

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

TELEPHONE (505) 982-4285

TELEFAX (505) 982-2047

JASON KELLAHIN (RETIRED 1991)

November 1, 1996

**HAND DELIVERED**

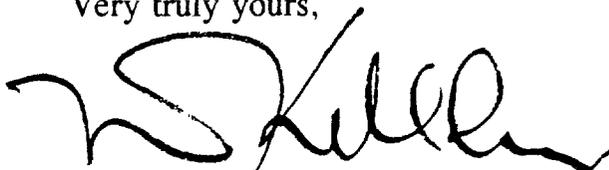
Mr. Michael E. Stogner  
Hearing Examiner  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

Re: **MOTION TO DISMISS**  
**Prehearing Statement**  
**NMOCD Case 11634**  
Application of InterCoast  
Oil and Gas Company for Compulsory Pooling  
and an Unorthodox gas well location  
Eddy County, New Mexico

Dear Mr. Stogner:

On behalf of Yates Petroleum Corporation, an adversely affected interest owner, please find enclosed our Prehearing Statement including our **MOTION TO DISMISS** the referenced case filed by InterCoast Oil and Gas Company. This case is currently set for hearing on the Examiner's Docket scheduled for November 7, 1996.

Very truly yours,



W. Thomas Kellahin

cc: Via hand delivery to:  
William F. Carr, Esq., Attorney for applicant

**cfx: Yates Petroleum Corporation**  
**Attn: Mecca Mauritsen**

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 11634

APPLICATION OF INTERCOAST OIL AND GAS COMPANY  
FOR COMPULSORY POOLING AND AN UNORTHODOX GAS  
WELL LOCATION, EDDY COUNTY, NEW MEXICO.

**PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by YATES PETROLEUM CORPORATION, as required by the Oil Conservation Division.

**APPEARANCE OF PARTIES**

**APPLICANT**

InterCoast Oil and Gas Company  
7130 South Lewis Ave.  
Midland, Texas 79701  
Attn: Rock A. Quinn  
(918) 488-8283

**ATTORNEY**

William F. Carr, Esq.  
P. O. Box 2208  
Santa Fe, New Mexico 875014  
(505) 988-4421

**OPPOSITION PARTY**

Yates Petroleum Corporation  
105 South Fourth Street  
Artesia, New Mexico 88210  
Attn: Mecca Mauritsen  
(505) 748-1471

**ATTORNEY**

W. Thomas Kellahin  
KELLAHIN AND KELLAHIN  
P.O. Box 2265  
Santa Fe, NM 87504  
(505) 982-4285

**STATEMENT OF CASE**

**OPPOSITION PARTY:**

Yates Petroleum Corporation ("Yates"), moves the Division to dismiss this case because contrary to custom and practice before the Division and in violation of Section 70-2-17(C) NMSA (1978) InterCoast Oil and Gas Company ("InterCoast") has prematurely instituted a compulsory pooling action against Yates' interest in the N/2 of Section 20, T20S, R28E, without first undertaking a good faith and reasonable effort to obtain a voluntary agreement for the development of a Morrow spacing unit and in support states:

(1) This dispute involves N/2 of Section 20, T20S, R28E, Eddy County, New Mexico, containing two separate State leases divided between the NE/4 and the NW/4 of the section. **See Exhibit 1.**

(2) Any effort to obtain a voluntary agreement for the drilling of a "deep gas" test in this 320-acre spacing unit involves some 33 different owners. **See Exhibit 2.**

(3) Yates and its partners controls approximately 40% of this proposed spacing unit.

(4) InterCoast asserts it has the right to drill a Morrow well in this spacing unit based upon obtaining a farmout interest from Kerr-McGee Corporation.

(5) A well drilled in this spacing unit to test the Morrow formation involves the Burton Flat-Morrow Gas Pool Rules.

(6) On September 3, 1996, Yates received a letter from InterCoast dated August 30, 1996 which is referenced as a "**Farmout Request**" and in which InterCoast requested Yates to farmout its interest in the NE/4 of said Section 20. **Exhibit 3.**

(7) InterCoast's farmout request:

- (a) failed to include a written proposal to Yates by which Yates could pay its share of the costs of the well,
- (b) failed to afford Yates an opportunity to participate in the well,
- (c) failed to designate a proposed 320-acre spacing unit,
- (d) failed to specify a footage location for the well,
- (e) failed to include an AFE,

(8) InterCoast did not indicate to Yates that there was any urgency to this matter nor did InterCoast request a reply to the farmout request by any specific date.

