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November 6, 1991

William J. LeMay, Director
Oil Conservation Division
State Land Office
310 Old Santa Fe Trail
Santa Fe, New Mexico 87501

VIA FACSIMILE
(505) 827-5741

RE: Oil Conservation Division Case 10386
Application of McKay Oil Corporation
for Compulsory Pooling,

Oil Conservation Division Case 10363
Application of Yates Petroleum Corporation
for Compulsory Pooling,

Division Order R-9608 Granting McKay
Application and Denying Yates Application

Dear Mr. LeMay:

I have received a copy of Mr. Carr's letter to you dated November 5, 1991 including his application for a DeNovo hearing on behalf of his client, Yates Petroleum Corporation.

I wish to state for you my position on behalf of McKay Oil Corporation concerning matters raised by Mr. Carr:

- (1) McKay is opposed to having the Examiner's order stayed. In order to obtain a Stay, the burden is upon Yates to demonstrate:
 - (a) Likelihood of Yates prevailing on the merits;
 - (b) Irreparable harm to Yates unless the stay is granted;
 - (c) Evidence that no substantial harm will result to other interested persons; and

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- (d) Showing that no harm will ensure to the public interest.

In the event Yates requests a stay of the Division Order, due process requires that McKay be given an opportunity to appear and oppose the request before the Division or the Commission acts.

- (2) We believe Mr. Carr has stated the wrong basis for his position not to pursue the November 7th hearing concerning the overriding royalty interests on the McKay federal lease. However, we do concur that that issue is now moot because McKay has prevailed. Accordingly, unless advised by you to the contrary, we assume that the cases are not to be reopened and that it is not necessary for us to attend that hearing.

In addition, I would like to co-ordinate with your office the date of the Commission hearing on this case. I would request that if the Commission elects to hear this matter in December it not be the week of December 9, 1991 because of the IOCC convention in New Orleans.

Very truly yours,



W. Thomas Kellahin

WTK/jcl

cc: William F. Carr, Esq. (By Hand)
Roy McKay (By Facsimile)
Robert Stovall, Esq. (By U.S. Mail)

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