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802.3  
802.2(c)

May 26, 2005

VIA MESSENGER

Michael Verne  
Premerger Notification Office  
Bureau of Competition, Room 303  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

2005 MAY 27 11 25 AM

Re: Hart-Scott Informal Interpretation

Dear Mike:


As you may recall, you and I spoke this morning concerning the scope of the \$500 million carbon mineral reserves exemption (16 C.F.R. § 802.3(a)) and the unproductive real property exemption (16 C.F.R. § 802.2(c)) as they pertain to oil and gas reserves. You confirmed that the following general principles apply:

- Reserves of oil and gas that are presently producing count towards the \$500 million carbon mineral reserves exemption.
- Reserves of oil and gas that have not yet begun producing are exempt with no dollar limit as unproductive real property. They do not count towards the \$500 million carbon mineral reserves exemption limit.
- Non-producing oil and gas reserves are exempt with no dollar limit as unproductive real property even if they are adjacent to producing reserves that do count towards the \$500 million limit.

We then discussed a more specific hypothetical:

Under a single piece of ground there is a reservoir of proven oil or gas reserves at 5,000 feet, and another at 9,000 feet. There is equipment on the surface for production of both reservoirs of reserves. A production company drills down through the 5,000 foot reserves, down to the 9,000 foot reserves. It begins producing from the 9,000 foot reserves, but not from the 5,000 foot reserves. The production company will begin producing from the 5,000 foot reserves at a later





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date (likely after it has exhausted the 9,000 foot reserves), using the same production and drilling equipment as was used for the 9,000 foot reserves.

Based upon this hypothetical, you confirmed that the correct analysis would be to look at the two reservoirs separately, counting the 9,000 foot producing reserves towards the \$500 million limit of the carbon-based mineral reserves exemption and treating the 5,000 foot nonproducing reserves as exempt unproductive real property with no dollar limit.

Please let me know if I have misstated our discussion or your conclusions in any way. As always, thank you for your time and assistance.

Sincerely,



AGLEZ -  
B. Michael  
5/26/05