

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

APPLICATION OF UNITED STATES
BORAX & CHEMICAL CORPORATION
FOR THE INCLUSION OF CERTAIN
ACREAGE IN THE POTASH-OIL
AREA DEFINED IN ORDER NO. R-111-A.

Case
NO. 278

A P P L I C A T I O N

UNITED STATES BORAX & CHEMICAL CORPORATION of 101 North Halagueno Street, Carlsbad, New Mexico, makes application to the Oil Conservation Commission of the State of New Mexico, for the inclusion of certain acreage described in this application in the potash-oil area as defined and covered by the Commission's Order No. R-111-A, and in support of its application states:

1. Applicant is the owner of Federal potash leases and State potash leases covering portions of the land hereinafter described and covering lands lying contiguous to lands hereinafter described. Core tests drilled on the said lands and mining work done upon a portion of said lands disclose that a substantial part of said lands contain commercial potash reserves.

2. Applicant is engaged in the mining and refining of potash on leases held by it in Eddy County, New Mexico, and the lands sought to be included within the potash-oil area are situated adjacent to or covered by present mine workings of the applicant. In order to prevent waste, protect correlative rights and assure maximum conservation of the oil, gas and potash resources of New Mexico, and in order to permit the economic recovery of oil, gas and potash minerals in the lands hereafter described, it is necessary and advisable that such lands be included within the exterior boundaries of the area described as the potash-oil area in the above numbered order. Provision for the inclusion of such acreage is made in paragraph II (2) of the above numbered order.

3. The description of lands which applicant desires to

all right
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BEFORE THE OIL CONSERVATION COMMISSION OF THE
STATE OF NEW MEXICO.

IN THE MATTER OF THE APPLICATION)
OF NATIONAL POTASH COMPANY FOR)
THE INCLUSION OF ADDITIONAL)
ACREAGE IN THE POTASH-OIL AREA)
DEFINED IN ORDER NO. R-111-A.)

A P P L I C A T I O N

COMES NOW National Potash Company, Box 731, Carlsbad, New Mexico, by its attorneys, Neal & Neal, Box 278, Hobbs, New Mexico, and makes application to the Oil Conservation Commission of the State of New Mexico, for the inclusion of the acreage hereinafter described in the Potash-Oil Area as defined and covered by the Commission's Order No. R-111-A, and in support of said Application states:

1. Applicant is the owner of Federal Potassium Leases and State Potash Leases covering the lands hereinafter described and covering other lands contiguous to the lands hereinafter described.

2. Applicant presently is operating a potash mine and refinery at a location in Section 18, Township 20 South, Range 32 East upon potash leases which are adjacent to the lands hereinafter described located in Townships 19 South, Ranges 31 and 32 East and in Township 20 South, Ranges 31 and 32 East. Applicant has core tested the lands hereinafter described in said townships and ranges, the inclusion of which is sought by this Application in the Potash-Oil Area as defined by Commission's Order No. R-111-A, and has ascertained by such core tests that such area is productive of potash and proposes to engage in the mining and

refining of said potash from such lands.

3. That applicant is presently engaged in the construction of potash mining facilities in Section 25, Township 20 South, Range 29 East, upon potash leases owned by applicant adjacent to the lands hereinafter described in Township 20 South, Range 29 East, the inclusion of which in the Potash-Oil Area as defined and covered by Commission's Order No. R-111-A, is sought by this applicant in this application. Applicant has core tested the lands in said township and range, the inclusion of which in the Potash-Oil Area is sought by this Application, and has determined that said lands are productive of potash, and proposes to mine the potash therefrom.

4. That in order to prevent waste, protect correlative rights, and assure the maximum conservation and production of the oil, gas and potash resources of New Mexico, and in order to permit the economic recovery of such oil, gas and potash minerals in the lands hereinafter described, it is necessary, advisable and to the best interest of the state and all parties involved that the lands hereinafter described be included within the exterior boundaries of the Potash-Oil Area defined in Commission's Order No. R-111-A and subjected to the rules and regulations provided for such area. Provision for the inclusion of such acreage is made in Paragraph II (2) of the above described Order.

