

[REDACTED]

802.2(c)  
FI 15.

802.3(a)

May 6, 2004

[REDACTED]

**VIA FAX: 202-326-2624 AND CMRRR**

Mr. James Ferkingstad  
Premerger Notification Office  
Federal Trade Commission  
6th & Pennsylvania Avenues, N.W.  
Washington, D.C. 20580

2004 MAY -6 A 10:11

FEDERAL TRADE  
COMMISSION  
PREMERGER NOTIFICATION  
OFFICE

RE: Hart Scott Rodino Exemption For Certain Proved Oil and Gas Reserves

Dear Mr. Ferkingstad:

As a followup to our conversation of March 29, 2004, I am sending this letter to you to confirm in writing my understanding of the HSR exemption relating to unproductive property.

As advised in our conversation, my client is a limited liability company which is proposing to sell three properties at auction, each in a separate sale transaction. Since our conversation, the client is alternatively proposing to sell (1) all shareholder interests in the members of the company at the time of closing; (2) all member interests of the company; or (3) a combination of (1) and (2) (the shareholder interests and the member interests are collectively referred to herein as the "Equity Interests"). The three properties are essentially the entire assets of the company.

As the properties or Equity Interests are going to be sold at auction, we do not know the acquisition price, but have considered various fair market valuations of the properties in considering the antitrust implications of the sale. The properties are each of oil and gas reserves. There is a general exemption covering oil and gas reserves valued at less than \$500 million. See 16 CFR § 802.3(a). If sold as separate assets, two of the properties fall well within this exemption. The third property, and all three properties together, could have a fair market value in excess of \$500 million. The third property has proved developed producing reserves, proved undeveloped reserves, probable reserves, and proved reserves which are "behind the pipe" or "behind the casing" (herein "PBP").

We understand that the proved undeveloped reserves and probable reserves fall within the exemption for unproductive property. See 16 CFR § 802.2(c). The proved developed producing reserves in the third property fall below the \$500 million limit, even if taken together with the value of proved developed producing reserves in the other two properties. The question is in regard to PBP reserves, as the value of these reserves

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taken together with the proved developed producing reserves, would push the estimated fair market value over the \$500 million exemption.

In this case, the PBP reserves are those reserves which were located at a higher level than that currently being produced. For instance, reserves might have been located at 14,000 feet, but that which is being produced is at 16,000 feet. The reserves at 14,000 feet are proved and developed (based on the SEC definition of proved developed oil and gas reserves in Regulation S-X, Rule 4-10(a)(3)), but are not being produced at this time, and have produced no revenue to date. Therefore, we believe that PBP reserves fall within the exemption for unproductive property, and that the transaction as a whole falls within the exemption as well whether structured as a sale of assets or of Equity Interests, with no requirement of an HSR notice filing.

Please advise if you concur. We would appreciate your prompt attention to this matter as the necessity of an HSR notice filing will affect the timing of closing. Do not hesitate to call if you have any questions or comments in this regard. My direct line is [REDACTED]

Very truly yours

[REDACTED SIGNATURE]

cc:

Advised individual 5/6/04

§ 2.2(d) § 2.3(a)

Agree on asset sale  
Sale to LLC interest 2100g  
not reportable  
JAF

[REDACTED]