

20-1681  
2

DIVISION  
FD

Attn: William J. LeMay

LAW OFFICES

LOSEE, CARSON, HAAS & CARROLL, P. A.

300 YATES PETROLEUM BUILDING

P. O. DRAWER 239

ARTESIA, NEW MEXICO 88211-0239

TELEPHONE

(505) 746-3505

TELECOPY

(505) 746-6316

ERNEST L. CARROLL

JOEL M. CARSON

JAMES E. HAAS

A. J. LOSEE

DEAN E. CROSS

MARY LYNN BOGLE

January 20, 1992

Mr. William J. LeMay, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

10446

Re: Applications of Yates Petroleum Corporation

Dear Mr. LeMay:

Enclosed for filing, please find three copies each of three Applications of Yates Petroleum Corporation for permits to drill, all three underlying Section 2, Township 22 South, Range 31 East, N.M.P.M., Eddy County, New Mexico.

We ask that these cases be set for hearing before an examiner, after allowing twenty days for notice, and that we be furnished with a copy of the docket for said hearings.

Yours truly,

LOSEE, CARSON, HAAS & CARROLL, P.A.

*Ernest L. Carroll*

Ernest L. Carroll

ELC:bjk  
Enclosures

cc w/encl: New Mexico Potash  
New Mexico State Land Office  
Bureau of Land Management

BEFORE THE OIL CONSERVATION DIVISION

OF THE STATE OF NEW MEXICO

'92 JAN 21 PM 2 04

IN THE MATTER OF THE APPLICATION OF  
YATES PETROLEUM CORPORATION FOR A  
PERMIT TO DRILL, EDDY COUNTY,  
NEW MEXICO

CASE NO.

10446

APPLICATION

COMES NOW YATES PETROLEUM CORPORATION, by its attorneys Losee, Carson, Haas & Carroll, P.A. (Ernest L. Carroll), and in support hereof respectfully states:

1. Applicant is the operator of the Delaware and intermediate formations underlying Township 22 South, Range 31 East, N.M.P.M., Section 2: Unit B, and proposes to drill its Graham "AKB" State No. 3 Well at a point located 660 feet from the North line and 1650 feet from the East line of said Section 2.

2. Applicant seeks to test the Delaware and intermediate formations by drilling its proposed well to a depth of 8500 feet. Applicant has submitted its Application for Permit to Drill, Deepen or Plug Back, Form C-101, as required by Rule 102 of the Oil Conservation Division, to permit the drilling of the well at the above mentioned location. Applicant has further complied with Order No. R-111-P and has sent the required notice of such Application for Permit to Drill, Deepen or Plug Back to each potash operator holding potash leases within a radius of one mile of the proposed well, as reflected by the plat submitted with

applicant's Application for Permit to Drill, Deepen or Plug Back. Attached hereto as Exhibit "1" is a copy of Form C-101 as previously submitted.

3. Applicant has received verbal notice from the potash operator to whom notice was given that it will object to the drilling of said well.

4. Said location is in compliance with Order No. R-111-P(G)(3)(d), and upon information and belief is not located within any Life of Mine Reserves (LMR) or buffer zone as presently designated with the State Land Office. The permitting of such well will not result in undue waste of potash deposits, or constitute a hazard to or interfere unduly with mining of potash deposits.

5. A standard 40-acre oil proration unit comprising Unit B of said Section 2 should be dedicated to such well.

6. The approval of this Application will afford applicant the opportunity to produce its just and equitable share of oil, will prevent economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells, and will otherwise prevent waste and protect correlative rights.

WHEREFORE, Applicant prays:

A. That this Application be set for hearing before an examiner and that notice of said hearing be given as required by law.

B. That upon hearing the Division enter its order granting applicant permission to drill its Graham "AKB" State No. 3 Well at a point located 660 feet from the North line and 1650 feet from the East line of said Section 2, Unit B, Township 22 South, Range 31 East, N.M.P.M., which is reasonably presumed to be productive of oil from the Delaware or intermediate formations.

C. And for such other relief as may be just in the premises.

**YATES PETROLEUM CORPORATION**

By:   
Ernest L. Carroll

LOSEE, CARSON, HAAS & CARROLL, P.A.  
P. O. Drawer 239  
Artesia, New Mexico 88210  
(505/746-3505)

Attorneys for Applicant

Submit to Appropriate  
District Office  
State Lease - 6 copies  
Fee Lease - 5 copies

State of New Mexico  
Energy, Minerals and Natural Resources Department

Form C-101  
Revised 1-1-89

## OIL CONSERVATION DIVISION

DISTRICT I  
P.O. Box 1980, Hobbs, NM 88240

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88210

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

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

API NO. (assigned by OCD on New Wells)
5. Indicate Type of Lease STATE <input checked="" type="checkbox"/> FEE <input type="checkbox"/>
6. State Oil & Gas Lease No. V-2705

### APPLICATION FOR PERMIT TO DRILL, DEEPEN, OR PLUG BACK

1a. Type of Work: DRILL <input checked="" type="checkbox"/> RE-ENTER <input type="checkbox"/> DEEPEN <input type="checkbox"/> PLUG BACK <input type="checkbox"/>		7. Lease Name or Unit Agreement Name Graham AKB State			
b. Type of Well: OIL WELL <input checked="" type="checkbox"/> GAS WELL <input type="checkbox"/> OTHER <input type="checkbox"/> SINGLE ZONE <input type="checkbox"/> MULTIPLE ZONE <input type="checkbox"/>		8. Well No. 3			
2. Name of Operator Yates Petroleum Corporation		9. Pool name or Wildcat Undesignated Lost Tank Delaware			
3. Address of Operator 105 South Fourth Street, Artesia, NM 88210					
4. Well Location Unit Letter <u>B</u> : <u>660</u> Feet From The <u>North</u> Line and <u>1650</u> Feet From The <u>East</u> Line Section <u>2</u> Township <u>22 South</u> Range <u>31 East</u> NMPM <u>Eddy</u> County					
10. Proposed Depth 8500'		11. Formation Delaware			
12. Rotary or C.T. Rotary					
13. Elevations (Show whether DF, RT, GR, etc.) 3539' GR		14. Kind & Status Plug Bond Blanket			
15. Drilling Contractor Undesignated		16. Approx. Date Work will start ASAP			
17. PROPOSED CASING AND CEMENT PROGRAM					
SIZE OF HOLE	SIZE OF CASING	WEIGHT PER FOOT	SETTING DEPTH	SACKS OF CEMENT	EST. TOP
17 1/2"	13 3/8"	54.5#	850'	850	Circulate
11"	8 5/8"	32.0#	4500'	2500	Circulate
7 7/8"	5 1/2"	17 & 20#	TD	As warranted	Tie Back

Yates Petroleum Corporation proposes to drill and test the Delaware and intermediate formations. Approximately 850' of surface casing will be set and cement circulated. Approximately 4500' of intermediate casing will be set and cement circulated. If commercial, production casing will be run and cemented to tie-back to the 8 5/8" casing, perforated and stimulated as needed for production.

MUD PROGRAM: Native mud to 850'; Brine to 4500'; cut Brine/Starch to TD.

BOP PROGRAM: BOP will be installed at the offset and tested daily for operational.

Letter has been sent to N.M. Potash Corporation.

IN ABOVE SPACE DESCRIBE PROPOSED PROGRAM: IF PROPOSAL IS TO DEEPEN OR PLUG BACK, GIVE DATA ON PRESENT PRODUCTIVE ZONE AND PROPOSED NEW PRODUCTIVE ZONE. GIVE BLOWOUT PREVENTER PROGRAM, IF ANY.

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

SIGNATURE Clifton R. May TITLE Permit Agent DATE 11-25-91  
TYPE OR PRINT NAME Clifton R. May TELEPHONE NO. 748-1471

(This space for State Use)

APPROVED BY \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_  
CONDITIONS OF APPROVAL, IF ANY:

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

State of New Mexico  
Energy, Minerals and Natural Resources Department

Form C-102  
Revised 1-1-89

OIL CONSERVATION DIVISION

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

DISTRICT I  
P.O. Box 1980, Hobbs, NM 88240

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88210

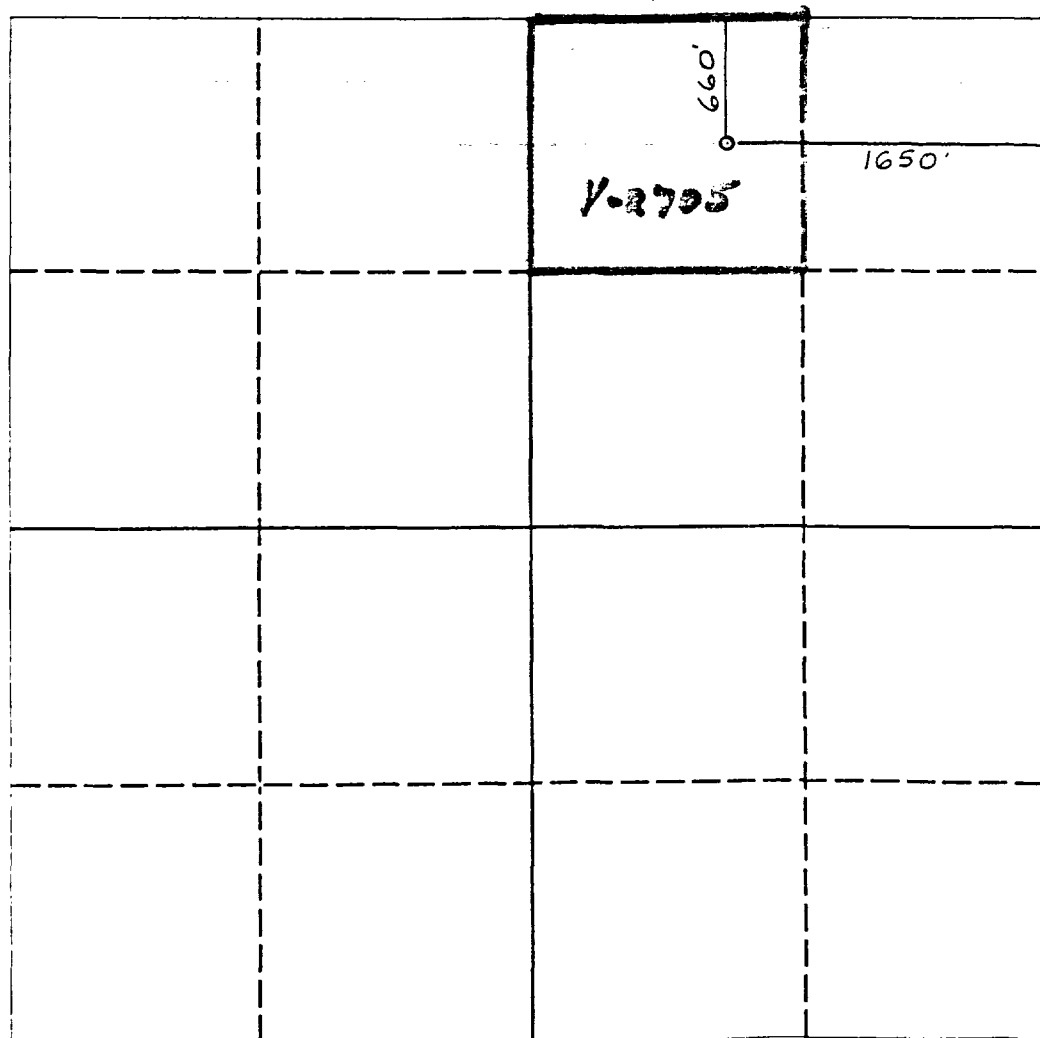
DISTRICT III  
1000 Rio Brazos Rd., Aztec, NM 87410

WELL LOCATION AND ACREAGE DEDICATION PLAT

All Distances must be from the outer boundaries of the section

Operator <b>YATES PETROLEUM CORPORATION</b>			Lease <b>GRAHAM AKB STATE</b>		Well No. <b>3</b>
Unit Letter <b>B</b>	Section <b>2</b>	Township <b>22 SOUTH</b>	Range <b>31 EAST</b>	County <b>EDDY COUNTY, NM</b>	
Actual Footage Location of Well: <b>660</b> feet from the <b>NORTH</b> line and <b>1650</b> feet from the <b>EAST</b> line					
Ground level Elev. <b>3539.</b>	Producing Formation <b>DELAWARE</b>		Pool <b>UNDERS. LOST TANK DELAWARE</b>	Dedicated Acreage: <b>40</b> Acres	

1. Outline the acreage dedicated to the subject well by colored pencil or hatchure marks on the plat below.
2. If more than one lease is dedicated to the well, outline each and identify the ownership thereof (both as to working interest and royalty).
3. If more than one lease of different ownership is dedicated to the well, have the interest of all owners been consolidated by communitization, unitization, force-pooling, etc.?  
☐ Yes ☐ No If answer is "yes" type of consolidation \_\_\_\_\_  
If answer is "no" list the owners and tract descriptions which have actually been consolidated. (Use reverse side of this form if necessary.)  
No allowable will be assigned to the well until all interests have been consolidated (by communitization, unitization, forced-pooling, or otherwise) or until a non-standard unit, eliminating such interest, has been approved by the Division.



OPERATOR CERTIFICATION

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

Signature  
*Clifton R. May*  
Printed Name  
**Clifton R. May**  
Position  
**Permit Agent**  
Company  
**YATES PETROLEUM CORPORATION**  
Date  
**November 25, 1991**

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 knowledge and belief.

