

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

**IN THE MATTER OF THE APPLICATION
OF MERIDIAN OIL, INC. FOR
EXEMPTION FROM THE NEW MEXICO
NATURAL GAS PRICE PROTECTION ACT,
SAN JUAN COUNTY, NEW MEXICO.**

CASE NO. 9703

**RESPONDENT'S BRIEF IN SUPPORT
OF ITS MOTION TO DISMISS**

Gas Company of New Mexico ("Gas Company") hereby submits this Brief in Support of its Motion to Dismiss the Application filed by Meridian Oil, Inc. ("Meridian") in the captioned cause. The Application filed by Meridian requests the Oil Conservation Division ("OCD") to exempt certain wells from the Natural Gas Pricing Act pursuant to the authority granted under Section 6 of that Act. The OCD has no jurisdiction, power or authority to grant the relief requested by Meridian.

I.

ARGUMENT AND AUTHORITY

A. THE "NATURAL GAS PRICING ACT"

On March 28, 1977, the legislature enacted the Natural Gas Pricing Act. Laws 1977, Chapter 73, §§2-11. The Act established a "maximum allowable base price" for gas produced from wells drilled before January 1, 1975, and gas produced from wells drilled after that date on an existing proration unit. Id., §§ 6 & 7. The Act

exempted the latter category of infill wells from price ceilings if the OCD determined that the "new well was justified for reasons other than avoiding the application of the Natural Gas Pricing Act." Id. at §6. On June 8, 1977, the OCD issued Order No. R-5436 in which it established the procedures whereby producers could obtain exemptions from Section 6 of the Natural Gas Pricing Act.

On March 17, 1979, and April 9, 1981, the legislature essentially extended the Natural Gas Pricing Act by enactments which almost identically replicated the prior Act. Laws 1979, Chapter 97, §§1-6 and Laws 1981, Chapter 317, §§1-12, respectively. The 1981 Act specified a termination date of the earlier of July 1, 1983, or 30 days after total deregulation. Id. at §8. That termination date was later extended to July 1, 1985. Laws 1983, Chapter 286, §1.

B. THE "NATURAL GAS PRICE PROTECTION ACT"

One year prior to the scheduled termination date of the Natural Gas Pricing Act, the legislature enacted the Natural Gas Price Protection Act. Laws 1984, Chapter 123, §§1-15. Section 13 A of the legislation repealed NMSA §§ 62-7-1 through 62-7-10, the former Natural Gas Pricing Act. The effective date of the repeal of the former Act was July 1, 1984. Id. at §15. However, Section 13 B of the new Act stated, as follows:

Nothing in this act shall limit:

- (1) the right of any person to seek relief or pursue rights;
or

(2) the obligation of any governmental agency to act;

if such right or obligation existed prior to the repeal of the Natural Gas Pricing Act; and Subsection A of this section shall not operate to limit any such right or obligation.

The Natural Gas Price Protection Act terminated on June 30, 1985, by the terms of the enacting legislation. Id. at §15.

C. **MERIDIAN'S APPLICATION FOR RETROACTIVE EXEMPTION**

On June 23, 1989, Meridian filed an application at the OCD in which it applied for an exemption on 28 wells from the "New Mexico Natural Gas Price Protection Act, §§62-7-1 NMSA (1978) et. seq." Meridian obviously bases its right to an OCD proceeding upon the "savings" provision contained in the 1984 repeal of the Natural Gas Pricing Act. Meridian's interpretation of the savings provision, however, would authorize the OCD to grant such exemptions in perpetuity. Such a preposterous interpretation is contrary to the general principle of repose which precludes the pursuit of untimely or stale claims.

D. **PROPER INTERPRETATION OF THE SAVINGS CLAUSE**

The savings clause contained in the 1984 Act terminated on June 30, 1985, the date of the termination of the 1984 Act. Section 15 of the 1984 Act stated that "[t]he effective date of the provisions of this act shall be July 1, 1984 and shall

terminate on June 30, 1985." (Emphasis added.) Since the savings clause was a provision of the 1984 Act, it is axiomatic that the savings clause also ceased to exist when that Act terminated.

Well-established rules of statutory construction support the above proposition. First, the cardinal rule of statutory construction is to determine and give effect to the intent of the legislature. State ex rel. Kline v. Blackhurst, 106 N.M. 732, 735 (1988). Since the legislature eliminated all natural gas price controls by specifying a termination date for the Natural Gas Price Protection Act, the legislature must have also intended to eliminate the resort to any exemptions to such price controls. Second, the "plain language" of the statute is the primary indicator of legislative intent. General Motors Acceptance Corp. v. Anaya, 103 N.M. 72, 76 (1985). The plain language of the statute reveals that all its provisions, including the savings clause, terminated on June 30, 1985. Third, statutes should be construed to avoid absurd, unreasonable or unjust results. City of Las Cruces v. Garcia, 102 N.M. 25, 27 (1984). Allowing exemptions to a defunct statute through a savings clause which survives indefinitely the demise of the statute creating it constitutes an obvious absurdity. It would be highly unreasonable for a producer to request an exemption at the turn of this century, which is possible under Meridian's strained interpretation that the savings clause is of infinite duration.¹ Fourth, a statute should be construed to give effect to

¹ Although Meridian might contend that a contrary interpretation would be "unjust", that contention overlooks the fact that Meridian failed to apply for an exemption over four years ago when the district court stayed the action in the infill well litigation, to which both El Paso and Southland Royalty were parties. The Court's grant of a stay to allow the filing of other requests for exemptions is in accordance with the interpretation urged herein as to the duration of the savings clause.


all of its provisions, State ex rel. Bird v. Apodaca, 91 N.M. 279, 284 (1977), and not render any part superfluous, Katz v. New Mexico Department of Human Services, 95 N.M. 530, 534 (1981). The proposed interpretation of the savings clause comports with these standards. Applying these accepted rules of statutory construction leads to the conclusion that the OCD only had the authority to grant retroactive exemptions to the Natural Gas Pricing Act from July 1, 1984 through June 30, 1985.

II.

CONCLUSION

The OCD should dismiss Meridian's Application because the OCD's authority to grant the relief requested in the Application terminated on June 30, 1985.

GALLEGOS LAW FIRM

By 
J.E. GALLEGOS
HARRY T. NUTTER
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**STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE APPLICATION
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CASE NO. 9703

**REPLY TO APPLICANT'S RESPONSE TO
GAS COMPANY'S MOTION TO DISMISS.**

Respondent Gas Company of New Mexico ("Gas Company") hereby submits this Reply to the Response filed by Meridian Oil, Inc. ("Meridian"). In its Response, Meridian asserts four entirely fallacious reasons for denying Gas Company's Motion to Dismiss.

I.

**MERIDIAN RELIES UPON
INAPPROPRIATE RULES OF STATUTORY CONSTRUCTION.**

Gas Company hereby incorporates by reference that portion of its Brief in Support of its Motion to Dismiss which sets forth the appropriate rules of statutory construction regarding the savings clause at issue herein. Attempting to obfuscate that issue by citing rules which possess superficial appeal, Meridian argues that a specific statute controls over a general one and that repeals by implication are disfavored. While these constitute generally accepted rules of statutory construction, both are utterly inappropriate to this action. This is not a case calling for a comparison of one statute with another. At issue is the interpretation of two provisions of the same statute. An implied repeal is certainly unwarranted here because an express termination of the savings clause exists in the legislation which enacted that clause.

II.

THE OCD EXCEEDED ITS JURISDICTION WHEN IT PREVIOUSLY GRANTED EXEMPTIONS SUBSEQUENT TO THE EXPIRATION OF THE NATURAL GAS PRICE PROTECTION ACT.

As precedential authority in support of its application, Meridian cites a series of twelve orders in which the OCD granted exemptions subsequent to the expiration of the Price Protection Act. Eleven of those exemptions were granted pursuant to applications filed before the termination of the Natural Gas Pricing Act. See, OCD files on Order Nos. NGPA-36 through NGPA-46 (applications all filed on February 29, 1984). Since those applications were filed before the termination of the Pricing Act on July 1, 1984, and well before the termination of the savings clause on June 30, 1985, the OCD possessed jurisdiction to grant those applications at any time prior to June 30, 1985. Correspondence between the OCD Director and the Attorney General and Public Service Commission, however, reveals that the OCD granted those eleven exemptions in July of 1986 because they had been "overlooked" following the change of OCD directors in November of 1984 and because neither the Public Service Commission nor the Attorney General apparently objected. See, letters from Stamets to Epler and Martin dated June 20, 1986, attached hereto as Exhibits "A" and "B" respectively. The other order cited by Meridian was filed on September 4, 1986, and summarily granted on October 28, 1986. See, letter from Stamets to Carr referencing OCD Administrative Order No. NGPA-47, attached hereto as Exhibit "C".

