ORDER / CASE NO: CASE NO. 1-1989

ORDER / NOTICE OF RECOMMENDATION TYPE: MISCELLANEOUS-EXCEPTION LOCATION

COUNTY: HARDING

LOCATION(S): T. 20N., R. 3E., NE1/4 SEC. 1

OPERATOR: KOCH EXPLORATION COMPANY

DATE ORDER ISSUED: 02/21/1989

DATE ORDER CLOSED:

AMENDS: ORDER NO. 3-1987

AMENDED BY: ORDER NO. 1-1991

APPROVAL STATUS: APPROVED

FIELD NAME: BUFFALO FIELD

UNIT NAME:
Applications having been made by Koch Exploration Company (Koch) for an Order permitting the drilling of a well at an exception location, and for a pit liner variance at that well, on the following described land, in the Buffalo Field, Harding County, South Dakota:

T20N,R3E,BHM

Section 1: Lot 1, Lot 2, S½NE¼
Harding County, South Dakota;

and no parties having petitioned the South Dakota Board of Minerals and Environment (Board) to object to the above applications, now, therefore, the Board makes the following:

FINDINGS OF FACT

I.

The applications for the drilling of an oil well at an exception location and for a pit liner variance were properly filed with the Department of Water and Natural Resources (Department) on December 1, 1988.

II.

The Department issued a notice recommending that the exception location application be approved by the Board.
III.

The Department's Notice of Recommendation was published in the following newspapers: The Daily Capital Journal of Pierre, Hughes County, South Dakota; The Lead Daily Call of Lead, Lawrence County, South Dakota; The Nations Center News of Buffalo, Harding County, South Dakota; and the Rapid City Journal, Rapid City, Pennington County, South Dakota. The publication of said Notice of Recommendation appeared in each of these named newspapers on January 25, 1989, and again on February 1, 1989.

IV.

The Department's Notice of Recommendation and the application for a pit liner variance were properly served by certified mail, return receipt requested, by Koch upon all persons whose interests may be affected by the applications pursuant to the provisions of SDCL § 45-9-58.

V.

The applications make the following proposals:

1. To allow the drilling of an oil well at an exception location on the following described land in the Buffalo Field, Harding County, South Dakota:

   T20N,R3E,BHM

   Section 1: Lot 1, Lot 2, S ½NE ½
   Harding County, South Dakota.

2. The spotted location for the oil well on the above-described property is 1450' FNL and 1450' FEL.

3. The exception location is requested due to a geological interpretation of the structural crest (Red River)
being closer to the requested location rather than the prescribed location by the Buffalo Field Spacing Order.

4. A pit liner type of 20 mil polyethylene has been proposed for the above-described exception location oil well, rather than the specified 60 mil liner.

VI.

No person filed objection to the applications or the Department's recommendation.

VII.

Good cause has been shown by Koch's Red River structure contour map demonstrating that a well at the exception location would be more apt to produce in paying quantities than at the location prescribed by the Buffalo Field Spacing Order.

VIII.

The proposed exception location as set forth in the application would meet the Buffalo Field rule that a well be drilled not closer than 1000 feet to any well completed in or drilling to the Red River Pool.

IX.

The exception location well would be the only well within the 160-acre spacing unit as required by the Buffalo Field Spacing Order.

X.

Good cause has been shown by Koch's Application for a pit liner variance that the pit to be constructed at the above-described exception location will be constructed and maintained so as to prevent contamination of soil and all waters of the state.

-3-
Based upon the foregoing Findings of Fact, the Board hereby makes the following:

CONCLUSIONS OF LAW

I.

The Board has jurisdiction over the subject matter and the persons involved in this application.

II.

Notice of the Department's recommendation and opportunity for intervention and objection was published as required by law.

III.

That all interested persons were served with the Notice of Recommendation and the application for a pit liner variance by certified mail, return receipt requested, all in accordance with SDCL § 45-9-58.

IV.

The applications filed by Koch for the above-described exception location oil well, and pit liner variance, are complete.

V.

That upon the foregoing Findings of Fact and Conclusions of Law, Koch's applications for an Order permitting the drilling of an oil well at the above-described exception location and for a pit liner variance at the described oil well ought be granted.

ORDER

WHEREFORE, upon the foregoing Findings of Fact and Conclusions of Law, the Board of Minerals and Environment for the State of South Dakota hereby grants Koch Exploration Company's application for permission to drill an oil well at the following
The Board further grants Koch Exploration's application for a pit liner variance at the above-described exception location oil well.

Dated this 21st day of February, 1989.

SOUTH DAKOTA BOARD OF MINERALS AND ENVIRONMENT

By Richard C. Sweetman, Chairman
STATE OF KANSAS  )  
COUNTY OF SEDGWICK  )  SS:

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this __th__ day of __February__, 1989, personally appeared Randolph Whipple, to me known to be the identical person described herein and who executed the within and foregoing instrument of writing and acknowledged to me that he duly executed the same as a free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my neutral seal the day and year last above written.

