

Thomas Kellahin

From: Thomas Kellahin [tkellahin@comcast.net]
Sent: Tuesday, August 11, 2009 3:55 PM
To: 'mfeldewert@hollandhart.com'
Subject: FW: Yates OCD Case 14367
Attachments: Marshall & Winston-Yates-OCD Case 14367.PDF
Mike-sorry first attempt I had incorrect address.

From: Thomas Kellahin [mailto:tkellahin@comcast.net]
Sent: Tuesday, August 11, 2009 2:54 PM
To: 'mfeldewert@hollandhart.com'; BILL CARR
Cc: Hammit, Kevin
Subject: Yates OCD Case 14367

Gentlemen,

Please find attached my entry of appearance and Marshall & Winston's motion to dismiss case 14367

Regards,

Tom Kellahin

Kellahin & Kellahin
Attorneys at Law
706 Gonzales Road
Santa Fe, NM 87501
ph 505.982.4285
Fax 505.982.2047
Email tkellahin@comcast.net

8/13/2009

KELLAHIN & KELLAHIN
Attorney at Law

W. THOMAS KELLAHIN
706 GONZALES ROAD
SANTA FE, NEW MEXICO 87501

TELEPHONE 505-982-4285
FACSIMILE 505-982-2047
TKELLAHIN@COMCAST.NET

August 11, 2009

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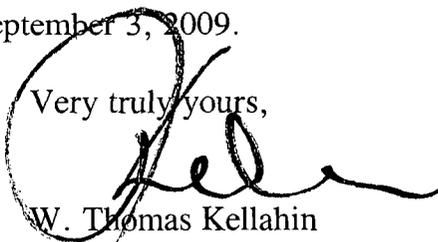
HAND DELIVERED

Mr. Mark Fesmire, P.E., Director
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: NMOCD Case 14367
Application of Yates Petroleum Corporation
for a non-standard proration spacing unit,
compulsory pooling and rescission of a permit to drill
[Derbi DOB Com Well NO. 1-H]
S/2S/2 of Section 9, T11S, R31E
Chaves County, New Mexico

Dear Mr. Fesmire:

On behalf of Marshall & Winston, Inc., please find enclosed our
Entry of Appearance in the referenced case that is currently set for an
Examiner's hearing on September 3, 2009.

Very truly yours,

W. Thomas Kellahin

cc:

Michael H. Feldewert, Esq.
Attorney for Yates

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

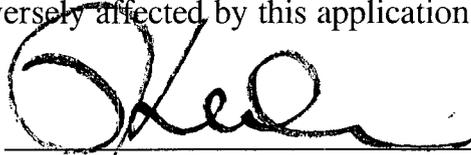
IN THE MATTER OF THE APPLICATION OF
YATES PETROLEUM CORPORATION FOR A
NON-STANDARD SPACING AND PRORATION
UNIT, COMPULSORY POOLING AND RESCISSION
OF A PERMIT TO DRILL
CHAVES COUNTY, NEW MEXICO

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CASE NO. 14367

ENTRY OF APPEARANCE

Come now Marshall & Winston, Inc. by its attorneys, and enter its appearance in this case as an interested party adversely affected by this application.

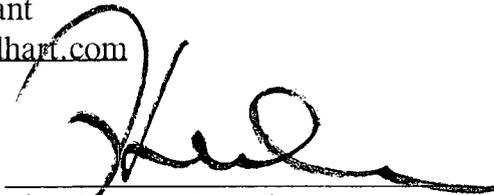


W. Thomas Kellahin
Kellahin & Kellahin
706 Gonzales Road
Santa Fe, New Mexico 87501
(505) 982-4285
tkellahin@comcast.net

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was transmitted by email to counsel of record, this 11th day of August 2009 as follows:

Michael H. Feldewert, Esq.
Attorney for Applicant
mfeidewert@hollandhart.com



W. Thomas Kellahin

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

**IN THE MATTER OF THE APPLICATION OF
YATES PETROLEUM CORPORATION FOR A
NON-STANDARD SPACING AND PRORATION UNIT
FOR A DIRECTIONAL WELL PROJECT AREA, FOR
COMPULSORY POOLING AND FOR RESCISSION OF
A PERMIT TO DRILL
CHAVES COUNTY, NEW MEXICO.**

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CASE NO. 14367

**MARSHALL & WINSTON'S
MOTION TO
DISMISS**

Comes now Marshall & Winston, Inc. by its attorneys, Kellahin & Kellahin, moves that the New Mexico Oil Conservation Division ("Division") enter an order dismissing Yates Petroleum Corporation's application in this case,

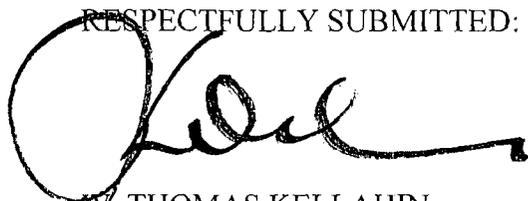
AND as grounds therefore, states:

- (1) Marshall & Winston has obtained from the Division an approved permit to drill its Medlin "9" Fee Well No. 1-H (API # 30-005-29098) a directional wellbore to be drilled and dedicated to a standard 160-acre spacing and proration unit consisting of the SW/4 of Section 9, T11S, R31E, Chaves County, NM. See first page of APD and form C-102 attached as Exhibits "A" and "B"
- (2) After planning and developing its drilling of this well, Marshall & Winston became aware that Yates Petroleum Corporation had obtained a federal permit to drill its Derbi DOB Com Well No. 1-H (API # 30-005-29094), a horizontal wellbore with a surface location in Unit P and a bottom-hole location in Unit M of Section 9, T15S, R31E, Chaves County and to be dedicated to a non-standard 160-acre spacing unit consisting of the S/2S/2 of this section. See first page of APD and form C-102 attached as Exhibits "C" and "D"

- (3) In order to obtain the BLM's approval, Yates filed Division Form C-102 signed by Cy Cowan, as regulatory agent for Yates, certified that Yates has an interest the bottom-hole location for this wellbore.
- (4) In doing so, Yates has violated the Division Rules and Orders and has improperly certified that Yates has any interest in two of the 40-acre tracts interest.
- (5) Contrary to its certification, Yates does not have an interest in either (a) the bottom-hole location or (b) in any portion of the producing interval of this wellbore within the S/2SW/4 of Section 9 nor has it reached a voluntary agreement with Marshall & Winston or obtained a Division compulsory pooling order.
- (6) Yates' actions have interfered with the rights of Marshall & Winston to develop this lease with a 160-acre horizontal wellbore project area entirely contained within Marshall & Winston's fee lease.
- (7) Marshall & Winston can reasonable develop this fee lease in conformance with Division spacing rules while Yates' seeks the communitization of a federal lease that Yates' controls in the SE/4 of this section with Marshall & Winston's fee lease in the SW/4 that will result in the dilution of Marshall % Winston's interest.
- (8) In order to further its interference with Marshall & Winston's drilling plans, Yates is seeking Division approval of a non-standard spacing unit that adversely affects Marshall & "Winston

WHEREFORE, Marshall & Winston moves that the Division dismiss Yates' application.

RESPECTFULLY SUBMITTED:

A handwritten signature in black ink, appearing to read 'W. Kellahin', written over the typed name below.

W. THOMAS KELLAHIN
KELLAHIN & KELLAHIN
706 Gonzales Road
Santa Fe, New Mexico 87501
(505) 982-4285

VERIFICATION

STATE OF TEXAS)
COUNTY OF Midland) SS

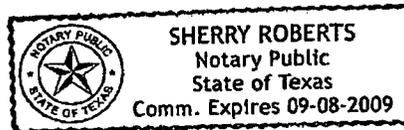
Tom Brandt, being duly sworn upon his oath, deposes and states: He is president of Marshall & Winston, Inc., that he is familiar with the matters set forth pleading and the statements therein are true and correct to the best of his knowledge.

