

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

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FASKEN'S RESPONSE TO MOSAIC POTASH CARLSBAD, INC.'S  
MOTION FOR ENTRY OF APPEARANCE AND  
MOTION FOR CONTINUANCE

Fasken Oil & Ranch submits the following response to the motion for entry of appearance and motion for continuance filed by Mosaic Potash Carlsbad, Inc. ("Mosaic").

1. In May of 2007, Fasken filed for administrative approval of a well in the SE/4 NW/4 (Unit F) of Section 16 in Township 20 South, Range 32 East, NMPM, in Lea County, New Mexico, at a location 1930 FNL and 2030 FWL. Fasken's request for administrative approval of its well was denied in June of 2007 due to an objection filed by Intrepid Potash, Inc.

2. Almost a year later, on March 31, 2008, Fasken filed its Application before the Division. Fasken's Application noted the previous denial of its administrative application for a well in Unit F of Section 16 and requested the following relief:

WHEREFORE, Fasken requests that this application be set for hearing before an Examiner of the Oil Conservation Division on May 1, 2008, and that, after notice and hearing, the Division enter its 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.

A copy of Fasken's application was provided to Mosaic by certified mail. See Fasken Hearing Exhibit 12.

3. In response to Fasken's application, Intrepid Potash filed a Pre-Hearing Statement

on April 25, 2008, and an Amended Pre-Hearing Statement on April 28, 2008. Paragraph 4 in each of its prehearing statements represented the following:

Mosaic Potash Carlsbad, Inc. (“Mosaic”), which was formerly known as IMC Kalium Carlsbad, Inc., owns a federal potash lease to the east of the proposed Well that includes Sections 15 and 22, Township 20 South, Range 32 East, NMPM.....Mosaic has informed Intrepid that it objects to the location of the proposed Well.

4. In addition to sending a copy of its Application to Mosaic, Fasken also published in *The Lovington Leader* and on the Division’s website notice of the Division hearing on this matter, noting that Fasken sought the following relief:

Applicant seeks an order authorizing the drilling of its proposed Laguna “16” State Well No. 2 at an unorthodox gas well location in the SE/4 NW/4 (Unit F) of Section 16....

*See* Fasken Hearing Exhibit 13.

5. Despite receiving a copy of Fasken’s Application, ostensibly expressing to Intrepid an objection to a proposed well in Unit F of Section 16, and receiving notice by publication of the Division’s hearing on a proposed well in Unit F of Section 16, Mosaic did not file an appearance in this case.

6. In paragraph 2 of Intrepid’s prehearing statements, the company objected to a proposed location at 1930 FNL and 2030 FWL on the grounds that its idle North Mine was “located less than one half mile north of the proposed Well, as depicted by the blue circle on the map attached as Exhibit A.” Intrepid also requested and received a two month continuance of the Division hearing to prepare its case.

7. During the two month continuance period, Fasken examined other surface locations in Unit F of Section 16. Using the Exhibit A provided by Intrepid’s prehearing statements, Fasken was able to locate and secure a surface location that places the proposed well

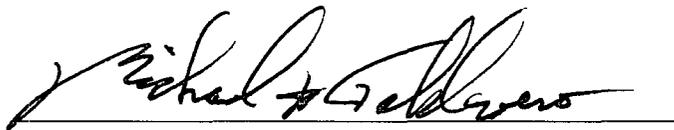
more than ½ miles from the idle North Mine, yet remains within Unit F of Section 16. See Fasken Hearing Exhibit 8. The proposed well location is now 2135 FNL and 2455 FWL.

8. On July 1, 2008, Division Examiner Brooks interrupted the Division hearing on this matter to take oral argument on Mosaic's sudden motion to intervene in the case and for a continuance of the Division hearing. After hearing arguments from counsel for Fasken, Intrepid and Mosaic, Examiner Brooks granted Mosaic's motion to intervene in this case, but denied Mosaic's motion for a continuance.

9. Accordingly, Mosaic's motion for a continuance of the Division hearing is without merit and its request for entry of appearance in this case is now moot.

Respectfully submitted,

**HOLLAND & HART, L.L.P.**



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**CERTIFICATE OF SERVICE**

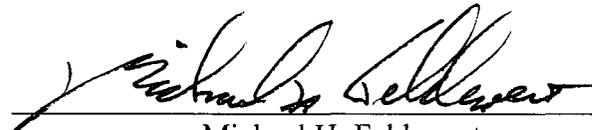
I certify that on July 2, 2008, I served a copy of the foregoing document *Fasken's Response to Mosaic Potash Carlsbad, Inc.'s Motion for Entry of Appearance and Motion for Continuance* to the following counsel via U.S. Mail, postage prepaid to:

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