

Memorandum to the Board of Directors of the Federal Trade Commission

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August 14, 1991

By Hand

Eric E. Elmore, Esq.  
Federal Trade Commission

This material may be subject to the Freedom of Information Act

Aug 14 1991

6th & Pennsylvania Avenue, N.W.  
Washington, D.C. 20580


Dear Mr. Elmore:

This is to confirm our recent conversation on the application of the Hart-Scott-Rodino Act and the Federal Trade Commission's implementing regulations to a proposed transaction.

reserves. AS PART OF ITS BUSINESS, FROM TIME TO TIME IT BUYS and sells rights to natural gas reserves.

As I outlined to you over the telephone, our client is contemplating the acquisition of gas reserves from another company that is also in the natural gas business. These are "proven" reserves -- they are known and identifiable, but the surface infrastructure is not yet in place to begin extracting the reserves from the ground. No natural gas has ever been extracted from these reserves and there have never been

transaction could properly be treated as a transfer of realty in the ordinary course of business, which would be exempt from the Hart-Scott-Rodino premerger notification requirements under 16 C.F.R. § 802.1. You advised that the transaction would be exempt under Section 802.1 because these gas reserves have not generated a stream of income. You stated that the "ordinary course of business" exemption would be available until and unless the reserves are generating income.



Eric E. Elmore, Esq.  
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Please advise me immediately if I have misunderstood your advice on this proposed transaction.

Thank you for your assistance.

Sincerely,

