

BEFORE THE OIL CONSERVATION DIVISION  
STATE OF NEW MEXICO

IN THE MATTER OF

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

RECEIVED

MAY 19 1992

OIL CONSERVATION DIVISION

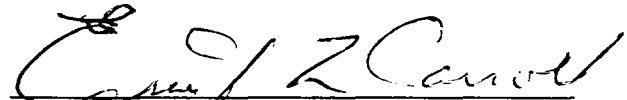
CASES NO. 10446, 10447,  
10448, 10449  
ORDERS NO. R-9650, 9651,  
9654, and 9655

ACCEPTANCE OF SERVICE

COMES NOW Ernest L. Carroll, Losee, Carson, Haas &  
Carroll, P.A., and accepts service of New Mexico Potash  
Corporation's Subpoena Duces Tecum on behalf of Yates Petroleum  
Corporation, issued May 7, 1992, this 12 day of May, 1992.

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

By:



Ernest L. Carroll  
P. O. Box 239  
Artesia, New Mexico 88210  
(505) 746-3508

Attorneys for Yates Petroleum  
Corporation

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BEFORE THE OIL CONSERVATION DIVISION  
STATE OF NEW MEXICO

MAY 07 1992

OIL CONSERVATION DIV.  
SANTA FE

IN THE MATTER OF

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

CASES NO. 10446, 10447,  
10448, 10449  
ORDERS NO. R-9650, 9651,  
9654, AND 9655

SUBPOENA DUCES TECUM

TO: John Yates  
President  
Yates Petroleum Corporation  
105 South Fourth Street  
Artesia, New Mexico 88210

Pursuant to Section 70-2-8, NMSA (1978) and Rule 1211 of the New Mexico Oil Conservation Commission's Rules of Procedure, you are hereby ORDERED to appear at the offices of Kemp, Smith, Duncan & Hammond, P.C., 500 Marquette, N. W., Suite 1200, Albuquerque, New Mexico 87102-2121, on the 19th day of May, 1992, at 10 a.m. and produce the documents and items specified in the attached Exhibit A.

This subpoena is issued on application of New Mexico Potash Corporation through its attorneys, Kemp, Smith, Duncan & Hammond, 500 Marquette, Suite 1200, Albuquerque, New Mexico 87102-2121.

Dated this 7th day of May, 1992.

NEW MEXICO OIL CONSERVATION COMMISSION

BY: 

## EXHIBIT A

The term "document" as used herein means every writing and record of every type and description in the possession, custody or control of Yates Petroleum 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, papers, books, writings, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations or of interviews, conferences, or meetings. It also includes diary entries, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, plans, specifications, sketches, instructions, charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, lists, tabulations, sound recordings, computer printouts, books of accounts, checks, accounting records, vouchers, and invoices reflecting business operations, financial statements, and any notes or drafts relating to the foregoing, without regard to whether marked confidential or proprietary. It also includes duplicate copies if the original is unavailable or if the duplicate is different in any way, including marginal notations, from the original.

1. Produce all documents served upon New Mexico Potash Corporation concerning the wells involved in Cases Nos. 10446, 10447, 10448, and 10449.

2. Produce all documents showing the dates the documents produced in response to Request No. 1 were received by New Mexico Potash Corporation.

3. Produce all documents discussing or evaluating the feasibility of directionally drilling the wells involved in Cases Nos. 10446, 10447, 10448, and 10449.

4. Produce all documents concerning the economics of each of the wells involved in Cases Nos. 10446, 10447, 10448, and 10449, including:

- a. drilling costs (straight hole) and completion costs of well with depth
- b. production/time projection (STB)
- c. amounts and value of oil and/or gas to be recovered
- d. geologic, mechanical, and monetary risks placed on drilling

5. Produce all drilling contracts entered into by Yates Petroleum Corporation for each well involved in Cases Nos. 10446, 10447, 10448, and 10449.

6. Produce all documents concerning any blowouts, casing failure, or unplanned releases of gas or oil that occurred during drilling or production of any well during the years 1977 to date.

7. Produce all documents concerning the presence of or encounters with hydrogen sulfide gas in Eddy and Lea Counties, New Mexico during the period from 1977 to date.

8. Produce all documents showing, evidencing, noting, or otherwise discussing the position of New Mexico Potash Corporation concerning approval or objection to the drilling of any of the wells involved in Cases Nos. 10446, 10447, 10448, and 10449.