Seal:

[Notary Seal]

[Signature]
Notary Public
Before the Board of Minerals and Environment
Department of Water and Natural Resources
State of South Dakota

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of NOTICE OF RECOMMENDATION concerning CASE NO. 1-89 in connection with Koch Exploration Company seeking an exception location to the proposed well known as the Smolnikar 32-1 was served upon all parties having an interest therein and listed on Exhibit "A", attached to and made a part hereof, by placing the same in envelopes addressed to each listed thereon and depositing in the United States Mail, pre-paid, Certified with Return Receipt Requested on the 24th day of January, 1989.

Koch Exploration Company

[Signature]
Randolph B. Whipple
District Landman-Special Projects

STATE OF KANSAS )
) SS:
COUNTY OF SEDGWICK )

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this 17th day of February, 1989, personally appeared Randolph B. Whipple, to me known to be the identical person described herein, and who executed the within and foregoing instrument of writing and acknowledged to me that he duly executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Seal:

[Notary Public]

Martha S. Charles
Notary Public
Barbour County Bank, Trustee for
Naylor Forman Trust
107 Pike Street
Philippi, WV 26416

Mattie Blizzard
and Wayne E. Blizzard
6580 Kingswood Drive
Mayfield Heights, OH 44124

Mary Agnes Caron
38 Van Buren
Deadwood, SD 57732

Clarkson Land & Livestock Inc.
HCl Box 23
Buffalo, SD 57720

F.L. (Leroy) Clarkson Jr
PO Box 551
Belle Fourche, SD 57717

Ferman H. Clarkson
Rt 1
Thornton, WV 26440

H. M. Clarkson
RR #1 Box 63
Belle Fourche, SD 57717

James A. Clarkson Jr
PO Box 487
Buffalo, SD 57720

M. W. Clarkson
PO Box 308
Spearfish, SD 57783

Victor Clarkson Estate
Rt 1, Box 56
Thornton, WV 26440

William Clarkson Jr
Rt 1, Box 207
Thornton, WV 26440

Florence E. Davis
221 Third Street
Lead, SD 57754

Department of Interior
Bureau of Land Management
Attn: Chief, Fluid Minerals
PO Box 36800
Billings, MT 59107

Kathleen L. Determan
331 San Elijo Street
San Diego, CA 92106

Roland S. Ericsson, Trustee for Arnold L. and
V. Yvonne Ericsson
4148 Meadow Glen Circle
Las Vegas, NV 89201

George Forman
1166 Cherryvalle Rd
Boulder, CO 80302

N. Fred Forman
Rt 1, Box 480
Grafton, WV 26354

John Ralph Forman
1704 Kingston Circle
Bedford, VA 24523

William Earl Forman
Rt 1, Box 190
Thornton, WV 26440

Joyce C. Graves
5929 Diamond Lake Lane
Minneapolis, MN 55419
Virginia Frances Pletcher  
Rt 5 7050 Cincinnati-Zanesville  
Lancaster, OH  43130

Lynne W. Rupert  
696 Weaver Street  
Simi Valley, CA  93065

Ruth Forman Shaffer  
204 North High Street  
Philippi, WV  26416

State of South Dakota  
Dept of School & Public Lands  
500 East Capitol Avenue  
Pierre, SD  57501-5076

Doris Jean Storm  
c/o 2515 West Main  
Merrill, WI  54452

Olive Williamson  
Rt 2, Box 563  
Bridgeport, WV  26330

Blanche Marie Wilson  
3909 Topaz Road  
Baltimore, MD  21234

H. Norman Wilson Jr  
109 Bridge Street  
Elkton, MD  21921

Howard E.N. Wilson  
3420 Gulfstream Road  
Gulfstream, FL  33444-7318

Oscar T. Graves Estate  
Amy Olson, Co-Personal Rep.  
HCR #2, Box 21  
Prairie City, SD  57649

Oscar T. Graves Estate  
First National Bank of Bowman  
Co-Personal Representative  
Drawer "B"  
Bowman, ND  58623

Spencer D. Graves and  
Mrs. Darlene Graves  
Rt 6  
Decorah, IA  52102

Delores N. Howeth  
2210 NE 56th Place, Apt 110  
Fort Lauderdale, FL  33308

Myrah J. Melaney  
PO Box 1039  
Bowman, ND  58623

Mabel Eppie Moats  
369-1/2 South Main  
Phillipi, WV  26416

Grant M. Nitteberg, Trustee  
1112 South Willow Avenue  
Sioux Falls, SD  57105

Howard B. Nitteberg and  
Sibbelina Nitteberg  
1603 Riverside Blvd  
Norfolk, NE  68701

