

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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IN THE MATTER OF THE APPLICATION
OF MERIDIAN OIL, INC. FOR
EXEMPTION FROM THE NEW MEXICO
NATURAL GAS PRICE PROTECTION ACT,
SAN JUAN COUNTY, NEW MEXICO.

OIL CONSERVATION DIVISION

CASE NO. 9703

**RESPONSE TO APPLICATION
AND MOTION TO DISMISS**

Gas Company of New Mexico ("Gas Company") hereby submits this Response to the Application filed by Meridian Oil, Inc. ("Meridian") in the captioned cause. The Application filed by Meridian requests the Oil Conservation Division ("OCD") to exempt certain wells from the Natural Gas Pricing Act pursuant to the authority granted under Section 6 of that Act. Gas Company hereby moves the OCD to dismiss the Application for the following reasons:

1. On March 28, 1977, the legislature enacted the Natural Gas Pricing Act. Laws 1977, Chapter 73, §§ 2-11. (§§62-7-1 through - 10 NMSA 1978). Section 6 of that Act empowered the OCD to determine whether infill wells, which were subject to price ceilings, were drilled for purposes other than to circumvent those ceilings. Section 6 also authorized the OCD to exempt from the price ceilings those wells that were not drilled merely to avoid the price ceilings. By Order No. R-5436 dated June 8, 1977, the Oil Conservation Commission promulgated the procedures and rules whereby such exemptions could be requested and granted.

2. The legislature subsequently modified and extended the Natural Gas Pricing Act on three occasions. Laws 1979, Chapter 97, §§ 1-6; Laws 1981, Chapter 317, §§ 1-12; Laws 1983, Chapter 286, § 1. On March 7, 1984, the legislature enacted the Natural Gas Price Protection Act. Laws 1984, Chapter 123, §§ 1-15. The Natural Gas Price Protection Act repealed the Natural Gas Pricing Act approximately one year before its scheduled termination date. Id. at § 13 A. The effective date of the repeal of the Natural Gas Pricing Act was July 1, 1984. Id. at §15.

3. While the Natural Gas Price Protection Act (§§62-7-11 through 62-7-23 NMSA 1978) contained a savings provision for rights previously existing under the Natural Gas Pricing Act, jurisdiction to implement the latter Act was taken from the OCD and granted to the New Mexico Public Service Commission.

4. Notwithstanding any savings provision of the Natural Gas Pricing Act, that law terminated and went out of existence by its own terms on June 30, 1985 (§62-7-12 NMSA 1978).

5. The OCD has no jurisdiction, power or authority to entertain the application of Meridian Oil, Inc.

6. If the OCD had jurisdiction, power or authority to grant exemptions from the Natural Gas Price Protection Act, which it does not, such authority never provided for retroactive exemption from the Natural Gas Pricing Act.

7. Meridian's application is untimely and is barred by applicable limitations of actions statutes.

WHEREFORE, Gas Company requests this Motion be set for hearing on the Division's docket for August 9, 1989, and the Division dismiss the Application for the foregoing reasons.

Respectfully submitted,

GALLEGOS LAW FIRM

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Response and Motion was served on this 4th day of August, 1989, to all counsel of record.

J.E. Gallegos
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