(9) InterCoast failed to put Yates on notice that InterCoast would institute compulsory pooling action against Yates in the absence of Yates' acquiescence to InterCoast's request.

(10) On September 17, 1996, Janet Richardson, a landman with Yates, called Rock Quinn, a landman for InterCoast, and advised Mr. Quinn that Yates was not interested in farming out its interest to which Mr. Quinn responded that he would provide Yates with a proposed Authority for Expenditure ("AFE") and Joint Operating Agreement.

(11) On Tuesday, September 24, 1996, InterCoast filed its compulsory pooling application with the Division without first providing Yates with a written well proposal or an AFE.

(12) At no time prior to filing its application for compulsory pooling, did InterCoast proposed to Yates the formation of the N/2 of Section 20 for the drilling of a Morrow gas well.

**Pre-Hearing Statement**

**Case No. 11634**

**Page 4**

(13) On September 30, 1996, Yates received a notice dated September 26, 1996, advising Yates that InterCoast had filed a compulsory pooling application to be heard on October 17, 1996. **See Exhibit 4.**

(14) InterCoast on its own motion continued its compulsory pooling case to the November 7, 1996 docket.

(15) On October 9, 1996, more than 14 days after InterCoast filed its compulsory pooling application, Yates received InterCoast's first written proposal for the subject well which included a AFE. **See Exhibit 5.**

(16) On Monday, October 28, 1996 Mecca Mauritsen of Yates received a telephone call from Mr. Quinn of InterCoast during which he requested and Yates agreed to a meeting on this matter to be held on Wednesday, October 30, 1996. The next morning, Mr. Quinn called and canceled the meeting and thereby refused to undertake a good faith and reasonable effort to form a spacing unit on a voluntary basis.

(17) InterCoast has failed to contact all the parties listed on Exhibit 2 concerning its proposed well.

Based upon the foregoing, Yates requests that this case be dismissed because:

(1) InterCoast failed to make a well proposal to Yates for the Morrow formation before filing a compulsory pooling application.

(2) InterCoast failed to put Yates on notice that InterCoast would institute compulsory pooling actions against Yates in the absence of Yates' acquiescence to InterCoast's farmout proposal.

(3) InterCoast has failed to explain to Yates how InterCoast's proposed location in the NE/4 is better than any other location in the proposed spacing unit.

(4) InterCoast failed to notify all of the working interest owners who are entitled to participate in this well prior to filing its compulsory pooling application.

(5) Contrary to the custom and practice before the Division and in violation of Section 70-2-17 (c) NMSA (1978), InterCoast has prematurely instituted compulsory action against Yates without first undertaking a good faith and reasonable effort to form a spacing unit on a voluntary basis for the drilling of the subject well.

(6) InterCoast has acted in bad faith in instituting this compulsory pooling case.

(7) InterCoast seeks to use the compulsory pooling statute as a negotiation strategy against Yates rather than as a remedy of last resort when all efforts for obtaining a voluntary agreement have failed.

(8) InterCoast's application is premature and must be dismissed in accordance with Division Order R-10242.

WHEREFORE Yates Petroleum Corporation requests that the Division Hearing Examiner grant this motion and dismiss Oil Conservation Division Case 11461.

### **PROPOSED EVIDENCE**

#### OPPOSITION PARTY:

WITNESSES	EST. TIME	EXHIBITS
Mecca Mauritsen (landman)	45 Min.	est. 12

(Yates anticipates calling further witnesses the identify of which have not been determined at this time)

**PROCEDURAL MATTERS**

Motion to Dismiss Yates Petroleum Corporation from this case for failure of InterCoast to comply with Section 90-2-17(c) NMSA (1978);

KELLAHIN AND KELLAHIN

By: 

W. Thomas Kellahin  
P.O. Box 2265  
Santa Fe, New Mexico 87504  
(505) 982-4285

VERIFICATION

State of New Mexico )  
 ) ss.  
County of Lea )

Comes now Mecca Mauritsen, being first duly sworn, upon her oath deposes and states: that she is a petroleum landman employed by Yates Petroleum Corporation; that she has read the foregoing pleading and knows the contents thereof; that the same is true and correct of her own knowledge, information and belief.

Mecca Mauritsen  
Mecca Mauritsen

SUBSCRIBED AND SWORN to before me by Mecca Mauritsen, who personally appeared before me this 1st day of November, 1996.

Darlene Chawaria  
Notary Public

My Commission Expires: 9-15-1999

SEAL:

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was transmitted by ~~facsimile~~ <sup>Handdelivered</sup> to counsel for applicant this 1st day of November, 1996.