Leland J. Nitteberg and  
Betty H. Nitteberg  
2527 W. Kennewick Avenue, #237  
Kennewick, WA  99336-3126

Sarah J. (Graves) Ottesen  
and David Ottesen  
PO Box 421  
314 Valley View Drive  
Decorah, IA  52101

1-24-89  
1d/23
Sharol (Delgarno) Adams
4731 S. David
Casper, WY 82601

James G. Alexander
3320 East Glennsade
Baton Rouge, LA 70814

Albert E. Allen, Jr.
5154 Alcova Route, Box 8
Casper, WY 82601

AMAX Petroleum Corporation
Attn: Kenton Holliday
PO Box 42806
Houston, TX 77042

Jack W. Bales
618 Midland Savings Bldg
444 - 17th Street
Denver, CO 80202

Kenneth W. Braden
2826 E. Third Avenue
Denver, CO 80206

Bird Oil Corporation
717 - 17th Street, Suite 2860
Denver, CO 80202

James A. Bodenhamer
1105 W. 22nd Street
Casper, WY 82604

Broil Ventures, Inc.
Attn: Ms. Birdwell
1300 West Belt South
Houston, TX 77042

Susan E. (Kirkwood) Brauer
PO Box 44
Laramie, WY 82070

Mary Buchholdt
Camp Crook Star Route
Belle Fourche, SD 57717

Ferman M. Clarkson
3030 San Juan Terrace
Tucson, AZ 85713

John D. Cranor
5735 S. Ivy
Denver, CO 80110

James A. Crippen
1101 N. Kroeger Avenue
Fullerton, CA 92631

Thomas I. Crippen
2960 Yates
Denver, CO 80212

M. W. Dix
Consulting Geologist
PO Drawer 499
Casper, WY 82602

Carol Eklund
1113 E. State Street
Phoenix, AZ 85020

Farmers Union Central Exchange, Inc
Attn: Dennis Campbell
PO Box 30655
Billings, MT 59107

First Bank (N.A.) - Billings
Attn: Stanley Hill
Commercial Loan Dept.
PO Box 30678
Billings, MT 59115

Willard J. Guy
3631 Arroyo Drive
Casper, WY 82604

Arlen Boyd Henneman
3105 Gregory Drive
Billings, MT 59103

Houston Oil Trust
c/o Tenneco Oil Company
Attn: Willis Douglass
PO Box 3119
Englewood, CO 80155

Virginia (Crippen) Jensen
1026 Iliff Street
Pacific Palisades, CA 90272

Raymond N. Joeckel
1775 Sherman Street, #2100
Denver, CO 80203
Harold A. Schmidt  
10 Heather Way  
Golden, CO  80401

Tim T. Schowalter  
14194 West First Drive  
Golden, CO  80401

Sohio Petroleum Company  
5420 LBJ Freeway, #1000  
Dallas, TX  75240-6215

Spalding & Company  
1230 South Illinois  
Casper, WY  82609

William C. Vandeventer  
2699 East Fifth Street  
Casper, WY  82601

Marquerite (Crawford) Varner  
PO Box 824  
Baker, MT  59313-0824

Robert W. Kirkwood  
PO Box 3439  
Casper, WY  82602

Steven C. Kirkwood  
PO Box 3439  
Casper, WY  82602

William C. Kirkwood  
PO Box 3439  
Casper, WY  82602

Miriam (Crawford) Kirschten  
c/o Mr. James Kirschten  
Rural Route  
Baker, MT  59313

Koch Exploration Company  
PO Box 2256  
Wichita, KS  67201

Clarence E. Manion  
3475 S. Race Street  
Englewood, CO  80110

Larry J. Manion  
366 South York Street  
Denver, CO  80209

James R. Pagett  
Personal Representative of the  
Earl D. Miller Estate  
Piedmont Route, Box 702  
Piedmont, SD  57769

Kay Musil  
1032 East Nicolet  
Phoenix, AZ  85020

Carol B. Perkins  
817 West 21st Street  
Casper, WY  82601

H. N. Rhodes  
3325 Anaconda Tower  
555 - 17th Street  
Denver, CO  80202

David Schaenen  
2811 Poly Drive  
Billings, MT  59102
NRM Income, Ltd and Operating Co., L.P.
2121 San Jacinto Tower, Suite 260
Dallas, TX 75201
Attn: Herb Bell

Michael and Patricia Porter
225 West 34th Street
New York, NY 10001

Alyce (Travers) Smolnikar
PO Box 835
Bowman, ND 58623

Texaco Producing Inc.
PO Box 3109
Midland, TX 79701
Attn: Charles Stoddard

TPLEX Exploration Inc
1616 Glenarm Place, Suite 1820
Denver, CO 80202
Attn: Land Department

