

LH

June 25, 1986

BY HAND DELIVERY

Linda Heban, Esquire
Premerger Notification Office
Federal Trade Commission
6th Street and Pennsylvania Avenue
Washington, D.C. 20580

Special Agent in Charge
Federal Bureau of Investigation
Washington, D.C. 20535

JUN 25 11 49 AM '86

Dear Ms. Heban:

This letter is to confirm our conversations of last Friday, June 20, and Monday, June 23, 1986.

As I explained to you in our conversations, I represent a family that is planning to organize a family-owned joint venture corporation. The stockholders of the corporation will be the father (56% of the stock), grantor trusts for four adult children (8.8% for each), and one 18-year old child whose stock will be held in a custodial account established under the Uniform Gift to Minors Act, the custodian of which will be her father (8.8% of the stock). This joint venture corporation, will, in turn, enter into a transaction under which it will acquire a 50% undivided interest in oil and gas assets of a third corporation with an aggregate total value of approximately \$222,000,000. Simultaneously, two other entities, related to one another but not to the joint venture, will acquire the remaining 50% undivided interest in these assets.

The joint venture corporation will be financed in part through non-recourse debt. A portion of its bank debt, however, will be guaranteed by personal guarantees of the stockholders. Based on the net worth of the joint venture corporation after taking into account the bank debt, and treating as equity that portion of the bank debt that will be personally guaranteed by the stockholders, the value of the stock acquired by each of the

Linda Heban, Esquire
June 25, 1986
Page 2

grantor trusts and the custodial account will be less than \$15,000,000. Because as a result of these acquisitions neither the custodial account nor any of the grantor trusts will hold either 15% of the joint venture's voting securities or voting securities valued at \$15,000,000, it is our view, which you confirmed, that no filing under the Hart-Scott-Rodino Antitrust Improvements Act (the "Act") is required for the four grantor trusts.

The one family member that is projected to hold 56% of the stock of the joint venture corporation in his name will also be the custodian of the account established for the one family member whose stock will be held in a custodial account under the Uniform Gift to Minors Act. For purposes of the Act, that individual will be deemed to "hold" not only the 56% of the stock that he will hold but also the 8.8% of the stock as to which he will be custodian.

The family member that is projected to "hold" 64.8% of the stock of the joint venture corporation will be required to make a filing with respect to the formation of the joint venture corporation and with respect to the joint venture corporation's acquisition of the 50% undivided interest in the oil and gas assets.

The topic of our conversation Monday was particularly the establishment of the joint venture corporation. As I explained, the parties to the transaction wish to organize the joint venture corporation now so that it may enter into the acquisition and financing agreements for the oil and gas asset acquisition transaction. It is intended that the oil and gas asset acquisition transaction will close into escrow, with the provision that the escrow will not break until expiration or earlier termination of the waiting period under the Act. As I explained, however, there is a desire on the part of my clients to organize the joint venture corporation now so that at all times the oil and gas assets will be deemed to be held beneficially for the joint venture corporation and will not be in the hands of the individual shareholders for any period of time. We recognize, however, that the very formation of the joint venture corporation itself is subject to the waiting period under the Act. I suggested to you that the joint venture corporation could be formed now, the stock could be issued to the four grantor trusts and to the one family member whose stock will be held in a custodial account, and the 56% of the stock that is to be issued to the one family member could be issued into an escrow.

[REDACTED]

Linda Heban, Esquire
June 25, 1986
Page 3

account. Under this proposal, the escrow account would provide that the escrow would break and the stock would be distributed to the intended stockholder only upon the expiration or earlier termination of the waiting period under the Act for the formation of the joint venture corporation. After further discussion with you regarding this escrow account, I suggested additionally that the escrow agent for the stock would be an independent entity such as a bank and that the escrow documents and, to the extent necessary, the organizational documents of the joint venture corporation, would provide that in the event that permanent injunctive relief is obtained by the Federal Trade Commission prohibiting either the formation of the joint venture corporation or the consummation of the oil and gas asset acquisition transaction, that the joint venture corporation would be dissolved and terminated. The escrow documents would further provide that the intended stockholder could not vote or direct the voting of this stock while in escrow and that he could not enjoy any economic benefits of such stock unless and until the waiting period expired or was terminated. With those provisos in the escrow arrangement, you advised that the staff of the Premerger Notification Office would not object to the formation of the joint venture in advance of the expiration or earlier termination of the waiting period under the Act and the entry by the joint venture corporation into the financing and acquisition agreements for the oil and gas asset acquisition transaction, all of which will be held in escrow pending expiration or earlier termination of the waiting period under the Act for the oil and gas asset acquisition transaction itself.

If I have misstated in any way our discussions or the general principles regarding these proposed transactions, please contact me at your earliest convenience.

Very truly
[REDACTED]

[REDACTED]

cc: Andrew Scanlon, Esquire
Department of Justice

Concur - 6/27/86
J. G. Moran