Date Surveyed  
**NOVEMBER 23, 1991**

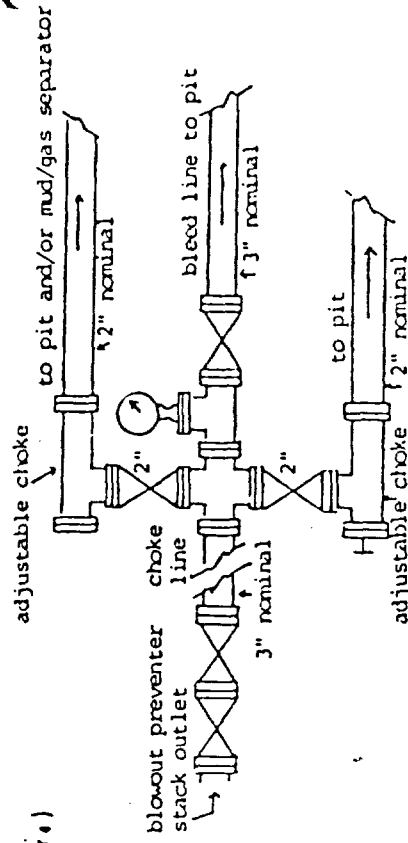
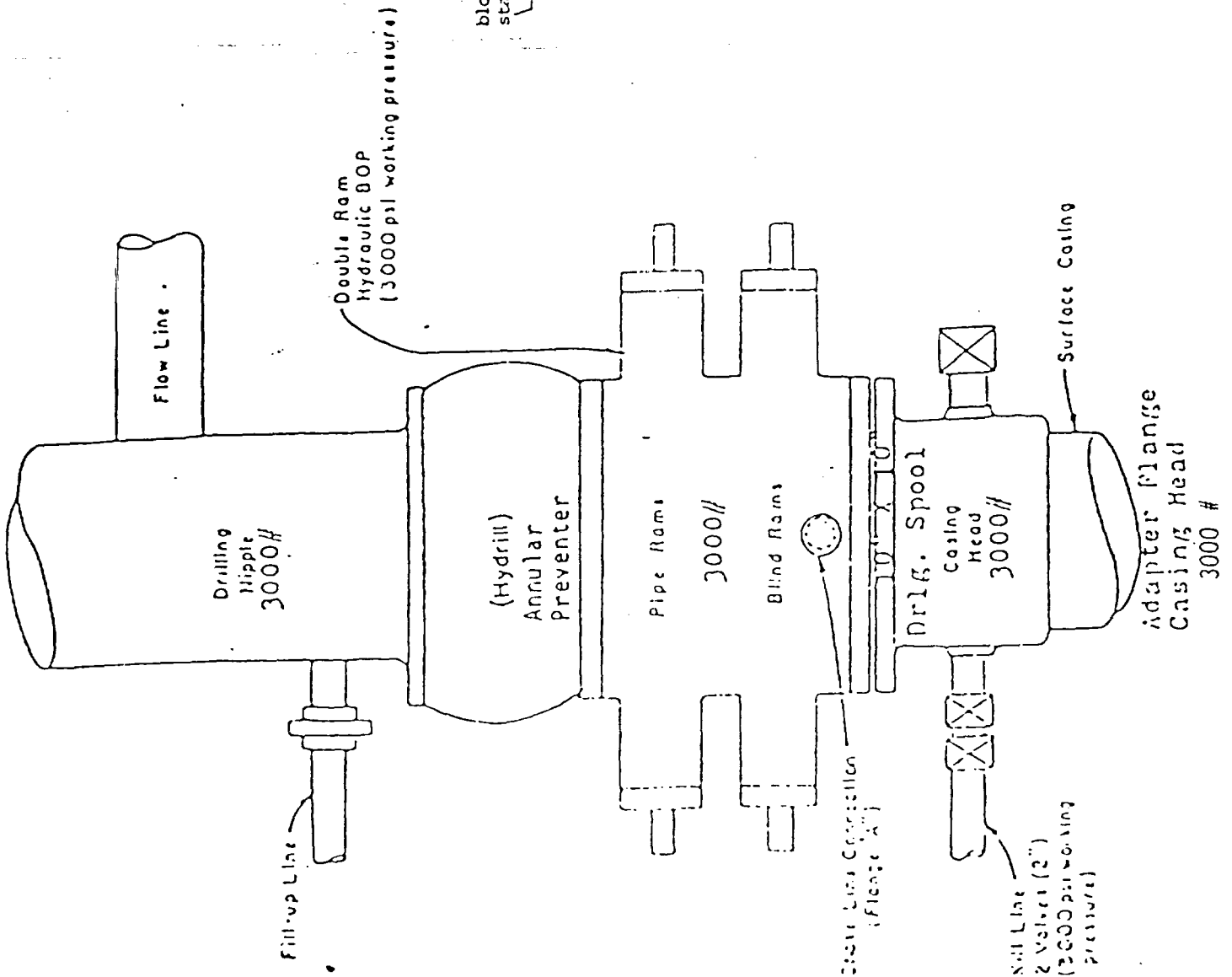
Signature & Seal of  
Professional Surveyor

Certificate No.  
**5412**  
NM PE&PS NO 5515412

0 330 660 990 1320 1650 1980 2310 2640 2000 1500 1000 500 0

# EXHIBIT "B"

## Blowout Preventer Diagram



typical choke manifold assembly for 3rd rated working pressure service-surface installation

MARTIN YATES, III  
1912 - 1985  
FRANK W. YATES  
1936 - 1986

November 21, 1991

Mr. Bob Lane  
New Mexico Potash  
P.O. Box 610  
Hobbs, NM 88241

Dear Mr. Lane:

<b>SENDER:</b> Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check boxes for additional service(s) requested.	
1. <input type="checkbox"/> Show to whom delivered, date, and addressee's address.	2. <input type="checkbox"/> Restricted Delivery (Extra charge)
3. Article Addressed to:  Mr. Bob Lane New Mexico Potash P.O. Box 610 Hobbs, NM 88241	4. Article Number P 384 291 931 Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature - Addressee X	8. Addressee's Address (ONLY if requested and fee paid) Flora AKF #1 Graham AKB #3 & 4 Martha AIK Fed. #7,8,&9
6. Signature - Agent X <i>W. Yates</i>	
7. Date of Delivery 11-21-91	

PS Form 3811, Apr. 1989 \* U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

Yates Petroleum Corporation is the operator of the Oil & Gas Lease V-2705. We have staked the following location:

Graham AKB State #3  
660' FNL and 1650' FEL  
Sec. 2-T22S-R31E  
Eddy County, NM

An application to Drill is being filed with the Oil Conservation District.

We have been advised that your company is the owner of record of certain potash leases in this area. We respectfully request that you waive any objection you may have to this proposed well location and so indicate by signing and returning one copy of this letter in the enclosed envelope.

Your favorable consideration of this request will be greatly appreciated.

Sincerely,

YATES PETROLEUM CORPORATION

*Clifton R. May*  
Clifton R. May  
Permit Agent

CRM/tg

NO OBJECTIONS OFFERED

NEW MEXICO POTASH

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Form 3800, June 1985

U.S.G.P.O. 1989-234-555

Sent to	MR. Bob Lane
Street apt. or Box	P.O. Box 610
P.O. State and ZIP Code	Hobbs, NM 88241
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom Date and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	11-21-91
	Graham AKB #3,4
	Flora AKF #1
	Martha AIK Fed. #7,8,&9

P 384 291 931  
RECEIPT FOR CERTIFIED MAIL  
NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL  
(See Reverse)

# YATES PETROLEUM CORPORATION

<p>SECTION 34-215-31E</p> <p>NEW MEXICO POTASH</p> <p>UNLEASED</p> <p>NEW MEXICO POTASH</p> <p>SW 1/4 SE 1/4</p> <p>STATE</p> <p>USA</p>	<p>SECTION 35-215-31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 36-215-31E</p> <p>NEW MEXICO POTASH</p> <p>STATE</p>
<p>SECTION 3-225-31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 2-225-31E</p> <p>#3. #1.</p> <p>GRAHAM AKE ST.</p> <p>#4. #2.</p> <p>NEW MEXICO POTASH</p> <p>FLORA AKE ST. #1</p> <p>STATE</p>	<p>SECTION 1-225-31E</p> <p>UNLEASED</p> <p>USA</p>
<p>SECTION 10-225-31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 11-225-31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 12-225-31E</p> <p>UNLEASED</p> <p>USA</p>

10-31-91 --- GEORGE SCHEPPOFF, DISTRICT MINING ENGINEER

11-1-91 --- CHARLENE NMSLO CENTRAL LEASING

Clifton R. May

**BEFORE THE OIL CONSERVATION DIVISION  
OF THE STATE OF NEW MEXICO**

IN THE MATTER OF THE APPLICATION OF  
YATES PETROLEUM CORPORATION FOR A  
PERMIT TO DRILL, EDDY COUNTY,  
NEW MEXICO

---

CASE NO.

10446

**APPLICATION**

COMES NOW YATES PETROLEUM CORPORATION, by its attorneys Losee, Carson, Haas & Carroll, P.A. (Ernest L. Carroll), and in support hereof respectfully states:

1. Applicant is the operator of the Delaware and intermediate formations underlying Township 22 South, Range 31 East, N.M.P.M., Section 2: Unit B, and proposes to drill its Graham "AKB" State No. 3 Well at a point located 660 feet from the North line and 1650 feet from the East line of said Section 2.

2. Applicant seeks to test the Delaware and intermediate formations by drilling its proposed well to a depth of 8500 feet. Applicant has submitted its Application for Permit to Drill, Deepen or Plug Back, Form C-101, as required by Rule 102 of the Oil Conservation Division, to permit the drilling of the well at the above mentioned location. Applicant has further complied with Order No. R-111-P and has sent the required notice of such Application for Permit to Drill, Deepen or Plug Back to each potash operator holding potash leases within a radius of one mile of the proposed well, as reflected by the plat submitted with

applicant's Application for Permit to Drill, Deepen or Plug Back. Attached hereto as Exhibit "1" is a copy of Form C-101 as previously submitted.

3. Applicant has received verbal notice from the potash operator to whom notice was given that it will object to the drilling of said well.

4. Said location is in compliance with Order No. R-111-P(G)(3)(d), and upon information and belief is not located within any Life of Mine Reserves (LMR) or buffer zone as presently designated with the State Land Office. The permitting of such well will not result in undue waste of potash deposits, or constitute a hazard to or interfere unduly with mining of potash deposits.

5. A standard 40-acre oil proration unit comprising Unit B of said Section 2 should be dedicated to such well.

6. The approval of this Application will afford applicant the opportunity to produce its just and equitable share of oil, will prevent economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells, and will otherwise prevent waste and protect correlative rights.

WHEREFORE, Applicant prays:

A. That this Application be set for hearing before an examiner and that notice of said hearing be given as required by law.

B. That upon hearing the Division enter its order granting applicant permission to drill its Graham "AKB" State No. 3 Well at a point located 660 feet from the North line and 1650 feet from the East line of said Section 2, Unit B, Township 22 South, Range 31 East, N.M.P.M., which is reasonably presumed to be productive of oil from the Delaware or intermediate formations.

C. And for such other relief as may be just in the premises.

**YATES PETROLEUM CORPORATION**

By:   
Ernest L. Carroll

LOSEE, CARSON, HAAS & CARROLL, P.A.  
P. O. Drawer 239  
Artesia, New Mexico 88210  
(505/746-3505)

Attorneys for Applicant

Submit to Appropriate  
District Office  
State Lease - 6 copies  
Fee Lease - 5 copies

State of New Mexico  
Energy, Minerals and Natural Resources Department

Form C-101  
Revised 1-1-89

## OIL CONSERVATION DIVISION

DISTRICT I  
P.O. Box 1980, Hobbs, NM 88240

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88210

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

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

API NO. (assigned by OCD on New Wells)
5. Indicate Type of Lease STATE <input checked="" type="checkbox"/> FEE <input type="checkbox"/>
6. State Oil & Gas Lease No. V-2705

### APPLICATION FOR PERMIT TO DRILL, DEEPEN, OR PLUG BACK

1a. Type of Work: DRILL <input checked="" type="checkbox"/> RE-ENTER <input type="checkbox"/> DEEPEN <input type="checkbox"/> PLUG BACK <input type="checkbox"/>		7. Lease Name or Unit Agreement Name Graham AKB State			
b. Type of Well: OIL WELL <input checked="" type="checkbox"/> GAS WELL <input type="checkbox"/> OTHER <input type="checkbox"/> SINGLE ZONE <input type="checkbox"/> MULTIPLE ZONE <input type="checkbox"/>		8. Well No. 3			
2. Name of Operator Yates Petroleum Corporation		9. Pool name or Wildcat Undesignated Lost Tank Delaware			
3. Address of Operator 105 South Fourth Street, Artesia, NM 88210					
4. Well Location Unit Letter <u>B</u> : <u>660</u> Feet From The <u>North</u> Line and <u>1650</u> Feet From The <u>East</u> Line Section <u>2</u> Township <u>22 South</u> Range <u>31 East</u> NMPM <u>Eddy</u> County					
10. Proposed Depth 8500'		11. Formation Delaware			
12. Rotary or C.T. Rotary					
13. Elevations (Show whether DF, RT, GR, etc.) 3539' GR		14. Kind & Status Plug. Bond Blanket			
15. Drilling Contractor Undesignated		16. Approx. Date Work will start ASAP			
17. PROPOSED CASING AND CEMENT PROGRAM					
SIZE OF HOLE	SIZE OF CASING	WEIGHT PER FOOT	SETTING DEPTH	SACKS OF CEMENT	EST. TOP
17 1/2"	13 3/8"	54.5#	850'	850	Circulate
11"	8 5/8"	32.0#	4500'	2500	Circulate
7 7/8"	5 1/2"	17 & 20#	TD	As warranted	Tie Back

Yates Petroleum Corporation proposes to drill and test the Delaware and intermediate formations. Approximately 850' of surface casing will be set and cement circulated. Approximately 4500' of intermediate casing will be set and cement circulated. If commercial, production casing will be run and cemented to tie-back to the 8 5/8" casing, perforated and stimulated as needed for production.

MUD PROGRAM: Native mud to 850'; Brine to 4500'; cut Brine/Starch to TD.

BOP PROGRAM: BOP will be installed at the offset and tested daily for operational.

Letter has been sent to N.M. Potash Corporation.

IN ABOVE SPACE DESCRIBE PROPOSED PROGRAM: IF PROPOSAL IS TO DEEPEN OR PLUG BACK, GIVE DATA ON PRESENT PRODUCTIVE ZONE AND PROPOSED NEW PRODUCTIVE ZONE. GIVE BLOWOUT PREVENTER PROGRAM, IF ANY.