9. Produce all documents showing, evidencing, noting, or otherwise discussing the position of New Mexico Potash Corporation concerning approval or objection to the drilling of any of well in Section 2, Township 22 South, Range 31 East.

10. Produce all documents concerning violations of applicable occupational safety and health standards by Yates Petroleum Corporation or by persons drilling wells under contract with Yates for the years 1982 to present.



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



BRUCE KING  
GOVERNOR  
  
ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

April 30, 1992

Mr. Charles High  
Kemp, Smith, Duncan  
& Hammond, P.D.  
P. O. Drawer 2800  
El Paso, Texas 7999-2800

RE: CASE NO. 10449  
ORDER NO. R-9655-A

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

*Florene Davidson*

Florene Davidson  
OC Staff Specialist

FD/sl

cc: BLM Roswell Office  
Clinton Marrs  
Ernest Carroll

NEW MEXICO OIL CONSERVATION DIVISION

LAW OFFICES

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

ERNEST L. CARROLL

JOEL M. CARSON

JAMES E. HAAS

A. J. LOSEE

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MARY LYNN BOGLE

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P. O. DRAWER 239

ARTESIA, NEW MEXICO 88211-0239

TELEPHONE  
(505) 746-3505

TELECOPY  
(505) 746-6316

April 24, 1992

**VIA FAX AND FIRST CLASS MAIL**

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

Re: Application of Yates Petroleum Corporation  
for Permits to Drill, Eddy County, New  
Mexico/OCD Case No. 10449/Order R-9655

Dear Mr. LeMay:

Enclosed please find an original plus three copies of  
Yates Petroleum Corporation's Response to Application for Order  
Staying Order of Director Pending De Novo Hearing by Oil  
Conservation Commission and for Emergency Order Under Rule 1202.

Very truly yours,

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

  
Ernest L. Carroll

ELC:kth  
Enclosures

xc w/enc: Charles C. High, Jr.  
Randy Patterson

BEFORE THE OIL CONSERVATION DIVISION

STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION :  
OF YATES PETROLEUM CORPORATION :  
FOR AUTHORIZATION TO DRILL, EDDY :  
COUNTY, NEW MEXICO. : CASE NO. 10449  
ORDER NO. R-9655

RECEIVED  
APR 21 1992  
OIL CONSERVATION DIVISION

RESPONSE TO APPLICATION FOR ORDER STAYING  
ORDER OF DIRECTOR PENDING DE NOVO HEARING BY  
OIL CONSERVATION COMMISSION AND FOR  
EMERGENCY ORDER UNDER RULE 1202

YATES PETROLEUM CORPORATION ("Yates"), in response to the Application of New Mexico Potash Corporation ("New Mexico Potash") for an order staying order of the Director pending de novo hearing and for emergency order under Rule 1202, states:

1. On April 24, 1992, at 11:16 a.m., New Mexico Potash caused to be delivered to counsel for Yates a copy of its Application herein seeking to have stayed the order of the Oil Conservation Division ("OCD") approving the application of Yates to drill its Flora "AKF" State Well No. 2 at a standard oil well location 1980' from the south line and 2310' from the west line (Unit K of Section 2, Township 22 South, Range 31 East, N.M.P.M., Eddy County, New Mexico).

2. In paragraph 9 of its application, New Mexico Potash makes reference to a conversation that occurred between counsel for each party wherein New Mexico Potash appears to allege that there was some sort of agreement that nothing would be done with respect to these applications until there was a hearing on the applications by the Oil Conservation Commission ("OCC"). Furthermore, New Mexico Potash alleges that on the basis of this conversation there was an agreement not to present evidence at



the hearing before the OCD on March 20, 1992. The only conversation that counsel for Yates can recall is that it was conceded that whichever party might lose with respect to the four pending applications before the OCD on that day that such losing party would make a request for a de novo hearing to the OCC. Such a recognition of each party's posture by no means constituted any agreement by Yates that it would, in fact, refrain from exercising any rights that might be granted to it by the OCD.

Furthermore, the implication that no evidence was put on before the OCD by such statement in paragraph 9 is false. Yates, in its application, submitted sufficient evidence to warrant the OCD granting its application for a permit to drill the Flora No. 2 Well. Furthermore, the OCD took evidence from the State Land Office through Ernie Szabo and, based upon the record and the information gained from the State Land Office, the OCD made its determination that the applications of Yates with respect to the Flora No. 1 and the Flora No. 2 should be granted. Any assertions to the contrary are strenuously rejected by Yates.

