



October 25, 2006

NEPA Modernization (CE)
Attention: Associate Director for NEPA Oversight
722 Jackson Place NW
Washington DC 205032

hgreczmiel@ceq.eop.gov
(202) 456-0753 (fax)

Re: Comments on Proposed Guidance
Establishing, Revising and Using Categorical Exclusions under the National
Environmental Policy Act

Gentlemen:

Questar Exploration and Production Company, a wholly-owned subsidiary of Questar Corporation, acquires, explores for, develops and produces gas and oil in the Rocky Mountain and Mid-continent regions. A significant portion of our activities in the Rockies occurs on leaseholds where the federal government owns the mineral estate. As such, Questar is very familiar with the NEPA process and very interested in proposed guidance concerning that process.

Questar appreciates the opportunity to comment on the Council for Environmental Quality's (CEQ) proposed guidance Establishing, Revising and Using Categorical Exclusions under the National Environmental Policy Act ("Guidance"). We are concerned that the captioned guidance may impose new restrictions on the use of statutory categorical exclusions (CXs) created in Section 390 of the Energy Policy Act of 2005 ("the Act") that exceed the Act's intent.

The Act established five categories of oil and gas operations for which applicability of the Section 390 categorical exclusion would be presumed. The Bureau of Land Management (BLM), Washington Office, stated in Instruction Memorandum No. 2005-247 dated September 30, 2005, that "use of the new statutory CXs is not dependent on the Council for Environmental Quality (CEQ) process for approving new CXs. Additionally, the CXs established by Section 390 are not subject to the requirement in 40 CFR 1507.3 that would preclude their use when there are extraordinary circumstances." This is due to the fact that the Section 390 CXs are created by statute and not pursuant to regulations in 40 CFR 1507.3 and 1508.4.

The new Guidance proposed by the Council on Environmental Quality (CEQ) does not specifically recognize this distinction and Questar must assume CEQ intends that the Guidance apply to the Section 390 CXs.

Thus, it appears that CEQ would apply the following to the Section 390 CX:

1. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect. BLM Field Offices consider a wide-ranging list of “extraordinary circumstances” including the following:
 - a. Public health or safety
 - b. Municipal watersheds
 - c. Historic properties and areas
 - d. Controversial environmental effects or unresolved conflicts concerning alternative uses of available resources
 - e. Uncertain and potentially significant environmental effects or unique or unknown environmental risks
 - f. Any action that may establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects
 - g. Any action that may have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects
 - h. Any action that may contribute to the introduction, continued existence, or spread of noxious weeds

2. In situations where there is a high public interest in an action that will be categorically excluded, CEQ encourages Federal agencies to involve the public in some manner. CEQ suggests notification to the public or a scoping process especially where the proposal involves extraordinary circumstances or cumulative impacts.

Applying the “extraordinary circumstances” limitation and a public notice or scoping process to the Section 390 CXs will negate their intended benefit, which is to provide for more efficient processing and elimination of unnecessary paperwork on applications for activities which are minimal in impact and/or which have been examined under previous NEPA documents. This does not mean that use of a CX for activities fitting within the Section 390 categories do not receive assessment. The BLM Instruction Memorandum referenced above is clear that “Field Offices shall maintain a structured, multi- or interdisciplinary permit review and approval process, conduct onsite exams for 100 percent of proposed well and road locations, and shall apply appropriate mitigation and BMPs to all permitted actions, in accordance with existing land use plans, full field development EIS and other pertinent NEPA documents, even when actions are approved through the use of Section 390 CXs.”

Questar urges CEQ to insert language in its Guidance clearly indicating that 40 CFR 1507.3 and 1508.4 requirements and limitations on the use of CX, including the provision for extraordinary circumstances and public notice or scoping periods, do not apply to

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statutory Section 390 categorical exclusions. Insertion of such language in the Guidance will be in keeping with the intent of the Energy Policy Act of 2005.

Questar appreciates your serious consideration of our comments. If you have any questions or would like to discuss our comments, please feel free to call me at 303-672-6957. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Seiler", written in a cursive style.

Jane Seiler

Regulatory Affairs Manager