

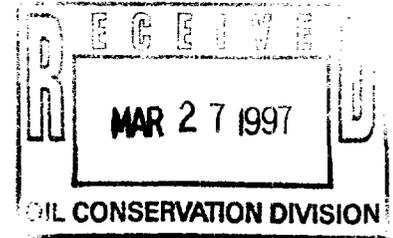
BEFORE THE

OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

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

**APPLICATION OF FASKEN OIL AND
RANCH, LTD., FOR A NON-STANDARD
GAS PRORATION AND SPACING UNIT
AND TWO ALTERNATE UNORTHODOX
GAS WELL LOCATIONS,
EDDY COUNTY, NEW MEXICO.**



No. 11755

ACCEPTANCE OF SERVICE OF SUBPOENA DUCES TECUM

I, W. Thomas Kellahin, Esq., the attorney of record for Fasken Oil and Ranch, Ltd., hereby accepts service of the original Subpoena Duces Tecum dated March 24, 1997 issued in this matter to Fasken Oil and Ranch, Ltd., on this 26 day of March, 1997.

A handwritten signature in black ink, appearing to read "W. Thomas Kellahin". The signature is written in a cursive style and is positioned above a horizontal line.

W. Thomas Kellahin, Esq.
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RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285
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March 27, 1997

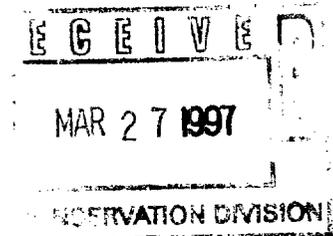
Mr. Michael E. Stogner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87504

HAND DELIVERED

Rand Carroll, Esq.
Oil Conservation Division
2040 South Pacheco
Santa FE, New Mexico 87504

HAND DELIVERED

Re: MOTION TO QUASH SUBPOENA
NMOCD Case 11755
Application of Fasken Oil and Ranch, Ltd.
Company for two alternate unorthodox well
locations and a non-standard gas proration
and spacing unit, Eddy County, New Mexico



Gentlemen:

On behalf of Fasken Oil and Ranch, Ltd., please find enclosed a Motion to Quash the subpoena issued at the request of Penwell in which Penwell seeks production of 3-D seismic data for the referenced case currently set to be heard on April 3, 1997.

Very truly yours,

A handwritten signature in cursive script, appearing to read "W. Thomas Kellahin".

W. Thomas Kellahin

Hand delivered:

William F. Carr, Esq.

Attorney for Penwell Energy, Inc.

cfx: Fasken Oil and Ranch, Ltd.

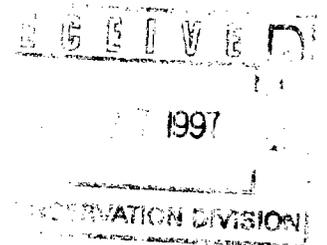
Attn: Sally Kvasnicka

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

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

CASE 11755

**APPLICATION OF FASKEN OIL AND RANCH, LTD.
FOR A NON-STANDARD GAS PRORATION AND
SPACING UNIT AND TWO ALTERNATIVE
UNORTHODOX GAS WELL LOCATIONS,
EDDY COUNTY, NEW MEXICO.**



**FASKEN'S MOTION TO QUASH
SUBPOENA**

Fasken Oil and Ranch, Ltd. ("Fasken") by its attorneys, hereby moves the Division to quash the Subpoena Duces Tecum issued at the request of Penwell Energy, Inc. ("Penwell") on March 24, 1997 which commands Fasken to produce on April 3, 1997 the following documents:

"All seismic records in tape form, a shot point map and coverage plat along with interpretation of the data which was utilized by Fasken Oil and Ranch, Ltd to select the alternative unorthodox well locations for which it seeks approval in Case 11755."

In support of its Motion to Quash, Fasken states:

(1) In Case 11755, Fasken is the operator of the proposed non-standard spacing unit consisting of the southern 297.88 acres of Irregular Section 1, T21S, R25E and seeks approval of two alternate unorthodox well locations:

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11:30 AM
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DALLAS COUNTY
TEXAS

(a) The "Fasken" location is 750 feet from the West line of Section 1 which encroaches towards Irregular Section 2 operated by Penwell; and

(b) The "Mewbourne" location is 660 feet from the South line of Section 1 which encroaches towards Section 12 operated by Texaco.

(2) Fasken intends to introduce part of a 3-D seismic interpretation made by Matador Petroleum Corporation ("Matador") within the southern portion of Irregular Section 2 which is intended to demonstrate the relative merits of the Fasken location when compared to the Mewbourne location.

(3) While Fasken seeks to have its unorthodox location encroachment towards Penwell approved without a penalty, it does not intend to use the seismic data as part of its evidence to support that position.

(4) The "seismic data" which Penwell seeks is not owned by Fasken.

(5) Fasken has signed a confidentiality agreement with Matador which precludes Fasken from surrendering any seismic data to Penwell and is therefore unable to comply with this subpoena.

(6) Matador is the owner of the requested seismic data which is the confidential business information and the trade secrets of Matador.

(7) The data in question has a substantial economic value and Matador's desire to keep it a secret is reasonable under the circumstances.

(8) Matador's seismic data gives it an opportunity or advantage over its competitor, Penwell, who seeks to obtain the data without paying for it.

(9) The seismic data is not relevant to Penwell's preparation as an offset operator.

(10) The seismic data if disclosed to Penwell will allow Penwell to gain valuable data at no cost and to use that data to evaluate Penwell's own formations in Penwell's Section 2.

(11) Matador's seismic data is worth in excess of \$50,000 and Matador has offered to sell the Seismic data to Penwell.

(12) The subpoena seeks irrelevant data, is unreasonable, oppressive and constitutes an abuse of process because it would confiscate a property right without adequate compensation.

(13) In this case, it is **not** necessary for Penwell to have Matador's seismic data. Penwell will have a fair and reasonable opportunity to prepare to respond to issues relevant to its opposition without that data.

Therefore, Fasken Oil and Ranch, Ltd. respectfully requests that the New Mexico Oil Conservation Division Quash the Subpoena issued at the request of Penwell.

KELLAHIN AND KELLAHIN



By: _____

W. Thomas Kellahin

P.O. Box 2265

Santa Fe, New Mexico 87504

(505) 982-4285

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing pleading was hand delivered to the office of William F. Carr, attorney for Penwell Energy, Inc. on March 27, 1996.