Meridian points to these orders, all apparently granted without hearing and with no one contesting the Division's jurisdiction to issue them, as evidence that the Division conclusively determined that it possesses continuing jurisdiction to grant exemptions under the Pricing Act. Meridian then asserts substantial deference should be accorded to that "interpretation" of the statute. Meridian's first argument fails because no evidence exists to indicate that the OCD examined the savings clause in granting those exemptions or concluded that its jurisdiction endured despite the termination of the Price Protection Act. Meridian's second argument fails because the rule of deference does not require that one blindly accept an erroneous administrative interpretation of a statute. See, Board of Governors v. Dimension Financial Corp., 474 U.S. 361, 368 (1986) (traditional deference usually accorded to an agency interpretation should not be applied to alter clearly expressed legislative intent); Plateau, Inc. v. Department of Interior, 603 F.2d 161, 164 (10th 1979) (to extent agency interpretation is inconsistent with legislation, it is unavailing). Since the OCD could not alter the clearly expressed legislative intent that the savings clause terminated as of June 30, 1985, the orders cited by Meridian contain no precedential value. The fact that the OCD previously exceeded its jurisdiction is an insufficient reason to request that it do so now.

III.

ARTICLE IV, SECTION 34 OF THE NEW MEXICO CONSTITUTION DOES NOT APPLY TO A CASE THAT IS NO LONGER PENDING.

Article IV, Section 34 of the New Mexico Constitution prohibits the legislature from effecting the right of any party to a "pending case". That constitutional provision constitutes no impediment to granting Gas Company's Motion to Dismiss.

Meridian correctly points out that it was a party to the so-called "Infill Well Litigation" and that the presiding judge stayed that case pending the filing of other applications for exemptions. The judge's order was entered on April 29, 1985. At that time, approximately two months remained under the proper interpretation of the savings clause for parties to timely file exemption applications. Meridian, without any excuse whatever, obviously failed to do so. Just as obviously, the judge did not, and could not, stay the case indefinitely so as to validate applications otherwise untimely filed. Meridian's resort to Article IV, Section 34 of the New Mexico Constitution is unavailing because the OCD's jurisdiction to grant exemptions terminated on June 30, 1985, and the infill well litigation ceased to be a pending case, for the purposes of obtaining infill well exemptions, on that date.

IV.

MERIDIAN'S DELAY IN SEEKING PROPER RELIEF PRECLUDES IT FROM INVOKING EQUITY.

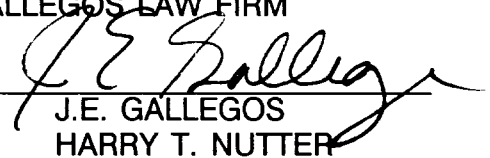
Not entirely oblivious to the inherent weakness of its legal arguments, Meridian belatedly requests the OCD grant it equitable relief. However, Meridian cannot invoke equity because the record clearly demonstrates that Meridian failed to assert its

rights with the diligence equity requires. By its own admission, Meridian was aware of the opportunity and necessity of filing for an infill well exemption at least as early as April 1985. Because of its own failure to act for over four years, Meridian cannot now be heard to complain.

Respectfully Submitted,

GALLEGOS LAW FIRM

By



J.E. GALLEGOS

HARRY T. NUTTER

141 East Palace Avenue
Santa Fe, New Mexico 87501
(505) 983-6686

Attorneys for Respondent
Gas Company of New Mexico



STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

TONEY ANAYA
GOVERNOR

June 20, 1986

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501-2088
(505) 827-5800

Mr. Gary Epler
Assistant Attorney General
Office of the Attorney General
Bataan Memorial Building
Santa Fe, New Mexico 87503

Dear Mr. Epler:

On February 29, 1984, the Division received requests for retroactive exceptions to the State Natural Gas Pricing Act for eleven Amoco Production Company Wells. These wells are identified as follows:

<u>Lease Name</u>	<u>Well No.</u>	<u>Unit Letter</u>	<u>Sec.-Twp.-Rge.</u>
Morris Gas Com "B"	1E	M	10-27N-10W
Roberts Gas Com "B"	1E	P	14-29N-13W
White Gas Com	1E	G	22-29N-13W
Gallegos Canyon Unit	96E	B	18-29N-12W
" " "	108E	N	13-29N-13W
" " "	110E	I	19-29N-12W
" " "	111E	I	20-29N-12W
" " "	133E	C	17-29N-12W
" " "	134E	I	17-29N-12W
" " "	263E	H	20-29N-12W
" " "	94E	A	23-29N-13W

Each of these wells was completed as an infill well in the Basin-Dakota Gas Pool in San Juan County in 1981. Complete applications for administrative approval for exception to the Pricing Act have been filed for the above-listed wells under the provisions of our Order No. R-5436, and each well qualifies for such exception.

No action has been taken to date on these applications, because at the time of filing, retroactivity was the subject of court action and the Division had received directions from the Attorney General to issue prospective approvals only. Further, these applications were simply overlooked following the change in Division directors in November, 1984.

Based upon the results of the District Court case, it is my intention to administratively approve these requested exemptions to the Pricing Act retroactive to the date of connection unless I receive objections and a request for hearing from your office by July 21, 1986. The applications are on file and available for your inspection. If you wish to review the

EXHIBIT "A"

applications or have questions, please contact me or the Division Attorney,
Jeff Taylor.

Sincerely,


R. L. STAMETS
Director

RLS:dp

cc: Paul Biderman
Jeff Taylor



STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

TONEY ANAYA
GOVERNOR

June 20, 1986

POST OFFICE BOX 2088
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SANTA FE, NEW MEXICO 87501-2088
(505) 827-5800

Mr. Jim Martin
Chief Staff Counsel
Public Service Commission
224 E. Palace Avenue
Santa Fe, New Mexico 87503

Dear Mr. Martin:

On February 29, 1984, the Division received requests for retroactive exceptions to the State Natural Gas Pricing Act for eleven Amoco Production Company Wells. These wells are identified as follows:

<u>Lease Name</u>	<u>Well No.</u>	<u>Unit Letter</u>	<u>Sec.-Twp.-Rge.</u>
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Roberts Gas Com "B"	1E	P ✓	14-29N-13W
White Gas Com	1E	G ✓	22-29N-13W
Gallegos Canyon Unit	96E	B ✓	18-29N-12W
" " "	108E	N ✓	13-29N-13W
" " "	110E	I ✓	19-29N-12W
" " "	111E	I ✓	20-29N-12W
" " "	133E	C ✓	17-29N-12W
" " "	134E	I ✓	17-29N-12W
" " "	263E	H	20-29N-12W
" " "	94E	A	23-29N-13W

Each of these wells was completed as an infill well in the Basin-Dakota Gas Pool in San Juan County in 1981. Complete applications for administrative approval for exception to the Pricing Act have been filed for the above-listed wells under the provisions of our Order No. R-5436, and each well qualifies for such exception.

No action has been taken to date on these applications because, at the time of filing, retroactivity was the subject of court action and the Division had received directions from the Attorney General to issue prospective approvals only. Further, these applications were simply overlooked following the change in Division directors in November, 1984.

Based upon the results of the District Court case, it is my intention to administratively approve these requested exemptions to the Pricing Act retroactive to the date of connection unless I receive objections and a request for hearing from your office by July 21, 1986. The applications are on file and available for your inspection. If you wish to review the

EXHIBIT "B"

applications or have questions, please contact me or the Division Attorney,
Jeff Taylor.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. L. Stamets", with a long horizontal flourish extending to the right.

R. L. STAMETS
Director

RLS:dp

cc: Paul Biderman
Marilyn O'Leary, PSC
Steven Asher, PSC
Jeff Taylor



STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

TONY ANAYA
GOVERNOR

October 28, 1986

POST OFFICE BOX 2088
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SANTA FE, NEW MEXICO 87501
(505) 827-5800

Campbell & Black, P.A.
P.O. Box 2208
Santa Fe, New Mexico 87504-2208

Attn: William F. Carr
Attorney for ACRO Oil
& Gas Company

Re: Administrative Order No. NGPA-47

Dear Mr. Carr:

Reference is made to your application dated September 4, 1986 on the behalf of ARCO Oil & Gas Company for retroactive exception to the date of first sale from the New Mexico Natural Gas Pricing Act under Section 62-7-5, NMSA, 1978, and Division Order No. R-5436 for the seventy-five (75) wells, described on the attachment, which produce from the Basin Dakota Gas Pool in the Gallegos Canyon Unit in San Juan County, New Mexico.

THE DIRECTOR OF THE DIVISION FINDS THAT:

(1). Amoco Production Company is the operator of each of the subject wells in which ARCO Oil & Gas Company owns a small interest (approximately 3%). Production from each of these wells is sold through a split stream connection, with Amoco's share being sold in interstate commerce and ARCO's share being sold in the intrastate market.

