

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 NO. 13107
ORDER NO. R-12031

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on July 24, 2003, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 24th day of September, 2003, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and its subject matter.

(2) The New Mexico Oil and Gas Act, Section 70-2-12 (B) (17) NMSA 1978, empowers the Division *"to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash which may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits."*

(3) Division Order No. R-111, dated November 9, 1951, as amended by Order Nos. R-111-A through R-111-O, established the "Potash Area," which *"represents the area in various parts of which potash mining operations are now in progress, or in which core tests indicate commercial potash reserves."* Furthermore, Division Order No. R-111-P established *"The Rules and Regulations Governing the Exploration and Development of Oil and Gas in Certain Areas Herein Defined, Which Are Known To Contain Potash Reserves (Potash Area)."*

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Case No. 14116 Exhibit No. 3
Submitted by:
FASKEN OIL & RANCH, LTD
Hearing Date: June 27, 2008

(4) Order No. R-111-P provides that for wells on State Lands or on Federal Lands, the Division shall inquire of the New Mexico State Land Office or the U. S. Bureau of Land Management, as the case may be, whether the lands involved are within an area designated a Life of Mine Reserve ("LMR").

(5) Subpart G (e) 3 of these rules generally prohibits oil and gas drilling within an LMR area designated by a potash lessee unless there is an agreement between the lessees of both potash and oil and gas interests.

(6) The applicant, Fasken Oil and Ranch, Ltd. ("Fasken"), as the current lessee of a valid oil and gas lease in the E/2 of Section 16, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico, seeks approval to drill its proposed Laguna "16" State Well No. 1 as a deep Morrow gas test to an approximate depth of 13,400 feet at a standard gas well location in the SE/4 SE/4 (Unit P) of Section 16.

(7) All of Section 16 is within the Potash Area as defined in Division Order No. R-111-P.

(8) On or about May 13, 2003, Fasken filed an "Application for Permit to Drill ("APD")" its above-described Laguna "16" State Well No. 1. On May 22, 2003 the Division's district office in Hobbs denied Fasken's application to drill after IMC Potash Carlsbad, Inc. ("IMC") informed the Division's district office that it considered Fasken's proposed well to be within its LMR.

(9) With regard to potash leasing and potash development in the immediate area, Fasken presented evidence demonstrating that:

(a) there are currently no active potash leases in Section 16 or to the south in adjacent Section 21, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico, which is federal land;

(b) Mississippi Potash, Inc. holds federal potash leases to the north and the west in adjacent Sections 8, 9, 10, 17 and 20, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico;

(c) the closest potash mine is approximately two miles to the northwest of Fasken's proposed well location, is operated by Mississippi Potash, Inc., and is presently inactive;

(c) IMC holds a federal potash lease to the east in adjacent Sections 15 and 22, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico;

(d) IMC, or its predecessor, has held a federal potash lease since 1953, but has not undertaken any effort to develop adjacent Sections 15 and 22;

(e) IMC's nearest potash mine is approximately eight miles to the southwest of Fasken's proposed well location; and

(f) the New Mexico State Land Office recently denied IMC's request for a potash lease in Section 16 stating: "Section 16 currently has numerous oil and gas well bores, and with the potential of additional drilling, there does not appear to be adequate clearance for economic mining."

(10) With regard to oil and gas development in the immediate area, Fasken presented evidence that demonstrates:

(a) there are at least eighteen well bores in Section 16, with at least ten in the E/2 and at least three in the SE/4 where Fasken's proposed well is to be located;

(b) there are at least two wells in the SW/4 of adjacent Section 15, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico, with one of those well bores directly offsetting Fasken's proposed well to the east;

(c) there are at least two well bores in the N/2 N/2 of adjacent Section 21, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico, to the south of Fasken's proposed well;

(d) there are at least four well bores in the S/2 S/2 of adjacent Section 9, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico, to the north; and

(e) Fasken's proposed Laguna "16" State Well No. 1 has the potential of finding oil and gas reserves capable of producing in commercial quantities within several geologic horizons.

(11) Before the hearing in this matter, the Division Examiner received a telephone message via recorded voice mail from IMC's representative stating that since the New Mexico State Land Office denied IMC's request for a potash lease in Section 16, IMC's status to object to Fasken's well had been "seriously eroded." This message was played at the hearing and made a part of the record in this matter.

(12) IMC did not appear at the hearing or present any evidence in this matter.

(13) Fasken presented evidence that it discussed its proposed well with Mississippi Potash and was informed that Mississippi Potash, Inc. has no plans to mine in Section 16 due to the extensive oil and gas development in the area. Mississippi Potash, Inc. did not object to Fasken's proposed well and did not appear at the hearing.

(14) The evidence establishes that it is highly unlikely that commercial potash mining will take place in Section 16.

(15) Approval of Fasken's above-described Laguna "16" State Well No. 1 will afford the applicant the opportunity to produce its just and equitable share of oil and gas within its state oil and gas lease underlying the E/2 of Section 16 and will otherwise prevent waste and protect correlative rights.

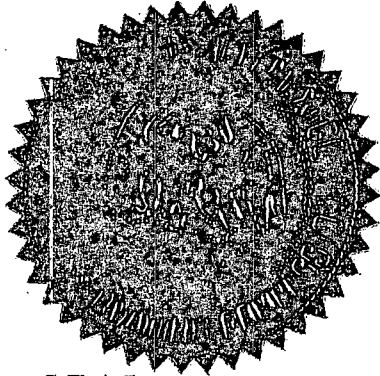
IT IS THEREFORE ORDERED THAT:

(1) Fasken Oil and Ranch, Ltd. ("Fasken") is hereby granted authority to drill its Laguna "16" State Well No. 1 as originally proposed by its Application for Permit to Drill ("APD") filed with the Division's district office in Hobbs in May, 2003 within the SE/4 SE/4 (Unit P) of Section 16, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico.

(2) Fasken shall comply with all applicable casing and cementing requirements set forth in Division Order No. R-111-P.

(3) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

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



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Lori Wrotenbery
LORI WROTENBERY
Director

