

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: )

APPLICATION OF FASKEN OIL AND RANCH, )  
LTD., FOR AN ORDER AUTHORIZING THE )  
DRILLING OF A WELL IN THE POTASH AREA, )  
LEA COUNTY, NEW MEXICO )

CASE NO. 13,107

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

July 24th, 2003

Santa Fe, New Mexico

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Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, July 24th, 2003, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

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July 24th, 2003  
Examiner Hearing  
CASE NO. 13,107

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## A P P E A R A N C E S

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
 110 N. Guadalupe, Suite 1  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: MICHAEL H. FELDEWERT

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   9:57 a.m.:

3           EXAMINER STOGNER: Call this matter to hearing.  
4   At this time I'll call Case 13,107. This is the  
5   Application of Fasken Oil and Ranch, Ltd., for an order  
6   authorizing the drilling of a well in the potash area, Lea  
7   County, New Mexico.

8           Call for appearances.

9           MR. FELDEWERT: May it please the Examiner, my  
10   name is Michael Feldewert with the Santa Fe office of the  
11   law firm of Holland and Hart, and I'm appearing here on  
12   behalf of the Applicant, Fasken Oil and Ranch, Ltd., and I  
13   have two witnesses here today.

14          EXAMINER STOGNER: Any other appearances?

15          Will the two witnesses please stand to be sworn?

16          (Thereupon, the witnesses were sworn.)

17          EXAMINER STOGNER: Mr. Feldewert, could you kind  
18   of summarize today's case, because I'll have something to  
19   say when you get through. We'll need to do some procedural  
20   matters.

21          MR. FELDEWERT: Sure, Mr. Examiner. We are  
22   seeking here today the approval to drill a wildcat Morrow  
23   well in Section 16, Township 20 South, Range 32 East, Lea  
24   County. This is within the potash area. We attempted to  
25   have this done administratively, and when we filed our

1 application to drill we served notice on all of the potash  
2 companies as well as the State Land Office because this is  
3 State acreage.

4 IMC filed apparently filed an objection to  
5 Fasken's proposed well location. As a result of that, the  
6 application filed by Fasken was denied. We therefore filed  
7 this Application with the Division to obtain approval of  
8 this well, because we feel that this area is not fit for  
9 potash mining. There has been extensive oil and gas wells  
10 activity throughout this entire Section 16. It's my  
11 understanding that as recently as five or six years ago the  
12 Division approved the drilling of a well in this area by  
13 Nearburg, so this continues to be an area that is more  
14 appropriate for oil and gas development than potash  
15 development.

16 It's our understanding in speaking with the State  
17 Land Office that any of this area is not under any kind of  
18 a potash lease. And secondly, if the State Land Office  
19 approves this well they want to see this well drilled. So  
20 we are before the Division today to obtain the necessary  
21 approval so that we can go out, Fasken can go out, and  
22 drill this well as soon as possible.

23 EXAMINER STOGNER: I have included in the record  
24 and I've given Mr. Feldewert a copy of a letter that I  
25 received dated July 9th. I received it on July the 14th --

1 I should say the OCD received it on July 14th. It was to  
2 the Division Examiner and it was from John Purcell,  
3 P-u-r-c-e-l-l. He's the chief mine engineer. And what it  
4 contained was an entry of appearance. Mr. Purcell wrote  
5 that IMC Potash Carlsbad as an owner of interest will  
6 attend the Application hearing of Fasken Oil and Ranch,  
7 Ltd., scheduled to be set before a Division Examiner on  
8 July 24th. IMC requests that John Purcell, chief mine  
9 engineer, be allowed to testify at the hearing.

10 And attached is a prehearing statement.

11 I was not able to respond written. On Monday I  
12 tried to contact Mr. Purcell for procedural questions. We  
13 played phone tag.

14 With that, I'm going to play a telephone message  
15 left me, because I feel it's important in this matter, and  
16 then we will proceed.

17 (Thereupon, a recorded telephone message was  
18 played as follows:)

19  
20 ANSWERING MACHINE: Wednesday, 1:25 p.m., from:

21 RECORDED MESSAGE: Mr. Stogner, this is John  
22 Purcell again on the matter of the OCD hearing that's  
23 scheduled for tomorrow. Because we have found out  
24 that the State Land Office is going to deny our  
25 request for a lease in Section 16, we feel that our

1 standing has been eroded, so we will not be attending  
2 the OCD Examiner Hearing. Please give me a call, we  
3 can discuss this further. John Purcell, Area Code  
4 (505) 887-2871, Extension 318. Thank you.

5  
6 EXAMINER STOGNER: As noted, I received that  
7 phone call yesterday, and I did not return his call because  
8 it was not a procedural matter, I felt, anymore, since this  
9 is a contested case, but I wanted to play that today.

10 And with that, I will turn it over to you, Mr.  
11 Feldewert.

12 MR. FELDEWERT: Mr. Examiner, we would like to  
13 present, then, our first witness.

14 SALLY M. KVASNICKA,  
15 the witness herein, after having been first duly sworn upon  
16 her oath, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. FELDEWERT:

19 Q. Would you please state your full name for the  
20 record and identify for the Examiner where you reside?

21 A. My name is Sally Kvasnicka, and I reside in  
22 Midland, Texas.

23 Q. By whom are you employed and in what capacity?

24 A. I'm employed by Fasken Oil and Ranch, Ltd., as  
25 the land manager.

1 Q. And have you previously testified before the  
2 Division and had your credentials as an expert in petroleum  
3 land matters accepted and made a matter of public record?

4 A. Yes.

5 Q. And are you familiar with the Application that  
6 has been filed by Fasken in this case?

7 A. Yes.

8 Q. And are you familiar with the status of the lands  
9 in the subject area.

10 A. Yes.

11 MR. FELDEWERT: Okay. Mr. Examiner, are the  
12 witness's qualifications acceptable?

13 EXAMINER STOGNER: They are.

14 Q. (By Mr. Feldewert) Ms. Kvasnicka, would you  
15 please briefly state what Fasken seeks with this  
16 Application? And I would suggest that maybe you turn to  
17 Fasken Exhibit Number 1 to assist in that.