(2). Section 5 of the Natural Gas Pricing Act (being Secs. 62-7-1 to 62-7-10, NMSA 1978) provides that the Natural Gas Pricing Act shall not apply to the production and sale of natural gas in intrastate commerce from a well the drilling of or first intrastate sale of which commenced on or after January 1, 1975, provided however, that the Act shall apply to such a well if it is drilled within an established proration unit which was producing or capable of producing natural gas prior to January 1, 1975, from the same reservoir unless the Oil Conservation Division exempts such well upon a finding that such new well was justified for reasons other than avoiding the application of the Natural Gas Pricing Act.

EXHIBIT "C"

(3). By Division Order No. R-5436, dated June 8, 1977, the Division established an administrative procedure whereby the Director of the Division is empowered to act for the Division and exempt gas wells from the provisions of Section 5 of the Natural Gas Pricing Act provided said wells were drilled on or after January 1, 1975, within established proration units which were producing or capable of producing natural gas from the same reservoir prior to January 1, 1975.

(4) To qualify for such exemption, under said Order No. 5436, a gas well must be classified either as a replacement or as an infill well.

(5). Pursuant to Order No. R-5436, the Director of the Division may find that a replacement well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- a. the well was necessary to replace a well lost due to economically irreparable down-hole mechanical failure or formation damage; or that,
- b. the well was necessary to replace a well producing at non-commercial rates; or that,
- c. the drilling of the well commenced prior to January 18, 1977.

(6). Pursuant to Order No. R-5436, the Director of the Division may find that an infill well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- a. the well was drilled in a pool where the Division, after notice and hearing, has issued an order finding that infill drilling in such pool will increase recoverable reserves under various proration units in such pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool; or that,
- b. the well is necessary to protect the proration unit from uncompensated drainage or to protect correlative rights; or that,
- c. the drilling of the well commenced prior to January 18, 1977.

(7). The applicant, on behalf of ARCO Oil and Gas Company, has requested exemption from the provisions of the New Mexico Natural Gas Pricing Act pursuant to Section 62-7-5, NMSA 1978, and Division Order No. R-5436 for the 75 subject wells as described on the attached page.

(8). All the requirements of said Order No. R-5436 have been complied with, and that said well is justified for the exception from the provisions of the Natural Gas Pricing Act inasmuch as said wells were not drilled for the purpose of avoiding the application of said act, but were in fact Infill Wells drilled in a pool where the Division, after notice and hearing, has issued an order finding that infill drilling in such pool will increase the recoverable reserves under the various proration units in the pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool, said pool being the Basin-Dakota Pool and in order being Division Order No. R-1670-V.


IT IS THEREFORE ORDERED THAT:

(1). The seventy-five (75) wells, described on the attachment are hereby exempted from Section 5 of the Natural Gas Pricing Act (Secs. 62-7-1 to 62-7-10, NMSA 1978) retroactive to the date of first sale.

(2). Jurisdiction of this cause is hereby retained, and that this exemption is subject to rescission upon failure to comply with the provision of Rule 7(c) of Division Order No. R-5436.

DONE at Santa Fe, New Mexico on _____ day of October, 1986.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


R. L. STAMETS
Director

xc: New Mexico Oil Conservation Division - Aztec
Paul , EMD
Marilyn O'Leary, PSC
Steven Asher, PSC
Jeff Talor, OCD
Jim Martin, PSC
Gary Epler, AG

Administrative Order No. NGPA - 47

BASIN DAKOTA POOL - INFILL WELLS
Operated by Amoco Production Company
GALLEGOS CANYON UNIT,
SAN JUAN COUNTY, NEW MEXICO

<u>WELL NO.</u>	<u>LOCATION</u> (Unit, Sec., Twp, Rng)
85-E	I-19-28N-12W
86-E	P-35-29N-13W
93-E	L-36-29N-12W
95-E	P-31-28N-11W
96-E	B-18-29N-12W
106-E	D-24-29N-13W
108-E	N-13-29N-13W
110-E	I-19-29N-12W
111-E	I-20-29N-12W
133-E	C-17-29N-12W
134-E	I-17-29N-12W
145-E	D-26-29N-12W
150-E	P-22-29N-12W
151-E	D-21-29N-12W
152-E	O-21-29N-12W
153-E	C-28-29N-12W
154-E	E-27-29N-12W
158-E	G-36-28N-13W
163-E	M-26-29N-13W
164-E	C-35-29N-13W
166-E	E-34-28N-12W
167-E	H-18-28N-11W
168-E	C-19-28N-11W
169-E	H-35-29N-12W
170-E	E-35-29N-12W
172-E	N-25-29N-12W
173-E	E-29-29N-12W
174-E	E-28-28N-12W
176-E	B-25-28N-13W
182-E	K-19-28N-11W
184-E	J-28-28N-12W
185-E	A-33-28N-12W
186-E	N-33-28N-12W
187-E	N-30-29N-12W
188-E	B-30-29N-12W
189-E	K-36-29N-13W
190-E	K-32-28N-12W
192-E	A-30-28N-12W
193-E	M-30-28N-12W
195-E	P-33-29N-12W
196-E	D-19-28N-12W

197-E	G-36-29N-13W
199-E	K-34-29N-12W
200-E	O-29-29N-12W
202-E	C-33-29N-12W
203-E	P-13-28N-12W
204-E	I-34-28N-12W
207-E	D-14-28N-12W
208-E	I-15-28N-12W
209-E	E-15-28N-12W
210-E	C-31-29N-12W
211-E	C-32-29N-12W
212-E	P-32-29N-12W
216-E	I-14-28N-12W
217-E	D-13-28N-12W
218-E	D-22-28N-12W
219-E	D-23-28N-12W
221-E	P-31-29N-12W
226-E	C-18-28N-12W
227-E	C-20-28N-12W
228-E	F-21-28N-12W
229-E	I-21-28N-12W
239-E	P-24-28N-13W
242-E	K-24-28N-12W
243-E	I-24-28N-12W
246-E	H-35-28N-12W
263-E	H-20-29N-12W
Com 94-E	A-23-29N-13E
Com 162-E	B-36-29N-12W
Com "B" 143-E	M-25-29N-12W
Com "D" 160-E	N-27-29N-12W
Com "E" 161-E	N-23-29N-13W
Com "G" 179-E	J-26-29N-12W
Com "H" 180-E	N-28-29N-12W
Com "I" 181-E	H-34-29N-12W

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION OF
NEW MEXICO ON ITS OWN MOTION FOR THE
PURPOSE OF CONSIDERING THE ESTABLISHMENT
OF AN ADMINISTRATIVE PROCEDURE FOR EXEMPTING
JUSTIFIED INFILL GAS WELLS FROM THE PROVISIONS
OF SECTION 6 OF THE NATURAL GAS PRICING ACT.

BEFORE EXAMINER STOGNER

Oil Conservation Division

GCONM Exhibit No. 1

Case No. 9703

CASE NO. 5900
Order No. R-5436

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on April 19, 1977, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 8th day of June, 1977, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

- (1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.
- (2) That the 33rd Legislature of the State of New Mexico passed the Natural Gas Pricing Act (being Laws 1977, Chapter 73).
- (3) That said Act was signed into law and became effective on March 18, 1977.
- (4) That said Act controls the price producers may charge for gas produced from wells, the drilling or first intrastate sale of which commenced prior to January 1, 1975.
- (5) That Section 6 of the Act reads in its entirety as follows:

"Section 6. EXCLUSIONS.--The provisions of the Natural Gas Pricing Act shall not apply to the production and sale of natural gas in intrastate commerce from a well the drilling or first intrastate sale of which commenced on or after January 1, 1975. However, the

Natural Gas Pricing Act shall apply to such a well if it is drilled within an established proration unit which was producing or capable of producing natural gas prior to January 1, 1975 from the same reservoir unless the oil conservation commission exempts such well upon a finding that such new well was justified for reasons other than avoiding the application of the Natural Gas Pricing Act."

(6) That when a well on an established proration unit is lost due to irreparable mechanical failure of the casing, tubing, packer, cement, or down-hole equipment; damage to the producing formation such as to render the well non-productible or non-commercial; or when production has declined to non-commercial levels, the drilling of a replacement well on such proration unit to re-establish production or commercial production thereon is a justifiable reason for drilling such well.

(7) That if a Commission order has been issued finding that "infill" drilling in a particular gas pool will increase the recoverable reserves under the various proration units in such pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool, then drilling of infill wells in such pool is justifiable.

(8) That because of the nature of many of the producing formations in the State, an operator may not be able to protect an established gas proration unit from uncompensated drainage or protect his correlative rights unless he is permitted to drill an additional well at a more geologically advantageous location within such proration unit.

(9) That the drilling of an infill well to protect a gas proration unit from drainage or to protect correlative rights, because of geological reasons, is justifiable.

(10) That some replacement wells or infill wells may have been commenced on established gas proration units after January 1, 1975, and before the commencement of the First Session of the 33rd New Mexico Legislature on January 18, 1977.