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

SIGNATURE Clifton R. May TITLE Permit Agent DATE 11-25-91  
TYPE OR PRINT NAME Clifton R. May TELEPHONE NO. 748-1471

(This space for State Use)

APPROVED BY \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_  
CONDITIONS OF APPROVAL, IF ANY:

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

State of New Mexico  
Energy, Minerals and Natural Resources Department

Form C-102  
Revised 1-1-89

OIL CONSERVATION DIVISION

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

DISTRICT I  
P.O. Box 1980, Hobbs, NM 88240

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88210

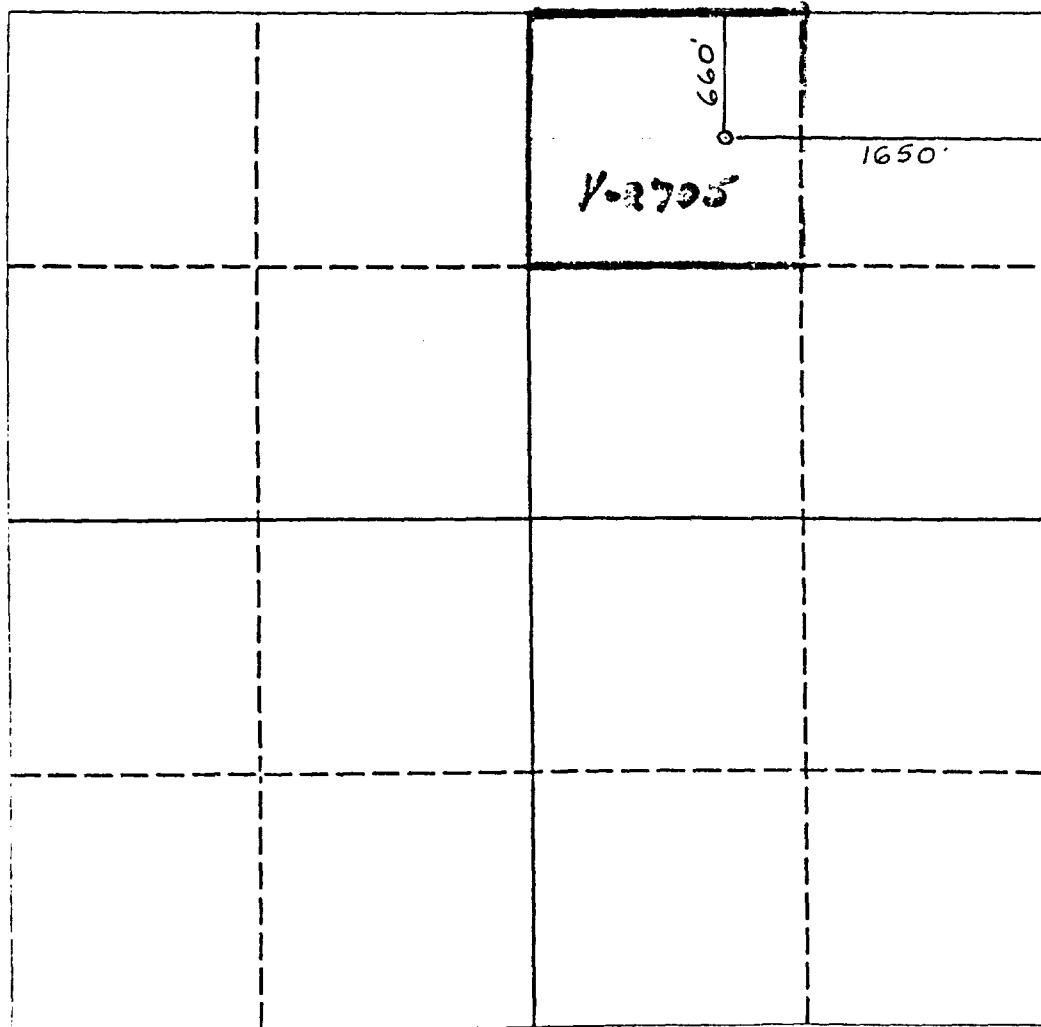
DISTRICT III  
1000 Rio Brazos Rd., Aztec, NM 87410

WELL LOCATION AND ACREAGE DEDICATION PLAT

All Distances must be from the outer boundaries of the section

Operator <b>YATES PETROLEUM CORPORATION</b>			Lease <b>GRAHAM AKB STATE</b>		Well No. <b>3</b>
Unit Letter <b>B</b>	Section <b>2</b>	Township <b>22 SOUTH</b>	Range <b>31 EAST</b>	County <b>EDDY COUNTY, NM</b>	
Actual Footage Location of Well: <b>660</b> feet from the <b>NORTH</b> line and <b>1650</b> feet from the <b>EAST</b> line					
Ground level Elev. <b>3539.</b>	Producing Formation <b>DELAVARE</b>		Pool <b>UNDRS. LOST TANK DELAVARE</b>	Dedicated Acreage: <b>40</b> Acres	

- Outline the acreage dedicated to the subject well by colored pencil or hachure marks on the plat below.
- If more than one lease is dedicated to the well, outline each and identify the ownership thereof (both as to working interest and royalty).
- If more than one lease of different ownership is dedicated to the well, have the interest of all owners been consolidated by communitization, unitization, force-pooling, etc?  
☐ Yes ☐ No If answer is "yes" type of consolidation \_\_\_\_\_  
If answer is "no" list the owners and tract descriptions which have actually been consolidated. (Use reverse side of this form if necessary.) \_\_\_\_\_  
No allowable will be assigned to the well until all interests have been consolidated (by communitization, unitization, forced-pooling, or otherwise) or until a non-standard unit, eliminating such interest, has been approved by the Division.



OPERATOR CERTIFICATION

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

Signature  
*Clifton R. May*  
Printed Name  
**Clifton R. May**

Position  
**Permit Agent**

Company  
**YATES PETROLEUM CORPORATION**

Date  
**November 25, 1991**

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 knowledge and belief.

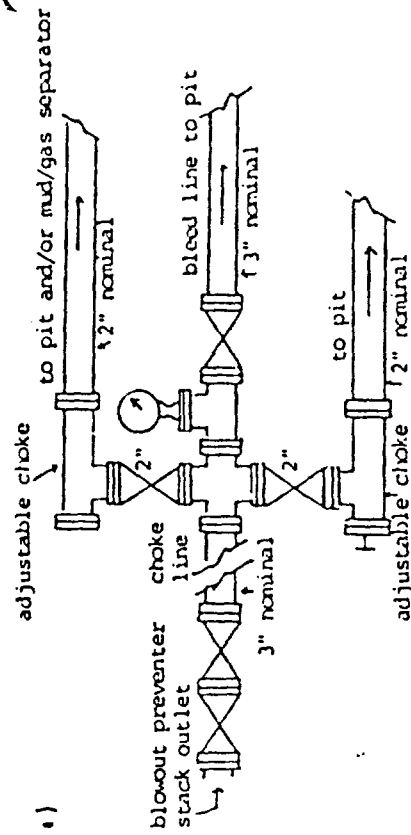
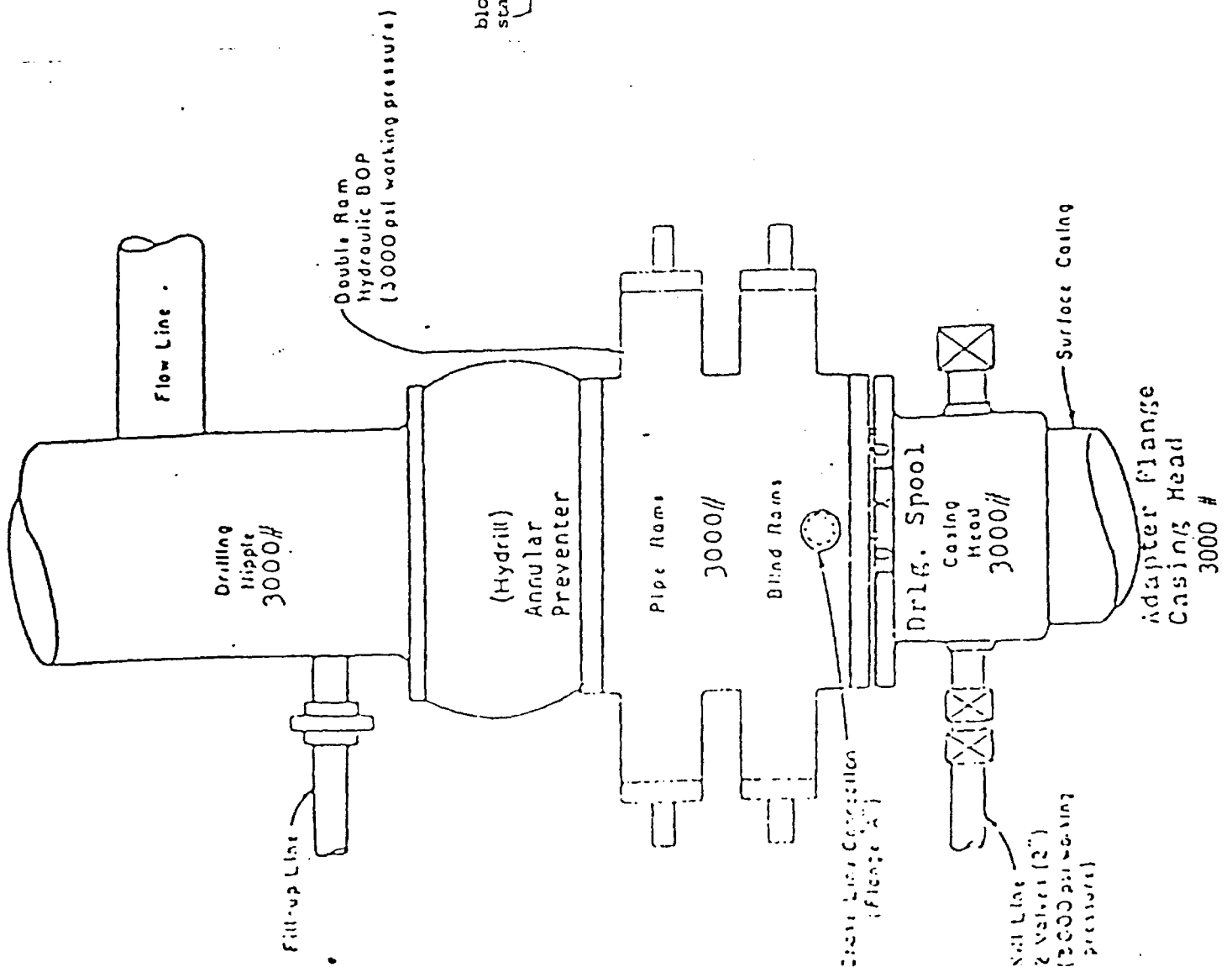
Date Surveyed  
**NOVEMBER 23, 1991**

Signature & Seal of Professional Surveyor

Certificate No.  
**5412**  
**NEW MEXICO**  
**REGISTERED PROFESSIONAL SURVEYOR**  
**NOVEMBER 23, 1991**  
**NM PE&PS? NO 5512**

# EXHIBIT "B"

## Blowout Preventer Diagram



MARTIN YATES, III  
1912 - 1985  
FRANK W. YATES  
1936 - 1986

November 21, 1991

Mr. Bob Lane  
New Mexico Potash  
P.O. Box 610  
Hobbs, NM 88241

Dear Mr. Lane:

<b>SENDER:</b> Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested. 1. <input type="checkbox"/> Show to whom delivered, date, and addressee's address. 2. <input type="checkbox"/> Restricted Delivery (Extra charge) -	
3. Article Addressed to:  Mr. Bob Lane New Mexico Potash P.O. Box 610 Hobbs, NM 88241	4. Article Number  P 384 291 931  Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise  Always obtain signature of addressee or agent and <u>DATE DELIVERED</u> .
5. Signature - Addressee  X	8. Addressee's Address (ONLY if requested and fee paid)  Flora AKF #1 Graham AKB #3 & 4 Martha AIK Fed. #7,8,&9
6. Signature - Agent  X <i>Clifton R. May</i>	
7. Date of Delivery  11-22-91	

PS Form 3811, Apr. 1989

U.S.G.P.O. 1989-238-815

DOMESTIC RETURN RECEIPT

Yates Petroleum Corporation is the operator of the Oil & Gas Lease V-2705. We have staked the following location:

Graham AKB State #3  
660' FNL and 1650' FEL  
Sec. 2-T22S-R31E  
Eddy County, NM

An application to Drill is being filed with the Oil Conservation District.

We have been advised that your company is the owner of record of certain potash leases in this area. We respectfully request that you waive any objection you may have to this proposed well location and so indicate by signing and returning one copy of this letter in the enclosed envelope.

Your favorable consideration of this request will be greatly appreciated.

Sincerely,

YATES PETROLEUM CORPORATION

*Clifton R. May*  
Clifton R. May  
Permit Agent

CRM/tg

NO OBJECTIONS OFFERED

NEW MEXICO POTASH

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Form 3800, June 1985		U.S.G.P.O. 1989-234-555	
Postmark or Date 11-21-91		Sent to MR. Bob Lane	
Flora AKF #1		Street, P.O. Box 610	
Martha AIK Fed. #7,8,&9		P.O. State and ZIP Code Hobbs, NM 88241	
TOTAL Postage and Fees		Postage	
		Certified Fee	
		Special Delivery Fee	
		Restricted Delivery Fee	
		Return Receipt showing to whom and Date Delivered	
		Return Receipt showing to whom Date and Address of Delivery	
		TOTAL Postage and Fees	

P 384 291 931  
RECEIPT FOR CERTIFIED MAIL  
NO INSURANCE COVERAGE PROVIDED  
EXCEPT FOR MATERIAL LOSS  
(See Reverse)

# YATES PETROLEUM CORPORATION

<p>SECTION 34 - 215 - 31E</p> <p>NEW MEXICO POTASH</p> <p>UNLEASED</p> <p>NEW MEXICO POTASH</p> <p>SW 1/4 SE 1/4</p> <p>STATE</p> <p>USA</p>	<p>SECTION 25 - 215 - 31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 36 - 215 - 31E</p> <p>NEW MEXICO POTASH</p> <p>STATE</p>
<p>SECTION 3 - 225 - 31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 2 - 225 - 31E</p> <p>#1. GRAHAM AKE ST.</p> <p>#2.</p> <p>NEW MEXICO POTASH</p> <p>FLORA AKE ST. #1</p> <p>STATE.</p>	<p>SECTION 1 - 225 - 31E</p> <p>UNLEASED</p> <p>USA</p>
<p>SECTION 10 - 225 - 31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 11 - 225 - 31E</p> <p>UNLEASED</p> <p>USA</p>	<p>SECTION 12 - 225 - 31E</p> <p>UNLEASED</p> <p>USA</p>

10-31-91 --- GEORGE SCHEPPOFF, DISTRICT MINING ENGINEER

11-1-91 --- CHARLENE NMSLD CENTRAL LEASING-

Clifton E. May

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:

*MS.*  
*3/20/92*  
*WJR*  
*3/20/92*  
CASE NO. 10446  
ORDER NO. R-9650

APPLICATION OF YATES PETROLEUM  
CORPORATION FOR AUTHORIZATION TO  
DRILL, EDDY COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 19, 1992, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this \_\_\_\_\_ day of March, 1992, the Division Director, having considered the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) At the time of the hearing, this case was consolidated with Division Case Nos. 10447, 10448 and 10449 for the purpose of testimony.

(3) The applicant in this matter, Yates Petroleum Corporation (Yates), seeks approval to drill its Graham "AKB" State Well No. 3, within the "Designated Potash Area" pursuant to all applicable rules and procedures governing said area, as promulgated by Division Order No. R-111-P. The proposed well is to be located at a standard oil well location 660 feet from the North line and 1650 feet from the East line (Unit B) of Section 2, Township 22 South, Range 31 East, to test the Delaware formation at an approximate depth of 8500 feet, Eddy County, New Mexico. Lot 2, (the NW/4 NE/4 equivalent) of said Section 2 is to be dedicated to said well forming a 39.81-acre oil spacing and proration unit for the Undesignated Lost Tank-Delaware Pool.