3. In paragraph 11, New Mexico Potash makes reference to "conduct of Yates" which it implies was improperly taken. Again, Yates strenuously objects to such characterization by New Mexico Potash for the following reasons. First, there was no agreement between counsel for New Mexico Potash and counsel for Yates with respect to the issue of whether or not Yates would exercise its rights to proceed if the Commission granted its application. Secondly, counsel for Yates specifically points out that counsel for New Mexico Potash never inquired of Yates as to what its intentions would be in the event Yates' applications were

granted. Third, counsel for New Mexico Potash falsely leaves the impression that Yates hurriedly began drilling the Flora "AKF" No. 1 Well at some time after New Mexico Potash filed its request for de novo hearing when, in fact, construction of the road and location for the Flora "AKF" No. 1 and the actual spudding of the well began even before New Mexico Potash made application for de novo hearing and there was activity for almost three weeks on the site of the Flora No. 1 prior to New Mexico Potash seeking a temporary restraining order in the District Court of Eddy County.

4. Without conceding, answering or waiving its right to contest the remaining allegations contained in the application of New Mexico Potash or New Mexico Potash's assertion that it is entitled to an order staying the division order, Yates Petroleum states that it has no intention and will not begin drilling operations on the Flora "AKF" No. 2 until the completion of the hearing and a rendering by the Commission of a decision with respect to the de novo hearing in this case.

WHEREFORE, Yates respectfully requests the Oil Conservation Division either:

A. Dismiss the Application of New Mexico Potash for an emergency staying order on the grounds that it has not cited any legitimate grounds for the staying of its properly granted application to drill; or

B. Withhold any action on New Mexico Potash's application until such time as the Commission shall have held the de novo hearing with respect to Yates' application and rendered a decision in same based upon Yates' representation that it has no

intention of commencing drilling operations with respect to that application.

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

Respectfully submitted,

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

By:



A. J. Losee

Ernest L. Carroll

P. O. Drawer 239

Artesia, New Mexico 88211-0239

(505) 746-3505

Attorneys for Yates Petroleum Corporation

I hereby certify that I caused to be mailed a true and correct copy of the foregoing to all counsel of record this April 24, 1992.



Ernest L. Carroll

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

ATTORNEYS AT LAW

## EL PASO\*

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## MIDLAND\*

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

April 24, 1992

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APR 24 1992

OIL CONSERVATION DIVISION  
SANTA FE

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

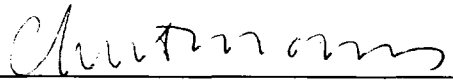
RE: In the Matter of Application of  
Hates Petroleum Corporation for  
Authorization to Drill, Eddy County,  
New Mexico - Case No. 10449  
Order No. R-9655

Dear Mr. LeMay

Attached are an original and one copy of New Mexico Potash Corporation's Application for Order Staying Order of Director Pending De Novo Hearing by Oil Conservation Commission and for Emergency Order Under Rule 1202. A copy of the Application 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

Attachment  
a/s

William J. LeMay, Director  
April 24, 1992  
Page 2

cc w/encl.: Ernest L. Carroll  
Via FAX and U.S. MAIL  
CWM/vw

BEFORE THE OIL CONSERVATION DIVISION  
STATE OF NEW MEXICO

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APR 24 1992

OIL CONSERVATION DIV.  
SANTA FE

IN THE MATTER OF

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

CASE NO. 10449  
ORDER NO. R-9655

APPLICATION FOR ORDER STAYING ORDER OF DIRECTOR  
PENDING DE NOVO HEARING BY OIL CONSERVATION  
COMMISSION AND FOR EMERGENCY ORDER UNDER RULE 1202

NEW MEXICO POTASH CORPORATION ("New Mexico Potash") applies for an order staying the decision and order issued in this matter by William J. LeMay, Director of the OCD ("Director"), on March 20, 1992, and in support thereof shows the following:

1. On March 20, 1992, following a hearing before a hearing examiner, the Director of the OCD entered an Order in this matter approving the application of Yates Petroleum Corporation ("Yates") to drill its Flora "AKF" State Well No. 2 at a standard oil well location 1980 feet from the South line and 2310 feet from the West line (Unit K) of Section 2, Township 22 South, Range 31 East, NMPM, Undesignated Lost Tank-Delaware Pool or the Undesignated Livingston Ridge-Delaware Pool, Eddy County, New Mexico.