(11) That such replacement wells or infill wells, having been commenced prior to the introduction of the Natural Gas Pricing Act, or its predecessors in said legislature, could not have been drilled to avoid the pricing provisions of said Act.

(12) That an administrative procedure should be established by which replacement wells and infill wells, as set out in Findings No. (6) through (10) above, drilled on or after January 1, 1975, within established proration units which were producing or capable of producing natural gas from the same reservoir prior to January 1, 1975, may be exempted from the provisions of Section 6 of said Act.

(13) That such administrative procedure should require that any existing well to be replaced be plugged and abandoned within 60 days following the connection of the replacement well.

(14) That such administrative procedure should be applicable to no more than one infill well on any gas proration unit.

(15) That such administrative procedure should not result in waste nor violate correlative rights.

IT IS THEREFORE ORDERED:

(1) That an administrative procedure with Special Rules and Regulations, as set out below, is hereby established whereby gas wells drilled on or after January 1, 1975, within established proration units which were producing or capable of producing natural gas from the same reservoir prior to January 1, 1975, may be exempted from the provisions of Section 6 of the Natural Gas Pricing Act (being Laws of 1977, Chapter 73).

SPECIAL RULES AND REGULATIONS
NATURAL GAS PRICING ACT SECTION 6
ADMINISTRATIVE EXEMPTION PROCEDURE

A. DEFINITIONS

RULE 1. For purposes of this administrative procedure, the following definitions are adopted:

- (a) A Replacement Well is defined as a well drilled on an established gas proration unit as a substitute for a former producing well, thereon, which well has been lost for effective or commercial production purposes.
- (b) An Infill Well is defined as an additional producing well completed on an established gas proration unit.

B. JUSTIFICATION OF WELLS

RULE 2. The Secretary-Director of the Commission may find that a replacement well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- (a) The well was necessary to replace a well lost due to economically irreparable down-hole mechanical failure or formation damage, or that;
- (b) the well was necessary to replace a well producing at non-commercial rates, or that;
- (c) the drilling of the well commenced prior to January 18, 1977.

RULE 3. The Secretary-Director of the Commission may find that an infill well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- (a) the well was drilled in a pool where the Commission, after notice and hearing, has issued an order finding that infill drilling in such pool will increase the recoverable reserves under the various proration units in such pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool, or that;
- (b) the well is necessary to protect the proration unit from uncompensated drainage or to protect correlative rights, or that;
- (c) the drilling of the well commenced prior to January 18, 1977.

RULE 4. The Secretary-Director may set any application for well justification for hearing before the Commission or one of its examiners.

C. FILING REQUIREMENTS

RULE 5. Each applicant for well justification under this procedure shall file a plat of the area showing the proration unit in question, the location of all wells thereon, and the ownership and location of all wells on direct or diagonally offsetting proration units.

RULE 6. In addition to the data required under Rule 5, the applicant for justification of a replacement well shall supply the following information:

- (a) A copy of the AFE (Authorization for Expenditure) or a complete tabulation of actual well costs for the well for which justification is sought;
- (b) If the replacement well results from mechanical failure or formation damage, the application shall contain a complete description of the nature and cause of such failure or damage, how the same was determined, a history of attempted repair work and results, an evaluation of the potential for success of any additional repairs, and a tabulation of well repair costs both expended and projected.
- (c) If the replacement well results from non-commercial production from an existing well on the proration unit, the application shall contain a monthly production summary for such well for the last 24 months of production, wellhead or bottom hole pressures, and a tabulation of monthly gross revenues, operating expenses, and royalties and taxes paid during the last 24 months of production.
- (d) Proof that the well to be replaced has been plugged and abandoned or certification that the same will be accomplished within 60 days following the date of connection of the replacement well shall accompany each application. Failure to accomplish such plugging within the specified time will result in rescission of justification.

RULE 7. In addition to the data required under Rule 5, the applicant for justification of an infill well shall supply the following information:

- (a) If the infill well is in a pool where the Commission, after notice and hearing, has found that infill drilling will substantially increase recoverable reserves under the various proration units in the pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool, the applicant shall cite the number of the order containing such findings.
- (b) If the infill well is drilled to protect the proration unit from drainage or to protect correlative rights, the applicant shall submit a report fully describing the causative conditions, geologic maps, logs, cross-sections, pressure data, or other information supporting the application.
- (c) A certification that the existing well on the proration unit shall not have its ability to produce into the pipeline restricted in any manner shall accompany each application for justification of an infill well. Any such restriction shall be cause for rescission of justification.

RULE 8. In addition to the data required under Rule 5, the applicant for justification of a replacement or infill well the drilling or first intrastate sale of which commenced between January 1, 1975, and January 18, 1977, shall furnish certified documentation sufficient to prove the date such drilling or sale commenced.

RULE 9. Applications for well justification shall be filed in duplicate with one copy to be forwarded to the Santa Fe office of the Commission and the second to the appropriate Commission district office.

D. LIMITATIONS

RULE 10. No more than one well on any proration unit may be approved as a justified infill well.

-7-

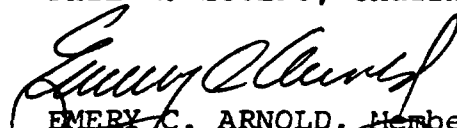
Case No. 5900
Order No. R-5436

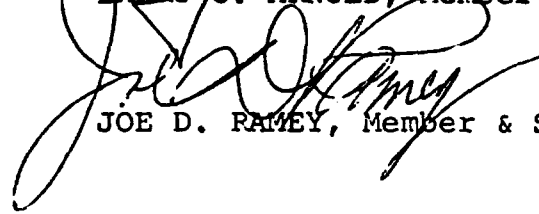
(2) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year herein-above designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


PHIL R. LUCERO, Chairman


EMERY C. ARNOLD, Member


JOE D. RAMEY, Member & Secretary

S E A L

dr/

EXEMPTION FROM THE NATURAL GAS PRICING ACT
PURSUANT TO SECTION 6, CHAPTER 73,
LAWS OF 1977, AND COMMISSION ORDER NO. R-5436

Exhibit No. 2

Case No. 9103

OPERATOR Mobil Oil Corporation WELL NAME AND No. Brainard Gas Com No. 2LOCATION: UNIT B SEC. 11 TWP. 18 South RNG. 26 East COUNTY Eddy

THE SECRETARY-DIRECTOR OF THE COMMISSION FINDS:

(1) That Section 6 of the Natural Gas Pricing Act (being Laws of 1977, Chapter 73) provides that the Natural Gas Pricing Act shall not apply to the production and sale of natural gas in intrastate commerce from a well the drilling of or first intrastate sale of which commenced on or after January 1, 1975, provided however, that the Act shall apply to such a well if it is drilled within an established proration unit which was producing or capable of producing natural gas prior to January 1, 1975, from the same reservoir unless the Oil Conservation Commission exempts such well upon a finding that such new well was justified for reasons other than avoiding the application of the Natural Gas Pricing Act

(2) That by Order No. R-5436, dated June 8, 1977, the Commission established an administrative procedure whereby the Secretary-Director of the Commission is empowered to act for the Commission and exempt gas wells from the provisions of Section 6 of the Natural Gas Pricing Act provided said wells were drilled on or after January 1, 1975, within established proration units which were producing or capable of producing natural gas from the same reservoir prior to January 1, 1975.

(3) That to qualify for such exemption, under said Order No. R-5436, a gas well must be classified either as a replacement well or as an infill well.

(4) That pursuant to Order No. R-5436, the Secretary-Director of the Commission may find that a replacement well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- (a) The well was necessary to replace a well lost due to economically irreparable down-hole mechanical failure or formation damage; or that
- (b) the well was necessary to replace a well producing at non-commercial rates; or that
- (c) the drilling of the well commenced prior to January 18, 1977.

(5) That pursuant to Order No. R-5436, the Secretary-Director of the Commission may find that an infill well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- (a) the well was drilled in a pool where the Commission, after notice and hearing, has issued an order finding that infill drilling in such pool will increase the recoverable reserves under the various proration units in such pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool; or that
- (b) the well is necessary to protect the proration unit from uncompensated drainage or to protect correlative rights; or that
- (c) the drilling of the well commenced prior to January 18, 1977.

(6) That the applicant herein Mobil Oil Corporation has requested exemption from the provisions of the Natural Gas Pricing Act pursuant to Section 6, Chapter 73, Laws of 1977, and Commission Order No. R-5436 for the above-named well.

(7) That all the requirements of said Order No. R-5436 have been complied with, and that said well is justified for exemption from the provisions of the Natural Gas Pricing Act inasmuch as said well was not drilled for the purpose of avoiding the application of said act, but was in fact:

() A Replacement Well

- () necessary to replace a well lost due to economically irreparable down-hole mechanical failure or formation damage.
- () necessary to replace a well producing at non-commercial rates.
- () a well the drilling of which commenced prior to January 18, 1977.