5. That applicant applies for the inclusion in the Potash-Oil Area as defined and covered by Commission's Order No. R-111-A, of the following described lands, to-wit:

TOWNSHIP 19 SOUTH - RANGE 31 EAST ✓
SECTION 36 - N $\frac{1}{2}$, SW $\frac{1}{4}$;

TOWNSHIP 20 SOUTH - RANGE 31 EAST ✓
Section 1 - W $\frac{1}{2}$ W $\frac{1}{2}$ ✓
Section 2 - All ✓
Section 3 - All ✓
Section 11 - N $\frac{1}{2}$, W $\frac{1}{2}$, SW $\frac{1}{4}$ ✓
Section 14 - W $\frac{1}{2}$ NW $\frac{1}{4}$ ✓

TOWNSHIP 19 SOUTH, RANGE 32 EAST ✓
Section 33 - N $\frac{1}{2}$, W $\frac{1}{2}$, SW $\frac{1}{4}$ ✓
Section 34 - N $\frac{1}{2}$ ✓

TOWNSHIP 20 SOUTH - RANGE 32 EAST ✓
Section 4 - W $\frac{1}{2}$ NW $\frac{1}{4}$ ✓
Section 5 - N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ ✓
Section 6 - NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ✓

TOWNSHIP 20 SOUTH, RANGE 29 EAST ✓
Section 25 - S $\frac{1}{2}$ S $\frac{1}{2}$.

6. That a list of the persons and corporations who own existing oil and gas leases involved in the lands hereinabove described, application for the inclusion of which in the Potash-Oil Area is hereby made, so far as the same can be ascertained by applicant and so far as is known to applicant are shown in Exhibit "A" hereto attached and made a part hereof, the same as if set out in full herein, and such persons so far as known to applicant are the only parties interested in this Application other than the State of New Mexico and the United States of America.

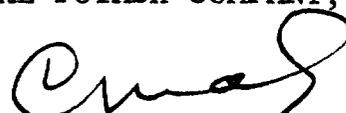
7. That application has been made by Farm Chemical Resources Development Corporation, of Carlsbad, New Mexico, for inclusion in the area defined as the Potash-Oil Area by Commission Order No. R-111-A of certain lands located in Township 21 South, Range 31 East, N.M.P.M., Eddy County, New Mexico, and applicant requests that the application of National Potash Company and Farm Chemical Resources Development Corporation

be consolidated for hearing before the Commission, and that applicant be granted a hearing before the Commission upon this Application after due notice thereof, as provided by the rules and regulations of the Oil Conservation Commission.

WHEREFORE, applicant prays that the Commission set this matter for hearing before the Commission, and that the Commission give appropriate notice of such hearing as provided by its rules and regulations, and that upon a hearing hereof, the lands herein described be included in the Potash-Oil Area as defined and covered by Commission's Order No. R-111-A and subjected to the rules and regulations made applicable to the Potash-Oil Area by said Order.

NATIONAL POTASH COMPANY,

BY



C. M. Neal, of
NEAL & NEAL,
BOX 278,
HOBBS, NEW MEXICO.

(Attorneys for Applicant).

EXHIBIT "A"

NAME AND ADDRESS OF OIL AND GAS OWNERS
AND LESSEES OF LANDS SOUGHT TO BE INCLUDED
IN THE POTASH-OIL AREA DEFINED BY ORDER NO.
R-111-A OF THE NEW MEXICO OIL CONSERVATION
COMMISSION:

FEE OWNERS:

State of New Mexico:

Section 2, Township 20 South, Range
31 East;

W $\frac{1}{2}$, NE $\frac{1}{4}$ of Section 36, Township
19 South, Range 31 East.

United States of America:

All lands described in the Application
except those belonging to the State
of New Mexico, supra.

OIL AND GAS LESSEES:

Howard W. Jennings,

Box 450, Roswell, New Mexico:

W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 4, Township 20 South,
Range 32 East.

Merrill L. Conally,

Route 3, Floreville, Texas:

W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, Township
20 South, Range 32 East.

BERTIE NOLAND Price,

Stratford, Texas:

N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 5; E $\frac{1}{2}$ E $\frac{1}{2}$ of Section
6, Township 20 South, Range 32 East.

Argo Oil Corporation,

1700 Broadway, Denver, Colorado:

N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 5, Township
20 South, Range 32 East.

Leonard Oil Company,

Roswell, New Mexico:

N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 33; N $\frac{1}{2}$ Section
34, Township 19 South, Range 32
East.

Malco Refineries, Inc.,

Box 1071, Midland, Texas:

NW $\frac{1}{4}$ of Section 11; SE $\frac{1}{4}$ of Section 3,
Township 20 South, Range 31 East.

