed an administrative application with the Division's Hobbs office to drill its Laguna No. 2 to a total depth of 13,400 feet to test all formations from the surface to the base of the Morrow formation.

(7) On May 31, 2007, the Hobbs district office denied Fasken's administrative application after receiving an objection from Intrepid Potash, Inc. ("Intrepid").

(8) On March 31, 2008, Fasken filed an application with the Division for an "order authorizing Fasken to drill its proposed Laguna "16" State Well No. 2 at an unorthodox location in the SE/4 NW/4 (Unit F) of Section 16, Township 20 South, Range 32 East."

(9) Notice of the filing of Fasken's application was provided to the New Mexico State Land Office, as well as the holders of potash leases within one mile of the NW/4 of Section 16 (Intrepid and Mosaic Potash Company).

(10) Intrepid filed a prehearing statement objecting to Fasken's proposed well due to its proximity to Intrepid's idle North Mine in adjacent Section 9 and requested a postponement of the Examiner Hearing.

(11) The Division granted a two-month continuance and by Order set the Examiner Hearing for June 27th.

(12) During the two month continuance of the Examiner Hearing, Fasken conducted another site survey and identified a well location in Unit F at a point 2135 feet from the North Line and 2455 feet from the West Line that places its proposed well more than one-half mile from the southern edge of Intrepid's idle North Mine. *See* Fasken Ex. 8; 1 Trans. 44:11-23 (Kvasnicka Testimony).

(13) Fasken informed Intrepid of this unorthodox location prior to the hearing and seeks approval for a well at a point 2135 feet from the North Line and 2455 feet from the West Line. *See* 1 Trans. at 26:17-23, 46:1 – 47:23 (Kvasnicka Testimony).

(14) Prior to the commencement of the second day of the Examiner hearing, Mosaic Potash was granted permission to intervene in this case. *See* 2 Trans. 7:2-8:8.

(15) On August 20, 2008, a status conference was held by Examiner Brooks. Mosaic Potash appeared through their attorney and was afforded an opportunity to review the record from the Examiner Hearing and to schedule a subsequent hearing in the event Mosaic desired to present additional evidence.

(16) On September 11, 2008, Mosaic filed a notice of withdrawal from the case and accordingly no longer objects to the proposed well.

The Evidence Presented

(17) Section 16 is comprised of state lands and Fasken currently holds valid oil and gas leases for this section.

(18) The existing Laguna No. 1 well and Fasken's proposed Laguna No. 2 well are within the Potash Area as defined under Commission's Order R-111-P and both wells are within one-half mile of a designated Life of Mine Reserve ("LMR"). *See* Intrepid Ex. 6.

(19) The evidence indicates that Intrepid's current LMR designations include areas that are barren of potash ore, and areas that have yet to be studied to determine whether they contain commercially recoverable potash. *See* Intrepid Exs. 2, 6, and 9; 2 Trans. 115:21-8; 119:2-121:25 (Lewis Testimony).

(20) With regard to potash leasing in the nine section area comprising Section 16, the evidence presented demonstrates:

(a) Intrepid holds federal potash leases to the north and the west in adjacent Sections 8, 9, 10, 17 and 20. *See* Fasken Ex. 1.

(b) Mosaic Potash holds federal potash leases to the east in adjacent Sections 15 and 22. *Id.*

(c) The BLM projects that the unleased federal lands in Section 21 are primarily barren of commercially recoverable potash. *See* Intrepid Ex. 2.

(d) In July of 2003, the New Mexico State Land Office denied a request by IMC Potash (the former holder of the federal potash leases in Sections 15 and 22) for a potash lease in Section 16, concluding such as lease was "not in the best interest of the Trust." *See* Fasken Ex. 6.

(e) The State Land Office's letter denying a potash lease for Section 16 further stated:

"Section 16 currently has numerous oil and gas well bores, and with the potential of additional drilling, there does not appear to be adequate clearance for economic mining..." *See* Fasken Ex. 6.