2. On April 3, 1992, within the time specified in Rule 1220 of the Rules on Procedure, New Mexico Potash filed an Application for Hearing de novo before the New Mexico Oil Conservation Commission ("OCC"). That Application was received by the OCD on April 7, 1992.

3. A copy of the Application for Hearing by the OCC was served on counsel for Yates. A certification of service was attached to the Application and filed with the OCD.

4. Section 70-2-13, NMSA 1978, as well as Rule 1220, specifically provides that when a matter is referred to an examiner for hearing, as was done here, and a decision is rendered, as happened here, any party of record "shall have the right" to have the matter heard de novo before the OCC.

5. The de novo hearing provided by Section 70-2-13 only has meaning if it occurs at a time before the well being challenged is drilled.

6. While the OCD has no procedures for the seeking or granting of a stay pending hearing by the OCC of an order issued by the OCD and, therefore, no standards for deciding such matters, New Mexico Potash submits that it is entitled to a stay based upon traditional equitable standards considered by the courts when deciding whether agency action should be stayed during an appeal. See e.g., Tenneco Oil Company v. New Mexico Water Quality Control Commission et al., 105 N.M. 708 (App. 1986) (test for determining whether to enjoin agency action during appeal requires consideration of (1) likelihood that applicant will prevail on the merits of the appeal; (2) a showing of irreparable harm to the applicant unless the stay is granted; (3) evidence that no substantial harm will result to other interested persons; and (4) a showing that no harm will ensue to the public interest.)

7. With respect to the first condition, there is at least a likelihood that New Mexico Potash will prevail on its Application for Hearing before the OCC. New Mexico Potash claims that the proposed well is located within an area designated by New Mexico Potash as its "life-of-mine reserves" within the meaning of OCC

Order R-111-P. While this will be contested by Yates on various grounds, which New Mexico Potash believes are without merit, the evidence will show that New Mexico Potash has complied with all requirements imposed on it by Order R-111-P for the designation of Section 2 as "life-of-mine" reserves. If it is successful in establishing this, as it believes it will be, then the well should be disallowed in accordance with Section G(3) of Order R-111-P, which states that wells in an LMR area may only be approved with the consent of New Mexico Potash. This first condition, therefore, is clearly met.

8. Second, if a stay is not granted, New Mexico Potash will suffer irreparable harm. Under the OCD Order issued on March 20, 1992, as interpreted and applied by the OCD, Yates can begin drilling at any time, even though the issue is awaiting de novo hearing and decision by the OCC. Therefore, in the absence of a stay, Yates could begin drilling the well without New Mexico Potash's knowledge and complete the challenged well prior to the time the OCC holds its de novo hearing on whether the well should even be allowed. This would effectively render moot New Mexico Potash's right to have the matter decided de novo by the OCC because the well could not be removed if disallowed by the OCC. Such deprivation of a statutory right, under any standard, is irreparable injury. Further, the proposed well is located in an area of commercial grade potash under lease to New Mexico Potash. A core hole to the East of the proposed well location shows 5 feet one inch of 16.04% K<sub>2</sub>O sylvite on the 10th ore zone and 4 feet 11 inches of 5.86% K<sub>2</sub>O langbeinite on the 4th ore zone. If a stay is



not entered, an enormous amount of potash will be wasted before the OCC has an opportunity to determine if the well will result in an undue waste of potash. Still further, if the well is completed before the OCC hears the matter, it will present a safety hazard to underground miners which cannot be removed even if New Mexico Potash prevails before the OCC. The obvious and indisputable fact that this safety hazard and waste of potash cannot be reversed or eliminated if New Mexico Potash prevails before the OCC constitutes irreparable injury and satisfies the second factor.

9. With respect to the third factor, there can be no substantial harm to Yates if a stay is granted. No drilling is currently taking place. Thus, there is no basis to claim that the granting of a stay will somehow harm Yates. The fact that a stay will prevent the drilling of the well until the issue is decided by the OCC is certainly not the type harm contemplated in this situation. On the contrary, the OCD Rules of Procedure and the Oil and Gas Act specifically provide for a determination of this matter by the OCC regardless of the decision by the OCD. Yates is clearly aware of this statutory right and knew even before an application for hearing was filed with the OCC that it would be exercised in this case. At the hearing before the hearing examiner, counsel for each party informed the other that the issues involved were of such importance that they should be heard by the OCC. It was for this reason that both chose not to present evidence after nearly four hours of argument. Thereafter, counsel for New Mexico Potash prepared, filed, and served on Yates' counsel its application for hearing before the OCC on the Director's approval of this well.