18 A. We seek the approval of a permit to drill our  
19 Laguna "16" State Number 1 well in the southeast southeast  
20 of Section 16, which is Unit P, for a standup east-half  
21 spacing unit.

22 Q. And is this proposed well depicted as the red dot  
23 on what's been marked as Fasken Exhibit Number 1?

24 A. Yes, it is.

25 Q. Is that a land map of the area?

1 A. Yes. Yes, it is.

2 Q. Okay. The well that you propose to drill, what's  
3 the total depth of that well?

4 A. It will be a measured depth of 13,200 feet.

5 Q. And your target is -- ?

6 A. Morrow, wildcat Morrow gas well.

7 Q. Is this going to be at a standard location?

8 A. Yes, it is, 660 feet from the south and east  
9 lines.

10 Q. Now, is this proposed well location within what  
11 is known as the potash area?

12 A. Yes, it is.

13 Q. Was Fasken's application for permit to drill this  
14 well denied by the District Office?

15 A. Yes, it was. IMC filed an objection to the  
16 District Office of our location.

17 Q. Now with respect to Exhibit Number 1, there's a  
18 number of colors on this map. Can you please identify them  
19 and explain them to the Examiner, please?

20 A. Yes, the red sections that are outlined, Sections  
21 15 and 22, represent IMC's current potash lease holdings,  
22 the sections outlined in blue are Mississippi's leased  
23 acreage for potash, and the yellow acreage is unleased for  
24 potash exploration.

25 Q. So does this indicate that both Section 16 where

1 your proposed well is located, as well as the section to  
2 the south, Section 21, those are unleased potash areas?

3 A. Yes, that is correct.

4 Q. Or I should say, these are lands that are not  
5 subject to a potash lease?

6 A. That's correct.

7 Q. Is Section 16 State land?

8 A. Yes, it is.

9 Q. Does Fasken hold an oil and gas lease from the  
10 State of New Mexico?

11 A. Yes, we hold two leases: One covering the east  
12 half, that's Lease Number V-6717, and the lease -- and I  
13 don't have the lease number that covers the west half, but  
14 we also hold -- you know, it's another lease.

15 Q. Now, would you identify for the Examiner and  
16 review what's been marked as Fasken Exhibit Number 2?

17 A. Yes, this is an enlarged map showing all of the  
18 wells that have been drilled in Section 16 and the adjacent  
19 sections.

20 Q. And is Fasken's proposed well depicted on this  
21 exhibit?

22 A. Yes, it is, you'll see the circle in the  
23 southeast quarter of Section 16.

24 Q. That's the circle, then, without -- that has not  
25 been --

1 A. Without --

2 Q. -- filled in?

3 A. That's right.

4 Q. Okay. Is Fasken Exhibit Number 3, is that the  
5 application to drill that was denied by the District  
6 Office?

7 A. Yes, it is.

8 Q. And the denial is shown on page 2 of that  
9 exhibit; is that right?

10 A. That's correct.

11 Q. Okay.

12 A. It was denied May 22nd.

13 Q. Did Fasken provide a copy of this application to  
14 all potash leaseholders within one mile of your proposed  
15 location?

16 A. Yes, both IMC and Mississippi received a copy of  
17 this.

18 Q. Is Fasken Exhibit Number 4 the notice letters for  
19 the original filing of your application to drill?

20 A. Yes.

21 Q. And you also -- in addition to Mississippi Potash  
22 and IMC, you also notified the New Mexico State Land  
23 Office; is that correct?

24 A. That's correct.

25 Q. And on the fourth page of this exhibit, you have

1 the certified return receipts; is that correct?

2 A. That's correct, showing both IMC and Mississippi  
3 Potash received our notice.

4 Q. Okay. All right, now in looking at -- perhaps  
5 turning back to Exhibit Number 1, can you locate for the  
6 Examiner the nearest potash mining location?

7 A. Yes, currently Mississippi has mining operations,  
8 but I understand that they've been closed down, are in  
9 Sections 8, 9, 17 and 20, and IMC Sections 15 and 22.

10 Q. Well, let me --

11 A. Excuse me, not in 15 and 22. Mississippi just  
12 has mining operations in 8, 9, 17 and 20.

13 Q. Okay, those are the closest --

14 A. Those are the closest.

15 Q. -- mining operations?

16 A. That's correct.

17 Q. I think you indicated it's your understanding  
18 that those mining operations have been shut down for some  
19 time?

20 A. That's correct.

21 Q. Did -- You provided notice to Mississippi Potash  
22 of your application to drill, correct?

23 A. Yes, we did.

24 Q. Did they file an objection?

25 A. No, they did not.

1 Q. Okay. Now, you mentioned that IMC is the potash  
2 company that filed an objection to your application; is  
3 that correct?

4 A. That's correct.

5 Q. Does IMC have a potash lease in Section 16?

6 A. No, they do not.

7 Q. Now, you mentioned that they have a lease in  
8 Sections 15 and 22. Let me ask you first, where is IMC's  
9 closest potash mining operations?

10 A. Approximately eight miles to the southwest.

11 Q. Of your --

12 A. Of our proposed location.

13 Q. Okay. Now, with respect to Sections 15 and 22,  
14 then, there have been no active mining operations?

15 A. That's correct.

16 Q. How long has IMC or their predecessor held that  
17 potash lease in Sections 15 and 22?

18 A. Approximately 50 years. The lease was granted in  
19 1953. It was readjusted in 1982 and 1992.

20 Q. And is Fasken Exhibit Number 5, is that the BLM  
21 abstract for the IMC potash lease in Sections 15 and 22?

22 A. Yes, it is.

23 Q. Has -- and I want you now to turn back to your  
24 Exhibit Number 2. Has Section 16 been the subject of  
25 extensive oil and gas drilling over the years?

1 A. Yes, it has.

2 Q. Approximately how many wellbores exist in Section  
3 16?

4 A. Eighteen.

5 Q. And how many of those wellbores are located in  
6 the east half of Section 16?

7 A. Approximately 10, or at least 10 wells.

8 Q. And are there any wellbores in the southeast  
9 quarter of Section 16 where you propose to drill your well?

10 A. Yes, three.

11 Q. Are there any offsetting wellbores in adjacent  
12 sections to your location?

13 A. Yes, there's two in the southwest quarter of  
14 Section 15, and there's two in the north half of the north  
15 half of Section 20.