OIL AND GAS LESSEES:

Culbertson & Irwin,
Midland, Texas:

$W\frac{1}{2}NE\frac{1}{4}$ of Section 3; $NE\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$ of
Section 11; $S\frac{1}{2}SW\frac{1}{4}$ of Section 2,
Township 20 South, Range 31 East.

Southern California Petroleum
Corporation,
612 South Flower Street,
Los Angeles, California:

$W\frac{1}{2}W\frac{1}{2}$ of Section 30, Township 20
South, Range 31 East.

Richardson & Bass,
C/O Hervey, Dow & Hinkle,
Roswell, New Mexico,
and/or: Sid W.
Richardson and Perry R. Bass,
Fort Worth National Bank Building,
Fort Worth, Texas:

$W\frac{1}{2}W\frac{1}{2}$ of Section 3; $W\frac{1}{2}NW\frac{1}{4}$ of Section
14; $NW\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$ of Section 2,
Township 20 South, Range 31 East;
 $N\frac{1}{2}$, $NE\frac{1}{4}SW\frac{1}{4}$ of Section 36, Township
19 South, Range 31 East.

Charles B. Gonzales,
Box 993, Santa Fe, New Mexico:

$W\frac{1}{2}W\frac{1}{2}$ of Section 1, Township 20 South,
Range 31 East.

United States Smelting, Refining &
Mining Company,
Midland, Texas:

$S\frac{1}{2}SW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$ of Section 36, Township
19 South, Range 31 East.

Skelly Oil Company,
Tulsa, Oklahoma:

$N\frac{1}{2}S\frac{1}{2}$ of Section 2, Township 20
South, Range 31 East.

Pan American Petroleum Company,
Hobbs, New Mexico:

$W\frac{1}{2}NE\frac{1}{4}$ of Section 2, Township 20
South, Range 31 East.

BEFORE THE OIL COMMISSION
STATE OF NEW MEXICO, SANTA FE, NEW MEXICO

IN RE: APPLICATION OF GUY SHEPARD,
COMMISSIONER OF PUBLIC LANDS,
FOR AN ORDER ESTABLISHING AND
SETTING UP A CASING PROGRAM
AND OTHER PROCEDURAL REQUIRE-
MENTS FOR THE DRILLING OF OIL
WELLS IN THE POTASH AREA IN
EDDY COUNTY COMPRISING STATE
OWNED LANDS IN TRACTS 0-2, 0-3,
0-4, 0-5 and 0-6 AS SET FORTH IN
THE MAY 10, 1951 NOTICE OF PUBLIC
SALE, COPY OF WHICH IS HERETO
ATTACHED.

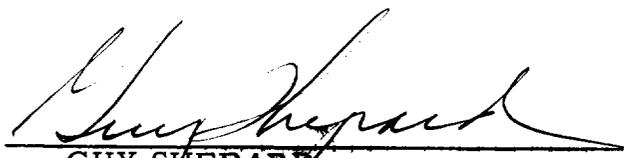
CASE NO. 278

ORDER NO. _____

A P P L I C A T I O N

Comes now Guy Shepard as Commissioner of Public Lands for the State of New Mexico and makes application for the establishment of a casing program for oil wells within the heretofore established potash area in Eddy County, New Mexico and for other special procedural regulations in such area as may be proper for the development of said area, both for potash and oil.

That the applicant herein requests the Oil Commission to set a date for a hearing and after such testimony as may be adduced, issue its proper order as aforesaid.


GUY SHEPARD
Commissioner of Public Lands
State of New Mexico

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BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

APPLICATION OF FARM CHEMICAL
RESOURCES DEVELOPMENT CORPORATION
FOR THE INCLUSION OF CERTAIN
ACREAGE IN THE POTASH-OIL AREA
AS DEFINED IN ORDER NO. R-111-A

CASE NO. _____

A P P L I C A T I O N

Farm Chemical Resources Development Corporation of Box 870,
Carlsbad, New Mexico, by its attorneys, Reese, McCormick, Lusk and
Paine of Bujac Building, Carlsbad, New Mexico, makes application
to the above named Commission for the inclusion of certain acreage
hereinafter described in the potash-oil area as defined and covered
by the Commission's Order No. R-111-A and in support of its appli-
cation states:

1. Applicant is the owner of Federal potassium leases and
State potash leases covering portions of the lands hereinafter
described and covering lands lying contiguous to other portions of
the lands hereinafter described and core tests drilled on or adjacent
to the lands hereinafter described indicate that all of said lands
contain commercial potash reserves.