(4) New Mexico Potash Corporation, owner of the state potash lease underlying all of Section 2 appeared at the hearing through counsel and opposed the application on the basis that there is a Life of Mine Reserve designation, ("LMR") in Section 2 and that oil and gas operations are prohibited within LMR areas under the provisions of Oil Conservation Commission Order R-111-P.  
*covering*

(5) Order R-111-P prohibits drilling operations within an LMR and within a buffer zone around an LMR, which is any location within one-half mile of the LMR, unless the oil and gas operator and the mine operator mutually agree to permit drilling.

(6) Under R-111-P, mine operators file LMR designation maps with the State Land Office ("SLO")

and with the U.S. Bureau of Land Management. Section 2 is on State lands and the only agency involved is the SLO.

(7) Yates characterized the application in this case as a challenge to the LMR designation in Section 2 by New Mexico Potash, and in the alternative argued that the LMR is not established until approved by the SLO.

FINDING: The NMOCD does not have the authority or jurisdiction to review LMR designations and determine if they are supported by geologic data.

(8) The order does not clearly specify the process by which the agencies approve the LMR designation. New Mexico Potash argued that the filing of the Map creates the LMR, and that the SLO does not approve the LMR designation. There is no provision in R-111-P for any person, other than the SLO, to challenge the geologic basis for designating an LMR, and the designation of an LMR effectively deprives the owner of oil and gas interests the right to develop those interests without any forum or opportunity to be heard. Such interpretation could raise constitutional questions about the validity of R-111-P.

R-111-P provides that for wells on State Lands, the Division shall inquire of the SLO as to whether the lands involved are within an LMR.

FINDING: The determination of whether specific State lands are within an LMR is within the exclusive authority of the SLO, and such a determination by the SLO shall be binding upon the Division.

(9) Information filed with the SLO by the mine operator is confidential and not subject to inspection by the Division or any other party.

(10) Pursuant to R-111-P, the Division examiner and Counsel, in the presence of counsel for the parties, requested a determination from the Oil, Gas and Minerals Division of the SLO as to whether an LMR existed in section 2. The SLO provided the following information:

- (a) <sup>An</sup> A LMR designation exists which includes <sup>most</sup> of Section 35, Township 21 South, Range 31 East, NMPM, Eddy County, New Mexico, (the section immediately north of Section 2).
- (b) New Mexico Potash Corporation filed with the State Land Office on January 16, 1992 an amendment to the LMR designation, pursuant to Rule G(a) of R-111-P, which includes most of said Section 2.
- (c) By letter dated February 10, 1992 to New Mexico Potash Corporation, the State Land Office acknowledged receipt of the updated LMR, gave notification that the updated LMR could not be approved with the information received and requested additional supporting data to show that sufficient mineral deposits exist ~~with~~ <sup>within</sup> the amended LMR area to support the designation.

FINDING: The SLO has not designated the amended LMR, and therefore an LMR does not yet exist in Section 2, but an LMR designation does exist in Section 35.

(11) This location is within the 1/2-mile buffer zone of the existing LMR and further, since the potash lessee has not mutually agreed to allow Yates to drill its proposed Graham "AKB" State Well No. 3, ~~and~~ this application was dismissed at the hearing.

~~should not be allowed to be drilled?~~

IT IS THEREFORE ORDERED THAT:

Case No. 10446 is hereby dismissed as of the date of the hearing.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY  
Director

S E A L

LAW OFFICES  
LOSEE, CARSON, HAAS & CARROLL, P.A.  
300 YATES PETROLEUM BUILDING  
P. O. DRAWER 239  
ARTESIA, NEW MEXICO 88211-0239

OIL CONSERVATION DIVISION  
RECEIVED  
APR 9 1992  
TELEPHONE  
(505) 746-3505  
TELECOPY  
(505) 746-6316

ERNEST L. CARROLL  
JOEL M. CARSON  
JAMES E. HAAS  
A. J. LOSEE  
DEAN B. CROSS  
MARY LYNN BOGLE

April 9, 1992

Mr. William J. LeMay, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: Applications of Yates Petroleum Corporation  
for Permits to Drill, Eddy County, New  
Mexico/OCD Case No. 10446/Order R-9650; Case  
No. 10447/R-9651

Dear Mr. LeMay:

I am enclosing an original plus three copies each of two  
Applications for Hearing to be filed in the above-referenced two  
cases.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

  
Ernest L. Carroll

ELC:kth  
Enclosures

xc w/encl: Charles High/Clinton Marrs  
Randy Patterson, Yates Petroleum Corporation

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

IN THE MATTER OF THE APPLICATION	:	
OF YATES PETROLEUM CORPORATION	:	
FOR AUTHORIZATION TO DRILL,	:	CASE NO. 10446
EDDY COUNTY, NEW MEXICO	:	ORDER NO. R-9650

**APPLICATION FOR HEARING**

COMES NOW YATES PETROLEUM CORPORATION ("Yates") by its attorneys, Losee, Carson, Haas & Carroll, P. A., and hereby applies for a hearing de novo before the New Mexico State Oil Conservation Commission ("OCC") pursuant to Rule 1220 of the Oil Conservation Division's ("OCD") Rules and Regulations (adopted by the OCC on March 1, 1991) on all issues raised by Yates' Application to drill its Graham "AKB" State Well No. 3 within the "Designated Potash Area", and in support thereof shows the following:

1. On March 20, 1992, the OCD entered its Order No. R-9650 dismissing the application of Yates to drill its Graham "AKB" State Well No. 3 at a standard oil well location 660' from the North line and 1650' from the East line of Section 2, Township 22 South, Range 31 East, N.M.P.M., Eddy County, New Mexico.

2. The OCD found that the proposed location of the Graham "AKB" State Well No. 3 was located within the half-mile buffer zone of the existing LMR of New Mexico Potash Corporation and further found that the potash lessee had not agreed to allow Yates to drill its proposed Graham "AKB" State Well No. 3 and therefore dismissed Yates' application at the hearing thereon. In dismissing Yates' application, the Division failed to exercise its legislatively mandated discretion to grant exceptions to its

rules and orders commented upon in Finding #20 of Commission Order R-111-P, by refusing to hear evidence concerning and make a determination whether commercial potash would or would not be wasted unduly as a result of the drilling of the Graham No. 3 Well.

3. There has been no determination by the OCD and or OCC specifically finding that Section 2, Township 22 South, Range 31 East, N.M.P.M., Eddy County, New Mexico lies within any area containing commercial potash deposits.

4. Yates challenges the attempted designation of Section 2, Township 22 South, Range 31 East, N.M.P.M., Eddy County, New Mexico as lying within an LMR or buffer zone around an LMR by New Mexico Potash Corporation, because such attempted designation is without support and was done without notice and hearing or the opportunity of interested parties to challenge said designation.

5. There was no showing by New Mexico Potash Corporation that the proposed well, if drilled, would have the effect of unduly reducing the total quantity of commercial deposits of potash which may reasonably be recovered in commercial quantities or that such operations would interfere unduly with the orderly development of commercial potash deposits.

6. Yates is the operator of the Delaware and intermediate formations under Section 2, Unit B, Township 22 South, Range 31 East, N.M.P.M., Eddy County, New Mexico and is therefore adversely affected by OCD Order No. R-9650 dismissing its application.

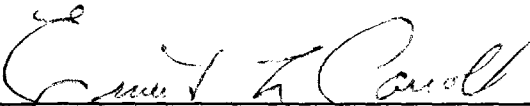
WHEREFORE, Yates respectfully requests that this matter be set for hearing before the OCC and upon such hearing an order be

entered granting the Application for Permit to Drill its Graham "AKB" State Well No. 3 660' from the North line and 1650' from the East line of Section 2, Township 22 South, Range 31 East, N.M.P.M., Eddy County, New Mexico, and for such other relief as may be just in the premises.

Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

By:

  
Ernest L. Carroll

P. O. Drawer 239

Artesia, New Mexico 88211-0239

(505)746-3505

Attorneys for Yates Petroleum Corp.

I hereby certify that I caused to be mailed a true and correct copy of the foregoing to all counsel of record this April 9, 1992.

  
Ernest L. Carroll

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

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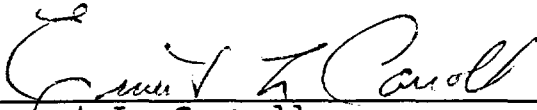
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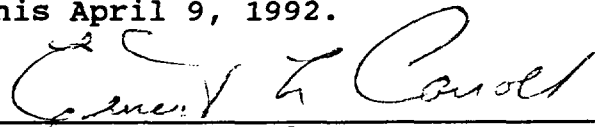
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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
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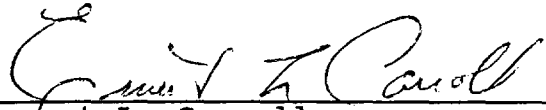
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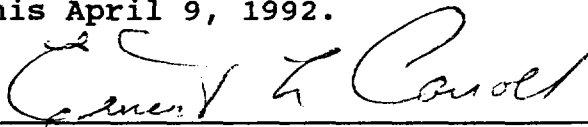
Respectfully submitted,

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By:   
Ernest L. Carroll  
P. O. Drawer 239  
Artesia, New Mexico 88211-0239  
(505) 746-3505

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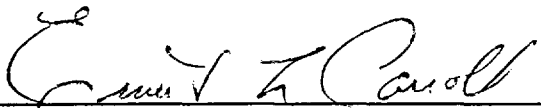
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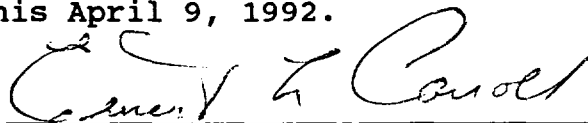
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LAW OFFICES  
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300 YATES PETROLEUM BUILDING  
P. O. DRAWER 239  
ARTESIA, NEW MEXICO 88211-0239

TELEPHONE  
(505) 746-3505  
TELECOPY  
(505) 746-6316

April 13, 1992

**EXPRESS MAIL**

Mr. William J. LeMay, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: Applications of Yates Petroleum Corporation  
for Permits to Drill, Eddy County, New  
Mexico/OCD Case Nos. 10446/Order R-9650,  
10447/Order R-9651, 10448/Order R-9654,  
10449/Order R-9655

Dear Mr. LeMay:

Enclosed please find an original plus three copies of a Subpoena  
Duces Tecum that we ask be issued in conjunction with Yates  
Petroleum Corporation's Application for Permits to Drill in the  
above-referenced case numbers, which are the subject of  
applications for hearing de novo.

Your assistance in expeditiously issuing these would be most  
appreciated.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

  
Ernest L. Carroll

ELC:kth  
Enclosures

-332-

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF  
YATES PETROLEUM CORPORATION FOR  
PERMITS TO DRILL, EDDY COUNTY,  
NEW MEXICO.

APPLICATIONS FOR HEARINGS  
de novo in CASE NOS.:

10446/Order R-9650  
10447/Order R-9651  
10448/Order R-9654  
10449/Order R-9655

SUBPOENA DUCES TECUM

TO: Bob Lane  
New Mexico Potash Corporation  
P. O. Box 610  
Hobbs, NM 88241

Or Such Other Official of the New Mexico  
Potash Corporation in Whose Possession or  
Control the Hereinafter Requested Documents  
Presently Remain

Pursuant to Section 70-2-8, M.M.S.A. (1978) and the New Mexico  
Oil Conservation Division Rule 1211, YOU ARE HEREBY COMMANDED to  
appear at the place, day and time specified below and produce for  
inspection and copying the documents described on the attached Exhibit  
"A".

PLACE

Law Offices of Losee, Carson, Haas & Carroll, P. A.  
105 S. Fourth Street, 300 Yates Petroleum Bldg.  
Artesia, New Mexico 88210

DAY AND TIME

April 27, 1992, during office hours as reasonably  
agreed upon by the parties.

This subpoena is issued on the Applications for Permit to Drill  
of Yates Petroleum Corporation, by and through its attorneys, Losee,  
Carson, Haas & Carroll, P. A., P. O. Drawer 239, Artesia, New Mexico,

8821-0239, which applications are the subject of Applications for Hearing de novo.

DATED this 16th day of April, 1992.

NEW MEXICO OIL CONSERVATION DIVISION

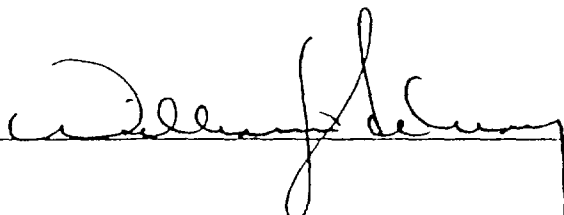
By:  \_\_\_\_\_

EXHIBIT "A"

INSTRUCTIONS

"Documents" or "records" mean every writing and record of every type and description in the possession, custody or control of New Mexico Potash Corporation whether prepared by you or otherwise, which is in your possession or control or known by you to exist, including but not limited to, all drafts, correspondence, memoranda, handwritten notes, notes, minutes, entries in books of accounting, computer print-outs, tapes and records of all types, minutes of meeting, studies, contracts, agreements, books, pamphlets, schedules, pictures and voice recordings, videotapes and every other device or medium on which, or for which information of any type is transmitted, recorded or preserved and whether or not such documents or records are marked or treated as confidential or proprietary. The term "document" also means a copy where the original is not in possession, custody or control of the company or corporation to whom this request is addressed, and every copy of the document where such copy is not an identical duplicate of the original, all things similar to any of the foregoing, however denominated by the parties.

1. Produce the complete record of core hole logs of any core hole drilled through the potash zones by New Mexico Potash Corporation, any predecessor or other company if such log or summary thereof is in the possession of New Mexico Potash Corp., including, but not limited to, the written results or interpretations of the logs, all assays performed thereon and economic analysis derived therefrom, in Sections 22, 23, 24, 25, 26, 27, 34, 35, and 36 of Township 21 South, Range 31 East, and Section 2 of Township 22 South, Range 31 East.

RETURN OF SERVICE

STATE OF NEW MEXICO )  
                                  : ss.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being duly sworn, upon oath state: I am not less than 18 years of age and not a party to this action, and I served the within subpoena by delivering a copy thereof to the following person herein named in \_\_\_\_\_ County, New Mexico on the date hereinafter set out, as follows:

\_\_\_\_\_ on \_\_\_\_\_, 1992.

\_\_\_\_\_  
SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_\_, 1992.

My commission expires:

\_\_\_\_\_  
Notary Public

*we file*

LAW OFFICES

LOSEE, CARSON, HAAS & CARROLL, P. A.