16 Q. Have you been in contact, or has Fasken been in  
17 contact with the State Land Office?

18 A. Yes, someone in my office has. I have not, but  
19 people in my office have, yes.

20 Q. Do you know what the State Land Office's position  
21 is with respect to your desire to drill a well at this  
22 location?

23 A. I think -- They're in support of our drilling.

24 Q. Okay. So am I correct that the State Land Office  
25 supports your Application and desires that these reserves

1 be developed?

2 A. Yes.

3 Q. I should say these oil and gas reserves be  
4 developed?

5 A. Yes.

6 Q. Am I correct that Section 16 has already been the  
7 subject of extensive oil and gas drilling activity?

8 A. Yes.

9 Q. And that there are no existing potash leases for  
10 either Section 16 or Section 21 to the south of Section 16?

11 A. That's correct.

12 Q. Am I also correct that Mississippi Potash has the  
13 closest inactive mine, but they did not file an objection  
14 to your Application?

15 A. That is correct.

16 Q. And that the only potash company with any  
17 objection to your Application is IMC?

18 A. Yes, that's correct.

19 Q. And their closest potash-mining operations are  
20 over eight miles away; is that correct?

21 A. That's correct.

22 Q. In your opinion, will approval of this  
23 Application constitute a hazard to or interfere with the  
24 mining of existing potash reserves?

25 A. No.

1 Q. In your opinion, will approval of this  
2 Application afford Fasken the opportunity to produce its  
3 just and equitable share of hydrocarbons underlying the  
4 State lands --

5 A. Yes.

6 Q. -- and prevent waste and protect correlative  
7 rights?

8 A. Yes.

9 Q. Has notice of this Application been provided to  
10 the State Land Office and to both potash companies?

11 A. Yes, it has.

12 Q. And I want you to -- Is Exhibit Number 6 an  
13 affidavit giving notice of this hearing?

14 A. Yes, it is.

15 Q. Now, I want you to take a look at the return  
16 receipts for Exhibit Number 6. Note that there has not  
17 been a return receipt received for Mississippi Potash. Is  
18 the address that was used for Mississippi Potash, is that  
19 the last known address that Fasken has for this company?

20 A. Yes, it is. We -- Someone in our office called  
21 Mississippi in May, and this is the address that was given  
22 to us for mailing our notice to them.

23 Q. And this P.O. Box 101, Carlsbad, New Mexico,  
24 address, is that the address that was used in May when you  
25 provided notice of your application to drill?

1 A. Yes, it was.

2 Q. And did Mississippi Potash receive notice of that  
3 application and return its receipt for this address?

4 A. Yes, they did.

5 Q. Okay. Were Fasken's Exhibits 1 through 6  
6 prepared by you or compiled under your direction and  
7 supervision?

8 A. Yes.

9 MR. FELDEWERT: Mr. Examiner, at this time I move  
10 the admission into evidence of Fasken Exhibits 1 through 6.

11 EXAMINER STOGNER: Exhibits 1 through 6 will be  
12 admitted into evidence.

13 MR. FELDEWERT: And that concludes my examination  
14 of this witness.

15 EXAMINATION

16 BY EXAMINER STOGNER:

17 Q. Ms. Kvasnicka, referring now to Exhibit Number  
18 3 --

19 A. Yes.

20 Q. -- was there any other correspondence, either by  
21 telephone or mail, explaining why the APD was denied?

22 A. It's our understanding that IMC had an  
23 application before the State Land Office for a lease in the  
24 east part of Section 16, which we have learned this week  
25 was denied by the State Land Office. The State Land

1 Office, I believe, denied their lease because they did not  
2 file an appropriate mining plan for this acreage.

3 Q. Now, this was the explanation given by who? By  
4 the OCD or the State Land Office?

5 A. The State Land Office.

6 Q. Okay. Now, how about the Oil Conservation  
7 Division District Office in Hobbs? Did they explain why  
8 the Application was denied?

9 A. I'm not aware of an explanation.

10 Q. And there was no correspondence sent to Fasken,  
11 as I understand, an objection letter from IMC or a copy of  
12 one?

13 A. I -- There was, yes.

14 Q. There was. Do you have that with you?

15 A. I do not have a copy of it with me.

16 MR. FELDEWERT: Mr. Examiner, I do think we have  
17 a copy in the file. Yeah.

18 And just for the record, and I think it's also  
19 noted in your prehearing statement, IMC indicated in their  
20 letter and I think also in their prehearing statement, that  
21 they considered this area to be within their life-of-mine  
22 reserves.

23 EXAMINER STOGNER: Okay, now that's in this  
24 letter?

25 MR. FELDEWERT: Yeah, it is. Would you like --

1 EXAMINER STOGNER: Yes, I would like that --

2 MR. FELDEWERT: -- to see a copy?

3 EXAMINER STOGNER: -- to be entered as an  
4 exhibit, please. Let's see, should we mark that -- How  
5 about 3A?

6 MR. FELDEWERT: Okay.

7 EXAMINER STOGNER: That will be a good place to  
8 put it. Do you need copies of that, or do you have copies?

9 MR. FELDEWERT: I think I have a copy.

10 EXAMINER STOGNER: If not, after the hearing I  
11 can get you one.

12 Q. (By Examiner Stogner) Now, do you know if -- Ms.  
13 Kvasnicka, have you seen this letter?

14 A. I don't believe I've seen this letter.

15 MR. FELDEWERT: Mr. Examiner, I've marked a May  
16 14, 2003, letter from IMC as Fasken Exhibit Number 3A in  
17 this case.

18 Q. (By Examiner Stogner) Ms. Kvasnicka, again, what  
19 is your understanding why this application to drill was  
20 denied?

21 A. IMC failed to provide the State Land Office with  
22 an adequate plan for mining the potash reserves in Section  
23 16.