W. Thomas Kellahin  
W. Thomas Kellahin

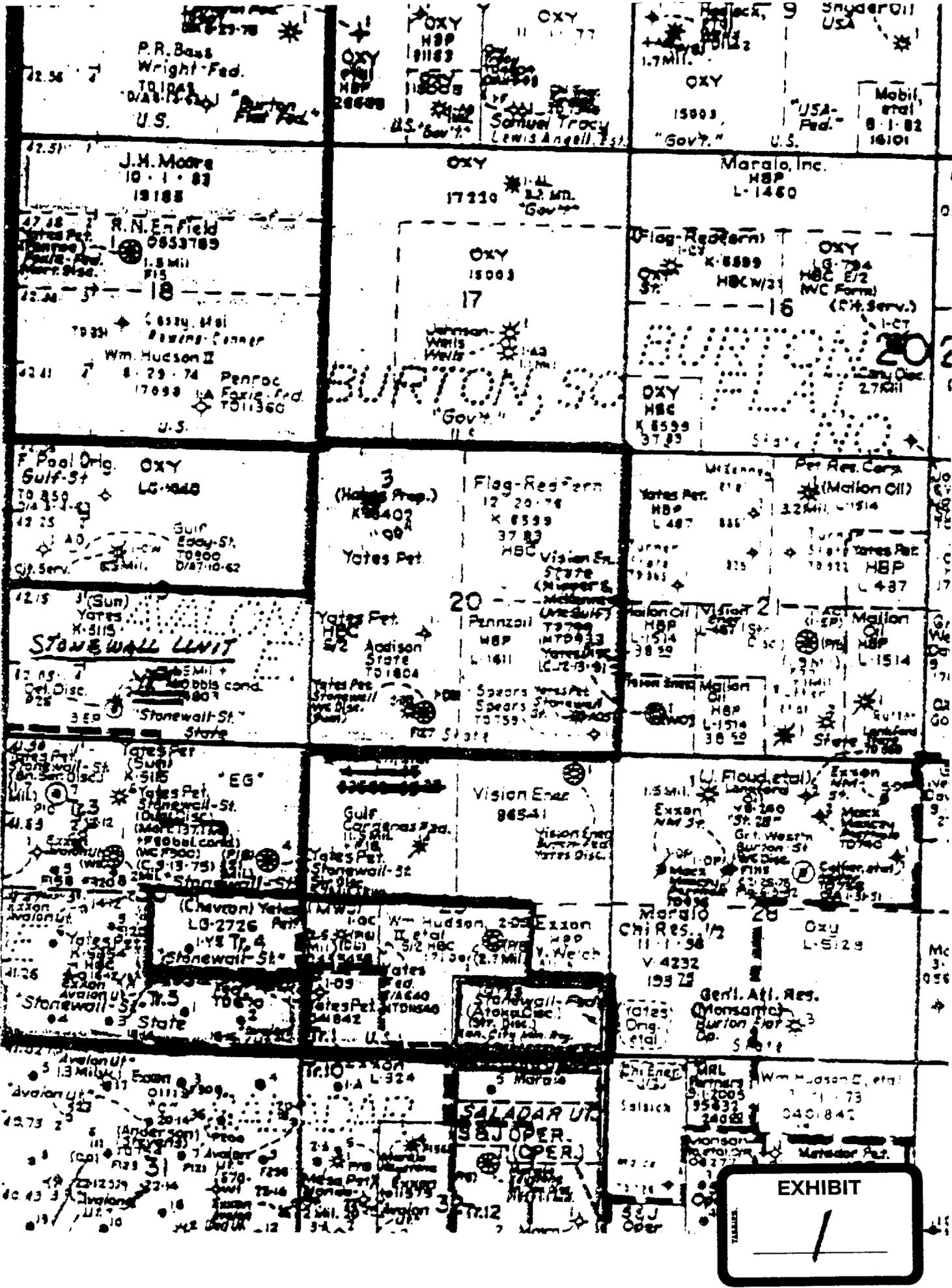


EXHIBIT  
/

# ILLEGIBLE

	<u>ACRES</u>	<u>% OF UNIT</u>	<u>INITIAL TEST WELL BEFORE PAYOUT</u>	<u>INITIAL TEST WELL AFTER PAYOUT &amp; SUBSEQUENT WELLS</u>
Yates Petroleum Corporation	55.023631	17.194979 %	17.194979 %	17.194979 %
Yates Drilling Company	18.291362	5.081885	5.081885	5.081885
Abo Petroleum Corporation	5.420470	1.863697	1.863697	1.863697
Myco Industries, Inc.	18.261392	5.081885	5.081885	5.081885
Unit Petroleum Company	18.543590	5.794966	5.794966	5.794966
Whiting Petroleum Corporation	4.825477	1.445481	1.445481	1.445481
Emie Bello	0.042521	0.013288	0.013288	0.013288
Frances B. Bunn	0.042521	0.013288	0.013288	0.013288
J. W. Gannon	0.083790	0.019934	0.019934	0.019934
David Goodnow	0.042521	0.013288	0.013288	0.013288
Joseph R. Hodge	0.007090	0.002215	0.002215	0.002215
Sanford J. Hodge, III	0.007090	0.002215	0.002215	0.002215
E. G. Holden Test. Trust	0.021265	0.006652	0.006652	0.006652
Isaac A. Kawasaki	0.042521	0.013288	0.013288	0.013288
Betsy H. Keller	0.021265	0.006652	0.006652	0.006652
Charles Cline Moore	0.103327	0.033227	0.033227	0.033227
Agnes Clutha Oliver Trust	0.042521	0.013288	0.013288	0.013288
William B. Oliver Trust	0.042521	0.013288	0.013288	0.013288
Adolph P. Schuman	0.042521	0.013288	0.013288	0.013288
Seace Building Corp.	0.103327	0.033227	0.033227	0.033227
Frederick Van Vranken	0.042521	0.013288	0.013288	0.013288
Claremont Corporation	1.247131	0.389728	0.389728	0.389728
Mary Hudson Ard	2.078569	2.078569	2.078569	2.078569
W.A. & E.R. Hudson, Inc.	4.157139	4.157139	4.157139	4.157139
Hayes Properties, Inc.	4.831706	4.831706	4.831706	4.831706
Karr-McGee Corporation	0.375737	0.375737	0.375737	0.375737
Karr-McGee Corporation	24.101120	24.101120	24.101120	24.101120
Diamond Head Properties, L.P.	23.783640	23.783640	23.783640	23.783640
Pennzoil Exploration & Production Company	1.811880	1.811880	1.811880	1.811880
R. Ken Williams	0.259821	0.259821	0.259821	0.259821
Edward H. Judson	0.259821	0.259821	0.259821	0.259821
