[redacted]

(15)

January 9, 1987

Via Federal Express

Mr. John M. Sipple, Jr.
Senior Attorney
Premerger Notification Office
Bureau of Competition
Room 301
Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Mr. Sipple:

I am writing to confirm the telephone conversation I had with you and [redacted] of the [redacted] on January [redacted], 1987 regarding the "control" of a partnership by another entity within the meaning of 16 C.F.R. 801.1(b) and the treatment of a partnership as its own "ultimate parent entity," as that term is defined in 16 C.F.R. 801.1(a)(3), and a subsequent telephone conversation I had with you on January 7, 1986 regarding the interpretation of these regulations by the Federal Trade Commission.

As we discussed, we represent a series of publicly held limited partnerships, each of which is sponsored by the same two corporate general partners. Eight of these partnerships, together with one of the general partners in its corporate capacity, have entered into an agreement to purchase oil and gas properties from two unaffiliated sellers. The eight purchasing partnerships were formed during the period from July 1985 through November 1986, each partnership has in excess of [redacted] limited partners, and each partnership was originally capitalized with in excess of [redacted] The general partner that is a party to the acquisition agreement was formed in March 1983 for the purpose of acting as general partner of these partnerships and has been made a party to this agreement so that it may reconvey "non-operating" interests in the oil and gas properties it acquires to two additional partnerships which are prohibited by their articles of partnership from owning other than "non-operating" interests in oil and gas properties. These two partnerships were formed in February and November 1986, each has in excess of 137 limited partners, and each partnership was originally capitalized with in excess of [redacted]

Generally, oil and gas properties are allocated as they are acquired among the various partnerships having funds available

for such purpose in the proportion that each such partnership's available capital bears to the aggregate of all such available capital. Pursuant to this formula, as of October 15, 1986, the oldest partnership participating in this transaction had acquired property valued at [redacted] and the latest three partnerships had acquired no property. As a general rule, the partnerships all participate in each oil and gas property that is acquired so long as each has capital available for that purpose.

As I represented to you, the partnerships were not formed for the purpose of avoiding the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act"), but rather because, among other reasons, in our clients' view this method of formation facilitates the marketing of the limited partnership interests. In addition, this method has become a common practice in the syndication of public oil and gas funds because of certain Securities and Exchange Commission rules. Likewise, the allocation method described above is not a device to avoid the application of the Act, but is an attempt to allocate the benefits and risks of oil and gas properties acquired by our client among the investors in partnerships with available funds, avoid conflicts of interests in assigning oil and gas properties to the partnerships, and comply with the general partners' fiduciary responsibilities to the partnerships.

In response to our inquiry and after discussion of the facts set forth above, you advised us that the Federal Trade Commission's position is that so long as the purchasing partnerships were not formed or the transactions entered into as a device or devices for the purpose of avoiding the obligation to comply with the requirements of the Act, each of the purchasing partnerships would be considered its own ultimate parent entity, and, so long as the assets to be acquired in the transaction by each such partnership do not exceed the $15,000,000 "size of the transaction" test of Section 7A(a)(3) of the Act (regardless of the fact that the aggregate amount of the assets being transferred is greater than $15,000,000 and that each partnership has the same two corporate general partners), Section 7A(a) of the Act will not apply to the transactions and no premerger notification filing will be required on behalf of any party to the transaction.

In response to my subsequent inquiry on January 7, 1987, you also informed me that, pursuant to Section 7A(d) of the Act, the Federal Trade Commission is the agency responsible for interpreting this requirement and that the Department of Justice need not be separately consulted regarding the requirement of a filing on the facts of this case.

Please call me collect at the number set forth above as soon as your schedule permits to confirm that this letter and the conclusions reached herein properly reflect the substance of our telephone conversation, or if not, to further discuss the issues set forth herein. We would also appreciate your calling Allen B. Mann collect at [redacted] at such time for the same purpose.

Yours very truly,

[redacted]

[redacted]

[redacted]

Called [redacted] on 1/16/87
Confirmed this understanding set forth
in paragraphs 3 and 4 on pp. 2 and 3.