Robert G. Fowler
PO Box 917
Casper, WY 82602

Geodyne Resources, Inc.
320 South Boston
The Mezzanine
Tulsa, OK 74103
Attn: Land Dept

The Hawks Company
PO Box 2493
Casper, WY 82602

Kathryn Ann Hight
51 Dunlop Avenue
Deadwood, SD 57732

William C. Kirkwood and
Kirkwood 1976 - Ltd.
PO Box 3439
120 South Durbin
Casper, WY 82602

Koch Exploration Company
PO Box 2256
Wichita, KS 67202
Attn: Lance F. Harmon

Mayo Medical Resources
Mayo East II
200 First Street SW
Rochester, MN 55906
Attn: Timothy R. Geisler
WEST BUFFALO RED RIVER UNIT - ADDITIONAL INTEREST OWNERS

Painter's, Inc.
Ladner Route
Buffalo, SD  57720

Pioneer Bank and Trust, formerly Bank of Belle Fourche,
Trustee for the Doris Richter Trust and the
Clara Sterry Trust
700 State Street,
PO Box 729
Belle Fourche, SD  57717

First City National Bank of Houston,
Trustee of the Houston Oil Trust
PO Box 809
Houston, TX  77001

Ninian Oil Finance Corporation and
American Production Partnership - V, Ltd.
c/o Republic Bank Center
700 Louisiana Street
PO Box 2100
Houston, TX  77002

Texaco Producing, Inc.
PO Box 3109
Midland, TX  79701
Attn: Charles Stoddard

Maxine E. Mitchell
104 South Yankton
Pierre, SD  57501

Eddie A. Pritchard and Carolyn I. Pritchard, JT
11525 Long Street
Ashville, OH  43103
CERTIFIED MAIL RECEIPTS NOT SCANNED

HARD COPIES AVAILABLE AT DENR’S OFFICE IN RAPID CITY
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA )
COUNTY OF HUGHES ) ss.

PEGGY WARD BEING DULY SWEAR, ON HIS OATH SAYS:
That the CAPITAL JOURNAL is a DAILY newspaper of general circulation,
printed and published in Pierre, Hughes County, South Dakota, by the Hip-
ple Printing Company, a corporation, and has been such a newspaper dur-
ing the times hereinafter mentioned, that affiant is an employee of said
publisher and has personal knowledge of all the facts stated in this affi-
davit; that the advertisement headed

CASE NO. 1-89 Notice of Recommendation

a printed copy of which is hereunto attached, was printed and published in
the regular and entire issue of said newspaper, and not in a supplement
thereof, once each week for consecutive weeks.
The first publication being made on the day of January, 1989
The second publication being made on the day of February, 1989
The third publication being made on the day of
The fourth publication being made on the day of
The fifth publication being made on the day of
The sixth publication being made on the day of
The seventh publication being made on the day of
The ninth publication being made on the day of
That said newspaper is a legal newspaper, being published five days or
more each week, having a bona fide circulation of more than two hundred
copies daily, having been published in the English language within the
said County of Hughes for more than one year next prior to the first pub-
clication of said notice, and is printed in whole in an office maintained at
the place of publication of said newspaper. That the whole amount of the fee
paid for the publication of the annexed notice is $ , which ins-
sures solely to the benefit of said publisher; that no agreement or under-
standing for a division thereof has been made with any other person, and
that no part thereof has been agreed to be paid to any person whomsoever.

Subscribed and sworn to before me this day of

Notary Public, Hughes County, SD
My commission expires Daily circulation

Publication Fees $
Received Payment,
Capital Journal

By

No. 2tdly 1/25, 2/1
CASE NO. 1-89
NOTICE OF
RECOMMENDATION
STATE OF SOUTH DAKOTA
BOARD OF MINERALS
AND ENVIRONMENT
DEPARTMENT OF WATER
AND NATURAL RESOURCES
IN THE MATTER OF THE
APPLICATION OF KOCH
EXPLORATION COMPANY,
WICHITA, KANSAS FOR AN
EXCEPTION LOCATION,
BUFFALO FIELD,
HARDING COUNTY,
SOUTH DAKOTA

Notice is hereby given to the
public and to all interested parties
pursuant to SDCL Chapter 26-1
and Chapter 45-9 and further pur-
suant to ARSD 74:10-3:01:11, that the
following application has been filed with the Department of Water and
Natural Resources, hereinafter "Department":

I
Application is made by Koch Explora-
tion Company, hereinafter "Koch", Wichita, Kansas, for an or-
der permitting an exception loca-
tion in the Buffalo Field, Harding
County, South Dakota, as follows:

Township 20 North,
Range 3 East, BHM
Section 1: NE/4 NE/4
(1450 FNL & 1450 FEL)
Applicant asserts that approval
is necessary in order that the only
well allowed on the spacing unit be
drilled at the most favorable geo-
logic location as determined by the
operator's Red River structure con-
tour map.

