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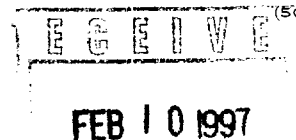
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7 February 1997



**FACSIMILE AND MAIL**

**505/827-8177**

Mr. William J. LeMay, Director  
New Mexico Oil Conservation Division  
2040 S. Pacheco  
Santa Fe, New Mexico 87504

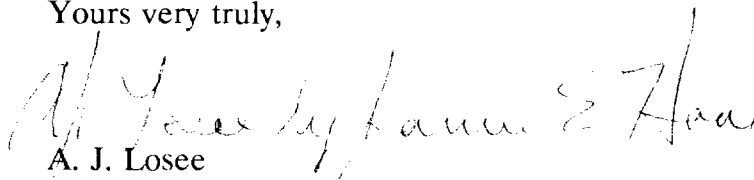
Re: Division Case No. 11713, Bass Enterprises  
Production Co.

Dear Mr. LeMay:

Enclosed is the Motion of Bass to quash the Subpoena Duces Tecum, outlying the reasons therefor.

Thank you for your consideration to this motion.

Yours very truly,

  
A. J. Losee  
by James E. Haas

AJL:scp  
Enclosure

cc: Mr. William F. Carr (FAX 505/983-6043) and mail

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

IN THE MATTER OF THE APPLICATION OF :  
BASS ENTERPRISES PRODUCTION CO. AND :  
SANTA FE ENERGY COMPANY FOR RESCISSION :  
OF ORDER NSL-3745, EDDY COUNTY, NEW MEXICO : CASE NO. 11713

**MOTION TO QUASH SUBPOENA DUCES TECUM**

BASS ENTERPRISES PRODUCTION CO. ("Bass"), by its undersigned attorneys, hereby moves the Division to quash the Subpoena Duces Tecum ("Subpoena") issued on February 3, 1997, in Santa Fe, New Mexico. As grounds for this motion, Bass states as follows:

1. The Subpoena was issued upon application of Mewbourne Oil Company in response to the Application of Bass to rescind Administrative Order No. NSL-3745 pertaining to the application of Mewbourne Oil Company for an unorthodox gas well location for its Scanlon Draw "35" State No. 1 Well 660' from the south line and 1980' from the west line of Section 35, Township 18 South, Range 28 East, N.M.P.M., Eddy County, New Mexico.

2. The power to subpoena is granted to the Division under 70-2-8 of the Oil and Gas Act which allows the Division, "to require the production of books, papers and records in any proceeding before the Commission or the Division." However, there is a limitation on this power. The statute goes on to state that, ". . . provided that nothing herein contained shall be construed as requiring any person to produce any books, papers or records or to testify in response to any inquiry, not pertinent to some question ...lawfully before the Commission or Division or court for determination." [Interlineation added.] Therefore, as a preliminary

threshold, Bass would urge that this Subpoena be quashed as to these items of information which are not pertinent to the matter before the Division, the request for the unorthodox gas well location for the Scanlon Draw "35" State No. 1 Well.

3. Discovery, including document production, has become a weapon of harassment in civil proceedings. Discovery is the prime reason that the cost of civil litigation has become burdensome to even the largest litigants. The Subpoena in this case appears to be an effort to move harassment into the administrative arena.

4. Although the First Judicial District Court limits interrogatories to 50 in number, including all subparts, this Subpoena includes 126 requests, many of which are multiple subparts, i.e., Nos. 4, 8, 11, 12, 13, 15 and 20. No. 20, relating to contracts, et al, and 21, relating to expenses and revenues, have absolutely nothing whatsoever to do with this unorthodox gas well location. Some of the wells included in this request were completed in the early 1980s. If Bass were able to comply with No. 11 requiring well charts on a daily basis, it would take several moving vans to deliver them to Santa Fe by the February 13 date.

5. Mewbourne knows that the documents requested in Nos. 1 and 2 were filed with Form C-105 with the Division. The data requested in No. 11 has been filed on a monthly basis on Form C-115 with the Division, and an annual compilation thereof on a cumulative basis has been prepared by the New Mexico Oil and Gas Engineering Committee and is available to the public. The data requested by No. 12 and No. 17 has been filed with the Division in Form C-104. Bass should not be required to furnish these public documents when Mewbourne is equally capable of obtaining them on its own. United Nuclear Corp. v. General Atomic Co., 96 N.M. 155 (1980), appeal dismissed, 101 S. Ct. 1966 (1981).

