

RM 10/15/98

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

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

APPLICATION OF HALLWOOD PETROLEUM, INC.
FOR ORDER ALLOWING DRILLING IN POTASH
AREA, LEA COUNTY, NEW MEXICO.

Case No. 12,055

RESPONSE IN OPPOSITION TO MOTION TO QUASH SUBPOENA

Hallwood Petroleum, Inc. ("Hallwood") files this Response opposing the Motion to Quash Subpoena Duces Tecum filed in this matter by Mississippi Potash, Inc. ("MPI").

Hallwood has requested hearings on two proposed wells to be located in the SW/4 of Section 30, Township 20 South, Range 33 East. These hearings are required because MPI has objected to the wells. As required by Division rules and regulations, notices of the proposed wells were sent to MPI. In response, MPI sent a letter objecting to the wells and simply stating that the sites were within MPI's LMR boundary.

The minerals involved are owned in fee. Furthermore, the lands are leased for oil and gas but not for potash. Therefore, it is Hallwood's strong belief that there exists no right to impose LMR restrictions on these lands. However, in anticipation of the required hearing, Hallwood obtained a Subpoena Duces Tecum directing MPI to provide such information as Hallwood believed would allow it to prepare its case and oppose MPI's anticipated objections. On October 2, 1998, MPI filed a Motion to Quash that Subpoena claiming that the information sought was irrelevant, overly broad, unduly burdensome and confidential.

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Hallwood has a fundamental right to have meaningful access to the information necessary to prepare for and present its case and respond to MPI's objections. **See, e.g., *Miller v. County Assessor for Bernalillo County***, 88 N.M. 492, 496, 542 P.2d 1182 (Ct. App. 1975) ("In recent years, the courts have unwaveringly recognized the right to discovery possessed by citizen-participants in administrative proceedings.") Information related to potash is almost exclusively within the possession and control of MPI.

However, Hallwood is not aware of the exact nature of MPI's objections. Therefore, if the requested documents were overly broad or burdensome, as MPI claims, Hallwood merely requests that the Division require MPI to provide such information as is relevant to MPI's objections.

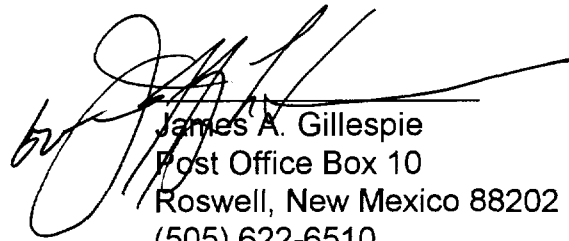
For instance, if MPI does not intend to rely upon an LMR, Hallwood does not need the requested LMR maps. If MPI does not intend to rely upon the validity of an LMR, Hallwood does not need the supporting files and data. If MPI does not intend to rely upon the existence of economically mineable potash, Hallwood does not need corehole files, cutoff grades, royalty reduction requests and similar information. Likewise, if MPI does not plan to claim an intention to mine this area, Hallwood does not need MPI's mine plan maps, etc.

For these reasons, Hallwood requests that the Division enter its order disallowing any opinion or evidence at these or any subsequent hearings on the proposed wells that is related to or founded upon information which MPI refuses to disclose to Hallwood. Furthermore, inasmuch as the hearings scheduled for November 5, 1998 have been delayed once already at MPI's request, Hallwood requests that MPI be required to divulge

the necessary information no later than ten days prior to the scheduled November 5 hearing date to as to allow the hearing to proceed as scheduled.

Respectfully submitted,

HINKLE, COX, EATON, COFFIELD
& HENSLEY, L.L.P.

A handwritten signature in black ink, appearing to read 'JA Gillespie', is written over a horizontal line.

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