24 Q. Okay. Now, I'm asking you why the APD that  
25 Fasken filed was denied.

1           A.    Oh, because IMC claimed it was in their life-of-  
2 mine reserves.

3           Q.    Now, did you have conversations, or anybody in  
4 Fasken check this or substantiate that with the State Land  
5 Office, about if it was in the LMR, the life-of-mine  
6 reserves, or within the buffer area of the life-of-mine  
7 reserves?

8           A.    I think someone in our office did, yes.

9           Q.    Was that before or after the APD was denied?

10          A.    I'm not certain of the timing.

11          MR. FELDEWERT:  Mr. Examiner, if I may comment?

12          EXAMINER STOGNER:  Sure, please.

13          MR. FELDEWERT:  It's my understanding we had a  
14 lot of difficulty trying to ascertain whether this was  
15 indeed within the life-of-mine reserves because, as you  
16 know, that information is highly confidential and  
17 proprietary and not disclosed by the potash companies or  
18 the State Land Office or the BLM.

19                 It's my understanding in having had discussions  
20 with the State Land Office that it would be inconsistent  
21 for IMC to claim that it is within the life-of-mine  
22 reserves when they, indeed, do not have a lease for the  
23 area.

24                 And if you look at R-111-P, Order R-111-P, this  
25 is very difficult to cite at times, but Section G under the

1 order portion, Designation of Drillable Location for Wells,  
2 and I'll read out loud. It says,

3  
4 For purposes of this agreement, the life-of-mine  
5 reserves means those potash deposits within the potash  
6 area reasonably believed by the potash lessee to  
7 contain potash ore in sufficient thickness and grade  
8 to be minable using current-day mining methods,  
9 equipment and technology.

10  
11 I'm having a difficult time understanding how an  
12 area that is not subject to a potash lease can be  
13 considered under this definition or for any practical  
14 purpose a life-of-mine reserve for IMC.

15 EXAMINER STOGNER: Thank you for that. Since  
16 you're not a witness today, I will refrain from asking you  
17 lots of questions after that last comment.

18 (Laughter)

19 EXAMINER STOGNER: With much difficulty, I might  
20 add.

21 Q. (By Examiner Stogner) Now let's see, this  
22 Application, this Application for today's docket, was filed  
23 on June 26th. Now, this was about a -- as I understand it,  
24 this was about a month after the APD was denied. Is that  
25 your understanding, Ms. Kvasnicka?

1 A. That's correct. The APD was denied on May 22nd.

2 Q. And I believe we received, according to my  
3 records, June 26th was the Application for an order  
4 authorizing this.

5 A. The return receipt shows June 27th, the State  
6 Land Office received it.

7 Q. I'm sorry, the State -- Well, now you're  
8 confusing me here. The State Land Office received what?

9 A. Was the Application for today's hearing.

10 Q. So a copy of that was sent to the Land Office?

11 A. I'm looking at the affidavit, which is Exhibit 6.

12 Q. Okay, Exhibit 6.

13 A. And our Application was mailed on the 26th for  
14 today's hearing.

15 Q. Okay, to Jeff Albers --

16 A. Yes.

17 Q. -- a copy of that was sent, okay.

18 Now, have you been in contact with the State Land  
19 Office?

20 A. Personally, no.

21 Q. No. Has anybody within Fasken that you know of  
22 been in contact with the State Land Office?

23 A. Yes.

24 Q. And who would that individual be?

25 A. It would be Jimmy Carlile.

1 EXAMINER STOGNER: And is Mr. Carlile going to be  
2 representing today?

3 MR. FELDEWERT: If we -- I had not planned on  
4 calling him as a witness, but he certainly -- if the  
5 Examiner feels that you need additional testimony on the  
6 position of the State Land Office, we could call Mr.  
7 Carlile.

8 EXAMINER STOGNER: What is your next witness's  
9 expertise, and what will he be testifying --

10 MR. FELDEWERT: He is a geologist, and he will be  
11 testifying about the prospect of having a commercial well  
12 at this location. He also had some discussions with a  
13 representative from Mississippi Potash concerning the  
14 mineability of Section 16, given the number of wellbores.

15 EXAMINER STOGNER: Let's take a five-minute  
16 recess. Mr. Feldewert?

17 MR. FELDEWERT: Sure.

18 (Thereupon, a recess was taken at 10:28 a.m.)

19 (The following proceedings had at 10:43 a.m.)

20 EXAMINER STOGNER: This hearing will come to  
21 order.

22 I have no other questions of Ms. Kvasnicka,  
23 unless there's anything else?

24 MR. FELDEWERT: Nothing further, Mr. Examiner.

25 EXAMINER STOGNER: Okay, we have just returned

1 from a break, and I have asked Mr. Feldewert to put Mr.  
2 Jimmy Carlile on, to kind of go through the procedures in  
3 this matter. And there was something brought up earlier.

4 R-111 essentially protects as a resource that may  
5 or not be on a piece of property in which a well was  
6 drilled, but there is a buffer zone or a zone that could be  
7 affected, just like groundwater or other potential  
8 production, and I want to make the record clear in this  
9 matter how the APD -- what was done, why it was denied, and  
10 where we're at today. And I feel it's important to at  
11 least address some of these issues and procedures, so I do  
12 appreciate Mr. Carlile.

13 And I'm assuming, Mr. Feldewert, that Mr. Carlile  
14 has agreed or you have made him --

15 MR. FELDEWERT: He's available to testify, Mr.  
16 Examiner.

17 EXAMINER STOGNER: Okay, let's proceed.

18 MR. FELDEWERT: Okay, he'll need to be sworn.

19 (Thereupon, Mr. Carlile was sworn.)

20 JIMMY D. CARLILE,

21 the witness herein, after having been first duly sworn upon  
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FELDEWERT:

25 Q. Could you please state your name and place of

1 residence for the record, please?

2 A. My name is Jimmy Carlile, C-a-r-l-i-l-e. I live  
3 in Midland, Texas.

4 Q. And by whom are you employed and in what  
5 capacity?

6 A. I'm employed by Fasken Oil and Ranch, Ltd., as a  
7 regulatory affairs coordinator.

8 Q. And are you a -- Have you testified before the  
9 Division as a petroleum landman?

10 A. I have not.

11 Q. Okay, your position is a regulatory affairs  
12 coordinator?

13 A. That's correct.

14 Q. Okay. In that position did you have occasion to  
15 file applications on behalf of Fasken for approval of your  
16 proposed well location?