ERNEST L. CARROLL  
JOEL M. CARSON  
JAMES E. HAAS  
A. J. LOSEE

300 YATES PETROLEUM BUILDING  
P. O. DRAWER 239  
ARTESIA, NEW MEXICO 88211-0239

TELEPHONE  
(505) 746-3505  
TELECOPY  
(505) 746-6316

DEAN B. CROSS  
MARY LYNN BOGLE\*

\*LICENSED IN ARIZONA ONLY

June 15, 1992

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Charles C. High, Jr.  
Kemp, Smith, Duncan & Hammond, P. C.  
P. O. Drawer 2800  
El Paso, TX 79901-1441

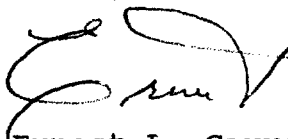
Re: Applications of Yates Petroleum Corporation  
for Permits to Drill, Eddy County, New  
Mexico/OCD Case Nos. 10446/Order R-9650,  
10447/Order R-9651, 10448/Order R-9654,  
10449/Order R-9655

Dear Charlie:

I have reviewed our subpoena request with our expert witnesses, and we have reached the conclusion that all of the information requested is still required. Therefore, we would ask that the information requested be supplied. Should you decide not to do so, please advise me and the OCD as soon as possible. By copy of this letter to Mr. Stovall, I am notifying them of our decision with respect to the requested information.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

  
Ernest L. Carroll

ELC:kth

xc: Bob Stovall, OCD  
Randy Patterson

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF  
YATES PETROLEUM CORPORATION FOR  
PERMITS TO DRILL, EDDY COUNTY,  
NEW MEXICO.

APPLICATIONS FOR HEARINGS  
de novo in CASE NOS.:

10446/Order R-9650  
10447/Order R-9651  
10448/Order R-9654  
10449/Order R-9655

AND IN CONJUNCTION WITH THE  
APPLICATION OF YATES PETROLEUM  
CORPORATION TO AMEND ORDER  
R-111-P, AS AMENDED, PERTAINING  
TO THE POTASH AREAS OF EDDY  
AND LEA COUNTIES, NEW MEXICO

CASE NO. \_\_\_\_\_

SUBPOENA DUCES TECUM

TO: Leslie Cone, District Manager  
Bureau of Land Management  
U. S. Department of the Interior  
1717 W. 2nd St.  
P. O. Box 1397  
Roswell, NM 882202-1397

RECEIVED

MAY 06 1992

OIL CONSERVATION DIVISION

Pursuant to Section 70-2-8, M.M.S.A. (1978) and the New Mexico  
Oil Conservation Division Rule 1211, YOU ARE HEREBY COMMANDED to  
appear at the place, day and time specified below and produce for  
inspection and copying the documents described on the attached Exhibit  
"A".

PLACE

Roswell District Office, Bureau of Land Management, 1717 W.  
Second, Roswell, New Mexico, or such other location desig-  
nated by agreement.

DAY AND TIME

May 11, 1992, during office hours as reasonably agreed upon  
by the parties.

This subpoena is issued on the Applications for Permit to Drill  
of Yates Petroleum Corporation, by and through its attorneys, Losee,

Carson, Haas & Carroll, P. A., P. O. Drawer 239, Artesia, New Mexico, 8821-0239, which applications are the subject of Applications for Hearing de novo, and in conjunction with Yates Petroleum Corporation's Application to Amend Order R-111-P, as Amended, Pertaining to the Potash Areas of Eddy and Lea Counties, New Mexico.

DATED this 6th day of May, 1992.

NEW MEXICO OIL CONSERVATION DIVISION

By: \_\_\_\_\_

## EXHIBIT "A"

### INSTRUCTIONS

"Documents" or "records" mean every writing and record of every type and description in the possession, custody or control of New Mexico Potash Corporation whether prepared by you or otherwise, which is in your possession or control or known by you to exist, including but not limited to, all drafts, correspondence, memoranda, handwritten notes, notes, minutes, entries in books of accounting, computer print-outs, tapes and records of all types, minutes of meeting, studies, contracts, agreements, books, pamphlets, schedules, pictures and voice recordings, videotapes and every other device or medium on which, or for which information of any type is transmitted, recorded or preserved and whether or not such documents or records are marked or treated as confidential or proprietary. The term "document" also means a copy where the original is not in possession, custody or control of the company or corporation to whom this request is addressed, and every copy of the document where such copy is not an identical duplicate of the original, all things similar to any of the foregoing, however denominated by the parties.

### DOCUMENTS TO BE PRODUCED

1. All reports made by an employee of the BLM of any investigation or inspection performed dealing with the proximity of underground mine workings for potash to the well bores of any drilling, producing or plugged and abandoned oil and/or gas wells located within the KPLA in Eddy and Lea Counties, New Mexico.

2. All reports made by an employee of the BLM of any investigation or inspection performed dealing with underground mining operations for potash that have resulted in mining operations being con-

ducted up to or through the well bore of drilling, producing or plugged and abandoned oil and/or gas wells.

3. All reports made by an employee of the BLM, including any chemical analysis performed by or at the direction of that employee, of any investigation or inspection of oil and/or gas seeps or migrations found within any underground potash mine workings located in Eddy or Lea Counties, New Mexico.

4. All reports made by an employee of the BLM of any investigations, inspections or studies performed with regard to the quality of potash being mined and the economics of such operations.

5. All reports made by an employee of the BLM of any investigations, inspections or studies performed with respect to the feasibility of conducting oil and/or gas exploration and potash mining in close proximity to each other.

6. All reports made by an employee of the BLM of any investigations, inspections or studies performed with respect to the efficiency of present potash mining practices.

7. All reports made by an employee of the BLM of any study performed dealing with a determination or calculation of potash reserves generally within the KPLA in Eddy and Lea Counties, New Mexico or done specifically dealing with the reserves for each individual potash mine located in Eddy and Lea Counties, New Mexico.

8. All reports made by an employee of the BLM of any study dealing with the economics of potash mining in Eddy and Lea Counties, New Mexico.

9. All reports, maps or written documents of any kind submitted to or in the possession of the BLM dealing with the proximity of underground mine workings for potash to the well bores of any drill-

ing, producing or plugged and abandoned oil and/or gas wells located within the KPLA in Eddy and Lea Counties, New Mexico.

10. All reports, maps or written documents of any kind submitted to or in the possession of the BLM and prepared by a person or persons other than employees of the BLM dealing with underground mining operations for potash that have resulted in mining operations being conducted up to or through the well bores of drilling, producing or plugged and abandoned oil and/or gas wells.

11. All reports, maps or written documents of any kind submitted to or in the possession of the BLM and prepared by a person or persons other than employees of the BLM dealing with oil and/or gas seeps or migrations, including any chemical analysis performed in connection therewith, found within any underground potash mine workings located in Eddy or Lea Counties, New Mexico.

12. All reports, maps or written documents of any kind submitted to or in the possession of the BLM and prepared by a person or persons other than employees of the BLM dealing with the quality of potash being mined and the economics of such operations.

13. All reports, maps or written documents of any kind submitted to or in the possession of the BLM and prepared by a person or persons other than employees of the BLM dealing with the feasibility of conducting oil and/or gas exploration and potash mining in close proximity to each other.

14. All reports, maps or written documents of any kind submitted to or in the possession of the BLM and prepared by a person or persons other than employees of the BLM dealing with the efficiency of present potash mining practices.

15. All reports, maps or written documents of any kind submitted to or in the possession of the BLM and prepared by a person or persons other than BLM employees dealing with a determination or calculation of potash reserves generally within the KPLA in Eddy and Lea Counties, New Mexico or done specifically dealing with the reserves for each individual potash mine located in Eddy and Lea Counties, New Mexico.

16. All reports, maps or written documents of any kind submitted to or in the possession of the BLM and prepared by a person or persons other than BLM employees dealing with the economics of potash mining in Eddy and Lea Counties, New Mexico.

17. Maps of mine workings and surface installations for each potash mine in Eddy and Lea Counties as filed for each of the last ten (10) years.

18. Records of core analyses filed by any potash lessee drilled in Sections 14, 11, 2 and 1, Township 22 South, Range 31 East, and Sections 36, 34, 25, 24 and 13, Township 21 South, Range 31 East, and Section 7, Township 21 South, Range 32 East, Eddy and Lea Counties, New Mexico.

19. Location of, date of drilling and any core analyses of, all core holes drilled within the KPLA located in Eddy and Lea Counties, New Mexico.

20. A detailed map of all barren areas as they are presently reported by any potash mine within the KPLA located in Eddy and Lea Counties, New Mexico.

RETURN OF SERVICE

STATE OF NEW MEXICO )

: ss.

COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being duly sworn, upon oath state: I am not less than 18 years of age and not a party to this action, and I served the within subpoena by delivering a copy thereof to the following person herein named in \_\_\_\_\_ County, New Mexico on the date hereinafter set out, as follows:

\_\_\_\_\_ on \_\_\_\_\_, 1992.

\_\_\_\_\_  
SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_\_, 1992.

My commission expires:

\_\_\_\_\_  
Notary Public

# Kemp, Smith, Duncan & Hammond, P.C.

ATTORNEYS AT LAW

OIL CONSERVATION DIVISION  
RECEIVED

1992 MAY 20 AM 8 38

## EL PASO\*

TAD R. SMITH  
JOSEPH P. HAMMOND  
JAMES F. GARNER  
LEIGHTON GREEN, JR.  
RAYMOND H. MARSHALL  
ROBERT B. ZABOROSKI†  
W. ROYAL FERGUSON, JR.  
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BURTON I. COHEN  
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GARY SANDERS  
JOHN R. JONES  
CLARA B. BURNS  
JOHN L. WILLIAMS  
KEVIN P. O'SHEA

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JOHN A. DAVIS, JR.  
FRANK N. CREMER†  
JAMES R. FULLER††  
ROD J. MACDONALD†  
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## ALBUQUERQUE†

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A. DREW HOFFMAN\*  
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VICKIE L. AUDETTE  
ALAN HALL

## SANTA FE†

JOE L. MCCLAUGHERTY\*\*\*  
CAMERON PETERS\*\*\*\*  
BILL PANAGAKOS

## EL PASO, TEXAS 79901-1441

2000 MBANK PLAZA  
P. O. DRAWER 2800, 79999-2800  
(915) 533-4424 FAX: (915) 546-5360  
TELEX: 5106016999 KEMP UQ

## ALBUQUERQUE, NEW MEXICO 87102-2121

500 MARQUETTE, N.W., SUITE 1200  
P. O. BOX 1276, 87103-1276  
(505) 247-2315 FAX: (505) 843-6099

## MIDLAND, TEXAS 79701-4310

400 WEST ILLINOIS, SUITE 1400  
P. O. BOX 2796, 79702-2796  
(915) 687-0011 FAX: (915) 687-1735

## SANTA FE, NEW MEXICO 87501-1861

300 PASEO DE PERALTA, SUITE 200  
P. O. BOX 8680, 87504-8680  
(505) 982-1913 FAX: (505) 988-7563

OF COUNSEL WILLIAM B. DUNCAN

\*MEMBERS TEXAS BAR

†MEMBERS NEW MEXICO BAR

\*\*MEMBERS ARIZONA BAR

\*\*\*MEMBERS TEXAS AND COLORADO BARS

\*\*\*\*MEMBERS COLORADO BAR

††MEMBERS DISTRICT OF COLUMBIA BAR

†††MEMBERS NEW MEXICO AND OKLAHOMA BARS

††††MEMBERS DISTRICT OF COLUMBIA AND COLORADO BARS

May 14, 1992

William J. LeMay, Director  
New Mexico Oil Conservation Division  
State Land Office Building  
310 Old Santa Fe Trail  
Santa Fe, NM 87504

RE: Application of Yates Petroleum Corporation for  
Authorization to Drill, Eddy County, New Mexico

Applications for De Novo Hearing: Cases No. 10446,  
10447, 10448 and 10449

Dear Mr. LeMay

I am enclosing for filing in the above-captioned matters the original and two copies of the Acceptance of Service, signed by Tony Herrell, Bureau of Land Management, Carlsbad Area Office, of the Subpoena Duces Tecum served on Mr. Herrell.

Please return a file stamped copy of the Acceptance of Service. I have included a stamped, addressed, return envelope for your convenience. A copy of the enclosed Acceptance of Service has been served today on Ernest Carroll, Esq., attorney of record for Yates Petroleum, by U.S. mail.

William J. LeMay, Director  
May 14, 1992  
Page 2

7

Very truly yours,

KEMP, SMITH, DUNCAN & HAMMOND, P.C.

By   
Clinton W. Marrs

Enclosure

cc: Charles C. High, Jr. (w/ encl.)  
Ernest L. Carroll (w/ encl.)

# Kemp, Smith, Duncan & Hammond, P.C.

ATTORNEYS AT LAW

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OF COUNSEL: WILLIAM B. DUNCAN

\*MEMBERS TEXAS BAR  
†MEMBERS NEW MEXICO BAR  
\*\*MEMBERS ARIZONA BAR  
\*\*\*MEMBERS TEXAS AND COLORADO BARS  
\*\*\*\*MEMBERS COLORADO BAR  
††MEMBERS DISTRICT OF COLUMBIA BAR  
†††MEMBERS NEW MEXICO AND OKLAHOMA BARS  
††††MEMBERS DISTRICT OF COLUMBIA AND COLORADO BARS

May 15, 1992

RECEIVED

MAY 19 1992

OIL CONSERVATION DIVISION

William J. LeMay, Director  
New Mexico Oil Conservation Division  
State Land Office Building  
310 Old Santa Fe Trail  
Santa Fe, NM 87504

RE: Application of Yates Petroleum Corporation for  
Authorization to Drill, Eddy County, New Mexico

Applications for De Novo Hearing: Cases No. 10446,  
10447, 10448 and 10449

Dear Mr. LeMay

I am enclosing for filing in the above-captioned matters the original and three copies of the Acceptance of Service, signed by Ernest L. Carroll, Esq. (counsel of record for Yates Petroleum Corp.), of the Subpoena Duces Tecum issued to John Yates, President, Yates Petroleum Corporation.

Please return a file stamped copy of the Acceptance of Service to me and to Mr. Carroll. I have included stamped, addressed, return envelopes for your convenience.

William J. LeMay, Director  
May 15, 1992  
Page 2

Very truly yours,

KEMP, SMITH, DUNCAN & HAMMOND, P.C.

By   
Clinton W. Marrs

Enclosure

cc: Charles C. High, Jr. (w/ encl.)  
Ernest L. Carroll (w/o encl.)