Tom Brandt
Tom Brandt

SUBSCRIBED AND SWORN to before me this 10th day of August 2009, by Tom Brandt

Sherry Roberts
Notary Public

My commission expires:



District I
1625 N French Dr, Hobbs, NM 88249
District II
1301 W. Grand Avenue, Artesia, NM 88210
District III
1000 Rio Brazos Road, Aztec, NM 87410
District IV
S St Francis Dr, Santa Fe, NM 87505

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State of New Mexico
Energy Minerals and Natural Resources
Oil Conservation Division
1220 South St. Francis Dr.
Santa Fe, NM 87505

Form C-101
June 16, 2008

Submit to appropriate District Office
 AMENDED REPORT

APPLICATION FOR PERMIT TO DRILL, RE-ENTER, DEEPEN, PLUGBACK, OR ADD A ZONE

Operator Name and Address Marshall & Winston Inc P O Box 50880 Midland, TX 79710-0880		OGRID Number 014187
Property Code 37745		API Number 30 - 005 - 29098
Proposed Pool 1 Wildcat Medlin Ranch West Abo-Wolfcamp		Well No 1-H

Surface Location

UL or lot no	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
K	9	15-S	31-E		2440	SOUTH	2490	WEST	Chaves

Proposed Bottom Hole Location If Different From Surface

UL or lot no	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
XM	9	15-S	31-E		330	SOUTH	330	WEST	Chaves

Additional Well Information

Work Type Code New Well	Well Type Code Oil	Cable/Rotary Rotary	Lease Type Code Fee	Ground Level Elevation 4,429 ft.
Multiple Abo-Wolfcamp transition	Proposed Depth 8,980 ft.	Formation Abo-Wolfcamp	Contractor Patriot Drilling	Spud Date ASAP (07/2009)

Proposed Casing and Cement Program

Hole Size	Casing Size	Casing weight/foot	Setting Depth	Sacks of Cement	Estimated TOC
17.50	13.375	48	340	380	0
12.250	9.625	32.3	3950	1065	0
8.75	7.00	32	9130	685	3450
6.125	4.500	11.6	11,603 MD	390	8980

Describe the proposed program. If this application is to DEEPEN or PLUG BACK, give the data on the present productive zone and proposed new productive zone. Describe the blowout prevention program, if any. Use additional sheets if necessary.

Marshall & Winston Incorporated plans to drill a horizontal well as follows. First drill the vertical wellbore to 9,230 ft, plug back and kick off at an estimated 8,390 ft. Drill the directional portion at an estimated 16.85 degrees/ 100ft. and TD at 8,924 ft. MD (8,730 ft TVD). The horizontal wellbore will begin at this point with the anticipated length of 3,018 ft and a TD location of 330ft. FSL, 330 ft FWL in sec 9, T.15S, R 31 E. The expected producing zone shall be in the lower Abo and upper Wolfcamp formations known as the Medlin Ranch West Abo-Wolfcamp pool.

A 5,000 psi BOP equipment stack shall be installed on the surface casing and operated according the NMOCDC rules. All equipment and connections above the bradenhead or casing head shall have a working pressure of 5,000 psi minimum. The BOPE shall include an automatic accumulator, Kelly cock, an Annular and double ram system.

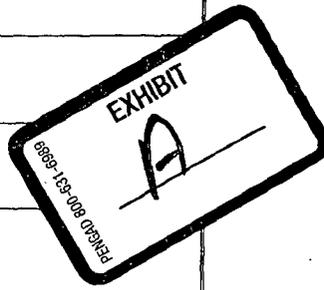
A closed loop circulation system will be utilized, the C-144 is attached.

I hereby certify that the information given above is true and complete to the best of my knowledge and belief.