17 A. I have.

18 Q. Okay, and have you had discussions with the State  
19 Land Office about your proposed well locations?

20 A. Yes, I have.

21 Q. All right. Mr. Carlile, I want you to describe  
22 for the Examiner what you did with respect to this well  
23 location. Did you file an application with the Division?

24 A. I did.

25 Q. And did you the receive a denial of that

1 application?

2 A. Yes, sir. Yes, I did.

3 Q. Did you receive any indication from the  
4 Division's District Office as to why your application for  
5 permit to drill was denied?

6 A. Yes, I did. It was because of the life-of-mine  
7 reserves issue.

8 Q. Who did you contact at the Division's District  
9 Office?

10 A. I talked with Chris Williams.

11 Q. And what did he indicate to you?

12 A. Mr. Williams indicated that his denial was based  
13 on an understanding that the State Land Office also  
14 disapproved of our drilling.

15 Q. Okay, and did he indicate why he was under that  
16 impression?

17 A. Evidently there was a miscommunication between  
18 Steve Albers and Chris Williams concerning this well.

19 Q. You mean Jeff Albers?

20 A. Excuse me, Jeff Albers.

21 Q. Okay, and did you contact the State Land Office  
22 about their position with respect to this well?

23 A. Yes, I did.

24 Q. And who did you speak with?

25 A. I spoke with Mr. Albers.

1 Q. And what did he indicate to you when you first  
2 approached him about this denial?

3 A. Mr. Albers was very concerned that a  
4 miscommunication had taken place, because he and the  
5 geologist at the State Land Office were both very much in  
6 favor of the drilling of this well, and they were very  
7 apologetic that this had occurred and were willing to do --  
8 even to sign a waiver from the State Land Office  
9 perspective to get this well drilled.

10 Q. Did he indicate to you what had -- Well, let me  
11 ask you this: Did he indicate to you whether the State  
12 Land Office considered this area to be a potential area of  
13 development for potash?

14 A. He indicated to me that it was not developable,  
15 if that's a word, excuse me, but -- for potash reserves,  
16 due to the number of existing wellbore penetrations in  
17 Section 16.

18 Q. Did he indicate to you whether there was any  
19 potash lease on this area?

20 A. He indicated that there was not an existing  
21 potash lease at this time, but IMC had filed for a new  
22 lease on this acreage.

23 Q. Now, at the time that you filed your application  
24 with the Division Office and at the time that you spoke  
25 with Mr. Albers, was there an application for a lease on

1 file with the State Land Office by IMC?

2 A. Yes, there was.

3 Q. Okay. And did Mr. Albers indicate to you whether  
4 the State Land Office was going to grant a lease to IMC?

5 A. His understanding at the time of our first  
6 conversation was that it was very questionable whether or  
7 not the State Land Office would offer that lease to IMC.

8 Q. Did Mr. Albers indicate to you whether you should  
9 try to go forward with an Application to drill your well?

10 A. Yes, he did, he aggressively suggested that we go  
11 ahead and continue the process with the OCD's methodologies  
12 to secure a drilling permit.

13 Q. And did you have subsequent conversations with  
14 Mr. Albers about the status of IMC's lease application with  
15 the State Land Office?

16 A. Yes, I did.

17 Q. And what did he indicate to you ultimately?

18 A. Ultimately, he indicated that the State was going  
19 to deny the potash lease to IMC, based off of undrillable  
20 -- or too many locations, too many drilled wells already in  
21 Section 16.

22 Q. Did he indicate to you whether the State Land  
23 Office was in favor of Fasken drilling a well at your  
24 proposed location?

25 A. Yes, he did.

1 Q. And what did he say?

2 A. He was very much in favor of us drilling this  
3 well.

4 Q. Okay. And to your knowledge, has IMC's  
5 application been denied by the State Land Office?

6 A. It is my understanding that the State Land Office  
7 has denied the potash lease to IMC.

8 Q. And did Fasken provide notice of this hearing to  
9 the State Land Office?

10 A. Yes, we did.

11 MR. FELDEWERT: Okay. Mr. Examiner, that  
12 concludes my examination of this witness.

13 EXAMINATION

14 BY EXAMINER STOGNER:

15 Q. Mr. Carlile, whenever you file an APD or you  
16 prepared this APD, did you check with the Land Office  
17 and/or BLM first to see if it was within the life-of-mine  
18 reserves? I mean, obviously you knew it was within the  
19 R-111 area?

20 A. Yes, sir, we knew it was within the potash area.  
21 I did not call either the BLM or the State Land Office to  
22 verify whether it was an LMR area.

23 Q. Okay, because that's a procedure during the APD  
24 process at the District or the BLM area office that they  
25 would then -- is that -- as you know it?

1 A. That was my understanding, yes, sir.

2 Q. Okay, and it was denied to you, and Mr. Williams  
3 explained to you that it was -- it's your understanding it  
4 was within an LMR area or a buffer to an LMR?

5 A. My understanding for Mr. Williams' response was  
6 that it was an LMR area.

7 Q. An LMR area. And also I believe that is your  
8 understanding that was stated to you by IMC in the May 14th  
9 letter?

10 A. Yes, sir, I believe that letter -- that was  
11 received after we provided the APD to IMC.

12 Q. So what we have here is a claim by a potash  
13 company that the LMR is on an unleased piece of property;  
14 is that correct?

15 A. That is my understanding, yes, sir.

16 Q. Now, you said you had talked to Jeff Albers.  
17 That was immediately -- How long was that after the APD was  
18 denied, or when did you find out that the APD had been  
19 denied?

20 A. Well, on the front of that there may be a date  
21 stamp. I can't tell you off the top of my head when the  
22 date was. It was within a few days of the denial date, I'm  
23 sure. Immediately, within two days, I'm sure, I know I  
24 called the State Land Office and Chris Williams as well, to  
25 visit with them about this, to verify about what our next

1 step might be to move forward to get this APD approved.