Given these facts and Yates' knowledge that the issue would be heard by the OCC, there simply can be no basis on which Yates to now claim that it will suffer substantial harm if a stay is granted in this case pending a decision by the OCC.

10. Finally, there can be no claim that the granting of a stay will result in harm to the public interest. The public interest mandates that New Mexico Potash receive that to which it is entitled by statute - a decision by the OCC on whether this well should be allowed. A stay which ensures that New Mexico Potash receives this statutory right at a time when it has meaning - before the well is drilled - is in the public interest, not harm to the public.

11. The necessity that a stay be entered to avoid this irreparable harm is clearly and vividly demonstrated by the conduct of Yates in a similar situation. In case No. 10448, New Mexico Potash filed a similar application for hearing with the OCC and, despite Yates' knowledge of the application and the statutory right to a de novo hearing before the OCC, it began drilling the well at issue before the OCC and would have completed the well prior to the OCC de novo hearing had the drilling not been enjoined by the District Court. The possibility that this conduct will be repeated, therefore, mandates the entry of a stay in this matter.

12. Finally, New Mexico Potash submits that the requested stay should be granted notwithstanding the time limits specified in Memorandum 3-85, of which counsel was unaware. First, the Memorandum was sent to a select subset of attorneys and from all appearances, was not made available to the general public. Second,

the requirements of the Memorandum, which are seven years old, were not included in the OCD Rules of Procedure when they were revised on March 1, 1991. Third, the Memorandum, if considered a rule affecting the rights of parties, does not appear to have been adopted in accordance with Section 70-2-7 or the New Mexico State Rules Act, N.M.Stat.Ann. § 14-4-1 et seq. In any event, New Mexico Potash submits that the failure to file this application within the time limits specified in the Memorandum should be excused under the circumstances present in this sharply contested matter.

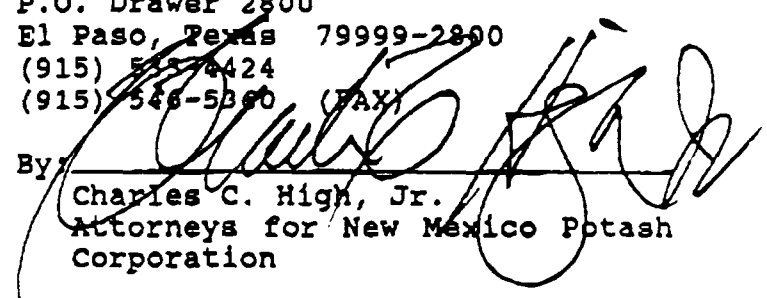
WHEREFORE, New Mexico Potash respectfully requests that the OCD enter an order staying the OCD Order approving the well until the matter can be heard and decided de novo by the OCC. In addition, New Mexico Potash requests that pending a decision on this request for a stay, an emergency order be issued in accordance with Rule 1202 staying the March 20, 1992 Order of the OCD approving the challenged well.

Respectfully submitted,

KEMP, SMITH, DUNCAN & HAMMOND, P.C.  
P.O. Box 1276  
Albuquerque, New Mexico 87103-1276  
(505) 247-2315

By:  Clinton Marrs

KEMP, SMITH, DUNCAN & HAMMOND, P.C.  
P.O. Drawer 2800  
El Paso, Texas 79999-2800  
(915) 533-4424  
(915) 533-5360 (FAX)

By:  Charles C. High, Jr.  
Attorneys for New Mexico Potash  
Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Application for Order Staying Order of Director Pending De Novo Hearing by Oil Conservation Commission and for Emergency Order Under Rule 1202 was sent by facsimile and mailed by certified mail, return receipt requested on this 24th day of April, 1992, to Ernest L. Carroll, Attorney for Yates Petroleum Corporation, Losee, Carson, Haas, & Carroll, P. A., P. O. Drawer 239, Artesia, New Mexico 88210.

  
Clinton Marrs

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 \_\_\_\_ 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