(f) On June 11, 2008, three months after Fasken filed its application with the Division for a second well in Section 16, Intrepid applied to the New Mexico State Land Office for a potash lease in Section 16. *See* Intrepid Ex. 7.

(g) The State Land Office has not issued a potash lease in Section 16.

(21) With regard to oil and gas development in the nine section area comprising Section 16, the evidence demonstrates that:

- (a) Fasken's Laguna No. 1 in the SE/4 SE/4 of Section 16 is currently producing approximately 60 barrels of oil and about 900 mcf of gas per day from the Morrow and Strawn formations. *See* 1 Trans. 112:12-18 (Worrall Testimony).
- (b) There are eighteen plugged and abandoned well bores in Section 16, with at least two located in Unit F and at least twelve in the quarter-quarter sections surrounding Fasken's proposed well location. *See* Fasken Exs. 1 and 2.
- (c) There are at least four well bores in the S/2 S/2 of Section 9, with three of these well bores located at the southern edge of Intrepid's idle North Mine in Section 9. *Id.*
- (d) Land plats for the nine section area show a well bore in the SE/4 SE/4 of adjacent Section 8 and a well bore in the E/2 E/2 of adjacent Section 17. *Id.*
- (e) Seventeen of the nineteen well bores in Section 16 were drilled to a total depth above 5,000 feet beginning in the 1930s and most were plugged and abandoned by the 1950s. *See* Fasken Ex. 21; 1 Trans. 85:20-86:4 (Worrall Testimony).
- (f) The NW/4 SE/4 of Section 16 (Unit J) contains a plugged and abandoned well bore drilled to total depth of 5,380 feet. *See* Fasken Ex. 21; 1 Trans. 88:16-89:12 (Worrall Testimony).
- (g) Division records reflect that at least eight of the nineteen well bores in Section 16 do not have casing through the salt section and do not indicate the cement, if any, in these abandoned well bores. *See* Fasken Exs. 21 and 22; 1 Trans. 89:14-92:25 (Worrall Testimony).

(22) With respect to Fasken's proposed unorthodox well location, the evidence establishes that:

- (a) Fasken's proposed unorthodox location takes into account pipelines, existing wells bores and other surface conditions. *See* 1 Trans. 45:18-24; 70:1-4 (Kvasnicka Testimony).
- (b) Fasken's proposed unorthodox location is more than one-half mile from the southern edge of Intrepid's idle North Mine in Section 9. *See* Fasken Ex. 8.
- (c) Fasken's proposed unorthodox location is more than one-half mile from Intrepid's projected mine workings in this area. *See* Fasken Ex. 9.

(d) In May of 2003, IMC Potash (the former holder of the federal potash leases in adjacent Sections 15 and 22) informed Fasken in a letter from its Chief Mine Engineer that:

“The West ½ of Section 16 has several wells in it, and while another hole adds additional risk, locating the well in the West ½ of Section 16 minimizes its affects on potash.” *See* Fasken Ex. 11.

(e) IMC’s May 2003 letter was copied to the BLM and to the Division. *Id.*

(f) Fasken’s proposed well is located in an area that IMC Potash identified in 2003 as an area that “minimizes” the affects on potash. *Id.*

(23) With respect to the oil and gas prospects for Fasken’s proposed Laguna Well No. 2, the evidence establishes that:

(a) A vertical well in Unit F of Section 16 has a 50% chance of encountering commercially recoverable reserves from the Morrow sands and/or the Strawn formation. *See* Fasken Exs. 14-17; 1 Trans. 82:21–83:8 (Worrall Testimony).

(b) A vertical well in Unit F of Section 16 has the potential to encounter commercially recoverable reserves in shallower formations, principally the Delaware, Bone Spring and Wolfcamp formations. *See* Fasken Ex. 18; 1 Trans. 83:13-22 (Worrall Testimony).

(c) The evidence indicates that the prospects of a drilling a commercial oil or gas well increase as you move north of the existing Laguna No. 1. *See* 1 Trans. 110:7-10.

(d) Fasken’s existing Laguna No. 1 is not capable of draining the oil and gas reserves targeted by Fasken’s proposed Laguna No. 2. *See* 1 Trans. 78:9-12; 80:16-23 (Worrall Testimony).