2 EXAMINER STOGNER: Okay, I have no other  
3 questions.

4 Any follow-up questions?

5 MR. FELDEWERT: No, Mr. Examiner.

6 EXAMINER STOGNER: Mr. Carlile, I appreciate your  
7 agreeing to testify, to fill us in on this procedural  
8 matter. Thank you.

9 THE WITNESS: Thank you, sir.

10 EXAMINER STOGNER: You may be excused.

11 Mr. Feldewert?

12 MR. FELDEWERT: Mr. Examiner, we would then call  
13 our next witness.

14 JOHN WORRALL,

15 the witness herein, after having been first duly sworn upon  
16 his oath, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. FELDEWERT:

19 Q. Would you please state your name and indicate to  
20 the Examiner where you reside?

21 A. My name is John Worrall, I reside in Roswell, New  
22 Mexico.

23 Q. And by whom are you employed?

24 A. I'm a consulting geologist.

25 Q. Are you a consultant for Fasken?

1 A. Yes, in this case.

2 Q. Have you previously testified before this  
3 Division?

4 A. Yes, I have.

5 Q. And at the time of your testimony were your  
6 credentials as an expert in petroleum geology accepted and  
7 made a matter of record?

8 A. Yes, they were.

9 Q. Are you familiar with the Application that has  
10 been filed by Fasken in this case?

11 A. Yes.

12 Q. And have you conducted a study of the area that  
13 is the subject of this Application?

14 A. Yes.

15 MR. FELDEWERT: Mr. Examiner, at this time I  
16 would submit Mr. Worrall as an expert witness in petroleum  
17 geology.

18 EXAMINER STOGNER: Mr. Worrall is so qualified.

19 Q. (By Mr. Feldewert) Would you please explain to  
20 the Examiner what the primary target -- or what is the  
21 primary target for Fasken's proposed well in Unit P of  
22 Section 16?

23 A. Our primary objectives are middle Morrow sands,  
24 total depth is 13,200 feet. Secondary objective are first  
25 Bone Springs sandstones at about 9500 feet.

1 Q. Is this well proposal, is this a wildcat in the  
2 Morrow sands?

3 A. Yes, it is.

4 Q. Okay. Now, in your opinion does Fasken have a  
5 good chance of tapping into recoverable reserves at this  
6 location?

7 A. Yes.

8 Q. How did they choose this particular location?

9 A. Location was primarily picked using a grid of  
10 seismic data, and then also the existing well control.

11 Q. Okay, and do you have some exhibits to review  
12 with the Examiner today?

13 A. Yes, I do.

14 Q. Okay, why don't you turn to Fasken's Exhibit  
15 Number 7, identify that and review that for the Examiner,  
16 please?

17 A. Exhibit Number 7 is a structure map on the top of  
18 the Morrow formation. It shows the township of 20 South,  
19 32 East. And in yellow, Section 16, the well location is  
20 shown for our Laguna "16" State Number 1.

21 Also there's two main points on this map. In  
22 bright orange circles are existing Morrow producers.  
23 There's nine wells down here, southeast of our proposed  
24 well, approximately two miles, that have averaged 4 BCF per  
25 well and 60,000 barrels per well.

1           They do produce onstructure, and our prospect is  
2 to drill a separate structure that has over 200 feet of  
3 closure, two miles northwest of the other field, and that  
4 field is called the Hat Mesa and Salt Lake South Morrow  
5 Pool.

6           Q.    Now, you referenced the field down in the right-  
7 hand corner of the exhibit; is that correct?

8           A.    Yes.

9           Q.    Okay, and that is a Morrow field?

10          A.    Yes, it is.

11          Q.    And you're -- What are you trying to do with your  
12 proposed well in Section 16?

13          A.    To drill an analogous situation where we're  
14 drilling a structural high at the Morrow formation. We  
15 should encounter the top of the Morrow at approximately  
16 minus 8500 feet subsea on a closure that has about 200 feet  
17 of closure.

18          Q.    Now, you also show a well here in Section 15. Is  
19 there any significance to that well?

20          A.    Yes, that's the Phillips La Plata Deep Unit  
21 drilled in 1970. It's the nearest well and one of the very  
22 few wells drilled in this township. It is one mile  
23 northeast of our proposed location, so it gives us closest  
24 indication of what reservoirs we might expect.

25          Q.    Okay, do you have another exhibit you'd like to

1 go over with the Examiner?

2 A. Yes, I do.

3 Q. Okay, is that -- Why don't you turn to Fasken  
4 Exhibit Number 8, identify that and review that for the  
5 Examiner then, please?

6 A. Exhibit Number 8 is the top of Morrow structure  
7 map. Shown in red is the highest part of the structure,  
8 and this -- the main point of this map is to show in green  
9 lines the seismic data that was used to determine if this  
10 structure was present. It also shows that the La Plata  
11 Deep Unit well is at a subsea depth of minus 8813. Our  
12 location is at minus 8500, and so we should be 300 feet  
13 high to our show well, which I'll be showing next.

14 The other main point is, it shows again the  
15 structure for the nine wells that do produce in the Salt  
16 Lake South field on the southeast side of the map.

17 Q. Okay, and that's down in the bottom right-hand  
18 corner of Exhibit Number 8?

19 A. Yes, sir.

20 Q. All right. Okay, do you have a log, cross-  
21 section, that you want to go over with the Examiner?

22 A. Yes.

23 Q. Okay. Now, we have a copy of this log. It's  
24 fairly large, so I understand you have it hanging on the  
25 wall. Has this been marked as Fasken Exhibit Number 9?

1 A. Yes.

2 Q. Okay, why don't you --

3 EXAMINER STOGNER: Step on the other side and  
4 face me --

5 THE WITNESS: Okay.

6 EXAMINER STOGNER: -- as you're talking there, if  
7 you would, Mr. Worrall.

8 Q. (By Mr. Feldewert) Why don't you then identify  
9 this exhibit and review it with the Examiner, please?

10 A. This is a log exhibit, and the Phillips La Plata  
11 Deep Unit of the Phillips La Plata Deep Unit, and shown on  
12 the exhibit is a sonic log, a lateral log, a microlog and a  
13 mud log of that well, and it shows four different  
14 formations that had shows and indications of hydrocarbons.  
15 In drilling our well, we'll be primarily targeting the  
16 Morrow sands. There's six Morrow sands with a total of 31  
17 feet of reservoir.