II
The Department is recommending
that this application be ap-
proved because:
1) Good cause has been shown
by Koch's Red River Structure con-
tour map demonstrating that a well
at the exception location would be
more apt to produce in paying
quantities than at the prescribed
location, and
2) The exception location would
meet the field rule that a well be
drilled not closer than 1,000 feet to
any well completed in or drilling to
the Red River Pool, and
3) The exception well would be
the only well in the 160-acre spac-
ing unit as required by the Buffalo
Field spacing orders.
III. Notice is hereby given that any person interested in intervening in this proceeding may file a petition pursuant to provisions of ARSD 44:08:90:10 for the Board to consider the issuance of a permit to construct an underground natural gas storage reservoir in the vicinity of the Rapid City, South Dakota area. The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

The application containing more information is available upon request from the Department at the address given below.

IV. A hearing on the matter will be scheduled by the Board. If an objection is filed by February 21, 1989, the Board will consider the issuance of a permit to construct the underground natural gas storage reservoir.

A hearing on the matter will be scheduled by the Board. If an objection is filed by February 21, 1989, the Board will consider the issuance of a permit to construct the underground natural gas storage reservoir.

V. Any person who objects to the issuance of the permit may request a hearing. The Board may approve, conditionally approve, or deny this application.

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

The application containing more information is available upon request from the Department at the address given below.

V. Any person who objects to the issuance of the permit may request a hearing. The Board may approve, conditionally approve, or deny this application.

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.
STATE OF SOUTH DAKOTA)  
  ) SS.
  COUNTY OF HARDING  

Linda Stephens—_______ of said County and State, being duly sworn, on his  
oath, says: That the NATION'S CENTER NEWS is a weekly newspaper of general circu-  
lation, printed and published in the Town of Buffalo, in said County and State by  
Linda Stephens, Owner _______ and has been such newspaper during  
the time hereinafter mentioned and that I, Linda Stephens, the  
undersigned, am Owner _______ of said newspaper, in charge of the advertising  
department thereof, and have personal knowledge of all the facts stated in this affidavit; and  
the advertisement headed Notice of Recommendation  
706 lines  

________________________________________________________________________  
a printed copy of  
which is hereunto attached, was printed and published in the regular and entire issue of said  
newspaper and not in any supplement, once each week for 2 successive weeks.  
The first publication being made on the 25 day of January 1989  
The second publication being made on the 1 day of February 1989  
The third publication being made on the day of  
The fourth publication being made on the day of  
The last publication being made on the day of  

That said newspaper is a legal newspaper, and has a bona fide circulation of more than two  
hundred copies weekly, and has been published within the County of Harding for more than  
fifty-two successive weeks next prior to the first publication of said notice, and is printed in  
English in an office maintained in Buffalo, South Dakota, the place of publication of said  
newspaper. That the full amount of the fees for the publication of the annexed notice is  
$36.63 and inures solely to the benefit of said publishers; that no agreement or  
understanding for a division thereof has been made with any person and that no part thereof  
has been agreed to be paid to any person whomsoever.

Linda Stephens  

Subscribed and sworn to before me this 2 day of February 1989  

Walter Stephens  

My Commission Expires  

STATE OF SOUTH DAKOTA  
BOARD OF MINERALS AND ENVIRONMENT  
DEPARTMENT OF WATER AND NATURAL RESOURCES  
NOTICE OF RECOMMENDATION  
CASE NO. 1-89  

IN THE MATTER OF THE  
APPLICATION OF KOCHEXPLORATION COMPANY,  
WICHITA, KANSAS FOR AN  
EXCEPTION LOCATION,  
BUFFALO FIELD, HARDING  
COUNTY, SOUTH DAKOTA  

Notice is hereby given to the public and to all interested parties pursuant to SDCL Chapter  
26-1 and Chapter 45-9 and further pursuant to ARSD  
74:10:03:11, that the following application has been filed with the Department of Water and  
Natural Resources, hereinafter "Department":

Application is made by Koch Exploration Company, hereinafter "Koch", Wichita, Kansas,  
for an order permitting an exception location in the Buffalo Field, Harding County, South  
Dakota, as follows:

Township 20 North,  
Range 3 East, BHM  
Section 1; NE/4 NE/4  
(1450' FNL & 1450' FEL)  

Applicant asserts that approval is necessary in order that the  
only well allowed on the spacing  
unit be drilled at the most  
favorable geologic location as  
determined by the operator's  
Red River structure contour map.  

II  
The Department is recommending that this application be  
approved because:

1) Good cause has been shown  
by Koch's Red River structure  
contour map demonstrating that  
a well at the exception location  
would be more apt to produce in  
paying quantities than at the  
prescribed location, and

2) The exception location  
would meet the field rule that a  
well be drilled not closer than  
1,000 feet to any well completed  
in or drilling to the Red River  
Pool, and

3) The exception well would be  
the only well in the 160-acre  
spacing unit as required by the  
Buffalo Field spacing orders.  