2. Applicant is engaged in construction work, experimental
work and other activities on its potash leases preparatory to engaging
in the mining and refining of potassium and related minerals and
in order to prevent waste, protect correlative rights and assure
maximum conservation of the oil, gas and potash resources of New
Mexico and in order to permit the economic recovery of oil, gas and
potash minerals in the lands hereinafter described it is necessary
and advisable that said hereinafter described lands be included within
the exterior boundaries of the area described as the potash-oil
area in the above numbered order. Provision for the inclusion of
such acreage is made in paragraph II(2) of the above numbered order.

3. The description of the lands which applicant desires to have
included in said potash-oil area is as follows:

1 T 21 S, R 31 E N.M.P.M. Eddy County

2	Section 10:	E $\frac{1}{2}$	320 acra	✓
	"	11: All	640 acra	✓
3	"	12: SW $\frac{1}{4}$ SW $\frac{1}{4}$	40 acres	✓
	"	13: W $\frac{1}{2}$	320 acres	✓
4	"	14: All	640 acres	✓
	"	15: E $\frac{1}{2}$	320 acres	✓
5	"	16: W $\frac{1}{2}$ SW $\frac{1}{4}$	80 acres	✓
	"	17: All	640 acres	✓
6	"	18: SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$	240 acres	✓
7	"	19: All	640 acres	✓
	"	20: All	640 acres	✓
8	"	21: NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$	280 acres	✓
	"	22: E $\frac{1}{2}$	320 acres	✓
9	"	23: N $\frac{1}{2}$	320 acres	✓
	"	24: NW $\frac{1}{4}$	180 acres	✓
10	"	27: E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$	200 acres	✓
	"	34: E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$	120 acres	✓
11			<u>5940 acres</u>	✓

12 4. A list of the persons and corporations who own existing
 13 oil and gas leases covering portions of the lands last above de-
 14 scribed as set opposite their names and the addresses of such
 15 persons or corporations so far as the same are known to the applicant
 16 is attached to this application marked Exhibit A. Said list includes
 17 the names and addresses of all parties known to applicant who are
 18 interested in this application.

19 5. There is attached to this application and marked Exhibit B
 20 a plat showing the present boundaries of the potash-oil area which
 21 will be affected by this application. Said plat shows the Federal
 22 and State potassium and potash leases owned by applicant, the lo-
 23 cation of core tests drilled on or in the vicinity of the described
 24 lands which applicant desires to have included in the potash-oil
 25 area and the lands sought to be included are designated by appro-
 26 priate legend.

27 6. Applicant is informed and believes that other potash
 28 companies in Eddy and Lea Counties, New Mexico, contemplate the
 29 filing of applications similar to this application concerning other
 30 lands which the respective companies may desire to have included
 31 in the potash-oil area and if this be done applicant requests that
 32 all of said applications be consolidated for hearing before the

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Commission and in any event applicant desires a hearing before the Commission.

WHEREFORE APPLICANT PRAYS that the Commission set this matter for hearing before the Commission and that the Commission give appropriate notice of such hearing as provided by its rules and regulations.

REESE, McCORMICK, LUSK and PAINE

BY Geo. L. Reese, Jr.
Geo. L. Reese, Jr.
Attorneys for Applicant
Bujac Building
Carlsbad, New Mexico

BEFORE THE OIL COMMISSION
STATE OF NEW MEXICO, SANTA FE, NEW MEXICO

IN RE: APPLICATION OF GUY SHEPARD,
COMMISSIONER OF PUBLIC LANDS,
FOR AN ORDER ESTABLISHING AND
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AND OTHER PROCEDURAL REQUIRE-
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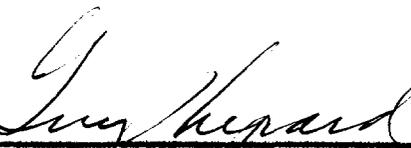
CASE NO. 278

ORDER NO. _____

A P P L I C A T I O N

Comes now Guy Shepard as Commissioner of Public Lands for the State of New Mexico and makes application for the establishment of a casing program for oil wells within the heretofore established potash area in Eddy County, New Mexico and for other special procedural regulations in such area as may be proper for the development of said area, both for potash and oil.