(X) An Infill Well

- () drilled in a pool where the Commission, after notice and hearing, has issued an order finding that infill drilling in such pool will increase the recoverable reserves under the various proration units in the pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool, said pool being the

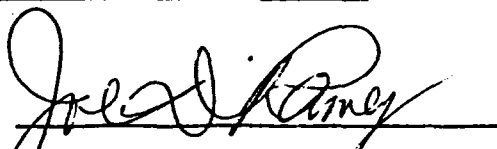
- (X) necessary to protect the proration unit from uncompensated drainage or to protect correlative rights.
- (X) a well the drilling of which commenced prior to January 18, 1977.

IT IS THEREFORE ORDERED:

(1) That the above-named well is hereby exempted from Section 6 of the Natural Gas Pricing Act (Laws of 1977, Chapter 73).

(2) That jurisdiction of this cause is hereby retained, and that this exemption is subject to rescission upon failure to comply with the provisions of Rule 6(d) or Rule 7(c) of Commission Order No. R-5436 or for other good cause shown.

DONE at Santa Fe, New Mexico on this 13th day of October, 19 77.


JOE D. RAMEY
Secretary-Director

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION COMMISSION

BEECH EXAMINER STOGNER

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

Oil Conservation Division

GCM Exhibit No. 3

Case No. 9703

CASE NO. 8111

Order No. R-7631

APPLICATION OF SOUTHLAND ROYALTY
COMPANY FOR EXEMPTION FROM THE NEW MEXICO
NATURAL GAS PRICING ACT.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on July 17, 1984, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 23rd day of August, 1984, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, Southland Royalty Company, is the operator of the following wells located in San Juan County, New Mexico, which are subject to the New Mexico Natural Gas Pricing Act, hereinafter referred to as the "Act" and on the dates indicated filed applications seeking exemptions from the pricing provisions of the Act for these wells:

<u>LEASE NAME</u> <u>AND DATE</u>	<u>WELL NO.</u>	<u>LOCATION</u> <u>UNIT - SECTION</u> <u>TOWNSHIP-RANGE</u>	<u>POOL</u>
Aztec 2-21-84	7E	L 14-28N-11W	Basin Dakota
Cain 2-21-84	9E	D 16-28N-10W	Basin Dakota
Cain 2-21-84	10E	F 15-28N-10W	Basin Dakota
Cain 2-21-84	11E	O 15-28N-10W	Basin Dakota

Cain	15M	J 31-29N- 9W	Blanco Mesaverde
2-21-84			
Cain	15M	J 31-29N- 9W	Basin Dakota
2-21-84			
Hanks	11E	E 7-27N- 9W	Basin Dakota
2-21-84			
Hanks	12E	P 7-27N- 9W	Basin Dakota
2-21-84			
Hanks	18M	I 5-27N- 9W	Blanco Mesaverde
2-21-84			
Hanks	18M	I 5-27N- 9W	Basin Dakota
2-21-84			
Jicarilla 101	3E	E 1-26N- 4W	Basin Dakota
2-21-84			
McClanahan	14E	H 23-28N-10W	Basin Dakota
2-21-84			
McClanahan	15E	O 14-28N-10W	Basin Dakota
2-21-84			
McClanahan	16E	E 24-28N-10W	Basin Dakota
2-21-84			
McClanahan	17E	I 24-28N-10W	Basin Dakota
2-21-84			
McClanahan	19E	E 14-28N-10W	Basin Dakota
2-21-84			
McClanahan	20E	F 13-28N-10W	Basin Dakota
2-21-84			

(3) That said Act applies to any well drilled after January 1, 1975, if it was drilled on an established proration unit which was producing gas or was capable of producing gas from the same reservoir prior to January 1, 1975, unless the Oil Conservation Division exempts such well upon a finding that the drilling of the well was justified for reasons other than avoiding the application of the Act.

(4) That Commission Order No. R-1670-T and R-1670-V authorized a second well on an established gas proration and drilling unit in the Blanco Mesaverde and Basin Dakota Pools, with findings that infill wells were necessary to recover additional gas from these pools.

(5) That the above wells were drilled to increase the recovery of gas from the Blanco Mesaverde Pool and Basin Dakota Pool.

(6) That since the drilling of the second well on each proration unit, the applicant has done nothing to restrict the ability of the original well on each of the gas proration and drilling units to produce into the pipeline.

(7) That granting a prospective exemption from the date of application for the above wells would not impair correlative rights nor cause waste.

IT IS THEREFORE ORDERED:

(1) That commencing on the dates indicated, a prospective exemption is hereby granted to the following wells:

<u>LEASE NAME</u> <u>AND DATE</u>	<u>WELL NO.</u>	<u>LOCATION</u> <u>UNIT - SECTION</u> <u>TOWNSHIP-RANGE</u>	<u>POOL</u>
Aztec 2-21-84	7E	L 14-28N-11W	Basin Dakota
Cain 2-21-84	9E	D 16-28N-10W	Basin Dakota
Cain 2-21-84	10E	F 15-28N-10W	Basin Dakota
Cain 2-21-84	11E	O 15-28N-10W	Basin Dakota
Cain 2-21-84	15M	J 31-29N- 9W	Blanco Mesaverde
Cain 2-21-84	15M	J 31-29N- 9W	Basin Dakota
Hanks 2-21-84	11E	E 7-27N- 9W	Basin Dakota
Hanks 2-21-84	12E	P 7-27N- 9W	Basin Dakota
Hanks 2-21-84	18M	I 5-27N- 9W	Basin Dakota
Hanks 2-21-84	18M	I 5-27N- 9W	Blanco Mesaverde
Jicarilla 101 2-21-84	3E	E 1-26N- 4W	Basin Dakota
McClanahan 2-21-84	14E	H 23-28N-10W	Basin Dakota
McClanahan 2-21-84	15E	O 14-28N-10W	Basin Dakota
McClanahan 2-21-84	16E	E 24-28N-10W	Basin Dakota
McClanahan 2-21-84	17E	I 24-28N-10W	Basin Dakota
McClanahan 2-21-84	19E	E 14-28N-10W	Basin Dakota
McClanahan 2-21-84	20E	F 13-28N-10W	Basin Dakota

-4-

Case No. 8111
Order No. R-7631

(2) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

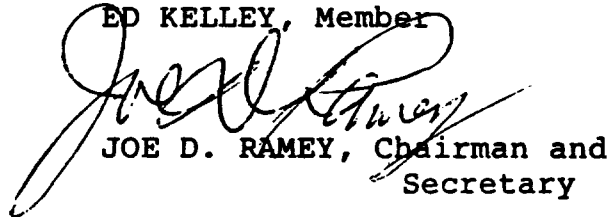
DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JIM BACA, Member



ED KELLEY, Member



JOE D. RAMEY, Chairman and
Secretary



STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

TONEY ANAYA
GOVERNOR

June 20, 1986

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501-2088
(505) 827-5800

BEFORE EXAMINER STOGNER

Oil Conservation Division

GCNM Exhibit No. 4

Case No. 9703

Mr. Gary Epler
Assistant Attorney General
Office of the Attorney General
Bataan Memorial Building
Santa Fe, New Mexico 87503

Dear Mr. Epler:

On February 29, 1984, the Division received requests for retroactive exceptions to the State Natural Gas Pricing Act for eleven Amoco Production Company Wells. These wells are identified as follows:

<u>Lease Name</u>	<u>Well No.</u>	<u>Unit Letter</u>	<u>Sec.-Twp.-Rce.</u>
Morris Gas Com "B"	1E	M	10-27N-10W
Roberts Gas Com "B"	1E	P	14-29N-13W
White Gas Com	1E	G	22-29N-13W
Gallegos Canyon Unit	96E	B	18-29N-12W
" " "	108E	N	13-29N-13W
" " "	110E	I	19-29N-12W
" " "	111E	I	20-29N-12W
" " "	133E	C	17-29N-12W
" " "	134E	I	17-29N-12W
" " "	263E	H	20-29N-12W
" " "	94E	A	23-29N-13W

Each of these wells was completed as an infill well in the Basin-Dakota Gas Pool in San Juan County in 1981. Complete applications for administrative approval for exception to the Pricing Act have been filed for the above-listed wells under the provisions of our Order No. R-5436, and each well qualifies for such exception.

No action has been taken to date on these applications, because at the time of filing, retroactivity was the subject of court action and the Division had received directions from the Attorney General to issue prospective approvals only. Further, these applications were simply overlooked following the change in Division directors in November, 1984.

Based upon the results of the District Court case, it is my intention to administratively approve these requested exemptions to the Pricing Act retroactive to the date of connection unless I receive objections and a request for hearing from your office by July 21, 1986. The applications are on file and available for your inspection. If you wish to review the

applications or have questions, please contact me or the Division Attorney,
Jeff Taylor.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. L. Stamets", with a stylized flourish at the end.

