

KELLAHIN AND KELLAHIN

Attorneys at Law

El Patio - 117 North Guadalupe
Post Office Box 2265
Santa Fe, New Mexico 87501

Telephone 982-4285
Area Code 505

Jason Kellahin
W. Thomas Kellahin
Karen Aubrey
James B. Grant

May 1, 1984

Mr. Joe D. Ramey
Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87501 "Hand Delivered"

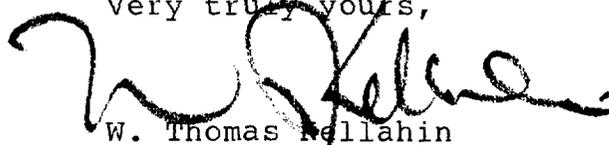
Re: Infill Exemptions
Sun Exploration & Production

Dear Mr. Ramey:

Our firm, on behalf of Sun Exploration and Production Company, filed with the New Mexico Oil Conservation Commission on the 5th of April, 1984, applications for exemption from the New Mexico Pricing Act for six wells.

Although timely filed, this application did not appear on the May 15, 1984, docket which we received today. We would appreciate you setting this application for the July 17, 1984, hearing with the other infill exemption cases.

Very truly yours,



W. Thomas Kellahin

WTK:ca

cc: J. T. Power
Sun Exploration and Production Co.
P. O. Box 3725
Houston, Texas 75221

Patrick Ortiz, PSC

John Bigelow, AG

Attorney General



PAUL BARDACKE
Attorney General

Department of Justice

P.O. Drawer 1508
Santa Fe, New Mexico 87504
Telephone: (505) 827-6000

JOHN BIGELOW
Deputy Attorney General

February 16, 1984

Mr. Joe D. Ramey, Director
Oil Conservation Commission
P. O. Box 2088
Santa Fe, NM 87501

Re: Requests for Exemptions from New Mexico Natural Gas
Pricing Act

Dear Mr. Ramey:

Upon receipt of your letter of November 1, 1983, informing the Attorney General of possible violations of the New Mexico Natural Gas Pricing Act, this office undertook an investigation of those charges. As a result, the Attorney General determined that there have been and continue to be violations of the pricing provisions of the Act, and a decision was made to seek damages in district court.

These damages arise because several producers failed to obtain exemptions from coverage of the Act for infill wells and yet sold the gas from those wells at the price which would have been applicable if an exemption had been granted. Some of these producers have now filed requests for exemptions.

The decision of the Attorney General to enforce the Act under Section 62-7-7 (E) NMSA 1978 (1983 Cumm. Supp.) pre-empts the authority of the Oil Conservation Commission to consider or act on any request for retroactive exemptions. However, subject to certain procedural steps, we have come to the conclusion that it would be appropriate for the Commission to proceed to process these applications for possible prospective exemptions.

Because of the pending litigation, the Commission should consider and act on applications for exemption status on production from wells occurring after the date of the filing of the lawsuit, November 15, 1983. Any production occurring before that date is the subject of the counterclaims and cross-claims filed by the Attorney General and the Commission

Mr. Joe D. Ramey, Director
February 16, 1984
Page 2

may not therefore act on requests involving that production. In addition, the Attorney General reserves the right to bring enforcement action against producers or purchasers for violations of the New Mexico Natural Gas Pricing Act for production occurring after November 15, 1984, depending on the findings and the outcome of the Commission hearings.

The additional procedural steps which we recommend should be taken are:

- 1) The administrative procedure established in order R-5436 may be used to establish application requirements but these prospective applications should not be approved administratively.
- 2) Each of these exemption requests should be brought to a hearing before the Oil Conservation Commission.
- 3) At the hearing of these exemptions requests, the applicant for exemption should have the burden of demonstrating that the exemption criteria set forth in Section 62-7-5 are met. In addition, the applicant should be required to certify, under oath or by affidavit, that the existing well on the proration unit has not had its ability to produce into the pipeline restricted in any manner since the drilling of the infill well.
- 4) The exemption hearing should be open to public participation under the same conditions that are applicable to all other Oil Conservation Commission hearings.
- 5) In the absence of objections by any party, the Commission may approve these applications based upon the filing made in accordance with the administrative procedure set forth in Order No. R-5436 and the additional requirements of paragraph No. 3, above.
- 6) It may be that a review of this infill problem will indicate that some additional reporting requirement is advisable. The order resulting from the hearing, whether opposed or not, will provide an opportunity to impose those reporting requirements.

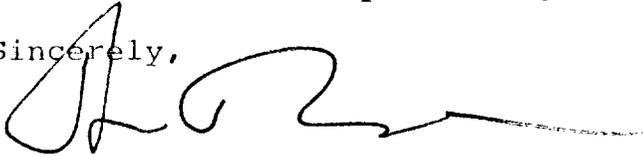
I understand that in addition to the normal Commission notice procedure, the Public Service Commission has requested that it be given specific notice of any exemption hearing and I request that this office also receive such special notice.

Mr. Joe D. Ramey, Director
February 16, 1984
Page 3

Because many applications for exemption are now pending, I recommend that the Commission immediately take action to begin processing them, consistent with the suggestions contained in this letter. I shall appreciate your notifying me of your decision to proceed at your earliest opportunity, so that appropriate representations may be made to the court at a hearing now scheduled in the litigation for February 23, 1984. It would be helpful if your notification to me were in writing.

Thank you very much for your assistance. Please feel free to call on me at any time regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Bigelow', with a long horizontal flourish extending to the right.

JOHN BIGELOW
Deputy Attorney General

JB:lm

cc: Mr. Perry Pearce
Mr. Gary Epler