That the applicant herein requests the Oil Commission to set a date for a hearing and after such testimony as may be adduced, issue its proper order as aforesaid.



GUY SHEPARD
Commissioner of Public Lands
State of New Mexico

BEFORE THE
NEW MEXICO OIL CONSERVATION COMMISSION
DEPARTMENT OF ENERGY AND MINERALS

IN RE: APPLICATION OF THE
NEW MEXICO OIL CONSERVATION
DIVISION TO REVISE, AMEND,
AND RECODIFY ORDER NO. R-111,
AS AMENDED

Case No. 9316

COMMENTS OF TEXACO, INC.

At the request of the Commission, Texaco, Inc. submits these comments on the proposed amendments to Rule R-111 in conjunction with the hearing held on the matter on February 18, 1988.

TEXACO'S POSITION

At the February 18, 1988 Commission hearing, Texaco had its first opportunity to review proposed Order R-111-P. While we believe that the present procedures under Order R-111-A (as amended) are sufficient to prevent waste of hydrocarbon reserves and guard against the undue waste of potash, Texaco generally supports proposed Order R-111-P. However, Texaco strongly opposes the adoption, in whole or in part, of the November 23, 1987 agreement among the members of the Potash-Oil and Gas Work Committee. The reasons for our opposition to the committee agreement are stated below.

By our opposition to the committee agreement, Texaco does not advocate a wholesale abandonment of the effort between the two industries. To the contrary, Texaco commends the efforts of the Division and the committee members. However, Texaco urges

that the matter be further considered by the two industries according to concrete procedural and organizational guidelines established by the Commission.

PROPOSED ORDER R-111-P

While generally supportive of Proposed Order R-111-P, Texaco offers the following comments on these sections of the order:

III(4) The wording "and that no potash resources will be endangered" is new, vague and not defined. This language should be changed or deleted.

VI(1)(a) and (b) The definitions of shallow and deep zones should be redefined. Shallow zone: All formation above the base of the Delaware Mountain group. Deep zone: All formations below the base of the Delaware Mountain group.

VII(1) Exhibit "B" in this referenced section should be deleted. The Exhibit "B", map of the LMR is proposed to be confidential. Affected oil and gas lessees should have the opportunity to view portions of this map affecting their lease along with the data and criteria used to delineate the proposed LMR.

THE NOVEMBER 23, 1987 AGREEMENT

Texaco believes that the substance of the potash-oil industries work committee agreement and the procedures leading up to its execution are inappropriate. Indeed, the terms of the agreement are violative of the New Mexico Oil and Gas Act, the federal regulations and administrative orders of the Bureau of Land Management, and the federal and state statutes (including

the Constitution of New Mexico) governing the administration of New Mexico's State Trust Lands. In view of the potential effect on the owners of diverse oil and gas property rights, all of whom are attempted to be treated as a class, the procedures for designating "life of mine reserves" areas (LMP's) where drilling would be prohibited may violate the Fifth and Fourteenth Amendments to the United States Constitution.

The adoption of the work committee agreement as part of proposed Order R-111-P would also be legally deficient for the reason that the agreement is replete with inconsistencies that are directly opposed to many of the main provisions of the order. As much of the testimony of the proponent witnesses irrefutably established, the adoption of the committee agreement is unnecessary for the accomplishment of the purposes of Order R-111-P. Indeed, the provisions of the order and the committee agreement are so at odds that both would be rendered meaningless and would be incapable of being administered.

On an item by item basis, Texaco offers the following criticisms of the November 23, 1987 committee agreement:

INTRODUCTION

The "Intention" of the agreement contravenes The New Mexico Oil and Gas Act as its general effect is to accord primacy to potash reserves in LMR areas at the expense of oil and gas reserves. To the contrary, the Oil and Gas Act directs the Commission and Division to prohibit any practices which reduce or tend to reduce the total quantity of oil or gas ultimately recovered from any pool while at the same time guarding against operations which "unduly" reduce the total quantity of

recoverable potash. (See, 70-2-3[A] and [F], N.M.S.A. [1978].) Nowhere in the Oil and Gas Act is there any authority which allows the development of potash reserves to the exclusion of hydrocarbon reserves. The perpetual prohibition against drilling in the LMR area would do just that. We would also make the following points:

- Creation of LMR's removes more lands from drilling than presently available.
- Creation of "drilling areas" outside of LMR's but within potash area is an illusory consideration: fewer lands will actually be available for permitting for drilling.
- We believe potash mining areas within the LMR are adequately protected by the procedures under R-111-A.
- The potash industry gains no additional safety factor under the letter agreement: drilling distance from mining activities is irrelevant in terms of subsidence and lost potash reserves. Notably, when a potash area is primary-mined, no subsidence occurs. Primary mining also allows the recovery of approximately 75% of the potash resource. Therefore, the loss of potash resources is minimal as compared to the total loss of oil and gas reserves under an absolute drilling ban in the LMR areas.