18 Q. You're showing that at the bottom of this exhibit  
19 in pink?

20 A. At the very bottom of the exhibit, and it shows  
21 the five different sands and the different gas shows that  
22 are encountered when the well is drilled.

23 We have some secondary objectives in the Atoka  
24 and the Strawn that I've highlighted in a pink color, and  
25 just different gas shows that were encountered in those two

1 formations.

2 And then the Bone Springs sands, there are two  
3 sands. The one at 9500 feet is the first Bone Springs  
4 sand. It's about 25 feet thick and has good indications of  
5 shows and samples, gas shows, good microlog and resistivity  
6 responses as well. I'll be showing you isopach maps of the  
7 Bone Spring and Morrow next, so I wanted to show where the  
8 sections came from.

9 Q. Okay, why don't you turn to, then, Fasken Exhibit  
10 Number 10, if you're ready to proceed with that. Identify  
11 that and review it for the Examiner, please.

12 A. Fasken Exhibit Number 10 is a porosity isopach  
13 map of the middle Morrow showing feet of porosity greater  
14 than 6 percent. It also shows in yellow our Section 16 and  
15 our proposed location, with the nearest well showing 31  
16 feet of sand in the La Plata Deep Unit.

17 That is the same as the average of the nine wells  
18 that produce in the southeast corner of the map, at the Hat  
19 Mesa field. Those wells have averaged 30 feet of sand,  
20 produced 4.1 BCF of gas and 62,000 barrels of oil per well.  
21 So we have a similar analogous amount of sand, and we have  
22 an analogous amount of structure. So that's our objective.

23 Q. And then do you have a Bone Springs isopach map?

24 A. Yes.

25 Q. Has that been marked as Fasken Exhibit Number 11?

1           A.    Yes.

2           Q.    Okay, why don't you review that with the  
3 Examiner, please?

4           A.    The first Bone Springs sandstone is present at  
5 9500 feet in the prospect area. It had 18 feet of porosity  
6 in the nearest well, which is in Section 15, again, the La  
7 Plata Deep Unit.

8                   Also shown in Township 20 South, 33 East, in  
9 Sections 11 and 14, there's an analogous production there,  
10 five wells that averaged 136,000 barrels, 600 million cubic  
11 feet of gas from 23 feet of sand. So we have a similar  
12 amount of sand, we have shows in that sand as a secondary  
13 objective of our prospect.

14          Q.    In your opinion, do you believe that Fasken has a  
15 good chance of producing recoverable reserves from this  
16 location?

17          A.    Yes, I do.

18          Q.    Now, prior to filing this Application -- or  
19 actually prior to the time that Fasken acquired this lease,  
20 did you have the option -- or the opportunity, to visit  
21 with a representative from Mississippi Potash Company?

22          A.    Yes.

23          Q.    Okay, and what was the purpose of that visit?

24          A.    I drove down to Mississippi's south mine, which  
25 is three miles south of this lease, and visited with the

1 company geologist, Tom Maguire, and the purpose of course  
2 was to make sure we could work out a place to drill on this  
3 lease if we were to acquire it at the sale. We had  
4 nominated the lease for the sale.

5 And I went to their office because their mines  
6 are north and south and west of this acreage, they  
7 basically surround -- between their two mines, they  
8 surround this acreage. So that was the purpose.

9 Q. Mississippi had the closest mining operations to  
10 your proposed well location?

11 A. Correct.

12 Q. Okay. And you said you spoke with a company  
13 geologist. What did he tell you with respect to the  
14 mineability of potash in Section 16?

15 A. That because of the 18 wells that are already  
16 existing, that they wouldn't oppose our location.

17 Q. Did he indicate to you whether they had any plans  
18 to mine in Section 16?

19 A. They did not.

20 Q. Okay. Did he indicate you whether they were  
21 going to have any objection to your efforts to drill a well  
22 in Section 16?

23 A. He said he would not object.

24 Q. Are you aware whether the Division has previously  
25 approved the drilling of any wells in the southeast quarter

1 of Section 16 in the last six or seven years?

2 A. Yes.

3 Q. And when -- Did they approve the drilling of a  
4 well in the southeast quarter of Section 16?

5 A. Yes.

6 Q. Okay, and when was that, and who was the  
7 applicant?

8 A. Nearburg Producing, the well was drilled in the  
9 northwest southeast, and it was drilled in 1997.

10 Q. Okay, if you look at Fasken Exhibit Number 2, is  
11 that well shown on this exhibit?

12 A. It is, it's the dryhole marker, labeled Nearburg  
13 Maverick State Number 1.

14 Q. Okay. And that well was drilled after receiving  
15 an order from the Division --

16 A. Yes.

17 Q. -- approving of the drilling of this well in the  
18 potash area?

19 A. Yes.

20 Q. Okay. In your opinion, will approval of this  
21 Application, based on the information that you have,  
22 constitute a hazard to or interfere with the foreseeable  
23 mining of existing potash reserves?

24 A. No.

25 Q. And in your opinion will approval of this

1 Application afford Fasken the opportunity to produce  
2 recoverable oil and gas reserves under this State land?

3 A. Yes.

4 Q. Were Fasken's Exhibits 7 through 10 prepared by  
5 you or compiled under your direction and supervision?

6 A. Yes, they were.

7 MR. FELDEWERT: Mr. Examiner, at this time I move  
8 the admission into evidence of Fasken Exhibits 7 through  
9 10.

10 EXAMINER STOGNER: Okay, Exhibits 7 through 10  
11 will be admitted into evidence.

12 MR. FELDEWERT: And that concludes my examination  
13 of this witness.

14 EXAMINATION

15 BY EXAMINER STOGNER:

16 Q. You mentioned the -- I'm sorry, who drilled that  
17 well in the northwest of the southeast?

18 A. Nearburg Producing.

19 Q. Nearburg. Was that a gas well or an oil well?

20 A. It was drilled to 5300 feet and they didn't find  
21 either. I suspect they were looking for oil, because they  
22 drilled it to the Delaware.