Signature: *Vernon D. Dyer*
Printed name: Vernon D. Dyer
Title: AGENT
E-mail Address: vdyceroil@cablone.net
Date: 7-2-2009
Phone: (575) 420-0355

OIL CONSERVATION DIVISION
Approved by: *[Signature]*
Title: PETROLEUM ENGINEER
Approval Date: JUL 14 2009
Expiration Date:
Conditions of Approval Attached

Permit Expires 2 Years From Approval Date Unless Drilling Underway



DISTRICT I
1625 N. FRENCH DR., HOBBBS, NM 88240

RECEIVED

Energy, Minerals and Natural Resources Department

Form C-102

DISTRICT II
1301 W. GRAND AVENUE, ARTESIA, NM 88210

JUL 02 2009

OIL CONSERVATION DIVISION
1220 SOUTH ST. FRANCIS DR.
Santa Fe, New Mexico 87505

Revised October 12, 2005
Submit to Appropriate District Office
State Lease - 4 Copies
Fee Lease - 3 Copies

DISTRICT III
1000 Rio Brazos Rd., Aztec, NM 87410

HOBBSOCD

DISTRICT IV
1220 S. ST. FRANCIS DR., SANTA FE, NM 87505

WELL LOCATION AND ACREAGE DEDICATION PLAT

AMENDED REPORT

API Number 30-005-29098	Pool Code 97722	Pool Name Wildcat Abo - Wolfcamp
Property Code 37745	Property Name MEDLIN FEE 9	Well Number 1H
OGRID No. 14182	Operator Name MARSHALL & WINSTON, INC.	Elevation 4429'

Surface Location

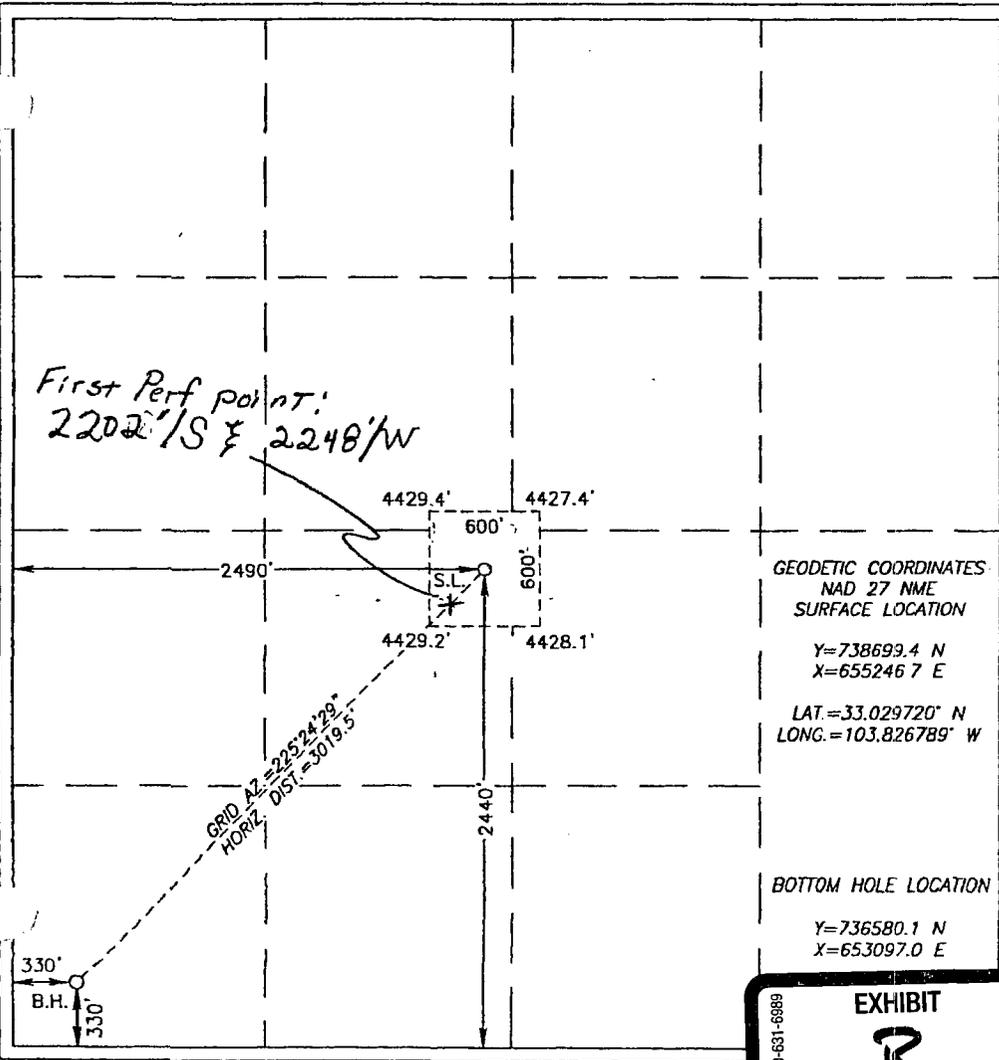
UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
K	9	15-S	31-E		2440	SOUTH	2490	WEST	CHAVES