I. THE POTASH AREA

- This section conforms R-111-A area to PLM definition of "Potash Area". This section is appropriate.

II. DESIGNATION OF MINE RESERVES

A. The LMR designation process is confidential. What would in effect be the condemnation of oil and gas property interests should be subject to adversarial scrutiny (not necessarily public disclosure) by anyone with an affected property interest. Otherwise, the unilateral designation of LMR areas would likely be arbitrary and unsupported by substantial evidence, both of which are unlawful.

Data on which LMR areas would be based is often unreliable: We would note that in OCC Case 9148, a potash operator, in attempting to define its mineable reserves failed to honor a critical core-log which significantly altered the boundary of the barren area. Anyone with an affected property interest must have the opportunity to participate in the creation of an LMR area if they are created at all.

All oil and gas property interest owners are not similarly situated. Their interests are diverse. They cannot be treated as a class. Otherwise, due process and equal protection problems arise.

In designating LMR's, there is no requirement that a potash lessee actually own the potash reserves or have a right to mine the reserves subject to the LMR area. This is a highly objectionable provision.

Finally, neither the Oil Conservation Division nor the State Land Commissioner can lawfully delegate their respective authority to a process whereby LMR areas are determined solely by the potash operators and the PLM. By so doing, those public officers would cede their statutory responsibilities to ensure

that hydrocarbon reserves are not wasted and that state trust lands are administered for the optimal benefit of the state's beneficiary institutions. Thus, the very essence of the LMR designation process is unlawful as these public officers are concerned.

III. DRILLING IN THE POTASH AREA

B. As explained above, neither the OCC, State Land Office or PLM can delegate their authority for approving APD's to a process that contravenes the Oil and Gas Act, the Arizona-New Mexico Enabling Act or the Interior Secretarial Order for drilling in potash areas. (See, Section 70-2-3 N.M.S.A. [1978], Enabling Act §10, Interior Secretarial Order of October 28, 1986.)

1. Buffer Zone

The creation of the buffer zone is dependent upon the process for establishing LMR areas and thus has the same problems.

Also, in view of the geologic characteristics of the potash area and presently available and practicable technology, problems with respect to subsidence, gas migration, mine safety and undue waste of potash are avoidable. Therefore, the offset distances are unnecessary and do not achieve the purported goals of the agreement.

6. Abandoned Mine Workings

The abandonment and sealing plan is unnecessary. An oil and gas operator cannot accept responsibility for sealing a mine. As well, it is just as inappropriate to make drilling operations near abandoned mines subject to the unilateral veto of a potash lessee.

The safety certification accomplishes no purpose and is only provocative.

D. We disagree that the need for drilling islands is eliminated. This agreement cannot lawfully abolish drilling areas created by an Interior Secretarial Order.

IV. LOCATION OF WELLS AND NOTICE TO POTASH LESSEES

A. Requirement for unitization is vague, impracticable, accomplishes no apparent purpose and is likely impermissible under State Land Office and BLM Oil and Gas Regulations.

C. This subsection (as does Section IX C of the agreement) attempts to transfer liability by the agreement and is impermissible at law. Moreover, the language purports to make the owner of a lease interest liable along with those "persons and/or entities involved in the development" whether the leaseholder is actually involved in drilling operations or not.

SUMMARY

While the order proposed by the Oil Conservation Division is a commendable step in the right direction, it should not be adopted with any reference to the November 23, 1987 Agreement. The agreement while well-intentioned, is legally deficient and is irreconcilable with proposed Order R-111-P.

Because of that importance of this matter, we believe that further deliberations among the Division, the oil industry and potash industry are in order before a final amendment to Order R-111-A is proposed.

Respectfully submitted:

CAMPBELL & BLACK

By J. Scott Hall
J. Scott Hall
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
(505) 988-4421

Attorneys for Texaco, Inc.