(e) Other than Fasken’s Laguna No. 1, no other well has been drilled in Section 16 to a depth sufficient to test the Delaware, Bone Spring or Wolfcamp formations. *See* 1 Trans. 99:15-25; 107:23-108:2 (Worrall Testimony).

(24) With respect to Fasken’s ability to directionally drill a well from the SE/4 SE/4 of Section 16 to the Morrow sands under the NW/4 of Section 16, the evidence establishes that:

(a) A directionally drilled well from the existing well pad in the SE/4 SE/4 of Section 16 to the Morrow sands under the NW/4 of Section 16 will cost approximately \$5.9 million. *See* Ex. 23; 1 Trans. 84:3-5 (Worrall Testimony); 1 Trans. 120:23-121:15 (Taylor Testimony).

(b) There are substantial mechanical and safety risks associated with directionally drilling and completing a well from the existing well pad in the SE/4 SE/4 of Section 16 to the Morrow sands under the NW/4 of Section 16, including:

- The directional kickoff point would have to be in the soft Delaware rocks.
- The Delaware is a particularly difficult formation in which to directionally drill to deeper formations because it is prone to key seating.
- Directional drilling substantially increases the risk of stuck pipe, fishing problems, drill string failures, casing wear and excessive torque and drag.
- Directional drilling creates drag in the hole that can prevent proper evaluation of the target formations with electric logs and drill stem tests.
- Directional drilling increases the difficulty of controlling a gas well in the event problems arise during drilling.

See 1 Trans. 117:21-119:20; 132:20-133:4 (Taylor Testimony).

(c) As a general matter, drilling a vertical gas well is safer and poses less mechanical risk than drilling a directional gas well. *See* 1 Trans. 119:21-120:2 (Taylor Testimony).

(d) A directional well from the existing well pad in the SE/4 SE/4 of Section 16 to the Morrow sands under the NW/4 of Section 16 cannot test or be completed in the potentially productive shallower zones. *See* 1 Trans. 120:3-18 (Taylor Testimony).

(e) John Worrall, an expert in petroleum geology and a working interest owner in Fasken's proposed Laguna Well No. 2, testified he would not recommend a directionally drilled well from the existing wellpad in the SE/4 SE/4 of Section 16 to the Morrow sands under the NW/4 of Section 16. *See* 1 Trans. 84:1-25; 106:18-22.

(f) Using Fasken's standard economic analysis model, Fasken has determined it will not pursue a directional well from the existing well pad in the SE/4 SE/4 of Section 16 to the Morrow sands under the NW/4 of Section 16 due to the increased cost, the geologic risks, the operational risks, and the safety risks associated with such a project. *See* Ex. 24; 1 Trans. 121:16-124:19 (Taylor Testimony).

(g) Intrepid's geologist concurred that the economic, mechanical and safety risks associated with a directional well in this case do not support such a project. 2 Trans. 77:25-79:1 (Lewis Testimony).

(25) The evidence establishes that it is not economically feasible to directionally drill a well from the existing well pad in the SE/4 SE/4 of Section 16 to the Morrow sands under the NW/4 of Section 16.

(26) No underground mining is taking place anywhere within the nine section area comprising Section 16. *See* 1 Trans. 190:6-7; 199:7-20 (Harvey Testimony).

(27) Intrepid's nearest underground potash mining operations are roughly five miles to the East of Section 16. *See* 1 Trans. 191:1-25 (Harvey Testimony).

(28) With respect to the idle North Mine in Section 9, the evidence establishes that:

(a) The North Mine has been dormant for over 25 years and all major components were removed in the early 1980s. *See* Fasken Ex. 25 at IP 17; 1 Trans. 198:17-24 (Harvey Testimony).

(b) It appears mining ceased at the southern edge of the idle North Mine due to the presence of two shallow oil wells near the section line. *See* 1 Trans. 200:15-21 (Harvey Testimony).

(c) Subsidence has occurred at the southern edge of the idle North Mine, creating concerns about the ability to commence additional underground mining in that area. *See* 1 Trans. 218:2-219:10 (Harvey Testimony).