6. Grounds for this Motion to Quash as to each individual well for which information is requested will be set out below.

- a. New Mexico "O" State Com No. 1 Well, located Unit G, Section 12 - the Subpoena should be quashed as to the request for information on this well as to all things for lack of pertinence as the well is located approximately two miles from Mewbourne's proposed location. Mewbourne's own structure map submitted with its application to the Division does not show this well and any information concerning same is of no relevance or pertinence in this matter.
- b. Merchant State No. 1 and 3 Wells, located in Units H and B, respectively, of Section 1 and the Palmillo State Com No. 1 Well located in Unit J of Section 1 - Mewbourne's request for all information for these wells should be struck on grounds of pertinence in that each of these wells is more than one mile from Mewbourne's proposed location. None of the locations for these wells are shown on the structure map submitted with Mewbourne's application for unorthodox location, therefore Mewbourne must not have considered them to be pertinent or relevant to its application for the unorthodox location.
- c. Merchant State No. 2, producing in Unit L of Section - the Subpoena for information relating to this well should also be quashed in all things for lack of pertinence in that the well is located more than one mile from Mewbourne's proposed location and that a producing well (the Turkey Tract 2 State Com No. 1 Well) lies on a direct tangent between the Merchant State No. 2. Well and the proposed

Mewbourne location, thereby precluding the Merchant State No. 2 Well from having any effect on production from the proposed Mewbourne well.

- d. Turkey Tract 2 State Com. No. 1 Well - the Subpoena should be quashed as to the documents for this well for the following reasons as to each of the twenty-one documents or items listed in part B of Mewbourne's Subpoena:

Nos. 1, 2, 6, 11, 12, 17 are all on file with the Commission and a matter of public record. See ¶ 5 above.

Nos. 3-10 are an unreasonable exercise of the Division's powers of subpoena under the circumstances of this matter.

Nos. 13, 15 and 16. Bass claims a privilege on these items are available because they are proprietary trade secrets.

Nos. 14, 18 and 19 will not be available until shortly before the hearing. A summary of such data will be included in the prehearing statement filed on February 17.

Nos. 20 and 21 are not pertinent to the application. See ¶ 4 above.

7. The Subpoena should be quashed because it is an abuse of Division authority, as it is not limited to those items which are pertinent to a matter before the Commission as to number of wells, area of production, scope of information, or any other reasonable limitation.

8. The Subpoena should be quashed because it represents an undue burden upon Bass, and to provide the information, Bass would be forced to contribute extraordinary amounts of time, effort and expense to the collection of the data requested, placing an undue burden on its normal business operations.

9. The Subpoena should be quashed because Bass will consider a reasonable, organized data request or exchange according to specific guidelines, possibly relating only to well data from wells adjacent to the subject location.

10. Except as set forth in 6.d. above, the Subpoena should be quashed because the information requested is not pertinent to the matter before the Division, and the Division should not be a party to this type of harassment.

Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: 

Ernest L. Carroll

James E. Haas

A. J. Losee

P. O. Box 1720

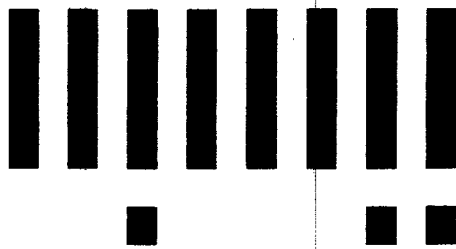
Artesia, New Mexico 88211-1720

(505)746-3505

Attorneys for Bass Enterprises Production Co.  
and Santa Fe Energy Resources, Inc.

I hereby certify that I caused to be  
FAXed and mailed a true and correct  
copy of the foregoing to all counsel  
of record this February 7, 1997.

  
James E. Haas



**LTR**



**Job separation sheet**

BEFORE THE  
OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY,  
MINERALS AND NATURAL RESOURCES

APPLICATION OF BASS ENTERPRISES  
PRODUCTION COMPANY AND SANTA FE  
ENERGY COMPANY FOR THE RECISION  
OF DIVISION ADMINISTRATIVE ORDER  
NO. NSL-3745 EDDY COUNTY, NEW MEXICO

CASE NO. 11713

**SUBPOENA DUCES TECUM**

TO: Bass Enterprises Production Company  
c/o James Haas  
Losee, Carson, Haas & Carroll  
Post Office Box 1720  
Artesia, New Mexico 88211-1720

Pursuant to NMSA 1978, §70-2-8, and New Mexico Oil Conservation Division Rule 1211, you are commanded to appear and produce at 8:15 a.m., on February 13, 1997, at the offices of the New Mexico Oil Conservation Division, 2040 South Pacheco Street, Santa Fe, New Mexico 87501, and make available for copying all of the materials listed on the attached Exhibit A.