Martin Living Trust	0.259820	0.259820	0.259820	0.259820
Devon Energy Corporation	1.207920	1.207920	1.207920	1.207920
	<u>320.000000</u>	<u>100.000000 %</u>	<u>100.000000 %</u>	<u>100.000000 %</u>

EXHIBIT  
2



**ILLEGIBLE**

InterCoast Oil and Gas Company  
7130 South Lewis Avenue  
Suite 700  
Tulsa, Oklahoma 74138  
919 488-8283 Telephone  
919 488-8182 Fax

August 30, 1996

Yates Petroleum Corp.  
105 S. 4th St.  
Artesia, NM 87196

RECEIVED  
SEP - 3 1996

RE: Farmout Request  
Section 20-20S-28E  
Eddy County, NM  
IOGC's Angell Prospect

9-3-96  
C = 205-282-20 - X

Gentlemen:

InterCoast Oil and Gas Company (formerly named Medallion Production Company) is interested in the drilling of a well to be located in the NE/4 of Section 20-20S-28E, Eddy County, New Mexico. InterCoast proposes that the test well be drilled to a depth of approximately 11,250' in order to sufficiently test the Morrow Sand formation. Dry hole costs are estimated to be \$405,000, with total completed well costs estimated at \$697,000.

In connection with the test well, InterCoast proposes that you grant us a farmout of your contractual ownership in that certain Stonewall Unit Operating Agreement dated 11/1/73 under the following terms:

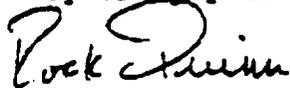
1. On or before 120 days following the execution date of a definitive agreement, InterCoast would commence or cause the commencement of an 11,250' Morrow Sand test at a location 990' FNL and 990' FEL of Section 20-20S-28E, Eddy County, New Mexico.
2. In the event the test well results in a well capable of producing in commercial quantities, InterCoast would earn an assignment of your interest in the dedicated unit within Section 20 from the surface of the earth to the total depth drilled in the test well.
3. You would reserve in such assignment a 1/8th of 8/8ths overriding royalty interest which would absorb all burdens in excess of the usual 1/8th royalty, and would be proportionately reduced to the interest being assigned.