(d) In April of 2008, Intrepid did not include the idle North Mine as part of its five year operating plan in public statements made to potential investors. *See* Fasken Ex. 26 at 1034.

(e) In April of 2008, Intrepid informed potential investors that with respect to the idle North Mine, "no feasibility study for the project is currently contemplated due to management's focus on the HB Mine and other projects at our operating facilities." *See* Fasken Ex. 26 at 1029; 1 Trans. 203:13-205:1 (Harvey Testimony).

(f) In April of 2008, Intrepid informed potential investors that it may not actually proceed with any development plans for the idle North Mine. *See* 1 Trans. 205:21-206:3 (Harvey Testimony); Fasken Ex. 26 at 963.

(g) Intrepid did not commence initial steps to develop a feasibility study on the idle North Mine until sometime in May of 2008, which was after Fasken filed its current application. *See* Fasken Exhibit 25; 1 Trans. 203:1-6 (Harvey Testimony).

(29) With respect to the potential for actual potash mining in Section 16 in the foreseeable future, the evidence demonstrates that:

(a) In July of 2003, the Division received evidence that Mississippi Potash (Intrepid's predecessor and the former holder of the federal potash leases in Sections 8, 9, 10, 17 and 22) had "no plans to mine in Section 16 due to the

extensive oil and gas development in the area..." See Division Order R-12301 at ¶ 13.

(b) In June of 2006, the Commission received evidence from Mosaic Potash's mining engineer that the "rule of thumb" for maintaining mining distances is ½ mile from all deep gas wells and ¼ mile from all shallow wells. See Tr. 193 from Commission Hearing in Case Nos. 13367 and 13368 (Testimony of Dan Moorehouse).

(c) The only safety pillars that have been recognized by the BLM and the Division are a quarter mile for shallow wells and one-half mile for deep gas wells. See 1 Trans. 229:19-230:7 (Harvey Testimony).

(d) Applying the current "rule of thumb" safety pillars to the existing well bores in and around Section 16 leaves only a small portion of the NE/4 NE/4 of Section 16 and a small portion of the E/2 NW/4 of Section 17 unrestricted. See Fasken Ex. 5.

(e) The three-year mining plans Intrepid filed with the BLM in January of 2006, 2007 and 2008 do not depict any mining plans for the nine section area comprising Section 16. See Fasken Ex. 10; 1 Trans. 211:7-215:12 (Harvey Testimony).

(f) Intrepid's 25 year mining plans do not include any mining activity in the nine section area comprising Section 16. See 1 Trans. 215:12-216:19 (Harvey Testimony).

(g) Intrepid has recently drilled core holes in the sections near its active West and East Mines, but has not engaged in any similar activity in the nine section area comprising Section 16. See 1 Trans. 192:8-25 (Harvey Testimony).

(h) Intrepid has submitted to the Division a "confidential draft: work in progress" map of planned mine works generated by Intrepid on May 30, 2008. See Fasken Ex. 9 (Intrepid Ex. 40).

(i) Intrepid's "confidential draft: work in progress" map of planned mined works does not depict any potential mining in Section 16, or anywhere else within a mile of Fasken's proposed well location. See Fasken Ex. 9.

(j) Intrepid's May 30, 2008, "confidential draft: work in progress" map of planned works has no mining time frame associated with it. See 2 Trans. 106:5-18 (Lewis Testimony); Fasken Ex. 9.

(30) Intrepid created a "draft: work in progress" conceptual mining plan for Section 16 on June 20, 2008, shortly before the Division hearing. See Intrepid Ex. 10; 1 Trans. 217:2-7 (Harvey Testimony).

(31) With respect to Intrepid's conceptual mining plan for Section 16, the evidence demonstrates that:

(a) Intrepid's conceptual mining plan for Section 16 is a "back of the envelope," "informal" determination based on a "litany" of assumptions. *See* Intrepid Ex. 10; 1 Trans. 217:11-22 (Harvey Testimony); 1 Trans. 281:17-282:17 (Sambeek Testimony).