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

**IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION COMMISSION  
FOR THE PURPOSE OF CONSIDERING;**

**CASES NOS. 10446, 10447,  
10448, 10449  
Order No. R-9679-A**

**APPLICATION OF YATES PETROLEUM  
CORPORATION FOR A PERMIT TO DRILL,  
EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE COMMISSION**

**BY THE COMMISSION:**

This cause came on for hearing on motions to quash sub poenas duces tecum at 9:00 a.m. on July 16, 1992, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 16th day of July, 1992, the Commission, a quorum being present, having considered the arguments of counsel,

**FINDS THAT:**

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) These cases have been consolidated for purpose of hearing.

(3) Yates Petroleum Corporation has requested and the Commission has issued the following sub poena duces tecum:

(a) dated May 6, 1992, directed to Leslie Cone, District Manager, Bureau of Land Management.

(4) The Bureau of Land Management filed a motion to quash said sub poena duces tecum on June 30, 1992.

(5) Said motion sets forth valid reasons to quash and no party has responded to said motion.

(6) Upon review the Commission agreed that the motion to quash should be granted.

**IT IS THEREFORE ORDERED THAT:**

(1) The motion of the Bureau of Land Management to quash the sub poena duces tecum, identified in Finding No. (3) herein, issued by the Commission at the request of Yates Petroleum Corporation is hereby granted.

(2) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

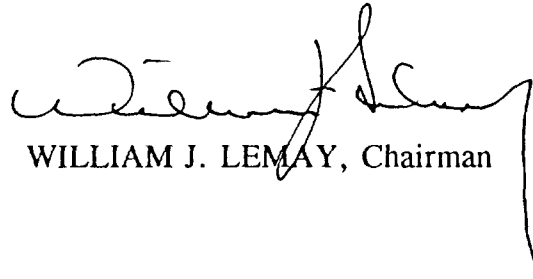
STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION



GARY CARLSON, Member



WILLIAM W. WEISS, Member



WILLIAM J. LEMAY, Chairman

S E A L

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

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

CASES NO. 10446, 10447  
10448, 10449

ORDER R-9679

APPLICATION OF YATES PETROLEUM  
CORPORATION FOR A PERMIT TO DRILL,  
EDDY COUNTY, NEW MEXICO

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing on motions to quash sub poenas duces tecum at 9:00 a.m. on May 22, 1992 at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission", all members being present for hearing.

NOW, on this 12<sup>th</sup> day of June, 1992, the Commission, having considered the arguments of counsel,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) These cases have been consolidated for purpose of hearing.

(3) Reference is made to parties and locations which are matters of record in this proceeding and detailed descriptions are not given herein.

(4) Yates Petroleum Corporation has requested and the Commission has issued the following sub poenas duces tecum:

(a) dated April 16, 1992, directed to Bob Lane, New Mexico Potash Corporation;

(b) dated May 6, 1992, directed to Leslie Cone, District Manager, Bureau of Land Management.

(5) New Mexico Potash Corporation, operator of the LMR in question, objects to providing the information on core-holes outside of section 2, the section on which the proposed wells are to be located, and has moved to quash the sub poenas because the information Yates is requesting is confidential and proprietary.

Cases Nos. 10446, 10447,  
10448 and 10449

Order No. R-9679

-2-

(6) The burden is on Yates to prove that the wells in question can be drilled without causing undue waste of potash.

(7) Yates cannot adequately prepare its case without access to the information considered confidential and proprietary by New Mexico Potash.

(8) A protective order can be established which will protect New Mexico Potash proprietary interests and still afford Yates the opportunity to adequately prepare its case.

IT IS THEREFORE ORDERED THAT:

(1) The motion of New Mexico Potash Corporation to quash the sub poena duces tecum, identified in Finding 4 herein, issued by the Commission at the request of Yates Petroleum Corporation is hereby denied.

(2) Unless the parties otherwise agree, the information sought from New Mexico Potash Corporation shall be produced not later than 1:00 p.m. on June 17, 1992.

(3) Unless otherwise agreed by the parties and the Bureau of Land Management, the information sought from BLM shall be produced at the Roswell District office of the BLM not later than 1:00 p.m. on June 19, 1992.

(4) Unless the parties otherwise agree on alternative protective orders approved by the Director of the Oil Conservation Division, production shall be subject to the following confidentiality provision:

- (a) Inspection of the confidential information shall be limited to one attorney, one management representative and one expert for Yates Petroleum Corporation.
- (b) No reproductions shall be made of any confidential material without the consent of New Mexico Potash Corporation or an order of this Commission.
- (c) No representative of Yates shall disclose the information to any other person, including any other person within Yates Petroleum Corporation.

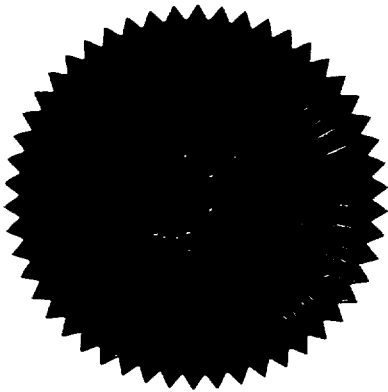
(5) Violation of the confidentiality provisions of this order or of any agreement entered into by the parties shall be grounds for contempt of this Commission.

(6) If it is determined that any confidential material must be presented at hearing, the parties and the Chairman of the Commission shall determine what measures shall be undertaken to preserve the confidentiality of the information.

Cases Nos. 10446, 10447,  
10448 and 10449  
Order No. R-9679  
-3-

(7) The Commission retains jurisdiction of this matter for the entry of such further orders as it deems necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



S E A L

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

Handwritten signature of Gary Carlson.

GARY CARLSON,  
Member

Handwritten signature of Bill Weiss.

WILLIAM W. WEISS,  
Member

Handwritten signature of William J. Lemay.

WILLIAM J. LEMAY,  
Chairman

**Kemp, Smith, Duncan & Hammond, P.C.**

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OF COUNSEL: WILLIAM B. DUNCAN

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\*\*MEMBERS NEW MEXICO BAR

\*\*\*MEMBERS ARIZONA BAR

\*\*\*\*MEMBERS TEXAS AND COLORADO BARS

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†MEMBERS DISTRICT OF COLUMBIA BAR

††MEMBERS NEW MEXICO AND OKLAHOMA BARS

†††MEMBERS DISTRICT OF COLUMBIA AND COLORADO BARS

April 27, 1992

RECEIVED

APR 27 1992

OIL CONSERVATION DIVISION

William J. LeMay, Director  
New Mexico Oil Conservation Division  
State Land Office Building  
310 Old Santa Fe Trail  
Santa Fe, NM 87504

RE: In the Matter of Application of Yates Petroleum  
Corporation for Authorization to Drill, Eddy County, New  
Mexico

Applications for De Novo Hearing: Cases No. 10446,  
10447, 10448 and 10449

Dear Mr. LeMay

I am enclosing for filing in the above-captioned matters the original and one copy of New Mexico Potash Corporation's Objections to Subpoena duces Tecum and Motion to Quash ("Objections and Motion to Quash"). A copy of the Objections and Motion to Quash has been served today on Ernest Carroll, Esq., attorney of record for Yates Petroleum, by both fax and U.S. mail.

Very truly yours,

KEMP, SMITH, DUNCAN & HAMMOND, P.C.

By Clinton W. Marrs  
Clinton W. Marrs

Enclosure

William J. LeMay, Director  
April 27, 1992  
Page 2

cc: Ernest L. Carroll (w/o encl.)

RECEIVED

BEFORE THE OIL CONSERVATION COMMISSION APR 27 1992

STATE OF NEW MEXICO

OIL CONSERVATION DIVISION

IN THE MATTER OF THE APPLICATION OF ) APPLICATIONS FOR DE NOVO  
YATES PETROLEUM CORPORATION FOR ) HEARING : CASES NOS. 10446,  
PERMITS TO DRILL, EDDY COUNTY, ) 10447, 10448, 10449  
NEW MEXICO

**OBJECTIONS TO SUBPOENA DUCES TECUM AND MOTION TO QUASH**

NEW MEXICO POTASH CORPORATION objects to the subpoena issued by the New Mexico Oil Conservation Division to Bob Lane, New Mexico Potash Corporation, on April 16, 1992, and moves to quash the subpoena for the following reasons:

1. The subpoena seeks documents and information protected from disclosure by Order R-111-P, Section G, which states:

Information used by the potash lessee in identifying its LMR shall be filed with the BLM and SLO but will be considered privileged and confidential "trade secrets and commercial....information" within the meaning of 43 C.F.R. § 2.13(c)(4) (1986), Section 19-1-2, 1 NMSA 1978, and not subject to public disclosure.

2. The documents and information sought by the subpoena, with the exception of information concerning Section 2 of Township 22 South, Range 31 East, are irrelevant to the issues raised by the applications for permit to drill at issue in these cases.

3. The documents and information sought by the subpoena are unnecessary to the resolution of any issue in these cases because the information sought is on file with the State Land Office and Bureau of Land Management even though protected from public disclosure. Therefore, the fact that the proposed well locations are within New Mexico Potash Corporation's LMR and should not be allowed (see Order R-111-P, Section G(e)(3)), can be verified by the SLO or BLM as provided in Order R-111-P, Section G(b), without

disclosure of the confidential, trade secret information sought by the subpoena.

4. Information concerning Core Hole No. 162, located in Section 2 of Township 22 South, Range 31 East, and within approximately 2600' of all of the proposed well locations, has been provided to counsel for Yates Petroleum Corporation.

5. A subpoena for the same information has already been quashed once by the hearing officer for the Oil Conservation Division.

Respectfully submitted,

Clinton Marrs *Clinton A. Marrs*  
KEMP, SMITH, DUNCAN & HAMMOND, P.C.  
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(915) 546-5380 (FAX)

By *Charles C. High, Jr.*  
Charles C. High, Jr.  
State Bar No. 090605000

Attorneys for New Mexico Potash Corporation

CERTIFICATE OF SERVICE

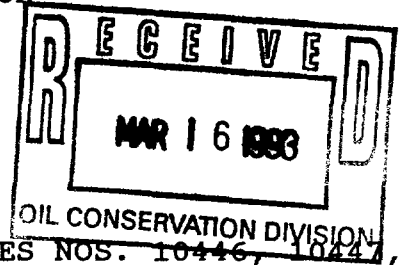
I hereby certify that a true and correct copy of the foregoing Objections to Subpoena Duces Tecum and Motion to Quash was sent by facsimile and mailed this *27th* day of April, 1992 to Losee, Carson, Haas & Carroll, P.A., 300 Yates Petroleum Building, P. O. Drawer 239, Artesia, New Mexico 88211-0239.

*Charles C. High, Jr.*  
CHARLES C. HIGH, JR.

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

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

APPLICATION OF YATES PETROLEUM  
CORPORATION FOR AUTHORIZATION TO  
DRILL, EDDY COUNTY, NEW MEXICO



CASES NOS. 10446, 10447,  
10448, and 10449

**NEW MEXICO POTASH CORPORATION'S PROPOSED FINDINGS  
OF FACT AND CONCLUSIONS OF LAW**

New Mexico Potash Corporation ("NMP") submits the following proposed Findings of Fact and Conclusions of Law to aid the Commission in resolving this matter. The proposed findings of fact are supported by testimony of witnesses as well as exhibits introduced during the hearing and the proposed conclusions of law reflect the intent and meaning of Order R-111-P and current legal precedent.

Based upon the evidence in these consolidated cases, NMP requests that the Commission adopt the following findings and conclusions:

**INTRODUCTION AND STATEMENT OF THE CASE**

These consolidated cases raise important issues under Commission Order R-111-P, which regulates the drilling of oil and gas wells in the Potash Area. In Cases Nos. 10446 and 10447, Yates Petroleum Corporation ("Yates") seeks permits to drill its proposed Graham No. 3 and Graham No. 4 wells to depths of 8,500 feet at points located, respectively, 660 feet from the North line and 1650 feet from the East line, and 1980 feet from the North line and 1650 feet from the East line, of Section 2, Township 22 South, Range 31

East. These proposed locations are within a previously existing life-of-mine-reserve ("LMR") designated by New Mexico Potash Corporation ("NMP") in accordance with Order R-111-P. For this reason, and because NMP did not consent to the proposed locations, approval of the wells was denied by the Oil Conservation Division ("OCD") by Order dated March 20, 1992.

Cases Nos. 10448 and 10449 involve proposed well locations in the same area. In these cases, Yates seeks permits to drill its proposed Flora "AKF" State No. 1 and Flora "AKF" No. 2 wells to a depth of 8,500 feet at points located, respectively, 660 feet from the South line and 2310 feet from the West line and 1980 feet from the South line and 2310 feet from the West line, of Section 2, Township 22 South, Range 31 East. It is disputed whether the location of these wells was within or outside of NMP's LMR at the time the applications for permit to drill were filed and whether this timing has any legal significance under R-111-P. The OCD approved the permits, finding that the State Land Office had not, at the time, designated the locations as being within NMP's 1992 amended LMR and that since no evidence concerning the potash deposits in Section 2 was presented at the examiner level, there was no basis on which to find that the proposed wells would result in undue waste of potash deposits or constitute a hazard to the mining of potash deposits. Upon application, the OCD entered a stay of its decision approving these two wells pending hearing and decision by the Oil Conservation Commission ("OCC" or "Commission").

Following the timely filing of applications for review of all four cases by the Commission, the cases were consolidated for evidentiary hearing. On May 21, 1992, the Commission heard legal arguments on the many issues involved and ruled that it does have the authority, in appropriate cases, to grant exceptions to the prohibition in R-111-P against the drilling oil and gas wells in a designated LMR without the consent of the potash lessee. In the interest of judicial economy, the Commission held that it would hear evidence and decide whether such an exception was warranted in these consolidated cases but that future requests for exceptions would first be heard by a hearing examiner. After due public notice, the Commission then heard testimony and evidence from the parties on various dates in September, October, and December of 1992. The parties thereafter submitted proposed findings of fact and conclusions of law. Based upon the evidence presented, and after considering the arguments of the parties and applicable law, the Commission enters the following findings of fact and conclusions of law.

#### **FINDINGS OF FACT**

##### **A. The Parties and Leases Involved**

1. Yates is the holder of oil and gas lease No. V-2705 (Graham Lease) covering the North one-half of Section 2, Township 22 South, Range 31 East (hereinafter referred to as "Section 2"). This lease was due to expire on October 1, 1993 but is now held by the production of the Graham No. 1 and 2 wells on the east edge of Section 2. Yates Exh. 1; Tr. 13. It also holds lease No. V-2597 (Flora Lease) covering the southwest one-quarter of Section 2.

This lease is due to expire on August 1, 1993. Yates Exh. 1; Tr. 14. Both of these were acquired in 1988, after the adoption of R-111-P by the Commission. Tr. 58.

2. New Mexico Potash Corporation holds the potash mining lease covering Section 2. This lease has been held since 1965. Tr. 1117; NMP Exhs. 1(a), 1(b), and 1(c).