**INSTRUCTIONS**

This Subpoena Duces Tecum seeks all information available to you or in your possession, custody or control from any source, wherever situated, including but not limited to, information from any file, records, document, employees, former employees, counsel and



former counsel. It is directed to each person to whom such information is a matter of personal knowledge.


When used herein, “you” or “your” refers to the person or entity to whom this Subpoena Duces Tecum is addressed to including all of his or its attorneys, officers, agents, employees, directors or representatives, officials, departments, divisions, sub-divisions, subsidiaries, predecessors, sister companies, or parent companies.

The term “document” as used herein means every writing and record of every type and description in your possession, custody or control, whether prepared by you or otherwise, or known by you to exist, including but not limited to all drafts, papers, books, writings, records, letters, photographs, computer disks, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations or of interviews, conferences, or meetings. It also includes diary entries, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, jottings, agenda, bulletins, notices, announcements, plans, specifications, sketches, instruction charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, lists, tabulations, sound records, computer printouts, books of accounts, checks, accounting records, vouchers, and invoices reflecting business operations, financial statements, and any notice or drafts relating to the foregoing, without regard to whether marked confidential or proprietary. It also includes duplicate

copies if the original is unavailable or if the duplicate is different in any way, including marginal notations, from the original.

NEW MEXICO OIL CONSERVATION DIVISION

By:

A handwritten signature in black ink, appearing to read "William J. LeMay", written over a horizontal line.

William J. LeMay, Director

ISSUED this 3<sup>rd</sup> day of February, 1997 at Santa Fe, New Mexico.

**EXHIBIT "A"**

**TO SUBPOENA DUCES TECUM  
TO BASS ENTERPRISES PRODUCTION COMPANY  
IN NEW MEXICO OIL CONSERVATION DIVISION  
NMOCD ADMINISTRATIVE ORDER NSL-3745**

**PURPOSE:** The purpose of this subpoena is to provide the information necessary for Mewbourne Oil Company to defend its position in the NMOCD Administrative Order NSL-3745. (An application for an unorthodox location in the west half of Section 35-18S-28E, Eddy Co., NM with respect to a Morrow test).

**I. PRODUCE THE FOLLOWING DOCUMENTS:**

For EACH AND ALL of the following Bass Enterprises Production Company wells in T19S, R28E, Eddy County, New Mexico:

**A. WELLS:**

- (1) Palmillo State Com. No. 1, producing in Unit J of Section 1,
- (2) Turkey Track 2 State Com. No. 1, and producing in Unit II of Section 2,
- (3) Merchant State No. 2 producing in Unit L of Section 1,
- (4) Merchant State No. 1, producing in Unit H of Section 1,
- (5) New Mexico O State Com No. 1, producing in Unit G of Section 12,
- (6) Merchant State No. 3, producing in Unit B of Section 1.

## **B. DOCUMENTS:**

1. Open-hole Resistivity logs, e.g., Dual Laterologs supplying both a one-inch scale log and five-inch scale log.
2. Open-hole Porosity logs, e.g., compensated Neutron-Litho-Density supplying both a one-inch scale log and five-inch scale log.
3. Mudlogs
4. All cased hole production logs, including but not limited to caliper logs, spinner surveys, tracer surveys.
5. Fluid data, including recombination analysis or bottom hole analysis.
6. Reservoir temperature data
7. PVT data, PVT reports and gas analysis including but not limited to molecular weight and API gravity.
8. Reservoir pressure data including but not limited to bottom-hole surveys or pressures, surface pressure readings, daily tubing pressure and casing pressures, drill stem tests, build up tests and interference tests, with relevant information as to shut-in time and production rates prior to shut-in.
9. Gas-liquid ratios and tests including a description of any and all test data and zones per well.
10. Any core data and analysis including but not limited to conventional or sidewall core data and samples.
11. All production data including, but not limited to all well check records, including gauges/charts for each well on a daily basis from initial testing/completion to date showing actual production of oil, gas and water for each well per day and per month.
12. Chronological reports to include details of:
  - a. Perforating and perforation locations
  - b. Stimulation fluids, volumes, rates, and pressures for each treated interval
  - c. Swabbing, flowing and/or pumping results for each interval that was perforated and tested including Pre and Post stimulation results as applicable.