(b) Intrepid's conceptual mining plan for Section 16 assumes all of the existing well bores in Section 16 have been properly plugged and that the gas, including any sour gas, remains depleted. 1 Trans. 219:14-23 (Harvey Testimony); 1 Trans. 271:10-15, 272:18-24; 274:10-13; 282:22-283:10 (Sambeek Testimony).

(c) Intrepid's conceptual mining plan for Section 16 assumes that each well bore in Section 16 contains at least a 50-foot cement plug below the salt zone and cement from the top of the salt zone to the surface. 1 Trans. 219:18-221:8 (Harvey Testimony).

(d) Intrepid has not examined the plugging and cementing conditions of the abandoned well bores in Section 16 and could not state what remedial work would be required, or how it would be accomplished, for its conceptual mining plan. *See* 1 Trans. 222:8-223:10 (Harvey Testimony); 1 Trans. 275:15-277:6; 283:21-285:4 (Sambeek Testimony).

(e) Intrepid acknowledged it could not consider proceeding with its conceptual mining plan for Section 16 until after the Laguna No. 1 was depleted and properly plugged. 1 Trans. 282:22-283:4 (Sambeek Testimony).

(f) Intrepid's witnesses agreed that more study is necessary before Intrepid could consider proceeding with its conceptual mining plan for Section 16. *See* 1 Trans. 225:16-23 (Harvey Testimony); 1 Trans. 275:15-277:6; 282:22-283:4 (Sambeek Testimony).

(32) The evidence establishes it is unlikely that commercial potash mining will take place in Section 16 or within a mile of Fasken's proposed well in the foreseeable future.

(33) With respect to Interpid's projections of commercially recoverable potash ore in Section 16, the evidence establishes that:

(a) Intrepid acquired its assets in the nine section area comprising Section 16 in 2004, but did not conduct any study of the potash reserves until shortly before the Division hearing. 2 Trans. 113:20-114:9; 134:9-12 (Lewis Testimony).

- (b) Intrepid projects that the Tenth Ore Zone may extend into Section 16, but has not determined whether this ore is commercially recoverable. 1 Trans. 248:16 – 250:1 (Harvey Testimony).
- (c) Intrepid's projections are based, in part, on geophysical logs that the BLM does not accept as reliable. *See* 1 Trans. 231:1-232:20 (Harvey Testimony); 2 Trans. 141:1-5 (Lewis Testimony)
- (d) Intrepid's projections rely on a written analysis and interpretations of core hole data prepared in the 1950s that was also available to IMC Potash Company. *See* Intrepid Ex. 50; 2 Trans. 160:14-161:21 (Lewis Testimony).
- (e) In 1982, IMC Potash Company concluded that the existing, written analysis and interpretation of core hole data for this nine section area is unreliable and that additional underground sampling and analysis should be done. *See* Intrepid Ex. 16 at IP 001142.
- (f) Intrepid has recently drilled core holes in the sections near its active West and East Mines, but has not engaged in any underground sampling or analysis in the nine section area comprising Section 16. *See* 1 Trans. 192:8-25 (Harvey Testimony); 2 Trans. 161:8-163:12 (Lewis Testimony).
- (g) In 1982, IMC Potash concluded that most of the E/2 of Section 17 is non-commercial due to the presence of extensive carnallite. *See* Intrepid Ex. 16 at IP001147-1152; 2 Trans. 163:13-166:8 (Lewis Testimony).
- (h) Carnallite can cause an ore body to be uneconomic to mine and process. *See* Intrepid Ex. 16 at 1151-52; Trans. 146:9-147:16; 166:9-167:14 (Lewis Testimony).
- (i) Intrepid's mapping of this nine section area is not consistent. *Compare* Fasken Ex. 30 *with* Intrepid Ex. 9.
- (j) Intrepid's most recent map projects the most prolific potash to be located to the north and west of Section 16. *See* Intrepid Ex. 9; 2 Trans. 124:3-17 (Lewis Testimony).
- (k) Intrepid has not included the nine section area comprising Section 16 as part of its proven and probable reserves for purposes of its SEC filings. Fasken Ex. 26 at 1030; 1 Trans. 235:15-236:21 (Harvey Testimony); 2 Trans. 253:19-254:1 (K. Taylor Testimony)
- (l) When Intrepid purchased the assets of Mississippi Potash and Eddy Potash in February of 2004, it did not allocate any value "to the mineral properties at the idle North Mine." *See* Fasken Ex. 26 at 1029.