3. In its underground mining operation, NMP mines the mineral sylvite and produces approximately 400,00 tons of potash product each year. The mine has been in operation since 1965 and its underground workings now cover some 10 miles from one side of the mine to the other. Tr. 1098. If placed end to end, its total underground workings would be the size of a tunnel twelve and one-half feet wide, five feet high, and extend for 3,700 miles, about the distance from Miami, Florida to Vancouver, Canada. Tr. 1103. It currently employs 280 employees, 140 of who work in underground operations. Tr. 1098.

4. Ore is extracted from the orebody using electrically driven continuous miners to break the ore loose. The ore is moved by the continuous miners onto "ram cars", which have the appearance of horizontal dump trucks, for transportation to a continuous belt conveyor system. The belt system moves the ore to a central location in the mine where it is hoisted 1,650 feet to the surface for milling and refining. Tr. 1099.

5. Development entries (where work will be going on for an extended period of time) are mined at a height of about six feet and panel entries (where the ore will simply be removed and the

area abandoned) are mined to a height of from four to five feet. Each entry is about 25 feet wide. Tr. 1101.

6. When an area is first mined, about 30-50 percent of the ore is removed with the remaining ore left in the form of pillars to support the overburden or "back." During the retreat from an area that has been first mined, called second mining, the supporting pillars are removed so that from 75 to 80 percent of the ore is removed. Tr. 1104-1105. This causes the "back" to begin collapsing and the ground to start coming together. Tr. 1105.

7. The mine has ten working "faces" or areas where ore is being or can be extracted. This allows the blending of high grade and low grade ores so that the ore sent to the mill approximates the life of mine average grade ore. This blending allows the recovery of ore which, by itself may not be economical, but when mixed with higher grade ore, becomes so, ensuring maximum extraction from the ore body. Tr. 1114.

8. The mine is ventilated using two main fans, located underground, to draw air down one shaft, circulate it throughout the mine workings (including abandoned areas) with the help of booster fans, and then exhaust it up a second shaft. Tr. 1107.

9. The mine has approximately 35 years of remaining reserves and has a replacement value estimated to be from \$100 to \$150 million. Tr. 1108.

B. Ore Grades Mined by NMP

10. The grades of ore mined by NMP ranges from area to area. It is capable, however, of mining and processing ore of a grade considerably below the average grade mined in the Potash Basin.

During the eight month period from September 1989 to April 1990, it mined and processed ore with a grade of 10.94%, 9.73%, 10.57%, 10.67%, 11.37%, 9.22%, 9.27%, and 9.54%. NMP Exh. 25; Tr. 1465-1467. These are typical of the grades of ore mined by NMP. NMP Exh. 25; Tr. 1466-1467.

11. The grade of ore mined by NMP, like other potash mines, is monitored by the U. S. Bureau of Land Management ("BLM"). This is done by actual inspection of mines and taking measurements. Tr. 1053. Monthly reports are also required to be filed with the BLM showing, among other things, the grade mined. Tr. 1040.

12. The average grade of ore mined in the Potash Basin has been decreasing. In 1987, the average grade mined from all panels of each mine in the Basin was 16.36%. This decreased to 15.99% in 1988, and further decreased to 15.02% in 1990 and to 13.74% in 1991. Tr. 1041; NMP Exh. 34(b). Average grade means, of course, that some ore was mined below the average grade shown. Tr. 1042.

C. NMP Designation of LMR and Amendment to Add Section 2

13. Following the adoption of Order R-111-p, NMP filed its first LMR designation on March 20, 1989. Tr. 1443; NMP Exh. 2. Section 2 was not included in the LMR because it was believed to contain only langbeinite ore, which NMP does not process. Tr. 1448-1449. However, even though NMP could not process the langbeinite, the lease still had value because it could be process by another mine with a payment to NMP. Tr. 1126.

14. In the Fall of 1990, International Minerals and Chemical Corporation, which mines and process langbeinite, was trying to

obtain additional leases from the BLM in the area south of Section 2 and expressed an interest in acquiring Section 2 from NMP. Tr. 1118-1119. A proposed assignment of the lease was prepared by IMC and forwarded to NMP but never agreed to by NMP. NMP Exh. 12; Tr. 1120.

15. During the time these discussions were taking place, Yates and Pogo Production Company requested four wells along the east side of Section 2. NMP objected to these wells because of the langbeinite in Section 2 but agreed to allow the wells if they were relocated to a non-standard location 330 feet from the east line of Section 2. Tr. 1121-1122, 1448-1449. This placed the wells, which were Delaware wells, on the edge or slightly outside of the one-quarter mile buffer zone agreed to in the Statement of Agreement Between the Potash Industry and Oil and Gas Industry on Concurrent Operations in the Potash Area in Eddy and Lea Counties, New Mexico, although, because of their depth, R-111-P provided for a one-half mile buffer zone. Tr. 1568; NMP Exh. 9 (attachment to R-111-P).

16. Shortly thereafter, Yates requested an additional four wells in Section 2 (the ones involved in this proceeding). Because of this, and the interest being expressed in Section 2 by IMC, coupled with the fact that NMP was in the process of a nine-hole core hole drilling program, NMP decided to add an additional core hole in Section 2. Tr. 1122.

17. This additional core hole was drilled at a location 2000 feet from the South line and 1200 feet from the East line of Section 2. NMP Exh. 6. This location was chosen primarily because it was accessible by road. Tr. 1496. The core hole results showed

not only the presence of langbeinite, but sylvite at a grade well above that generally mined by NMP. NMP Exh. 6; Tr. 1127, 1449. Until this time, NMP did not know that Section 2 contained sylvite as well as langbeinite. Tr. 1122.

18. The time taken to drill this core hole was no longer than that taken to drill approximately 70 other core holes. Tr. 1450.

19. The area of influence given a core hole by NMP is 2,500 feet. This distance has proven through experience to be predictable of the ore that is present. Tr. 1459. It is also consistent with the influence given a core hole by the BLM. Tr. 1065.

20. Using the information from core hole 162 and the results from core holes F-65, F-52, P-21, and AEC-8, the extent of the ore in Section 2 was determined using the triangular method to plot isogrades on each of the legs and connecting the grade used as a cutoff. Tr. 1453-1455; NMP Exh. 38; NMP Exhs. 6, 7, and 8. This method has been used to determine the extent of ore at NMP since 1963, a period in excess of 29 years. Tr. 1455.

21. The analysis of these core holes using the triangular method established that the majority of Section 2 is mineralized. Tr. 1455.

22. The BLM analysis of the ore in Section 2 is consistent with the analysis and conclusion of NMP. BLM records show that most of Section 2 would meet its commercial grade ore criteria, which is called measured ore. Tr. 1042. This is determined using a standard minimum quality and thickness of four feet of ten percent sylvite and four feet of four percent langbeinite as

determined from at least three core holes in any one ore zone no more than one and one-half miles apart. Tr. 1042, 1060. The grade shown in the 10th ore zone for Section 2 is 5.1 feet of 16% sylvite and 4.8% of 5.8% langbeinite. Tr. 1042. The presence of mineralization in Section 2 has been shown on BLM resource maps since at least 1978. Tr. 1072, NMP Exh. 23.

23. The BLM standard is also an economic standard and the BLM reviews income tax returns and related documents in royalty determinations. If mining and showing a profit, it is commercial ore to the BLM. Tr. 1057.

24. The BLM standard of three core holes in any one ore zone no more than one and one-half miles apart to determine commercial grade ore was the consensus of mine engineers and is supported by the results of core holes drilled in mined areas. Tr. 1067.

25. The existence of a commercial deposit of potash ore, at least in the southwest quarter of Section 2, is acknowledged by the State Land Office. NMP Exh. 11.

26. On January 14, 1992, following the drilling of core hole 162 on December 11 and 12, 1991, NMP prepared and filed a revised LMR with the State and BLM which included Section 2 and changed some barren areas. Tr. 1451, 1456, 1499, NMP Exh. 5.

27. Order R-111-P authorizes a mine operator to amend an existing LMR by filing a revised designation by January 31st next following the date new data becomes available. NMP Exh. 9, Section G(c), p. 11.

D. State Land Office's Arbitrary Action on Amended LMR

28. On February 10, 1992, Mr. Floyd Prando, Director, Oil, Gas and Minerals Division, of the State Land Office wrote to NMP acknowledging receipt of the amended LMR filed on January 14, 1992, and requested data to show that NMP could process Inagbeinite which he thought was the only mineralization in Section 2. NMP Exh. 10(a).

29. NMP responded on March 9, 1992, and informed the SLO that Section 2 also contained sylvite and enclosed a copy of the log and analysis of core hole No. 162. NMP Exh. 10(b), Tr. 1457.

30. On March 19, 1992, Mr. Bob Lane of NMP met with the SLO and further explained the reasons and basis for including Section 2 in NMP's amended LMR. Thereafter, on March 27, 1992, the SLO, through Mr. Prando, informed NMP that it "is our conclusion that core hole #162 did encounter an economical accumulation of Sylvite. The quality of ore is such that the SE4 Section 2, Township 22 South, Range 31 East contains a commercial deposit." NMP Exh. 11.

31. The letter from the SLO did not state that the LMR was either approved or disapproved. NMP Exh. 11.

32. The letter concluded that "Since the Buffer Zone in the N2 Section 2 is long established, no wells shall be drilled in the N2 without the consent of potash lessee, unless R-111-P is changed. All existing wells and all wells permitted in the S2 Section 2 before this date are approved by the Commissioner. No further development will be approved by the Commissioner, unless there is a justifying change or abandonment of Order R-111-P." NMP Exh. 11.

33. The decision of the SLO to limit the influence of core hole No. 162 to the southeast quarter of Section 2 is arbitrary and unsupported by mining principals, scientific theories, or other data. Tr. 1458, 1614-1615. One reason for this is that it does not give equal influence to the core hole in all directions. Tr. 1458.

34. The statement by the SLO in the last paragraph of the March 27, 1992 letter concerning which wells were approved and which ones in the future would be approved is a function of the OCD, not the SLO.

35. The SLO does not employ any person with a mine engineering degree or who has experience in mining. Tr. 1080.

36. The SLO has adopted no standards or procedures to carry out its function under Order R-111-P. Tr. 1080, 1090.

37. Although R-111-P was adopted in 1988, the SLO only recently decided it had the right to approve or disapprove an LMR. Tr. 1082.

38. Either before or after adopting this new rule, no notice was or has been given to potash lessees and no written standards have been developed on what a potash lessee has to prove to obtain approval of an LMR by the SLO. Tr. 1084.

39. Order R-111-P states that a potash lessee can amend its LMR by "filing" a revised designation with the BLM and SLO. NMP Exh. 9, Section G(c), p. 11.

40. NMP took all steps required by R-111-P to amend its LMR. NMP Exh. 9.

41. BLM standards, if followed, were applied erroneously. Tr. 112, 1042.

E. NMP's Plan to Mine Section 2

42. NMP has the capability to mine the sylvite ore in Section 2. Tr. 1469.

43. It plans to mine all of the ore in the south ore body, including that in Section 2 before mining ore in its northwest ore body. Tr. 1155, 1470.

44. In the current mine plan, Section 2 would be developed in the year 2002 and mining would be completed by the year 2007. Tr. 1693, 1476. The plan is to drive to the lease line of Section 2 and mine back toward the shaft. Tr. 1476, 1896. This same procedure for mining Section 2 was recommended in a third party mine plan recently completed by mine management. Tr. 1276-1277.

45. The plan to mine Section 2, like all mining plans, has contingencies, but these contingencies would speed up the mining of that section, not delay it. Tr. 1725.

46. The best estimate that can be given is that the Section will be mined in as little as eight years or as many as fifteen years. Tr. 1692, 1729.

47. Existing underground transportation is adequate to reach Section 2 and comply with mine safety laws. Tr. 1143.

48. No new conveyor belts will be required to be purchased to reach Section 2. Tr. 1471, 1506.

49. No large purchase of equipment will be required to mine Section 2. Tr. 1472.

50. A borehole for power needed to mine Section 2 is already completed and in place. Tr. 1517.

51. NMP's annual rate of mining is approximately 293 acres per year. Tr. 1474.

52. Over the last three to four years, the amount of product sold by NMP has been going up. Tr. 1519.

F. Safety Hazards Created by Oil and Gas Wells

53. The naturally occurring methane found in the Potash basin does not present a hazard to underground miners. NMP Exh. 14.

54. Wells drilled to the Delaware formation can produce as much as 17,941,000 standard cubic feet of gas each year. Tr. 1317.

55. Only 200 cubic feet of methane is needed to propagate an explosion. This is the equivalent of a box five feet high, five feet wide, and eight feet long and could occur in 5.86 minutes if all the gas from a Delaware well were released into a mine. Tr. 1316.

56. Assuming the bottomhole pressure of a Delaware well is 2,800 p.s.i., the pressure inside the wellbore at the McNutt Member (potash deposits) would be 2,395 p.s.i. Tr. 1317; NMP Exh. 39(b). The outside pressure in the McNutt would be in the range of from 450 p.s.i. to 700 p.s.i. Tr. 1318. With these pressure differentials, gas could flow from the area of 2.395 p.s.i. into the McNutt formation. Tr. 1319.

57. There are numerous ways in which gas can get from the Delaware formation up to the wellbore opposite the McNutt where the potash deposits are located. Among these are:

- a. Blowout and Closure. Following a blowout and closure of the casing, the gas could go up through the cement and along a passageway or go up the casing and escape through a hole in the casing. Tr. 1321; NMP Exh. 39(d).
- b. Holes in Casing. This would require two holes - one in the 5 and 1/2 casing and one in the 8 and 5/8 casing. Tr. 1322; NMP Exh. 39(e).
- c. Leaking Casing Connector. If the couplings do not match up perfectly, they do not form a perfect seal and can leak. This can occur if the taper along the thread is not constant or if it is not at the right angle. In this instance, when the casing is screwed together it will have too much compression on one side and not enough on the other. The result can be a reduction in the leak resistance of the casing of from 50 to 70 percent. Tr. 1324; NMP Exh. 39(e). One of the classic tests of casing leaks was done by Shell Oil. They tested a casing for six hours. It leaked and they pulled the whole string out and run in another string and tested it for six hours. It, too, leaked up around 70 to 80 percent of its rating. This was in a well about 8000 feet deep. Tr. 1325. While most casing may be tested, the test only last 15 minutes. After six hours, it will extrude the pipe dope and then start leaking.
- d. Microannuli. After cement sets up, cold temperature can cause the casing to shrink more than the cement, causing a small gap, or microannuli, to occur between the cement

and the casing. Pressure in the pipe can have the same effect. Calculations assuming a microannuli of 15-thousandths of an inch, which is about average, and a 5,000 foot casing show that 26 standard cubic feet of gas per day could migrate up along the casing or strata to the McNutt formation. Tr. 1328; NMP Exh. 39(h).

