

[REDACTED]

ATTORNEYS AT LAW

802.2  
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[REDACTED]

Direct Dial  
Direct Fax

August 23, 2004

FEDERAL TRADE COMMISSION  
PREMERGER NOTIFICATION  
OFFICE  
2004 AUG 23 PM 2:41

Mr. Michael Verne  
Premerger Notification Office  
Bureau of Competition  
Room 303  
Federal Trade Commission  
6th Street and Pennsylvania Avenue, N.W.  
Washington, D.C. 29580

Dear Mr. Verne:

Enclosed is the original of the letter that was faxed to you on Friday. Please contact me at [REDACTED] should you have any questions.

Sincerely yours,

[REDACTED]

Enclosure

[REDACTED]

ATTORNEYS AT LAW

TELEPHONE

Direct Dial  
Direct Fax

August 20, 2004

2004 AUG 23 PM 2:41

PROPERTY DIVISION  
FEDERAL TRADE COMMISSION  
OFFICE

**Via Facsimile**

Mr. Michael Verne  
Premerger Notification Office  
Bureau of Competition  
Room 303  
Federal Trade Commission  
6th Street and Pennsylvania Avenue, N.W.  
Washington, D.C. 29580

Dear Mr. Verne:

This correspondence is a follow-up to my voice mail to you from earlier today.

As I explained, the factual circumstances are as follows. Company A proposes to acquire all of the voting securities of Company B. Company B is an oil and gas exploration company and its assets consist of real property interests in oil and gas fields in the western part of the United States ("the Fields").

The focus of my inquiry was whether Company A's acquisition of Company B would fall under the exemption set forth in 16 CFR § 802.4 concerning acquisitions of voting securities of issuers holding certain exempt assets (the "Voting Securities Exemption"), which, in turn, cross references the unproductive real property exemption set forth in 16 CFR § 802.2(c) (the "Unproductive Real Property Exemption") and the exemption concerning acquisitions of carbon-based mineral reserves set forth in 16 CFR § 802.3 (the "Oil and Gas Exemption").

Based on several discussions I have had with you in the past, my understanding is as follows:

1. To the extent that certain properties and reserves in portions of the Fields have not yet generated any revenues, such properties and reserves will be treated as falling under the Unproductive Real Property Exemption, while those properties and reserves which are currently developed and producing will qualify for the Oil and Gas Exemption (assuming the latter's aggregate value is under \$500 million).

2. In applying the Unproductive Real Property Exemption to Company B's interests in the non-producing properties in the Fields, it is not necessary to determine whether, for purposes of 16 CFR § 802.2(c)(2)(iii), such properties are or are not "adjacent to or used in conjunction with real property that is not unproductive real property" as long as any other such adjacent properties are otherwise exempt under the Oil and Gas Exemption. That is, if certain unproductive real properties in the Fields are adjacent to productive real properties in the Fields which are part of the transaction but qualify for the Oil and Gas Exemption, the unproductive real properties still qualify for the Unproductive Real Property Exemption.
3. In determining whether the transaction falls within the terms of the Oil and Gas Exemption, Company A need focus only on Company B's assets. In other words, the \$500 million figure in the Oil and Gas Exemption relates only to the target company (Company B) and not to the existing assets of Company A.
4. On the basis of the foregoing, Company A may acquire all and hold all of the voting securities of Company B in reliance on the Voting Securities Exemption without the need to make an HSR filing if it is determined by Company A, or its designee, in compliance with the HSR regulations at 16 CFR § 801.10, that: (i) a portion of Company B's assets consists of ownership interests in oil and gas properties which have not yet generated any revenues and therefore fall within the Unproductive Real Property Exemption; (ii) another major portion of Company B's assets consists of ownership interests in developed and producing oil and gas properties, as to which the fair market value of the properties, reserves, rights and associated exploration or production assets relating to such properties does not exceed \$500 million; and (iii) to the extent that there are any remaining direct or indirect assets of Company B which do not qualify as exempt assets under the HSR regulations, such remaining assets have a fair market value of less than \$50 million.

Please contact me as soon as possible at [REDACTED] if you should disagree with any of the views expressed above.

Thank you very much for your assistance.

Sincerely yours,

[REDACTED]

AGREE -  
B. Michael  
8/24/04

cc: [REDACTED]