EXHIBIT  
3

Yates Petroleum Corp.  
August 30, 1996  
Page 2

We would appreciate hearing your thoughts on this request at your earliest convenience. If you have any questions or would like to discuss this proposal, please contact me at 491-4176.

Very truly yours,



Rock A. Quinn  
Senior Landman

RAQ:rxw

2ang:pro

CAMPBELL, CARR, BERGE  
& SHERIDAN, P.A.  
LAWYERS

MICHAEL B. CAMPBELL  
WILLIAM F. CARR  
BRADFORD C. BERGE  
MARK F. SHERIDAN

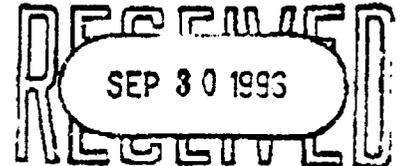
MICHAEL H. FELDEWERT  
TANYA M. TRUJILLO  
PAUL R. OWEN

JACK M. CAMPBELL  
OF COUNSEL

**ILLEGIBLE**

JEFFERSON PLACE  
SUITE 1110 NORTH GUADALUPE  
POST OFFICE BOX 2808  
SANTA FE, NEW MEXICO 87504-2208  
TELEPHONE (505) 866-4421  
TELECOPIER (505) 863-6043

September 26, 1996



**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

TO AFFECTED INTEREST OWNERS:

Re: Application of InterCoast Oil & Gas Company for Compulsory Pooling and  
an Unorthodox Well Location, Eddy County, New Mexico

Gentlemen:

This letter is to advise you that InterCoast Oil & Gas Company has filed the enclosed application with the New Mexico Oil Conservation Division seeking the force pooling of all mineral interests in the N/2 of Section 20, Township 20 South, Range 28 East, N.M.P.M., Eddy County, New Mexico. InterCoast proposes to dedicate the referenced pooled unit to its InterCoast State 20 Well No.1 to be drilled to the Morrow formation, Burton Flat - Morrow Pool at an unorthodox location 990 feet from the North line and 990 feet from the East line of said Section 20.

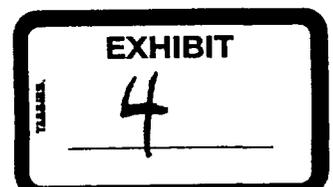
This application has been set for hearing before a Division Examiner on October 17, 1996. You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases have been requested by the Division (Memorandum 2-90) to file a Prehearing Statement substantially in the form prescribed by the Division. Prehearing statements should be filed by 4:00 o'clock p.m. on the Friday before a scheduled hearing.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tanya M. Trujillo".

WILLIAM F. CARR  
ATTORNEY FOR INTERCOAST OIL & GAS COMPANY  
WFC:mlh  
Enclosure

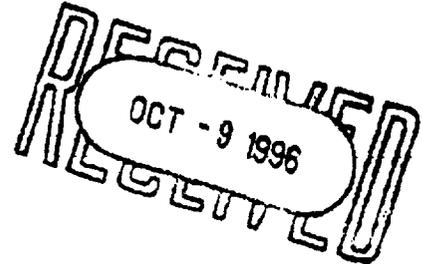




InterCoast Oil and Gas Company  
7130 South Lewis Avenue  
Suite 700  
Tulsa, Oklahoma 74136  
918 488-8283 Telephone  
919 488-8182 Fax

October 1, 1996

Yates Petroleum Corp.  
105 South 4th Street  
Artesia, NM 87196



Attention: Ms ~~Janet Richardson~~ Mecca

RE: State of New Mexico #20-1 10-9-96  
Section 20-20S-28E -A C=  
Eddy County, New Mexico  
IOGC's Angell Ranch Prospect

Gentlemen:

Enclosed for your review and comments please find a copy of InterCoast Oil and Gas Company's proposed Operating Agreement covering the captioned unit.

Also enclosed are two (2) copies of our AFE for the drilling of the captioned well.

Should you desire to participate, please sign, date and return one (1) copy of the AFE together with any comments you may have in regard to our proposed Operating Agreement. At such time as the working interests are finalized and any comments reviewed, we will furnish each working interest owner with a signed copy of the Operating Agreement for their execution and return.

Should you wish to discuss any proposed changes to the Agreement, please feel free to contact me at 918/491-4176.

Very truly yours,

Rock A. Quinn  
Senior Landman

RAQ:rkw  
Enclosures

etnmjoo

An InterCoast Energy Company