III  
Notice is hereby given that any  
person interested in intervening in  
this application proceeding  
must file a petition pursuant to
provisions of ARSD 74:09:01:01 on or before February 21, 1989. Failure to file a petition may waive a person’s right to participate in the application proceeding, as a party. If an objection is timely filed, and raises a substantial and material issue crucial to a determination by the Board, a hearing on the matter will be scheduled. If no proper objection is filed by February 21, 1989, the Board will consider the issuance of an order without a hearing. The Board may approve, conditionally approve or deny this application.

IV

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

DEPARTMENT OF WATER AND NATURAL RESOURCES
Fred V. Steece,
Oil & Gas Supervisor
Department of Water and Natural Resources
36 East Chicago
Rapid City, South Dakota

1-25, 2-1
AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA, COUNTY OF LAWRENCE

Bill T. Masterson, Jr., of said county and state, being duly sworn, on his oath says: That the Lead Daily Call Deadwood Pioneer Times

is a legal newspaper of general circulation, printed and published in Lead, in said county and state, by the Sexton Publishing Company, and has been such a newspaper during the times hereinafter mentioned; and that I, Bill T. Masterson, Jr., the undersigned, am the Business Manager of the said newspaper, in charge of the advertising department thereof, and have personal knowledge of all the facts in this affidavit, and that the advertisement headed

STATE OF SOUTH DAKOTA BOARD OF MINERALS AND ENVIRONMENT
DEPARTMENT OF WATER AND NATURAL RESOURCES
CASE NO. 1-89

a printed copy of which is hereto attached, was printed in said newspaper for

TWO successive and consecutive WEEKS

the respective publications thereof being made on

JANUARY 25, 1989

and on

19

19

19

19

19

19

19

19

and the last publication thereof on

FEBRUARY 1, 1989

and that the full amount of fees charged for publishing the same, to-wit:
the sum of $45.21

inures solely to the benefit of aforesaid publisher and that no arrangement or understanding for a division thereof has been made with any person other than the publisher, and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me this 1ST day of FEBRUARY, 1989

Notary Public, Lawrence County, S. Dak.

My commission expires 1-24-1996
III

Notice is hereby given that any person interested in intervening in this application proceeding must file a petition pursuant to provisions of ARSD 74:09:01:01 on or before February 21, 1989. Failure to file a petition may waive a person's right to participate in the application proceeding, as a party. If an objection is timely filed, and raises a substantial and material issue crucial to a determination by the Board, a hearing on the matter will be scheduled. If no proper objection is filed by February 21, 1989, the Board will consider the issuance of an order without a hearing. The Board may approve, conditionally approve or deny this application.

IV

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

DEPARTMENT OF WATER AND NATURAL RESOURCES

Fred V. Steece,
Oil & Gas Supervisor
Department of Water and Natural Resources
36 East Chicago,
Rapid City, South Dakota

Jan. 25,
Feb. 1
L-542
STATE OF SOUTH DAKOTA

County of Pennington

I, Jerry J. Shoener, being first duly sworn, upon my oath says: That I am now and was at all times hereinafter mentioned, an employee of the RAPID CITY JOURNAL COMPANY, a corporation, of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bona fide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said RAPID CITY JOURNAL, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said newspaper once each week for two successive weeks, the first publication thereof being on the twenty-fifth day of January, 1989, that the fees charged for the publication thereof are seventy-four dollars and fifty-six cents.

Subscribed and sworn to before me this 1st day of February, 1989.

Notary Public
IN THE __________________ COURT

COUNTY OF PENNINGTON

Publisher's and Attorney's Affidavit

Filed in the office of__________________________ on
the__________________________ day of__________________________
19__________________________

Attorney for__________________________

__________________________
STATE OF SOUTH DAKOTA

County of Pennington

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IN THE __________________ COURT
COUNTY OF PENNINGTON

Publisher's and Attorney's Affidavit

Filed in the office of __________________ on
the ______ day of ____________
19_____

Attorney for _____________________
AFFIDAVIT

STATE OF SOUTH DAKOTA )
COUNTY OF HARDING )  SS:

RANDOLPH WHIPPLE, of lawful age, being duly sworn, deposes
and says that he is an employee of KOCH EXPLORATION COMPANY and
is duly authorized to make this affidavit in its behalf, and

That he is familiar with CASE NO. 1-89, and the DEPARTMENT
OF WATER AND NATURAL RESOURCE'S NOTICE OF RECOMMENDATION
concerning the exception location application being submitted by
KOCH EXPLORATION COMPANY, and

That he is familiar with the ownership of the surface within
a radius of one-half (1/2) mile of the proposed location, and

That he is familiar with the ownership of the minerals in
and to each of the adjacent drillsite spacing units bordering the
proposed exception location (T20N,R4E, Section 1: NE/4,
Harding County, South Dakota), including the WEST BUFFALO RED
RIVER UNIT in its entirety, and

That he has directed and supervised a thorough search of
KOCH EXPLORATION COMPANY'S files, which include, but are not
limited to abstracts of title, title opinions and division order
title opinions, and the same search includes records maintained
in the offices of the Register of Deeds and of the Treasurer in
and to the aforesaid county and state, and

That to the best of his knowledge, information and belief,
all of the representative ownership is listed on Exhibit "A",
attached to and made a part of that CERTIFICATE OF SERVICE dated
the 24th day of January, 1989.

