

HOLLAND & HART LLP



**William F. Carr**  
wcarr@hollandhart.com  
44519.0095

May 4, 2004

*Case 13270*  
**RECEIVED**

**MAY - 4 2004**

Joanna Prukop  
Acting Director  
Oil Conservation Division  
Energy, Minerals & Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87504

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

**Re: Application of Yates Petroleum Corporation for an Order Rescinding  
Approval of a Change of Operator, Eddy County, New Mexico**

Dear Ms. Prukop:

Enclosed in triplicate is an Amended Application of Yates Petroleum Corporation in the above-referenced case. The legal ad is correct as submitted. Yates requests that this application be placed on the docket for the May 27, 2004 Examiner hearing.

Very truly yours,

William F. Carr  
of Holland & Hart LLP

WFC:keh  
Enclosures  
cc: Chuck Moran

**Holland & Hart LLP**

Phone [505] 988-4421 Fax [505] 983-6043 [www.hollandhart.com](http://www.hollandhart.com)

110 North Guadalupe Suite 1 Santa Fe, NM 87501 Mailing Address P.O. Box 2208 Santa Fe, NM 87504-2208

Aspen Billings Boise Boulder Cheyenne Colorado Springs Denver Denver Tech Center Jackson Hole Salt Lake City Santa Fe Washington, D.C. ♻

STATE OF NEW MEXICO  
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES  
OIL CONSERVATION DIVISION

RECEIVED

MAY - 4 2004

APPLICATION OF YATES PETROLEUM  
CORPORATION FOR AN ORDER RESCINDING  
APPROVAL OF A CHANGE OF OPERATOR,  
EDDY COUNTY, NEW MEXICO.

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

CASE NO. 13270

AMENDED APPLICATION

YATES PETROLEUM CORPORATION ("Yates"), through its undersigned attorneys, applies for an order of the Division rescinding the July 28, 2003 approval of a change of operator form (Form C-104A) filed by C.W. Trainer's seeking a change of operator of the Vandiver Com Well No. 1 located in Unit M, Section 18, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico from Yates Petroleum Corporation to C. W. Trainer, and in support of this application states:

1. The Vandiver Com State Well No. 1 ("Vandiver Well") located 990 feet from the South line and 660 feet from the West line (Unit M) Section 18, Township 18 South, Range 26 East, NMPM Eddy County, New Mexico was drilled in 1972 and, since May 1990, Yates Petroleum Corporation has been the Division designated operator of record of the well.

2. On December 17, 2002, C. W. Trainer filed Oil Conservation Division Form C-104A seeking a change of operator of the Vandiver Well. The form was not signed by Yates Petroleum Corporation. This Change of Operator form was accompanied by a letter to the Division's District Supervisor from Brian Lasley, RLP, landman for Trainer dated December 16, 2002. This letter stated in part:

Please be advised that we have not included on the form, as required, the signature of previous Operator.... Mr. Trainer feels the operator of record will refuse to sign the enclosed C-104A form.”

3. With knowledge that Yates would not agree to the change in operator and without providing notice or an opportunity to respond to Yates, the District Supervisor of the Oil Conservation Division District II, nonetheless, contrary to Division policy approved the Change of Operator form filed by C. W. Trainer.

4. The Oil Conservation Division is a creature of statute and its powers are expressly defined and limited by the Oil and Gas Act. *See, Continental Oil Co. v. Oil Conservation Commission*, 70 N.M.310, 373 P.2d 809 (1966).

5. The Oil Conservation Division is authorized by the Oil and Gas Act to identify the ownership of oil and gas producing leases and wells. NMSA 1978, §70-2-12B(8)(1986).

6. Nothing in the Oil and Gas Act authorizes the Division to to determine the title to or the operating rights of the owner of oil and gas interests. In fact, the New Mexico Supreme Court long ago recognized that this agency exceeds its delegated authority when it attempts to determine ownership of property. **Continental** at 819.

7. By approving Trainer's request for Change of Operator, the Division through its District Supervisor has exceeded its statutory authority, and impaired the property right of Yates. Its action is arbitrary, capricious and contrary to law and must now be reversed.

8. Since obtaining the Division's approval for change of operator, C. W. Trainer has failed or refused to operate the property in accordance with the rules and regulations of the Oil Conservation Division. As a result of Trainer's failure to comply with Division Rules, he has received from the Division a Notice of Violation.

9. This failure by Trainer creates additional problems for Yates. The Division has approved a change of operator to someone who is refusing or failing to operate within the Rules of the Division.

WHEREFORE, Yates Petroleum Corporation hereby requests that this application be set for hearing before a Division examiner on May 27, 2004 and that, following notice and hearing as required by law, the Division enter its order rescinding its July 28, 2004 approval of the Change of Operator form filed by Trainer in December 2002 for the Vandiver Well.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

WILLIAM F. CARR  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
Telephone: (505) 988-4421

ATTORNEYS FOR YATES PETROLEUM  
CORPORATION

**CASE 13270: Application of Yates Petroleum Corporation for an order rescinding approval of a change of operator, Eddy County, New Mexico.** Applicant seeks rescission of the approval of a change of operator for C. W. Trainer for the Vandiver Com State Well No. 1 (**API No. 30-015-20783**) located 990 feet from the South line and 660 feet from the West line (Unit M) of Section 18, Township 18 South, Range 26 East, NMPM Eddy County, New Mexico. This well is located approximately 6 miles South of Artesia, New Mexico.



