

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

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

**Case No. 14116
Order No. R-12955**

CONFIDENTIALITY ORDER

THIS MATTER having come before the Division on the joint request by the parties for Entry of a Confidentiality Order to govern information designated as confidential to be produced and exchanged in course of discovery in the above captioned matter, and Division (through Examiner David K. Brooks) having discussed the appropriate form of order with the parties at a May 27th prehearing conference, hereby ORDERS AS FOLLOWS:

1. This Confidentiality Order governs the handling of documents, materials, and other tangible things disclosed in discovery in this action, when those items are designated "Confidential" in accordance with the procedures herein.
2. The following definitions shall apply to this Confidentiality Order:
 - a. "Confidential Material" or "Confidential Information" shall mean and refer to any documents, materials, or other tangible things which are:
 - (1) deemed in good faith by the parties or person producing them to constitute trade secrets, confidential, or propriety information; and
 - (2) designated as such in accordance with the procedures set forth herein.
 - b. "Qualified Person(s)" shall mean and refer to:
 - (1) Attorneys for the parties, including in-house counsel;
 - (2) Employees of the parties who are responsible for assisting counsel in the conduct of this action;

(3) Employees of any firm retained by the parties to produce or duplicate any discovery material for use in accordance with this Confidentiality Order;

(4) Experts or consultants that are employed or retained to assist counsel in this action; and

(5) Potential hearing witnesses.

3. Anyone may designate Confidential Material to be handled in accordance with the terms of this Confidentiality Order by marking on, or physically affixing to, the document, materials, or other tangible things the following designation:

"Subject to Confidentiality Order in New Mexico OCD Case No. 14116."

The legend shall be placed on documents in such a manner that it does not obscure or make illegible the wording of the document.

4. The following restrictions and procedures shall apply to any Confidential Material:

a. Confidential Material and all information contained in or derived from Confidential Material shall not be used by any person for business or competitive purposes or for any purpose other than solely for the preparation and trial of this action, and appeals therefrom.

b. Access to Confidential Material shall be limited to Qualified Persons who require access to such Confidential Material to perform their duties in this action. Qualified Persons shall not disclose any information marked as confidential to any other persons or entities.

c. Any Qualified Person to whom Confidential Material, or any information contained therein or derived therefrom, is to be disclosed shall, as a precondition to such disclosure:

(1) be advised of the provisions of this Confidentiality Order, and of the limited purpose for which the Confidential Material or any information contained in or derived therefrom may be used; and

(2) execute the attached Acknowledgment which recites that he or she has received and read a copy of this Confidentiality Order, and agrees to be bound by its provisions. These procedures need not be followed if the Qualified Person to whom the Confidential Material or information is disclosed is the person or party that produced the Confidential Material.

d. Within sixty (60) days of the final termination of this action, whether by settlement or judgment, including any appeals therefrom, each party or other Qualified Person, shall return Confidential Material to the party or other person from which it was received, including any copies, extracts or summaries thereof or documents containing information taken therefrom, but excluding any materials which, in the judgment of the party's counsel, constitute work product materials.

5. Entering into, agreeing to, producing or receiving any Confidential Material, or otherwise complying with the terms of this Confidentiality Order shall not:

a. Constitute an admission by any person that any Confidential Material contains or reflects trade secrets, propriety or commercial information or other confidential matter; or

b. Prejudice in any way the rights of any person to object to the production of documents it considers not subject to discovery; or

c. Prejudice in any way the rights of any person to seek a determination whether particular discovery materials should be produced, or if produced, whether such material is properly subject to the terms of this Confidentiality Order; or

d. Prejudice in any way the rights of any person to seek a determination that access to Confidential Material should be granted to a person not herein specifically designated to receive the same; or

e. Prejudice in any way the rights of any person to apply for a further protective order relating to any assertedly confidential information, trade secrets or propriety information.

6. Any party may object to any designation of Confidential Material at any time by notifying the producing party in writing. The producing party, upon receipt of such objection, must promptly within ten (10) days of receipt, file an appropriate motion

with the Division for protection of the disputed materials. The disputed materials will be handled as Confidential Materials until a ruling is obtained.

7. The Division reserves ruling on the admissibility and handling of Confidential Material until the time of hearing.

Dated this 3rd day of June, 2008.

**STATE OF NEW MEXICO
OIL CONSERVATION DIVISION**

By: _____


Mark E. Fesmire, P.E., Director

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ACKNOWLEDGMENT OF CONFIDENTIALITY ORDER

Before working on and reviewing documents in the above-referenced matter, it is necessary that you read the Confidentiality Order attached hereto which the parties have agreed to with respect to materials produced in this case. Part of this Confidentiality Order requires that all Qualified Persons be advised of the provisions of the Confidentiality Order, and of the limited purposes for which confidential materials or other information contained in or derived therefrom may be used. Once you have carefully read the Order, please acknowledge that you understand its contents and that you agree to be bound by its provisions by signing below.

Signature of Qualified Person