KOCH EXPLORATION COMPANY

[Signature]
Randolph Whipple
District Landman-Special Projects
STATE OF SOUTH DAKOTA
BOARD OF MINERALS AND ENVIRONMENT
DEPARTMENT OF WATER AND NATURAL RESOURCES

IN THE MATTER OF THE APPLICATION ) CASE NO. 1-89
OF KOCH EXPLORATION COMPANY, )
WICHITA, KANSAS FOR AN EXCEPTION ) NOTICE OF
LOCATION, BUFFALO FIELD, HARDING ) RECOMMENDATION
COUNTY, SOUTH DAKOTA

Notice is hereby given to the public and to all interested parties pursuant to SDCL Chapter 26-1 and Chapter 45-9 and further pursuant to ARSD 74:10:03:11, that the following application has been filed with the Department of Water and Natural Resources, hereinafter "Department":

I

Application is made by Koch Exploration Company, hereinafter "Koch", Wichita, Kansas, for an order permitting an exception location in the Buffalo Field, Harding County, South Dakota, as follows:

Township 20 North, Range 3 East, BHM
Section 1: NE/4 NE/4
(1450' FNL & 1450' FEL)

Applicant asserts that approval is necessary in order that the only well allowed on the spacing unit be drilled at the most favorable geologic location as determined by the operator's Red River structure contour map.

II

The Department is recommending that this application be approved because:

1) Good cause has been shown by Koch's Red River structure contour map demonstrating that a well at the exception location would be more apt to produce in paying quantities than at the prescribed location, and
2) The exception location would meet the field rule that a well be drilled not closer than 1,000 feet to any well completed in or drilling to the Red River Pool, and
3) The exception well would be the only well in the 160-acre spacing unit as required by the Buffalo Field spacing orders.
III

Notice is hereby given that any person interested in intervening in this application proceeding must file a petition pursuant to provisions of ARSD 74:09:01:01 on or before February 21, 1989. Failure to file a petition may waive a person’s right to participate in the application proceeding, as a party. If an objection is timely filed, and raises a substantial and material issue crucial to a determination by the Board, a hearing on the matter will be scheduled. If no proper objection is filed by February 21, 1989, the Board will consider the issuance of an order without a hearing. The Board may approve, conditionally approve or deny this application.

IV

The application containing more information is available upon request from the Department at the address given below.

Dated this 13th day of January, 1989.

DEPARTMENT OF WATER AND NATURAL RESOURCES

Fred V. Steece, Oil & Gas Supervisor
Department of Water and Natural Resources
36 East Chicago
Rapid City, South Dakota
The Department has reviewed the following application filed by Koch Exploration, Wichita, Kansas: Request for an exception location Section 1, T. 20 N., R. 3 E., Buffalo Field, Harding County, South Dakota.

The Department is recommending that this application be approved because:

1) That good cause has been shown by Koch’s Red River structure contour map demonstrating that a well at the exception location would be more apt to produce in paying quantities than at the prescribed location, and
2) That the exception location would meet the field rule that a well be drilled not closer than 1,000 feet to any well completed in or drilling to the Red River Pool, and
3) That the exception well would be the only well in the 160-acre spacing unit as required by the Buffalo Field spacing orders.

Unless an interested person files a petition requesting a hearing in the above application, pursuant to the provisions of ARSD 74:09:01:01, on or before February 21, 1989, the Department’s Recommendation shall be considered final and the Board of Minerals and Environment will approve the application in accordance with the Department’s Recommendation.

Interested persons may obtain additional information by contacting the Department at the address given below.

Dated this 13th day of January, 1989.

DEPARTMENT OF WATER & NATURAL RESOURCES

Fred V. Steece, Oil & Gas Supervisor
Department of Water & Natural Resources
36 East Chicago
Rapid City, South Dakota
South Dakota Oil and Gas Program  
Western Field Office  
36 East Chicago Street  
Rapid City, SD  57701

Attn: Fred Steece, Supervisor

Re: Application for Permit to Drill - Oil Well  
Harding County, South Dakota  
Smolnikar 32-1, SD-08021-01

Gentlemen:

Koch Exploration Company (Koch) proposes the drilling of a Red River Oil Well in the captioned county. In accordance with applicable regulations, Koch submits this application for the permitting thereof.