- e. Gas Flow Through Cement. Even though cement is relatively impermeable, calculations show that as much as 55 cubic feet per day of gas can migrate through the cement in the annulus up a 5,000 foot casing to the McNutt. Tr. 1328-1329; NMP Exh. 39(j).
- f. Mud Channels. These can occur when one casing is off-center. NMP Exh. 39(l). A study by the American Petroleum Institute on the location of centralizers showed that this problem cannot be entirely eliminated by the use of centralizers. Tr. 1331. These can occur over long distances and the volume of gas that can go through a mud channel is not inconsequential. Depending on the size of the mud channel, up to 503,385 standard cubic feet per day could migrate through a mud channel. NMP Exh. 39(m); Tr. 1331-1332.
- g. Swapping Out. This occurs when the cement being used is heavier than the mud. One way it occurs is when the driller loses track of the number of feet of hole and drills, for example, an extra 30 or so feet. If the casing is run and left off bottom and the cement is heavier than the mud, the cement will fall down to the

bottom, pushing the mud up, or "swapping out." When this occurs, a mud stringer may form in the wide part of the hole. Laboratory tests have shown these to go as high as 60 feet but cement logs have shown them to be as high as 500 feet. Tr. 1334; NMP Exh. 39(n).

- h. Gas Percolation or Migration. This can occur when the cement starts to set up and the particles in the cement grab the wall of the hole, causing the pressure on the gas to drop from the equivalent of 12.6 pounds per gallon down to about 8.45. The gas will then have enough pressure to push the water column up the hole. Studies have concluded that this phenomenon of gas migration probably caused two Arco rigs, about 9,500 feet deep, to catch fire and burn up. Tr. 1335; NMP Exh. 39(o). Calculations show that as much as 900,000 standard cubic feet per day of gas can migrate through one of these channels. NMP Exh. 39(p); Tr. 1336.
- i. Gas Cut Cementing and Bridging. If a bridge forms in the wellbore it can support the weight of the fluid, taking the pressure off the gas. The gas can then come out of the zone, come up and form bubbles, and a channel, and migrate up outside the casing to the McNutt. This problem was encountered by Exxon in South Texas. Tr. 1336; NMP Exh. 39(q).
- j. Squeeze Cementing. Stage cementing does not always result in the overlapping of each stage. Cement can be lost into one of the zones and not arrive at the next DV

tool. The resulting gap can become a passage for the migration of gas. Tr. 1337-1338; NMP Exh. 39(r). Squeeze cementing can sometimes correct this but it does not always work.

- k. Worn Casing and Doglegs. Rotation of the pipe, a standard practice, can wear a hole in the casing. In the 5 and 1/2 casing, a hole can be caused by running wireline tools, tubing and rods up and down where there is a dogleg. Tr. 1340. The deviation survey on the Graham No. 1 well shows doglegs that could be severe enough to wear a hole in the casing. Tr. 1342-1343.

58. In view of the fact that over 1,000 oil and gas wells have now been drilled in the Potash Area, the probabilities are that for wells drilled to the Delaware formation, four or five percent of them have gas outside the casing. Tr. 1345.

59. The casing requirements in R-111-P permit a limited amount of casing leaks before corrective measures are required. NMP Exh. 9, Section D(2) and (3).

60. The presence of methane gas in a potash mine endangers the lives of miners and presents an explosion hazard. NMP Exh. 9, Finding (13), Tr. 1761.

61. Underground mines are required by law to be inspected four times a year and if an imminent danger situation is found, the Mine Safety and Health Administration ("MSHA") can order the mine closed even before a hearing is held. Tr. 1764-1766.

62. In other mining disasters involving methane, the mine operators, as well as the enforcement agencies, had no cause for

concern over the presence of gas prior to the explosion and loss of life. Tr. 1779.

63. The concern of NMP over the possible migration of methane from an oil or gas well into the mine is a legitimate concern. Tr. 1784.

64. Oil seeps found in other mines in the Potash Area in close proximity to oil wells shows that migration can occur. Tr. 1786-96.

65. Clay seams, or marker beds, in the potash deposits can be a pathway for the migration of gas. Tr. 1785.

66. There is a difference in dry and abandoned shallow wells and wells drilled to the Delaware and what occurs with one should not be a guide for the other. Tr. 1800, 1319-1320.

67. Testing for methane is not a solution to the hazard of methane because at this point it is too late - the methane has been encountered and is not only a hazard that the mines are not equipped to deal with, but may result in the mines being reclassified as gassy. Tr. 1815, 1811.

68. If methane got into the NMP mine it would be life threatening to the mine due to the additional cost that would be required to operate as a gassy mine. Tr. 1162. It would also impact all other mines in the Potash Basin because they mine in the same geological formations. Tr. 1163.

69. The projected life of the Delaware wells sought by Yates is from 25 to 38 years and, therefore, they would not be depleted, plugged and abandoned by the time NMP will be mining in Section 2. Tr. 235.

G. Effects of Subsidence

70. The potash basin is unique in its method of subsidence. Potash is a material that if a portion is mined out, even a small opening, it will completely close in time. It is different from coal mining and other mines because in those mines small openings do not creep closed. Tr. 1588.

71. Subsidence studies involving coal mines are not directly transferable to subsidence in potash mines. Tr. 1588.

72. There is wealth of information on subsidence in the potash basin. Tr. 1589.

73. In 1958, Miller and Pierson performed a study and found that if you have an underground opening and make it wide enough, it will appear on the surface at some time. A wide opening will appear on the surface rather rapidly. If the opening is against a solid, i.e., no mining up to the side of the opening, the angle is smaller than if you were on the side of the opening where other mining had taken place. The angle of subsidence was measured to be 51 degrees. On the side that was solid, the angle was down as low as 30 degrees. The study also indicated that over time, each angle would probably extend further. Tr. 1589-1590.

74. In 1961, Dr. Don Deer performed a study in the potash basin and found that over time, the angle would be somewhere between 42 degrees and 55 degrees. Again, over time it would extend even beyond that. Tr. 1590.

75. Studies by Professor Niles Grosvenor in 1963 and the U. S. Bureau of Mines in 1965 confirmed that under load, salt will

creep. At first, it moves very fast and then creeps indefinitely until the opening is completely closed. Tr. 1590-1591.

76. A study by Mr. Baar in 1977, confirmed this as did a study by Golder & Associates in 1979. The Golder study found that the angle outside of the opening was 45 to 55 degrees. Tr. 1591.

77. This data is sufficient to predict the area that will be influenced by the subsidence from a potash mine. Tr. 1592.

78. Subsidence causes cracking and separation from the beds overlying the mined out area. Tr. 1596.

79. If gases are in the overlying strata, subsidence will squeeze the beds on each side and force any gas out into the opening caused by the separation. Tr. 1596.

80. In a coal mine, rock bolts can be placed into the back to secure the layers together and prevent them from collapsing. Tr. 1599-1600; NMP Exhibit 43.

81. In a potash mine, rock bolts will not prevent the subsidence, only delay it. Over time, the overburden will sag and the opening will eventually close. Tr. 1601-1602; NMP Exhibits 44 and 45.

82. In potash, the angle of draw will be somewhere between 45 and 55 degrees for maximum subsidence. Tr. 1602; NMP Exhibit 48.

83. The use of the depth of the ore plus 10 percent to predict the area that will be affected by subsidence is consistent with empirical data on subsidence in potash. Tr. 1604.

84. During subsidence, the beds in the overburden will move in three directions; they will move down, up, and will rotate. If the bed has a layer that is brittle, like sandstone, it must bend

and break and could very easily damage an oil well drill stem. Tr. 1604-1605; NMP Exhibit 50.

85. The angle of break is the angle from the side up to the point where the maximum bending or maximum split in the surface will occur but it is not the only point at which the ground will split or break. There will be fractures toward the opening and there will be fractures beyond the angle of break. Tr. 1606.

86. Oil and gas wells should not be allowed within the angle of draw of a potash mine. Tr. 1607.

87. The effects of subsidence creates paths through which gas can migrate. Tr. 1607.

88. In addition, if gases are present in the strata, they can be drawn into the mine because it is under negative pressure. This will have a tendency to draw the gases out of the strata into the mine. Tr. 1608.

89. A pillar of 125 feet is not adequate spacing between a potash mine and a Delaware well. In such a situation, the angle of draw would be such that it would hit the well at a location not very far above the potash deposits. If the potash beds had weak bands, fractures could develop and gas could easily be transmitted from the well. It does not take much movement to cause cement to come free from the casing because concrete has very little strength in tension. Tr. 1608-1609.

90. The presence of an oil or gas well within the area of subsidence would create a hazard to an underground potash mine. Coal mines have permissible ("explosion-proof") equipment and are equipped to handle encounters with methane gas. Potash mines are

not set up that way and if any amount of gas gets into the mine, something as small as an electric motor could cause it to explode. Tr. 1610.

H. Potash That Will be Wasted if Wells Allowed

91. Section 2 contains 6,833,000 recoverable tons of ore. Tr. 1673; NMP Exhibit 27A.

92. The value of the product that could be mined and sold from Section 2 is \$102,274,580.00. Tr. 1673; NMP Exhibit 27A.

93. The state royalties on products that would be sold on Section 2 would be \$3,988,709.00.

94. The four existing wells in Section 2, based on the one-half mile buffer zone in R-111-P, resulted in the loss of \$55,768,963 in potash product. NMP Exh. 27A.

95. This resulted in a loss of state royalties of \$2,174,990. NMP Exh. 27A.

96. Approval of the Graham No. 3 Well, by itself, would result in the loss of \$12,272,890 in potash product, in addition to the potash that has already been wasted. NMP Exh. 27A.

97. Approval of Graham No. 4 by itself, would result in the loss of \$17,131,628 in potash product and \$668,133 in state royalties. NMP Exh. 27A.

98. If both of the Graham Wells Nos. 3 and 4 were approved, the loss of potash product would be \$18,922,503 and the lost state royalties would be \$737,978. NMP Exh. 27A.

99. Approval of the Flora No. 1 Well, by itself, would result in the loss of \$26,187,636 in potash product and state royalties of \$1,021,318. NMP Exh. 27A.

100. Approval of Flora No. 2 by itself, would result in the loss of \$37,508,278 in potash product and state royalties in the amount \$1,462,823. NMP Exh. 27A.

101. The single well that would waste the most potash is Flora Well No. 2. TR 1677, NMP Exh. 27A.

102. The approval of Flora No. 2, by itself, would result in the waste of the potash in practically the entire section. Tr. 1678, NMP Exh. 27A.

103. The approval of all four wells would result in the waste of \$41,249,301 in potash product and \$1,608,723 in lost royalties to the state. NMP Exh. 27A.

104. The approval of these wells would result in an undue waste of potash. Tr. 1680, NMP Exh. 27A.

105. The approval of these four wells would result in the loss of jobs for 260 employees for three years. Tr. 1680.

I. The Proposed Wells are Located in NMP's LMR

106. The proposed Graham Well No. 3 and 4 are located in NMP's LMR as it existed prior to and after January 14, 1992. NMP Exh. 38.

107. The proposed Flora Well No. 1 and 2 are located in NMP's LMR as it existed after being amended on January 14, 1992. NMP Exh. 38.

J. Directional Drilling is Feasible

108. The cost to deviate a well 1320 feet and 2660 feet is essentially the same up to an angle of about 45 degrees. Tr. 1347.

109. The development of bottomhole motors has eliminated the problem of kicking off a well in salt. Tr. 1347.

110. The angle to deviate a well 2660 feet is 24.3 degrees and the angle to deviate a well 1320 feet is 12 degrees. Tr. 1348, NMP Exh. 40.

111. The cost to directionally drill each of these wells from the location of the existing wells in Section 2 is approximately \$135,723 more than the cost of a straight hole. Tr. 1354, NMP Exh. 40.

112. The additional cost for operating a directional well is basically the same as that for a vertical well. Tr. 1423.

113. The hazards presented by each the wells to the underground miners at NMP can be avoided for \$135,723 per well.

#### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction of this matter.
2. The Commission has concurrent jurisdiction with the OCD and is charged by law with the obligation to prevent waste of oil and potash.
3. "Waste" includes the drilling of oil and gas wells within any area containing commercial deposits of potash if such wells will have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities or where such operations would interfere unduly with the orderly development of such potash deposits.
4. In Order R-111-P, the Commission has determined that the drilling of oil and gas wells within areas designated as LMRs will constitute waste.
5. The wells requested in Cases Nos. 10446 and 10447 (Graham wells) are located within NMP's LMR.

6. Exceptions to R-111-P require a clear demonstration that the proposed well will not waste unduly commercial potash.

7. The ore in Section 2 is a commercial deposit of ore and can be recovered in commercial quantities.

8. Yates has not made a clear demonstration that the proposed Graham Wells will not waste unduly commercial potash.

9. Approval of the wells in Cases Nos. 10446 and 10447 would result in the waste of commercial potash.

10. Order R-111-P allows a potash lessee to amend its LMR by "filing" a revised designation.

11. NMP "filed" a revised designation of its LMR on January 14, 1992 to include Section 2 within its LMR.

12. Given the express language of R-111-P, and the absence of any standards in the SLO for approving or disapproving an LMR, the amended LMR became effective on January 14, 1992, the date it was filed with the State.

13. Alternatively, the decision of the SLO to limit the commercial potash deposits to the southeast quarter of Section 2 was arbitrary and contrary to establish mining principals concerning the influence to be given core holes.

14. The proposed Flora wells are located within NMP's amended LMR.

15. Yates has not made a clear demonstration that the proposed Flora Wells will not waste unduly commercial potash.

16. Whether located in NMP's LMR or not, the Commission has the statutory duty to protect commercial deposits of potash.

17. Approval of the wells in Cases Nos. 10448 and 10449 would result in the waste of commercial potash.

18. The applications are denied.

Respectfully submitted,

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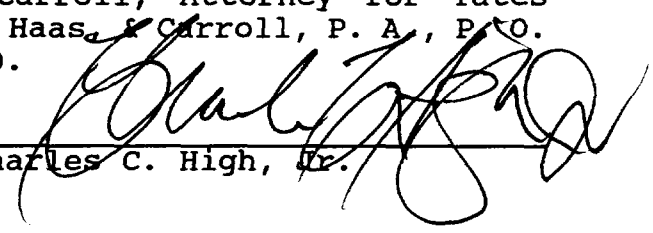
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent by certified mail, return receipt requested on this 12<sup>th</sup> day of March, 1993, to Ernest L. Carroll, Attorney for Yates Petroleum Corporation, Losee, Carson, Haas, & Carroll, P. A., P.O. Drawer 239, Artesia, New Mexico 88210.

  
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Charles C. High, Jr.