R. L. STAMETS

Director

RLS:dp

cc: Paul Biderman
Jeff Taylor



ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

TONY ANAYA
GOVERNOR

June 20, 1986

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501-20
(505) 827-5800

Mr. Jim Martin
Chief Staff Counsel
Public Service Commission
224 E. Palace Avenue
Santa Fe, New Mexico 87503

Dear Mr. Martin:

On February 29, 1984, the Division received requests for retroactive exceptions to the State Natural Gas Pricing Act for eleven Amoco Production Company Wells. These wells are identified as follows:

<u>Lease Name</u>	<u>Well No.</u>	<u>Unit Letter</u>	<u>Sec.-Twp.-Rge.</u>
Morris Gas Com "B"	1E	M ✓	10-27N-10W
Roberts Gas Com "B"	1E	P ✓	14-29N-13W
White Gas Com	1E	G ✓	22-29N-13W
Gallegos Canyon Unit	96E	B ✓	18-29N-12W
" " "	108E	N ✓	13-29N-13W
" " "	110E	I ✓	19-29N-12W
" " "	111E	I ✓	20-29N-12W
" " "	133E	C ✓	17-29N-12W
" " "	134E	I ✓	17-29N-12W
" " "	263E	H	20-29N-12W
" " "	94E	A	23-29N-13W

Each of these wells was completed as an infill well in the Basin-Dakota Gas Pool in San Juan County in 1981. Complete applications for administrative approval for exception to the Pricing Act have been filed for the above-listed wells under the provisions of our Order No. R-5436, and each well qualifies for such exception.

No action has been taken to date on these applications because, at the time of filing, retroactivity was the subject of court action and the Division had received directions from the Attorney General to issue prospective approvals only. Further, these applications were simply overlooked following the change in Division directors in November, 1984.

Based upon the results of the District Court case, it is my intention to administratively approve these requested exemptions to the Pricing Act retroactive to the date of connection unless I receive objections and a request for hearing from your office by July 21, 1986. The applications are on file and available for your inspection. If you wish to review the

applications or have questions, please contact me or the Division Attorney,
Jeff Taylor.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. L. Stamets", with a long horizontal stroke extending to the right.

R. L. STAMETS
Director

RLS:dp

cc: Paul Biderman
Marilyn O'Leary, PSC
Steven Asher, PSC
Jeff Taylor



STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

TONEY ANAYA
GOVERNOR

October 28, 1986

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501
(505) 827-5800

Campbell & Black, P.A.
P.O. Box 2208
Santa Fe, New Mexico 87504-2208

Attn: William F. Carr
Attorney for ARCO Oil
& Gas Company

Re: Administrative Order No. NGPA-47

Dear Mr. Carr:

Reference is made to your application dated September 4, 1986 on the behalf of ARCO Oil & Gas Company for retroactive exception to the date of first sale from the New Mexico Natural Gas Pricing Act under Section 62-7-5, NMSA, 1978, and Division Order No. R-5436 for the seventy-five (75) wells, described on the attachment, which produce from the Basin Dakota Gas Pool in the Gallegos Canyon Unit in San Juan County, New Mexico.

THE DIRECTOR OF THE DIVISION FINDS THAT:

(1). Amoco Production Company is the operator of each of the subject wells in which ARCO Oil & Gas Company owns a small interest (approximately 3%). Production from each of these wells is sold through a split stream connection, with Amoco's share being sold in interstate commerce and ARCO's share being sold in the intrastate market.

(2). Section 5 of the Natural Gas Pricing Act (being Secs. 62-7-1 to 62-7-10, NMSA 1978) provides that the Natural Gas Pricing Act shall not apply to the production and sale of natural gas in intrastate commerce from a well the drilling of or first intrastate sale of which commenced on or after January 1, 1975, provided however, that the Act shall apply to such a well if it is drilled within an established proration unit which was producing or capable of producing natural gas prior to January 1, 1975, from the same reservoir unless the Oil Conservation Division exempts such well upon a finding that such new well was justified for reasons other than avoiding the application of the Natural Gas Pricing Act.

(3). By Division Order No. R-5436, dated June 8, 1977, the Division established an administrative procedure whereby the Director of the Division is empowered to act for the Division and exempt gas wells from the provisions of Section 5 of the Natural Gas Pricing Act provided said wells were drilled on or after January 1, 1975, within established proration units which were producing or capable of producing natural gas from the same reservoir prior to January 1, 1975.

(4) To qualify for such exemption, under said Order No. 5436, a gas well must be classified either as a replacement or as an infill well.

(5). Pursuant to Order No. R-5436, the Director of the Division may find that a replacement well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- a. the well was necessary to replace a well lost due to economically irreparable down-hole mechanical failure or formation damage; or that,
- b. the well was necessary to replace a well producing at non-commercial rates; or that,
- c. the drilling of the well commenced prior to January 18, 1977.

(6). Pursuant to Order No. R-5436, the Director of the Division may find that an infill well is justified for reasons other than avoiding the pricing provisions of the Natural Gas Pricing Act upon a showing by the operator that:

- a. the well was drilled in a pool where the Division, after notice and hearing, has issued an order finding that infill drilling in such pool will increase recoverable reserves under various proration units in such pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool; or that,
- b. the well is necessary to protect the proration unit from uncompensated drainage or to protect correlative rights; or that,
- c. the drilling of the well commenced prior to January 18, 1977.

(7). The applicant, on behalf of ARCO Oil and Gas Company, has requested exemption from the provisions of the New Mexico Natural Gas Pricing Act pursuant to Section 62-7-5, NMSA 1978, and Division Order No. R-5436 for the 75 subject wells as described on the attached page.

(8). All the requirements of said Order No. R-5436 have been complied with, and that said well is justified for the exception from the provisions of the Natural Gas Pricing Act inasmuch as said wells were not drilled for the purpose of avoiding the application of said act, but were in fact Infill Wells drilled in a pool where the Division, after notice and hearing, has issued an order finding that infill drilling in such pool will increase the recoverable reserves under the various proration units in the pool, will result in more efficient use of reservoir energy, and will tend to ensure greater ultimate recovery of gas from the pool, said pool being the Basin-Dakota Pool and in order being Division Order No. R-1670-V.


IT IS THEREFORE ORDERED THAT:

(1). The seventy-five (75) wells, described on the attachment are hereby exempted from Section 5 of the Natural Gas Pricing Act (Secs. 62-7-1 to 62-7-10, NMSA 1978) retroactive to the date of first sale.

(2). Jurisdiction of this cause is hereby retained, and that this exemption is subject to rescission upon failure to comply with the provision of Rule 7(c) of Division Order No. R-5436.

DONE at Santa Fe, New Mexico on _____ day of October, 1986.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


R. L. STAMETS
Director

xc: New Mexico Oil Conservation Division - Aztec
Paul , EMD
Marilyn O'Leary, PSC
Steven Asher, PSC
Jeff Talor, OCD
Jim Martin, PSC
Gary Epler, AG

Administrative Order No. NGPA - 47

BASIN DAKOTA POOL - INFILL WELLS
Operated by Amoco Production Company
GALLEGOS CANYON UNIT,
SAN JUAN COUNTY, NEW MEXICO

<u>WELL NO.</u>	<u>LOCATION</u> (Unit, Sec., Twp, Rng)
85-E	I-19-28N-12W
86-E	P-35-29N-13W
93-E	L-36-29N-12W
95-E	P-31-28N-11W
96-E	B-18-29N-12W
106-E	D-24-29N-13W
108-E	N-13-29N-13W
110-E	I-19-29N-12W
111-E	I-20-29N-12W
133-E	C-17-29N-12W
134-E	I-17-29N-12W
145-E	D-26-29N-12W
150-E	P-22-29N-12W
151-E	D-21-29N-12W
152-E	O-21-29N-12W
153-E	C-28-29N-12W
154-E	E-27-29N-12W
158-E	G-36-28N-13W
163-E	M-26-29N-13W
164-E	C-35-29N-13W
166-E	E-34-28N-12W
167-E	H-18-28N-11W
168-E	C-19-28N-11W
169-E	H-35-29N-12W
170-E	E-35-29N-12W
172-E	N-25-29N-12W
173-E	E-29-29N-12W
174-E	E-28-28N-12W
176-E	B-25-28N-13W
182-E	K-19-28N-11W
184-E	J-28-28N-12W
185-E	A-33-28N-12W
186-E	N-33-28N-12W
187-E	N-30-29N-12W
188-E	B-30-29N-12W
189-E	K-36-29N-13W
190-E	K-32-28N-12W
192-E	A-30-28N-12W
193-E	M-30-28N-12W
195-E	P-33-29N-12W
196-E	D-19-28N-12W

197-E	G-36-29N-13W
199-E	K-34-29N-12W
200-E	O-29-29N-12W
202-E	C-33-29N-12W
203-E	P-13-28N-12W
204-E	I-34-28N-12W
207-E	D-14-28N-12W
208-E	I-15-28N-12W
209-E	E-15-28N-12W
210-E	C-31-29N-12W
211-E	C-32-29N-12W
212-E	P-32-29N-12W
216-E	I-14-28N-12W
217-E	D-13-28N-12W
218-E	D-22-28N-12W
219-E	D-23-28N-12W
221-E	P-31-29N-12W
226-E	C-18-28N-12W
227-E	C-20-28N-12W
228-E	F-21-28N-12W
229-E	I-21-28N-12W
239-E	P-24-28N-13W
242-E	K-24-28N-12W
243-E	I-24-28N-12W
246-E	H-35-28N-12W
263-E	H-20-29N-12W
Com 94-E	A-23-29N-13E
Com 162-E	B-36-29N-12W
Com "B" 143-E	M-25-29N-12W
Com "D" 160-E	N-27-29N-12W
Com "E" 161-E	N-23-29N-13W
Com "G" 179-E	J-26-29N-12W
Com "H" 180-E	N-28-29N-12W
Com "I" 181-E	H-34-29N-12W

B. Upon the death of either spouse, the entire community property is subject to the payment of community debts. The deceased spouse's separate debts and funeral expenses and the charge and expenses of administration are to be satisfied first from his separate property, excluding property held in joint tenancy. Should such property be insufficient, then the deceased spouse's undivided one-half interest in the community property shall be liable.

C. The provisions of the 1984 amendments to this section shall not affect the right of any creditor, which right accrued prior to the effective date of those amendments."

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. =====

BEFORE EXAMINER STOGNER

Oil Conservation Division

GENM Exhibit No. 5

Case No. 9103

MM 16 PPA

CHAPTER 123

AN ACT

RELATING TO NATURAL GAS; PROVIDING FOR THE CONTROL OF THE PRICE OF NATURAL GAS PRODUCED AND SOLD IN NEW MEXICO; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 62-7-11 NMSA 1978 is enacted to read:

"62-7-11. SHORT TITLE.--Chapter 62, Article 7 NMSA 1978 may be cited as the "New Mexico Natural Gas Price Protection Act"."

Section 2. A new Section 62-7-12 NMSA 1978 is enacted to read:

"62-7-12. PURPOSE AND FINDINGS.--

A. The legislature hereby determines that:

(1) the business of producing natural gas in New Mexico and selling such natural gas for ultimate distribution to consumers within the state of New Mexico is affected with a public interest;

(2) the average price of intrastate natural gas sold in New Mexico has risen rapidly in the past five years;

(3) the level of natural gas prices may create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting and curtailment of vital public services;

(4) such hardships and dislocations are a threat to the public health, safety and welfare and can be averted or minimized through the operations of the New Mexico Natural Gas Price

House Bill 219, aa, cc
Approved March 7, 1984

Protection Act:

(5) state regulation in matters relating to the production of natural gas in New Mexico and the sale thereof in interstate commerce is necessary to avert or minimize such threats to the public health, safety and welfare;

(6) reasonable wellhead natural gas prices in New Mexico are necessary to promote the public health, safety and welfare; and

(7) there currently exists a disparity between the prices paid for natural gas at the wellhead by intrastate purchasers and interstate purchasers primarily due to the interaction of intrastate contractual provisions and federal wellhead pricing regulations.

B. The purpose of the New Mexico Natural Gas Price Protection Act is to ensure that the price of natural gas sold in interstate commerce to New Mexico consumers is maintained at a level to provide New Mexico consumers with natural gas at a tolerable price and, insofar as is practicable, at a price comparable with prices paid by out-of-state consumers for natural gas produced in New Mexico."

Section 5. A new Section 62-7-13 NMSA 1978 is enacted to read:

"62-7-13. DEFINITIONS.--As used in the New Mexico Natural Gas Price Protection Act, unless otherwise specified:

A. "commission" means the New Mexico public service commission;

B. "committed or dedicated to interstate commerce", when used with respect to natural gas, means natural gas which qualifies as committed or dedicated to interstate commerce under Section 2 (18) of the Federal Natural Gas Policy Act of 1978;

C. "first sale" means the sale by a producer of any volume of natural gas at the wellhead, or by a producer at the outlet of a natural gas processing plant;

D. "stripper well" means a well which has been qualified as a stripper well by the oil conservation division or a federal agency having regulatory jurisdiction with respect to the production of natural gas.

E. "producer" means any person who does now or may hereafter own or have any interest in production in a well or wells capable of producing natural gas."

Section 4. A new Section 62-7-14 NMSA 1978 is enacted to read:

"62-7-14. APPLICATION OF ACT.--

A. The provisions of the New Mexico Natural Gas Price Protection Act shall apply to any first sale of natural gas produced in this state and not committed or dedicated to or sold in interstate commerce and which, but for the provisions of the New Mexico Natural Gas Price Protection Act, would qualify for the maximum lawful price under either Section 105 or Section 106 (b) of the Federal Natural Gas Policy Act of 1978.

B. Subsection A of this section includes sales of any natural gas commingled with gas that may be sold in interstate com-

merce if:

- (1) the natural gas is produced from a well producing natural gas, the first sale of which is subject to the provisions of the New Mexico Natural Gas Price Protection Act; and
- (2) the natural gas is not commingled with gas that may be sold in interstate commerce for the purpose of selling the volumetric equivalent of such natural gas for ultimate consumption out of this state."

Section 9. A new Section 62-7-15 NMSA 1978 is enacted to read:
"62-7-15. MAXIMUM ALLOWABLE BASE PRICE--LIMITATIONS--

PSYALATIONS:--

A. The maximum lawful price in any month for first sales of natural gas produced from a well, the drilling of which commenced prior to January 1, 1975, shall be an amount equal to the federal Section 109 price.

B. The maximum lawful price in any month for first sales of natural gas from an infill well shall be an amount equal to the federal Section 103 price.

C. For purposes of Subsection B of this section, "infill well" means a well, the drilling of which commenced on or after January 1, 1975 and prior to January 1, 1984 and which is completed within an established production unit which was producing or was, through then existing production facilities, capable of producing natural gas from the same reservoir in which the infill well is completed.

D. Except as provided in Subsection B of this section, the maximum lawful price in any month for first sales of natural gas produced from a well, the drilling of which commenced on or after January 1, 1975 but prior to January 1, 1984, shall be:

- (1) an amount equal to the federal Section 102 price or federal Section 103 price if the natural gas produced from the well would have qualified for that price if natural gas from that well had been committed or dedicated to interstate commerce at the beginning of well production; or

(2) an amount equal to the federal Section 109 price if the natural gas would not have qualified for the price which is set forth in Paragraph (1) of this subsection.

E. Notwithstanding anything in this section to the contrary, the maximum lawful price in any month for first sales of natural gas from a stripper well shall be an amount equal to the federal Section 108 price.

F. No maximum lawful price established in this section shall apply to first sales of natural gas sold under any rollover contract and which constitutes the natural gas production, royalty share or other interest of the state and which qualifies for the federal maximum lawful price provisions of Section 106 (b)(7) of the federal Natural Gas Policy Act of 1978.

G. The oil conservation division may, by rule regulation or order, prescribe a maximum lawful price, applicable to any high-cost natural gas, which exceeds the otherwise applicable maximum

allowable base price, to the extent that the higher price is necessary to provide reasonable incentives for the production of such high-cost natural gas.

H. As used in Subsection G of this section, "high-cost natural gas" means natural gas, determined by the oil conservation division to be:

- (1) produced from geopressurized brine;
- (2) occluded natural gas produced from coal seams;
- (3) produced from Devonian shale; or
- (4) produced under such other conditions as the division determines to present extraordinary risks or costs.

I. In promulgating any rule, regulation or order under Subsection G or H of this section, the oil conservation division shall consider any similar action taken by the Federal energy regulatory commission under Section 107 of the Federal Natural Gas Policy Act of 1978, which action, but for the provisions of this section other than Subsection H, would allow a higher price for natural gas subject to the New Mexico Natural Gas Price Protection Act.

J. For purposes of this section, "Federal Section 102 price", "Federal Section 109 price" and "Federal Section 103 price" and "Federal Section 108 price" shall mean the maximum lawful federal price established under Section 102 (b), Section 103 (b)(1), Section 109 (b)(1), Section 108 (a), as the case may be, of the Federal Natural Gas Policy Act of 1978.

K. The maximum lawful price shall be determined on a monthly basis.

L. The provisions of this section shall apply to first sales of natural gas subject to the provisions of the New Mexico Natural Gas Price Protection Act, on and after the effective date of the New Mexico Natural Gas Price Protection Act.

M. If any natural gas qualifies under more than one subsection of this section providing for any maximum lawful price with respect to any first sale of such natural gas, the provisions which could result in the higher price shall be applicable.

N. Nothing contained in the New Mexico Natural Gas Price Protection Act shall prevent or limit the voluntary renegotiation of price provisions contained in natural gas purchase contracts; however, absent such renegotiation, the maximum lawful prices established in this section shall be applicable until June 30, 1985, and the rights of the parties under such contracts shall not be impaired by the provisions of this act.

O. The maximum lawful prices established in this section shall be exclusive of taxes and if provided for by contract, that portion of royalty payable on a value in excess of the contract sales price."

Section 6. A new Section 62-7-17 NMSA 1978 is enacted to read: "62-7-17. IMPLEMENTATION AND ENFORCEMENT OF ACT--JURISDICTION--RULES AND REGULATIONS--PENALTIES--APPEALS.--

A. Jurisdiction over the provisions of the New Mexico

Natural Gas Price Protection Act is hereby conferred on the commission.

B. The commission shall adopt such rules and regulations to implement the New Mexico Natural Gas Price Protection Act as it deems necessary and proper. The remedies and penalties provided in the Public Utility Act for violations shall be applicable for violations of the New Mexico Natural Gas Price Protection Act.

C. In addition to the remedies and penalties provided by Subsection B of this section, the following acts or omissions shall constitute perjury and shall be punishable as provided in the perjury laws of this state:

(1) willfully and knowingly making any false return or report to the commission or to any member, employee or agent of the commission;

(2) willfully and knowingly making any false entry in the accounts or records required by the commission to be kept under the New Mexico Natural Gas Price Protection Act, or willfully and knowingly destroying, mutilating or by any other means falsifying the material accounts or records, or willfully neglecting or failing to make full, true and correct entries of all facts and transactions pertaining thereto;

(3) knowingly and willfully making any false statement of a material fact under oath or in writing; and

(4) knowingly and willfully aiding or abetting any of the foregoing.

D. Appeals from final orders of the commission issued pursuant to the New Mexico Natural Gas Price Protection Act may be taken in the same manner and according to the same procedure specified in the Public Utility Act."

Section 7. A new Section 62-7-18 NMSA 1978 is enacted to read: "62-7-18. CONTRACT CHARGES.--

A. The commission shall, by rule or order, authorize and require the nondiscriminatory transportation of natural gas by any person subject to the jurisdiction of the commission for a seller or purchaser of natural gas to the extent of available capacity and subject to Subsections B and C of this section.

B. The commission may, in its discretion, impose such terms and conditions on the transportation of natural gas as may be necessary to safeguard deliverability and operational efficiency, and to prevent undue hardship.

C. The rates and charges for the transportation of natural gas under this section shall be just and reasonable and subject to approval by the commission.

D. Any person subject to the jurisdiction of the federal energy regulatory commission who provides natural gas transportation facilities and who transports gas for others under contract shall make available, subject to pipeline capacity, transportation arrangements on the most favorable terms previously given.

E. For purposes of this section, "transportation" means exchange, backhaul, displacement or any other means of transporting

and includes gathering."

Section 8. A new Section 62-7-19 NMSA 1978 is enacted to read:

"62-7-19. REPORTS.--The commission, after consultation with and with the advice of the energy and minerals department, shall report to the legislature at the commencement of each regular session, in each year the New Mexico Natural Gas Price Protection Act is in effect, the effect it has upon the availability of natural gas in this state."

Section 9. A new Section 62-7-20 NMSA 1978 is enacted to read:

"62-7-20. ATTORNEY GENERAL ENFORCEMENT.--The attorney general is charged with the responsibility of enforcing the New Mexico Natural Gas Price Protection Act by filing an action against any producer or purchaser in the district court of Santa Fe county. In addition to petitioning the court for imposition of fines, the attorney general may petition the court to restrain by temporary or permanent injunction the abandonment of any facility other than in accordance with the provisions of Section 62-7-23 NMSA 1978 or the receipt or payment of any sums in excess of the maximum lawful price, without the necessity of posting bond."

Section 10. A new Section 62-7-21 NMSA 1978 is enacted to read:

"62-7-21. EXCESS ROYALTIES--RESTRICTION.--In the event any person subject to the New Mexico Natural Gas Price Protection Act owes any royalty obligation pursuant to any mineral lease in excess of that which would otherwise be determined in accordance with the

provisions of the New Mexico Natural Gas Price Protection Act, then the provisions of the Natural Gas Pricing Act that otherwise would have limited price, shall not apply with respect to the amounts of such excess royalty obligations, and purchasers of natural gas shall make the additional payment of all amounts attributable to natural gas which was previously delivered and to which such excess royalty obligation pertained."

Section 11. A new Section 62-7-22 NMSA 1978 is enacted to read:

"62-7-22. PROTECTION OF DISTRIBUTORS.--If a public utility or rural electric cooperative which purchases, uses or sells in New Mexico gas subject to the maximum lawful prices provided for in Section 62-7-15 NMSA 1978 is subsequently determined to be obligated for any reason to pay higher prices than the maximum lawful prices because of the invalidity of all or any portion of the New Mexico Natural Gas Price Protection Act for any reason as determined by a court of competent jurisdiction and all judicial appeals taken therefrom have been exhausted, the commission shall order an adjustment of the public utility's or cooperative's rates and tariffs to provide for the amortization of an amount equal to the difference between the public utility's or cooperative's gas purchases at the maximum lawful prices and the higher prices it is obligated to pay, including the total financing costs and interest costs incurred by the public utility or cooperative to acquire funds to satisfy the obligation. Any superseded bond costs incurred by the utility, if

any, during the pendency of any appeals of a legal proceeding contesting the validity of the New Mexico Natural Gas Price Protection Act shall also be included in the amount to be amortized. The rate adjustment shall amortize the total amount over the shortest practicable period to minimize the interest cost burden on the utility consumers. Any issuance of securities to pay such obligation shall be permissible under Section 62-6-6 NMSA 1978."

Section 12. A new Section 62-7-23 NMSA 1978 is enacted to read:

"62-7-23. ABANDONMENT OF FACILITIES.--

A. Except as provided in Subsection B of this section and for wells plugged and abandoned pursuant to rules and regulations of the oil conservation commission, no producer who is subject to the maximum lawful price limitations shall abandon all or any portion of its facilities for production and sale of natural gas for consumption in New Mexico without first obtaining the permission and approval of the commission. Such approval and permission shall be given only after reasonable notice and hearing and a finding by the commission that:

- (1) the available supply of natural gas is depleted to the extent that the continuance of production is unwarranted; or
- (2) the present or future public convenience or necessity permits such abandonment.

B. The provisions of Subsection A of this section shall not apply to any producer who abandons facilities for production and

sale of natural gas for consumption in New Mexico if:

- (1) the abandonment occurs on or after the expiration of a natural gas sales contract pursuant to the terms of that contract as it existed on January 1, 1977; and
- (2) the producer notifies, prior to contract expiration, the oil conservation division and the attorney general in writing of the abandonment."

Section 13. REPEAL.--

A. Sections 62-7-1 through 62-7-10 NMSA 1978 (being Laws 1977, Chapter 73, Sections 2 through 6, Laws 1981, Chapter 317, Sections 3 through 5, Laws 1977, Chapter 73, Sections 8 through 10, Laws 1981, Chapter 317, Section 9 and Laws 1977, Chapter 73, Section 11, as amended) are repealed.

B. Nothing in this act shall limit:

- (1) the right of any person to seek relief or pursue rights; or

(2) the obligation of any governmental agency to act;

if such right or obligation existed prior to the repeal of the Natural Gas Pricing Act; and Subsection A of this section shall not operate to limit any such right or obligation.

Section 14. SEVERABILITY.--If any part or application of the New Mexico Natural Gas Price Protection Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 15. EFFECTIVE DATE.--The effective date of the provisions of this act shall be July 1, 1984 and shall terminate on June 30, 1985.

CHAPTER 124

AN ACT

MAKING AN APPROPRIATION FOR THE PURPOSE OF PROMOTING ECONOMIC DEVELOPMENT THROUGH THE DEVELOPMENT AND APPLICATION OF HIGH TECHNOLOGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--

A. Two million six hundred thousand dollars (\$2,600,000) is appropriated from the general fund for expenditure in the seventy-third fiscal year as follows:

(1) two million dollars (\$2,000,000) to the technical excellence center fund to carry out the purposes of that fund; and

(2) six hundred thousand dollars (\$600,000) to the technological innovation center fund to carry out the purposes of that fund.

B. The department shall establish a performance- and incentive-based contracting procedure to manage the appropriations made in Subsection A of this section. The procedure shall include review and recommendations by the science and technology advisory committee.

C. Any unexpended or unencumbered balance remaining of the appropriations made in Paragraphs (1) and (2) of Subsection A of this section at the end of the seventy-third fiscal year shall not revert to the general fund. Any unexpended or unencumbered balance