(m) Intrepid has submitted to the Division a "confidential draft: work in progress" map of planned mine works generated by Intrepid on May 30, 2008. See Fasken Ex. 9.

(n) Intrepid has stated that its "confidential draft: work in progress" map "conveys Intrepid's determination of where commercial potash deposits are located in relation to the North Mine and surrounding areas." See Brief in Support of Sealing Certain Exhibits and Testimony as Confidential at p. 10.

(o) The area which Intrepid has identified as potentially containing "commercial potash deposits" does not include Section 16 and is over a mile from Fasken's proposed well location. See Fasken Ex. 9; Brief in Support of Sealing Certain Exhibits and Testimony as Confidential at p. 10.

✓ (34) Intrepid has failed to establish that Section 16 contains commercial deposits of potash that will reasonably be mined in the foreseeable future.

(35) Intrepid has failed to establish that Fasken's proposed Laguna Well No. 2 will waste commercial deposits of potash that will reasonably be mined in the foreseeable future.

(36) The Oil and Gas Act, 70-2-12(B)(17) empowers the Division to "regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect *unduly* to reduce the total quantity of the commercial deposits of potash which may *reasonably be recovered in commercial quantities* or where the operations would interfere *unduly* with the orderly commercial development of the potash deposits." (emphasis added)

(37) The Oil and Gas Act obligates the Division to, wherever possible, prevent the waste of *both* potash and oil and gas resources.

(38) The evidence indicates oil and gas drilling cannot occur after potash mining due to the subsidence and caverns created during the extraction of the potash ore. See 1 Trans. 116:1-8; 126:5-25; 133:7-9; 135:6-19 (Taylor Testimony).

(39) The evidence establishes that it is likely commercially recoverable oil and gas reserves will be wasted if oil and gas development is not allowed to continue in Section 16.

(40) In contrast, the evidence indicates it is possible that potash mining could take place in this Section 16 after the oil and gas reserves have been depleted and the existing Laguna No. 1 and the proposed Laguna No. 2 wells are properly plugged and abandoned.

(41) Fasken has presented evidence that it intends to meet the stringent casing, cement and plugging requirements set forth in Division R-111-P in the event that the proposed Laguna No. 2 is not successful or once the well is depleted. See 1 Trans. 116:1-8 (Taylor Testimony).

(42) Intrepid has indicated in its April 2008 Prospectus that it has sufficient proven and probable reserves at the active Carlsbad West Mine to last for over 122 years, sufficient proven and probable reserves at the active Carlsbad East Mine to last for over 42 years, and sufficient proven and probable reserves in the first phase of the HB Mine project to last for over 28 years. See Fasken Ex. 26 at 1030; 2 Trans. 252:14-253:18 (K. Taylor Testimony).

(43) It is in the best interests of conservation and the prevention of waste to allow oil and gas development to continue in Section 16, recognizing that it is possible potash mining could take place in this Section 16 after the oil and gas reserves have been depleted.

(44) Fasken has demonstrated that its proposed well will not *unduly* reduce the total quantity of the commercial deposits of potash that may reasonably be recovered in commercial quantities and that its proposed well will not interfere *unduly* with the orderly commercial development of the potash deposits.

IT IS THEREFORE ORDERED THAT:

(1) Fasken is hereby granted authority to drill its proposed Laguna 16 State Well No. 2 at a location 2135 feet from the North Line and 2455 feet from the West Line in Unit F of Section 16, Township 20 South, Range 32 East.

(2) Fasken shall comply with all applicable casing and cementing requirements set forth in Commission Order R-111-P.

(3) Jurisdiction is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION