

MEMBERS ONLY UPDATE

September 1, 2007

From: NMGWA Board of Directors

To: NMGWA Membership



The Board of Directors of the NMGWA have been working on many different topics important to the ground water industry in New Mexico and most importantly for the members of this association. As a member your dues and donations make this possible and your support is greatly appreciated.

1. DRILL RIG REGISTRATION - DO WE NEED TO OR NOT? The Board of Directors voted to have an attorney research the issue and give us an opinion on her findings. As you most likely know, this is not a clear cut issue and it proved to be just as confusing in the legal world!

The board has chosen at this point not to pursue further clarification as the cost of doing so is likely to be quite high, but feels that the enclosed information can provide the membership with a better understanding of the actual statutes and policy that govern this issue.

2. The board is also pursuing Pump Installer Licensing. This could be a long process, but the NMGWA is committed to seeing it through. Some people may not agree with this position, but Pump Installers have no state oversight. This leaves them vulnerable to regulation by other state agencies that could require plumbing and electrical licenses in order to install pumps and run lines to homes.

You may remember the NMGWA had Ms. McCaleb research this issue earlier in the year, she found very strong evidence in NM Stat. Ann. 60-13-3(D)-2 that "a **licensed well driller** is allowed to do all activities incidental to completing and operating a water well." The NMGWA is keeping this on the front burner, and awaiting legal opinions from Construction Industries Division and the Office of the State Engineer.

3. After an extensive interview process a new lobbyist has been hired. Her name is Allison Kuper, she comes to us with a great deal of background with the New Mexico Legislature and a lot of energy! The next issue of The Driller will have much more information!

4. The hotel phone numbers were reversed in the CEU Blitz Registration Packet. They should be 505-884-2500 or 800-274-6835.

Remember the Board of Directors are working for you - don't hesitate to call any one of them with questions or comments.

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE
ATTORNEY WORK PRODUCT
MEMORANDUM

TO: John Mahoney, President, NMGWA

FROM: Jolene L. McCaleb

DATE: May 15, 2007

RE: Status of Drill Rigs as "Special Mobile Equipment"
Exempt from State Motor Vehicle Licensing Requirements

INTRODUCTION

Robin Irwin has relayed to me the Association's concern about whether well drilling rigs are exempt from state motor vehicle licensing requirements as "special mobile equipment." To answer this question, I have reviewed the New Mexico Motor Vehicle Code, N.M. Stat. Ann. §§ 66-1-1 to 66-8-141 (including the Off-Highway Motor Vehicle Act), pertinent New Mexico case law and Attorney General opinions, appellate court decisions in other states with similar exemptions for special mobile equipment, and Department of Public Safety ("DPS") regulations. Unfortunately, as explained in more detail below, the answer to this question is not clear-cut because there is no New Mexico appellate court case law directly on point. The case law that does exist strongly supports the conclusion that drilling equipment is not exempt from registration as a motor vehicle, despite the specific statutory exemption for "well-boring apparatus." However, the case law (discussed below) is not directly on point, and we can argue it is distinguishable. Moreover, various Attorney General opinions and DPS regulations support the conclusion that at least some drill rigs and well servicing units are special mobile equipment. Although Attorney General opinions do not constitute state law and are not binding on courts, New Mexico appellate courts often consider them to be persuasive authority. Board of County Commissioners of Luna County v. Ogden, 117 N.M. 181, 184, 870 P.2d 143, 146 (Ct. App. 1994). Case law from other states also supports the special mobile equipment exemption for drill rigs.

Put simply, existing state case law that may be applied by a court to determine whether drill rigs are exempt from motor vehicle registration (all described in more detail below) is confusing and not well reasoned. If the case law were controlling, I would conclude that drill rigs are not exempt from registration. However, it is my conclusion that the cases described below are not controlling because they are not directly on point—not one directly addresses whether a drill rig is special mobile equipment in the context of applying for an exemption from motor vehicle registration. Rather, each of the cases cursorily addresses the issue of special mobile equipment or incidental highway use in view of an attempt to avoid some sort of tax liability. Thus, the analyses set out in pertinent Attorney General opinions and case law from other states is more persuasive. Applying those analyses, the exemption status of a drill rig (and also well servicing equipment) arguably depends on a two-part test: (i) whether the vehicle is designed to transport persons or property over state highways or can only be used in drilling activities; and (ii) whether the rig is driven over state highways only to get from storage to a job site and back again.

LEGAL ANALYSIS

**The New Mexico Motor Vehicle Code Registration Exemption
for Special Mobile Equipment**

In general, the New Mexico Motor Vehicle Code requires that "[e]very motor vehicle, trailer, semitrailer and pole trailer" be titled and registered when driven or moved upon a highway. N.M. Stat. Ann. § 66-3-1(A). One exception to this requirement is made for "special mobile equipment," which is defined as

a vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including but not limited to farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus and concrete mixers.

Id. §§ 66-3-1(A)(4), 66-1-4.16(K) (emphasis added). A similar exception exists with respect to off-highway motor vehicles: "The [registration and other] provisions of the Off-Highway Motor Vehicle Act shall not apply . . . to off-highway motor vehicles that are . . . special mobile equipment, as defined in Section 66-1-4.16 NMSA 1978 . . ." N.M. Stat. Ann. § 66-3-1005(F). Although "well-boring apparatus" are specifically identified as an example of exempt special mobile equipment, the Motor Vehicle Code does not define "well-boring apparatus." A review of pertinent case law and Attorney General opinions indicates it is unlikely all drill rigs are automatically exempted from motor vehicle registration requirements. Rather, to be exempt, drill rigs must meet two tests: (i) they must not be originally designed for, or actually used primarily for, the transportation of persons or property; and (ii) they may only incidentally be operated or moved over the highways of the state.

Applicable New Mexico Case Law

There is no New Mexico case law interpreting the special mobile equipment exemption that is directly on point. Four cases do, however, give some indication about whether an appellate court might exempt drill rigs from motor vehicle registration requirements. As you will see, the cases primarily address the concept of incidental highway use. For example, the New Mexico Court of Appeals has held that well drilling equipment bolted to a trailer is not special mobile equipment because it is purposefully, and therefore not "incidentally," moved over the state's highways to get from job site to job site. *Halliburton Co. v. Property Appraisal Dept.*, 88 N.M. 476, 542 P.2d 56 (Ct. App. 1975). The New Mexico Supreme Court, on the other hand, has adopted a different definition of "incidental," holding that the movement of agricultural equipment over highways between jobs constitutes only incidental highway use. This case would be helpful, except for the fact that it goes one step further and states that such equipment cannot be a vehicle. *Smith Machinery Corp. v. Hesston, Inc.*, 102 N.M. 245, 694 P.2d 501 (1985). Unfortunately, New Mexico case law does not establish a clear exemption for drill rigs and may actually counsel against such an exemption.

1. *Halliburton Co. v. Property Appraisal Dept.*, 88 N.M. 476, 542 P.2d 56 (Ct. App. 1975).

This is the only New Mexico "special mobile equipment" case involving well drilling equipment (for oil and gas wells). Unfortunately, the Court of Appeals, with little discussion or reasoning, held that vehicle-mounted well drilling equipment is not special mobile equipment because it is purposefully—and thus not "incidentally"—moved over the state's highways.

Specifically, in this case, the Director of the New Mexico Property Appraisal Department set a value, for property tax purposes, on machinery and equipment used by Halliburton in oil and gas well drilling. The equipment was bolted to a trailer, and the court determined that the equipment and trailer (the "vehicle") constituted a single unit. Halliburton registered the vehicle under the Motor Vehicle Code and protested the property tax valuation, arguing that, in general, vehicles registered under the Motor Vehicle Code are exempt from property taxation. In response, the Property Appraisal Department argued that the vehicle constituted special mobile equipment exempt from registration under the Motor Vehicle Code and thus was subject to property taxation. In rejecting this claim, the Court of Appeals concluded:

The evidence is undisputed that the equipment in question is added to the chassis for the purpose of carrying that equipment to and from drilling sites over the highways. 'Incidental' means subordinate, nonessential, as occurring merely by chance or without intention or calculation. Webster's Third New International Dictionary (1966). The evidence is that the equipment was not incidentally moved over the highways; the equipment is not special mobile equipment

Halliburton Co., 88 N.M. at 479, 542 P.2d at 59. If this holding stands, then any drill rig or well servicing equipment that is moved over the state's highways to get to a drilling site is not special mobile equipment exempt from motor vehicle registration requirements.

2. *Smith Machinery Corp. v. Hesston, Inc.*, 102 N.M. 245, 694 P.2d 501 (1985).

In this case, Smith Machinery Corp. sold irrigation equipment and farm machinery, including a self-propelled windrower manufactured by Hesston, Inc. Smith Machinery had a franchise dispute with Hesston concerning whether the self-propelled windrowers were motor vehicles. The Motor Vehicle Dealers Franchising Act defined a motor vehicle as "every self-propelled vehicle by which a person or property may be transported on a public highway and having two or more wheels." N.M. Stat. Ann. § 57-16-3(A). The Supreme Court held that a windrower is not a motor vehicle because

it is not typically used on highways. Although the unit may be transported on public roads and highways as it is moved from field to field between jobs, it is manufactured primarily for use in agricultural fields. Any highway use is purely incidental to this intended field use.

Smith Machinery Corp., 102 N.M. at 248, 694 P.2d at 504 (emphasis added).

Although the Supreme Court did not analyze the meaning of "incidental" use on the highways as set out in the definition of special mobile equipment, this holding indicates the New Mexico Supreme Court may reject the Halliburton definition of "incidental," follow the lead of other states (described below), and hold that driving equipment from job to job over a highway constitutes only incidental use of a highway so long as the equipment is manufactured primarily for another use, such as agricultural activities or well drilling. On the other hand, the applicability of this case is suspect because it holds that a piece of equipment only incidentally moved over the highways cannot be a vehicle. This conclusion is contrary to the Motor Vehicle Code's special mobile equipment

exemption for vehicles "incidentally operated or moved over the highways" N.M. Stat. Ann. § 66-1-4.16(K) (emphasis added).

3. Kaiser Steel Corp. v. Revenue Division, Taxation & Revenue Dept., 96 N.M. 117, 628 P.2d 687 (Ct. App. 1981).

The question presented in this case was whether a dragline and a continuous miner used in coal mining were vehicles exempt from registration under the Motor Vehicle Code. If so, Kaiser Steel would have received a substantial compensating tax deduction because fifty percent of the value of any "vehicle" exempt from motor vehicle registration could be deducted when computing the amount of compensating tax owed. The dragline was used to excavate large quantities of dirt and rock, and the continuous miner was a coal mining machine mounted on caterpillar-type treads. Both pieces of machinery were electrically powered by trailing cables. The Court of Appeals held that neither machine was a vehicle because there was no evidence they were capable of moving persons or property upon a highway, as required by the statutory definition of vehicle. *Kaiser Steel Corp.*, 96 N.M. at 122-23, 628 P.2d at 692-93. Further, because they were not vehicles, they could not be special mobile equipment exempt from registration under the Motor Vehicle Code. *Id.* at 123, 628 P.2d at 693. Thus, Kaiser was not entitled to the fifty-percent compensating tax deduction.

4. Gibbons & Reed Co. v. Bureau of Revenue, 80 N.M. 462, 457 P.2d 710 (1969).

In this case the Supreme Court considered whether a piece of mining equipment called a mole qualified for the lower use tax rate available to owners of motor vehicles exempt from registration under the Motor Vehicle Code. The mole moved on rail tracks and was used to move personnel, supplies and excavated material in and out of tunnels. The Court held that the mole did not fall within the definition of a vehicle because it was not self-propelled and was not used on the highway.

New Mexico Attorney General Opinions

Fortunately, New Mexico Attorney General opinions are more on point and more helpful. At least six opinions consider whether certain equipment, including well drilling rigs and well servicing equipment, fall within the Motor Vehicle Code's definition of "special mobile equipment." Although no court is bound by these opinions, they are persuasive. The Attorney General opinions, as a whole, conclude that equipment qualifies as special mobile equipment under the Motor Vehicle Code when it meets two requirements: (i) the vehicle is not designed or used primarily to transport persons or property; and (ii) the equipment is on a public highway only when it is moved from one job to another. See, e.g., Op. A.G. No. 54-5906 (well drilling rig or related apparatus mounted on semi-trailer is special mobile equipment because it operates only incidentally on highways when being moved from site to site; truck pulling the semi-trailer is not special mobile equipment because it is designed specifically for the transportation of property over the highways); Op. A.G. No. 58-115 (equipment designed solely and exclusively for well servicing, and not for carrying persons or property except as an incident of its use at an appropriate location, is special mobile equipment); Op. A.G. No. 67-148 (two-wheeled structure carrying spool cable was special mobile equipment because it was not designed primarily to transport persons or property); Op. A.G. No. 60-178 (logging truck is not special mobile equipment because it is designed and used primarily for transporting property); Op. A.G. No. 68-27 (well servicing unit permanently attached to chassis of 1963 Chevrolet truck is not special mobile equipment because the truck was designed primarily for the transportation of people and property over highways); and Op. A.G. 69-95 (motor vehicle used to haul exceptional loads is not special mobile equipment because it is designed to transport property).

Three Attorney General opinions directly address well drilling or well servicing equipment and clarify the circumstances under which such equipment have been considered (at least by the lawyers writing the Attorney General opinions) to be exempt from registration as motor vehicles:

No. 54-5906. This opinion considered whether several types of well drilling equipment constituted special mobile equipment exempt from registration as a motor vehicle: (i) a half-track truck used to move a well drilling rig mounted on a semi-trailer; (ii) a half-track truck used to move a trailer carrying drill stems; and (iii) a half-track truck used to move a large water tank mounted on either a trailer or semi-trailer. The Attorney General concluded that the trailers carrying the drill rig, drill stems and water tank were designed and used for well drilling purposes, and not primarily for moving persons or property over the highways. Further, he concluded that the trailers were only on highways while being moved from site to site and thus were "used upon the highway only incidentally to the function of digging wells" Thus, they were exempt special mobile equipment. The trucks used to move the trailers, however, were not exempt because they were "designed specifically for the transportation of property and when being operated upon the highway [were] being operated in accordance with their basic design and not merely incidental thereto."

No. 58-115. This opinion concerned a "Midget Clipper Well Servicing Unit," which was designed and

constructed to be driven over a wellhead. The equipment was “cast with apertures for the various gears and for the accommodation of the various elements of pulling and swabbing and . . . cast on the rear of it is a motor house and on the front a driver cab, very small, with room only for the driver.” It was not designed to carry persons or property, but was designed solely for the purpose of servicing wells. Further, it was not a “general nature vehicle which has been made over by the owner or his agent to suit his purpose.” Because the well servicing unit “was designed solely and exclusively for the purpose of transporting the particular machinery for which it is designed and for the accommodation of driver for the same . . . [and was not] designed primarily for the transportation of persons or property save as an incident of its use at an appropriate location,” it met the definition of special mobile equipment and was exempt from registration.

No. 68-27. This opinion addressed the status of a well servicing unit permanently attached to the chassis of a 1963 Chevrolet truck. The cab of the truck was large enough to carry three or four people or property. The Attorney General considered three questions when deciding the status of the well servicing unit: (i) was it “designed or used primarily for the transportation of persons or property”; (ii) “was it “incidentally moved or operated over the public highways”; and (iii) could it be “disengaged from the vehicle which does the hauling or pulling?” He concluded that the well servicing unit and the truck had to be considered as one vehicle because they were permanently joined. Because the truck originally was designed for the transportation of people or property, the well servicing unit could not be considered special mobile equipment. Further, because the vehicle could travel long distances on public highways at high rates of speed, it was not operated only incidentally over the public highways. If, however, the well servicing unit could be disengaged from the truck, the unit might qualify for an exemption because it would be used primarily for well servicing and would be used only incidentally on the public highways.

Because these Attorney General opinions are more on point and are much better reasoned than the New Mexico cases discussed above, they should be persuasive to a court. It is therefore reasonable to conclude that the following equipment, at a minimum, need not be registered as a motor vehicle because it is “special mobile equipment”:

1. Self-propelled drill rigs or well servicing equipment designed and manufactured solely for well drilling or servicing purposes (in contrast to well drilling or servicing equipment permanently mounted on regular trucks); and
2. Drilling or servicing equipment permanently mounted on trailers (but not the trucks that pull the trailers).

As discussed below, persuasive authority from other states would extend the exemption to equipment permanently attached to the chassis of a truck, so long as the truck can no longer be used primarily as transportation for people or property over the highways.

DPS Regulation

The Department of Public Safety (“DPS”) has issued motor carrier safety regulations, which are set out in the New Mexico Administrative Code. I have not found any Motor Vehicle Division regulations interpreting the special mobile equipment exemption. Although the DPS regulations are not directly on point, the DPS definition of “special mobile equipment” should provide insight into the agency’s thinking about motor vehicles that must be registered. DPS defines “special mobile equipment” as:

a motor vehicle constructed from the ground up as machinery and not designed or used for the transportation of persons or property. Such equipment is operated on the highway only incidental to its use off road. The mounting of off road equipment on a standard truck or other chassis does not qualify a vehicle for an exemption as special mobile equipment.

18.2.3.10(F)(2) NMAC. This definition is analogous to the conclusions of the Attorney General opinions, except for the provision that equipment mounted on a “standard . . . chassis” does not qualify. Arguably, this means that DPS has determined that (i) self-propelled equipment is exempt but (ii) equipment permanently attached to a semi-trailer chassis is not. Nevertheless, DPS cannot use this definition to issue a citation for failure to register semi-trailer equipment because the definition set out in the Motor Vehicle Code is controlling.¹

Case Law from Other Jurisdictions

Case law from other states is instructive, and New Mexico courts often find decisions in other states to be persuasive. The cases discussed below address the issues of (i) incidental highway use and (ii) transportation of

¹ I have not investigated the applicability of Motor Carrier Safety regulations and have limited my research to the issue of registration requirements under the Motor Vehicle Code.

persons and property, and the Griswold case is based on a statute that is nearly identical to New Mexico's special mobile equipment exemption. These cases support the proposition that vehicles not designed or used primarily for transportation of persons or property and only incidentally moved over the highways when moving from job to job are exempt from motor vehicle registration requirements.

1. State v. Griswold, 280 N.W. 489 (Iowa 1938).

In this 1938 case, the Supreme Court of Iowa held that a feed grinder consisting of a grinding mill and motor permanently affixed to the chassis of a truck was special mobile equipment exempt from registration as a motor vehicle. The Iowa motor vehicle code's 1938 definition of "special mobile equipment" is almost identical to New Mexico's current definition: "Special mobile equipment means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus and well-boring apparatus. . . ." Rejecting the argument that the truck was originally designed for the transportation of property and thus was not exempt from registration, the Supreme Court stated: "After the vehicle [the truck] and the special equipment have been thus incorporated into one apparatus we have a special equipment that is mobile."

With regard to the "incidental" use of highways, the Court also rejected a definition similar to that adopted by the New Mexico Court of Appeals in the Halliburton case (defining "incidental" use to be an action taken only by chance). The state argued that "incidental" means "[h]appening as a chance or undesigned feature of something else," and thus purposeful driving from one job to another could never be considered incidental highway use. The Court disagreed and held that,

[i]n saying 'incidentally operated' the legislature evidently had reference to such operation over the highways as naturally appertains to the use of the special mobile equipment.

It also appears to us that [the state's] theory as to the meaning of 'incidentally' would inject into this statute contradictions that, in all probability, were not within the legislative intent. That is, a well boring apparatus driven on the highways from farm to farm for the purpose of reaching the place where the well is to be bored, as defendant's grinder was driven from farm to farm, is a special mobile equipment. If plaintiff's theory is correct, then a well boring apparatus, although within the class of special mobile equipment by express statutory inclusion, nevertheless would be excluded by reason of this portion of the definition which defines one of the necessary characteristics of special mobile equipment.

280 N.W. at 491. In other words, so long as an apparatus is used on a highway for some purpose contemplated by the statute (such as well boring), any highway use is incidental. Significantly, this case was cited with approval by the New Mexico Court of Appeals in the Kaiser Steel Corp. case (discussed above) for the proposition that, in moving itself, a machine is not transporting property within the meaning of the Motor Vehicle Code. Thus, it already has been determined to be persuasive authority.

2. Standard Oil Co. v. Philbrick, 118 P.2d 497 (Cal. App. 1941).

In this case, the California Court of Appeals held that a draw works weighing 34,000 pounds that was mounted on a trailer chassis was special mobile equipment because it was only incidentally operated on a highway in going from its place of storage to an oil well where it was to be used and back again. Further, it could not be used for the transportation of persons or property other than the draw works itself. The fact that the draw works could possibly be removed from the trailer and the trailer used for another purpose was irrelevant.

3. Crane Rental of Orlando, Inc. v. Hausman, 518 So.2d 395 (Fla. App. 1987).

In this case, the Florida Court of Appeals considered whether a self-propelled crane could be classified as a motor vehicle for the purpose of exemption from ad valorem property taxes. In holding that a self-propelled crane does not meet the definition of a motor vehicle, the court stated:

The primary purpose of these vehicles is for their use as cranes in construction. These vehicles are not used for the primary purpose of transporting persons or property. . . . The cranes are capable of transporting buckets, additional boom extensions, and other equipment. However, these items are only appurtenant to the use of the vehicles as cranes. Clearly, the vehicles are not used for the primary purpose of transporting and delivering such items to the construction site. Rather, their use of

the highways is solely for the purpose of taking them to the construction site where they are used as cranes. . . . [T]he legislature[] inten[ded] to distinguish machinery that requires the use of public highways to transport itself from motor vehicles, which are used primarily to transport persons or property. . . . Crane's vehicles do not operate on the public highways as motor vehicles for the purpose of transporting property or persons. Rather, they are mobile construction equipment that use the public highways for the purpose of locating from one construction site to another . . .

518 So.2d at 397.

CONCLUSION AND RECOMMENDATIONS

The New Mexico Ground Water Association has requested an opinion about the motor vehicle registration exemption status of drill rigs. Unfortunately, there is no clear-cut answer to the question. The Motor Vehicle Code contains an express exemption for "special mobile equipment," including "well-boring apparatus." N.M. Stat. Ann. Section 66-1-4.16(K). On its face, this exemption would appear to apply to all drill rigs because they are "well-boring apparatus." However, the Halliburton case indicates that New Mexico courts will not give a blanket exemption for all well drilling equipment. Rather, the courts will likely analyze whether the well drilling equipment is (i) used primarily to transport persons or property and (ii) incidentally operated on the state's highways. Significantly, the Halliburton and Smith Machinery cases reflect court disagreement about what constitutes "incidental" highway use. Put simply, New Mexico case law, although arguably not directly on point, is confusing at best.

New Mexico Attorney General opinions are more helpful and clarify what types of well drilling and well servicing equipment should be exempt from motor vehicle registration. For example, at least two types of equipment should be exempt: (i) self-propelled drill rigs or well servicing equipment designed solely for well drilling or servicing purposes; and (ii) drilling or servicing equipment permanently mounted on trailers. On the other hand, two other types of equipment may not be exempt: (i) trucks pulling trailers upon which well equipment is permanently mounted; and (ii) well equipment permanently mounted on regular trucks. Unfortunately, the Attorney General opinions pre-date the Halliburton case, which diminishes their value as persuasive authority. Case law from other jurisdictions also is instructive, and it extends the exemption to well drilling or servicing equipment permanently affixed to the chassis of a regular truck.

Given the lack of clear court guidance, the Association has several options:

1. Do nothing, but prepare its members to challenge any citations issued for failure to register well drilling equipment as a motor vehicle. My partner, Liz Taylor, has checked with several of her colleagues and has learned that Tom Keleher successfully challenged a citation several years ago in Metropolitan Court in Albuquerque. The judge apparently interpreted section 66-1-4.16(K) as a blanket exemption for all well drilling equipment. However, no written opinion was issued in that case. If a citation is upheld by a court, the Association could aid its cited member in an appeal and ultimately obtain an on-point appellate court decision.
2. File a declaratory judgment action asking a court to interpret the exemption's applicability to various types of equipment.
3. Talk to the Attorney General about this issue. If he appears to support the Association's opinion, the Association can have a state legislator request an updated Attorney General opinion.
4. Meet with appropriate DPS and/or MVD personnel to obtain written guidance from them. Interestingly, Attorney General Opinion No. 58-115 indicates that the Chief of the Motor Vehicle Division had reviewed blueprints of the "Midget Clipper Well Servicing Unit" and determined "it was not registerable."

If you have any questions about the issues or recommendations described in this memorandum, please do not hesitate to call me. Should the Association decide to take steps to obtain more certainty for its members, I recommend pursuing options 3 and/or 4. Liz Taylor and I are happy to aid you in any way possible.

Jolene L. McCaleb

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The New Mexico

DRILLER

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