May 4, 2004

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

C. W. Trainer  
Post Office Box 754  
Midland, Texas 70702

**Re: Application of Yates Petroleum Corporation for an order rescinding approval of a change of operator, Eddy County, New Mexico.**

Ladies and Gentlemen:

This letter is to advise you that Yates Petroleum Corporation has filed the enclosed amended application with the New Mexico Oil Conservation Division seeking the rescission of its approval of a change of operator form filed by C. W. Trainer for the Vandiver Com Well No. 1 located in Unit M of Section 18, Township 18 South, Range 26 East, NMPM.

This application has been set for hearing before a Division Examiner on May 27, 2003. You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases are required by Division Rule 1208.B to file a Pre-Hearing Statement with the Oil Conservation Division's Santa Fe office located at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505, three days in advance of a scheduled hearing. This statement must include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

Very truly yours,

William F. Carr  
ATTORNEY FOR YATES PETROLEUM CORPORATION  
Enclosure

cc: Ms. Kathy Porter  
Yates Petroleum Corporation

HOLLAND & HART<sup>LLP</sup>



**William F. Carr**  
wcarr@hollandhart.com  
44519.0095

April 29, 2004

Joanna Prukop  
Acting Director  
Oil Conservation Division  
Energy, Minerals & Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87504

**RECEIVED**

APR 29 2004

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

*Case 13270*

**Re: Application of Yates Petroleum Corporation for an Order Rescinding  
Approval of a Change of Operator, Eddy County, New Mexico**

Dear Ms. Prukop:

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Very truly yours,

William F. Carr  
of Holland & Hart<sup>LLP</sup>

WFC:keh  
Enclosures  
cc: Kathy Porter

**Holland & Hart<sup>LLP</sup>**

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**STATE OF NEW MEXICO  
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES  
OIL CONSERVATION DIVISION**

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**APPLICATION OF YATES PETROLEUM  
CORPORATION FOR AN ORDER RESCINDING  
APPROVAL OF A CHANGE OF OPERATOR,  
EDDY COUNTY, NEW MEXICO.**

APR 29 2004

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505  
CASE NO. 73278

**APPLICATION**

YATES PETROLEUM CORPORATION ("Yates"), through its undersigned attorneys, applies for an order of the Division rescinding the July 28, 2003 approval of a change of operator form (Form C-104A) filed by C.W. Trainer's seeking a change of operator of the Vandiver Com Well No. 1 located in Unit M, Section 18, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico from Yates Petroleum Corporation to C. W. Trainer, and in support of this application states:

1. The Vandiver Com State Well No. 1 ("Vandiver Well") located 990 feet from the South line and 660 feet from the West line (Unit M) Section 18, Township 18 South, Range 35 East, NMPM Eddy County, New Mexico was drilled in 1972 and, since May 1990, Yates Petroleum Corporation has been the Division designated operator of record of the well.

2. On December 17, 2002, C. W. Trainer filed Oil Conservation Division Form C-104A seeking a change of operator of the Vandiver Well. The form was not signed by Yates Petroleum Corporation. This Change of Operator form was accompanied by a letter to the Division's District Supervisor from Brian Lasley, RLP, landman for Trainer dated December 16, 2002. This letter stated in part:



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7. By approving Trainer’s request for Change of Operator, the Division through its District Supervisor has exceeded its statutory authority, and impaired the property right of Yates. Its action is arbitrary, capricious and contrary to law and must now be reversed.

8. Since obtaining the Division's approval for change of operator, C. W. Trainer has failed or refused to operate the property in accordance with the rules and regulations of the Oil Conservation Division. As a result of Trainer's failure to comply with Division Rules, he has received from the Division a Notice of Violation.

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WHEREFORE, Yates Petroleum Corporation hereby requests that this application be set for hearing before a Division examiner on May 27, 2004 and that, following notice and hearing as required by law, the Division enter its order rescinding its July 28, 2004 approval of the Change of Operator form filed by Trainer in December 2002 for the Vandiver Well.

Respectfully submitted,

HOLLAND & HART, LLP

By:



WILLIAM F. CARR

Post Office Box 2208

Santa Fe, New Mexico 87504

Telephone: (505) 988-4421

ATTORNEYS FOR YATES PETROLEUM  
CORPORATION



April 29, 2004

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

C. W. Trainer  
Post Office Box 754  
Midland, Texas 70702

**Re: Application of Yates Petroleum Corporation for an order rescinding approval of a change of operator, Eddy County, New Mexico.**

Ladies and Gentlemen:

This letter is to advise you that Yates Petroleum Corporation has filed the enclosed application with the New Mexico Oil Conservation Division seeking the rescission of its approval of a change of operator form filed by C. W. Trainer for the Vandiver Com Well No. 1 located in Unit M of Section 18, Township 18 South, Range 26 East, NMPM.

This application has been set for hearing before a Division Examiner on May 27, 2003. You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

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Very truly yours,

William F. Carr  
ATTORNEY FOR YATES PETROLEUM CORPORATION