23 Q. Did you review the well record on that particular  
24 well?

25 A. Yes.

1 Q. And that was approved. How about the  
2 notification to the potash? Did you investigate that any  
3 further?

4 A. No.

5 Q. Are there any other deep gas Morrow tests in  
6 Section 16?

7 A. That is the deepest well that has been drilled,  
8 the 5300 feet.

9 Q. 5300. How about in the eight sections that  
10 surround Section 16? Are there any deep gas tests of any  
11 of the wells there that you investigated or know of?

12 A. Yes, sir, there's the well in 15 that we've  
13 discussed as Exhibit Number 10, I believe, the La Plata  
14 Deep Unit.

15 Q. Okay.

16 A. And then in Section 10 Shell Oil Company drilled  
17 a well. If you'll refer to Exhibit 9, it's in the  
18 northwest quarter of Section 10. It was drilled back in  
19 the 1950s.

20 MR. FELDEWERT: So you mean Exhibit Number --

21 THE WITNESS: -- 8 --

22 MR. FELDEWERT: -- 8.

23 THE WITNESS: -- sorry.

24 Q. (By Examiner Stogner) Mr. Worrall, you as a  
25 geologist really don't determine the casing programs on a

1 well, do you?

2 A. I sometimes have input, but usually that's done  
3 by the engineers.

4 Q. Okay. You didn't have any input on the APD or  
5 the surface -- I mean, the casing depths in this particular  
6 well?

7 A. No.

8 Q. Okay.

9 A. Fasken chose that.

10 Q. Now, the primary zone of interest is the Morrow.  
11 Any other potential tests you foresee for this well, either  
12 oil or gas?

13 A. The Strawn is productive three miles northwest,  
14 the Lusk-Strawn field along this ridge.

15 Q. Is that oil or gas?

16 A. It is oil and condensate, it's both. Atoka is  
17 gas, Bone Spring is oil, Delaware is oil. There's -- All  
18 five of those formations could be productive.

19 EXAMINER STOGNER: Okay. I have no other  
20 questions of Mr. Worrall. You may be excused.

21 MR. FELDEWERT: Mr. Examiner --

22 EXAMINER STOGNER: Mr. Feldewert?

23 MR. FELDEWERT: Mr. Examiner, that concludes our  
24 presentation in this case. I just have one or two closing  
25 comments, very briefly, if I may.

1 EXAMINER STOGNER: Yes.

2 MR. FELDEWERT: As I alluded to earlier, I have a  
3 difficult time understanding how IMC can claim to the  
4 Division that this is part of their LMR when they do not  
5 have a lease in this Section 16. One of the problems that  
6 we always face is that whenever oil and gas development is  
7 proposed in this area, the potash companies -- particularly  
8 I think IMC -- comes forward with an objection claiming it  
9 is within their LMR.

10 That LMR map and the procedures that go into  
11 determining what is and is not an LMR is a very secretive  
12 process, it's confidential and proprietary information.  
13 It's my understanding that under R-111-P, that LMR analysis  
14 is supposed to be periodically adjusted and reviewed. To  
15 my knowledge, that does not occur on a regular basis.

16 So what we're stuck with is a situation where  
17 whenever someone desires to drill a well within this  
18 particular area, the potash companies, and particularly  
19 IMC, come forward claiming it's within an LMR, and that  
20 automatically results in a -- it seems to automatically  
21 result in a denial of the application by the District  
22 Office.

23 In this particular case I think what you have is  
24 a situation where there was some confusion over whether  
25 this indeed is and should be an LMR, and I think by --

1 given the fact that IMC did not appear here today, given  
2 the fact that they have -- while they have not, I guess,  
3 officially withdrawn their objection, they certainly have  
4 indicated to you in a telephone conversation that because  
5 they do not have a lease in Section 16, I think the words  
6 were, they believe that their standing in this matter has  
7 seriously been eroded.

8 I would submit that it has been completely  
9 eroded, that because they do not have a lease in Section 16  
10 they cannot stand here and claim that they have an LMR, and  
11 that they cannot at this point -- should not be in a  
12 position to deny continued development in a section of land  
13 that has been the subject of extensive oil and gas  
14 development in the past and which is State land, and  
15 particularly in a situation where the State Land Office has  
16 indicated that they want to see this well and this drilling  
17 go forward.

18 So we would ask that this case be taken under  
19 advisement and that the Division issue an order approving  
20 the drilling of this well.

21 EXAMINER STOGNER: So noted, Mr. Feldewert.  
22 However, one correction. You stated a telephone  
23 conversation. That was a voice-mail message left me. My  
24 contacting him was to discuss procedural matters and  
25 representation by legal counsel. I never did talk to Mr.

1 Purcell.

2 Other than that, this case will be taken under  
3 advisement.

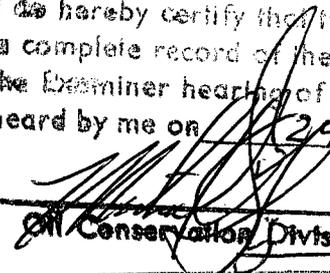
4 Let's take about a five-minute recess, and then  
5 we'll call Marbob.

6 MR. FELDEWERT: Thank you, Mr. Examiner.

7 (Thereupon, these proceedings were concluded at  
8 11:10 a.m.)

9 \* \* \*

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 13107  
heard by me on 29 July 2003  
, Examiner  
Oil Conservation Division

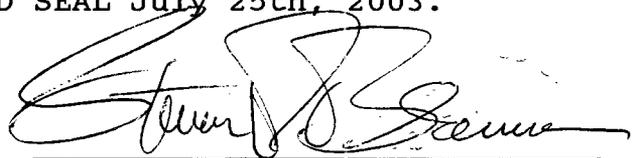
## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO )  
 ) ss.  
 COUNTY OF SANTA FE )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL July 25th, 2003.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 16th, 2006