Bottom Hole Location If Different From Surface

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
AM	9	15-S	31-E		330	SOUTH	330	WEST	CHAVES

Dedicated Acres	Joint or Infill	Consolidation Code	Order No.

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION



OPERATOR CERTIFICATION

I hereby certify that the information herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

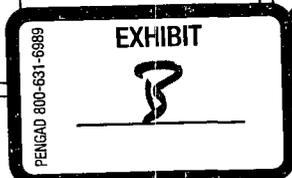
Vernon D. Dyr 7-2-09
Signature Date
VERNON D. DYR
Printed Name

SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

Date Surveyed: _____ AR
Signature & Seal of Professional Surveyor: *Ronald J. Eidson* 6/15/09
Professional Surveyor Seal: RONALD J. EIDSON, SURVEYOR, STATE OF NEW MEXICO, REG. NO. 33229

Certificate No. GARY EDSON 12641
RONALD J. EIDSON 3239



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MAY 08 2009
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Form 3160-3
 (August 2007)

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT
 APPLICATION FOR PERMIT TO DRILL OR REENTER

FORM APPROVED
 OMB NO. 1004-0137
 Expires: July 31, 2010

1a. Type of Work: <input checked="" type="checkbox"/> DRILL <input type="checkbox"/> REENTER		5. Lease Serial No Fee & NM-105886
1b. Type of Well: <input checked="" type="checkbox"/> Oil Well <input type="checkbox"/> Gas Well <input type="checkbox"/> Other <input type="checkbox"/> Single Zone <input type="checkbox"/> Multiple Zone		6. If Indian, Allottee or Tribe Name N/A
2. Name of Operator Yates Petroleum Corporation <025575>		7. If Unit or CA Agreement, Name and No N/A
3a. Address 105 South Fourth Street, Artesia, NM 88210		8. Lease Name and Well No. Derbi BOD Com #1 <37703>
3b. Phone No. (include area code) 505-748-1471		9. API Well No 30-005-29094
4. Location of well (Report location clearly and in accordance with any State requirements. *) At surface: 330' FSL & 350' FEL, Sec.9-15S-31E, UL P, SESE At proposed prod zone: 950' FSL & 330' FWL, Sec. 9-15S-31E, UL M, SWSW		10. Field and Pool, or Exploratory Wildcat Abo - WC
14. Name of Operator Yates Petroleum Corporation 025575		11. Sec., T., R., M., or Blk And Survey or Area Section 9-T15S-R31E
15. Distance from proposed* location to nearest property or lease line, ft (Also to nearest drlg unit line, if any) 330'		12. County or Parish Chaves
16. No. of acres in lease 560.00		13. State NM
17. Spacing Unit dedicated to this well S2S2		
18. Distance from proposed location* to nearest well, drilling, completed, applied for, on this lease, ft None		
19. Proposed Depth TVD-8877' MD-13177'		20. BLM/ BIA Bond No. on file NATIONWIDE BOND #NMB000434
21. Elevations (Show whether DF, KDB, RT, GL, etc.) 4418' GL		22. Approximate date work will start* ASAP
		23. Estimated duration 45 days