I.

Pursuant to ARSD 74:10, Chapter 74:10:03, Section 74:10:03:01, the following is submitted for the Secretary's review and subsequent approval:

The numbered items below are required in the above referenced section and are currently on file in the Office of the Secretary and/or in the Western Field Office in Rapid City, South Dakota.

(1) Organizational report
(5) A plugging performance bond
(6) A surface restoration bond
(8) A bonding company information sheet

The numbered items below are required in the above referenced section and are made a part of this application by Koch Exploration Company.

(2) Application for permit to drill (FORM 2)
(3) A plat map certified by registered surveyor
(4) Permit fee of $100.00 (45-9-4)
(7) Certification of Negotiation
(9) Plans and specifications showing construction detail.

II.

The land upon which the well (Smolnikar 32-1) is to be drilled is more fully described to wit:

T20N,R3E,BHM  
Section 1: Lot 1, Lot 2, S/2NE/4 (NE/4)  
Harding County, South Dakota
Application for Permit to Drill - Oil Well
January 6, 1989
Page 2

Temporary Spacing Order Number 4 for the Buffalo Field includes the above land with applicable 160 acre spacing. Paragraph III of the same order provides, "...all wells drilled in the Buffalo Field...shall be located in the approximate center of the southwest quarter (SW/4) of each quarter (1/4) section or governmental lots corresponding thereto..." The approximate center as described by the referenced order would measure 1980'FNL and 1980' FEL. The spotted location for the Smolinkar 32-1 is 1450' FNL and 1450' FEL, thereby being an exception to the order as written.

Pursuant to Section 74:10:03:11, Koch Exploration Company requests the Secretary grant permission for the proposed well be drilled at a location within the applicable spacing unit other than that prescribed due to a geological interpretation of the structural crest (Red River) being closer to the requested location rather than that prescribed by such spacing order. The primary reason for such determination is on the basis of well control. Koch submits a Red River Structure map (copy enclosed) as justification for demonstrating "good cause".

III.

Pursuant to Section 74:10:03:13, (b), Koch has requested a pit liner variance by the Secretary and the application pertaining thereto is made a part of hereof. Question #2. b. of the Variance Application is attached and labeled "Attachment: Question #2. b. of Variance Application".

Respectfully,

[Signature]

Randolph B. Whipple
District Landman - Special Projects

xc: R.J. Miller
Scott Sumner

RHWW:es
1.27
December 20, 1988

Roxanne Giedd  
Assistant Attorney General  
Office of the Attorney General  
Room B-102, Anderson Building  
Pierre, SD  57501-3188

Fred Steece, Supervisor  
South Dakota Oil and Gas Program  
Western Field Office  
36 East Chicago Street  
Rapid City, SD  57701

Re:  Our File No. 88-41744-27  
Koch Exploration Company's Request for Exception Location

Dear Roxanne and Fred:

Thank you for sharing your knowledge with me as concerns the Department's procedure for processing an application for an exception location. As we discussed over the phone, we are to first file our application with Fred at the Western Field Office. We will not be sending any copies to the Secretary, Barb Nielsen, or to you Roxanne, as filing the application with Fred will suffice at this particular juncture.

Once Fred is satisfied that the application contains the necessary information, a notice of recommendation will be published and sent to Koch for service. Koch then will serve the interested persons and Fred will take care of the actual publishing of the notice in the appropriate newspapers.

If there is no objection or intervention by any person after the time for doing so has expired, the issuance of an order upon Koch's application will be considered without a hearing. On the other hand, if there is an objection or an intervention filed, the secretary, Barb Nielsen, and Roxanne would then become involved in the matter and the secretary would most likely appoint the Board of Minerals and Environment to act as hearing examiner in the contested proceeding. In turn, the Board would most likely appoint one of its members as a hearing chairman to hold a pre-hearing conference and handle all pre-hearing motions.
Roxanne Giedd  
Fred Steece  
Page 2  
December 20, 1988

The hearing chairman would then schedule a hearing before the Board of Minerals and Environment. The secretary of the Department would most likely be present for the hearing and, after the hearing has been closed, the Board would adopt recommended findings of fact, conclusions of law, and an order and would present the same to the secretary. The secretary would then make his decision based upon the evidence presented at the hearing and upon the recommended findings, conclusions, and order of the Board.

If any of the foregoing is not correct, please let me know and we will make adjustments accordingly. In the very near future, Koch will be submitting its applications to Fred to get the ball rolling on this matter.

I would like to thank both of you again for your cooperation and effort in this matter, it is truly appreciated. We look forward to working with you on this and other matters in the future. With best regards.

Sincerely,

Timothy J. Becker

TJB:vmj

cc: Randolph B. Whipple