24. Attachments

ROS WELL CONTROLLED WATER BASIN

The following, completed in accordance with the requirements of Onshore Oil and Gas Order No. 1 shall be attached to this form:

- Well plat certified by a registered surveyor
- A Drilling Plan.
- A Surface Use Plan (if the location is on National Forest System Lands, the SUPO must be filed with the appropriate Forest Service Office).
- Bond to cover the operations unless covered by existing bond on file (see item 20 above).
- Operator certification
- Such other site specific information and/ or plans as may be required by the BLM

25. Signature <i>Cy Cowan</i>	Name (Printed/ Typed) Cy Cowan	Date 3/25/2009
Title Regulatory Agent		

Approved By (Signature) <i>151 Angel Mayes</i>	Name (Printed/ Typed) Angel Mayes	Date MAY 04 2009
Title Assistant Field Manager, Lands And Minerals		Office ROS WELL FIELD OFFICE
APPROVED FOR 2 YEARS		

Application approval does not warrant or certify that the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to operations thereon

Conditions of approval, if any, are attached

Title 18 U.S.C Section 1001 and Title 43 USC Section 1212, make it a crime to knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations within its jurisdiction

(Instructions on page 2)



DECLARED WATER BASIN

CEMENT BEHIND THE 13 3/8" CASING MUST BE CIRCULATED

WITNESS

APPROVAL SUBJECT TO GENERAL REQUIREMENTS AND SPECIAL STIPULATIONS ATTACHED

DISTRICT I
1825 N. French Dr., Hobbs, NM 88240

DISTRICT II
1 Grand Avenue, Artesia, NM 88210

DISTRICT III
1000 Rio Brazos Bld., Axtac, NM 87410

DISTRICT IV
1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico
Energy, Minerals and Natural Resources Department

Form C-102
Revised October 12, 2005

Submit to Appropriate District Office
State Lease - 4 Copies
Fee Lease - 3 Copies

OIL CONSERVATION DIVISION
1220 South St. Francis Dr.
Santa Fe, New Mexico 87505

WELL LOCATION AND ACREAGE DEDICATION PLAT

AMENDED REPORT

API Number 30-005-29094	Pool Code /	Pool Name WILDCAT A60
Property Code 37703	Property Name DERBI "BOD" COM	Well Number 1H
OGRID No. 025575	Operator Name YATES PETROLEUM CORP.	Elevation 4418'

Surface Location

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
P	9	15 S	31 E		330	SOUTH	350	EAST	CHAVES

Bottom Hole Location If Different From Surface

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
M	9	15 S	31 E		950	SOUTH	330	WEST	CHAVES

Dedicated Acres	Joint or Infill	Consolidation Code	Order No.
160			

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION

EXHIBIT D
REG-153-008-0008

Penetration Point
395' FSL and 833'
FEL

BOTTOM HOLE LOCATION
Lat - N 33°01'32.67"
Long - W 103°50'03.64"
NMSPC- N 737264.798
E 694272.008
(NAD-83)

SURFACE LOCATION
Lat - N 33°01'26.53"
Long - W 103°49'09.60"
NMSPC- N 738666.5
E 698875.8
(NAD-83)

Project Area

Producing Area

30'

950'

4643.8"

350'

FEE

FEE

NM-105886

NA1-105886

330'

OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

Cy Cowan
Signature _____ Date _____

Cy Cowan, Regulatory Agent
Printed Name

SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

MAY 15 2005
NEW MEXICO
Professional Surveyor
7977

Date Surveyed _____
Signature & Seal of Professional Surveyor _____

Certificate No. Gary L. Jones 7977

BASIN SURVEYS