

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

CASE NO. 10448

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

PROCEDURAL RULING OF THE DIVISION

NEW MEXICO POTASH CORPORATION ("New Mexico Potash") has filed an APPLICATION FOR EMERGENCY ORDER STAYING ORDER OF THE DIRECTOR PENDING DE NOVO HEARING BY OIL CONSERVATION COMMISSION requesting the Director to enter an emergency order under Rule 1202 of the Rules and Regulations of the Division staying Division Order R-9654, which order authorized Yates Petroleum Corporation ("Yates") to drill its Flora "AKF" State Well No. 1 in Unit N of Section 2, Township 22 South, Range 31 East, N.M.P.M.

New Mexico Potash argues that the filing of a request for *de novo* hearing from a decision entered by the Director of the Division somehow renders that order moot or invalid. That is not true. A Division decision is fully valid and effective until it is either superseded by an order of the Commission or unless the order is stayed by the Director, which may be done at the Director's discretion, as provided in Division Memorandum 3-85.

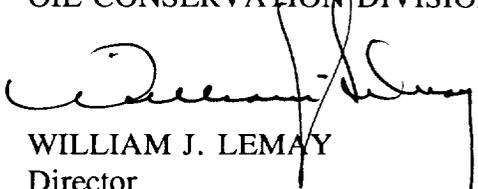
At the time Yates began drilling the subject well, no party had requested a stay of Order R-9654, and it was in full force and effect.

While the Division might consider the granting of a stay in this case, New Mexico Potash has obtained from the District Court in Eddy County an EX PARTE TEMPORARY RESTRAINING ORDER. That order has effectively accomplished the same result as a stay from the Division. While the District Court action does not remove the matter from the jurisdiction of the Division or the Commission, the Division recognizes that it would not be in the interest of judicial-administrative economy to have the same substantive request heard in both forums.

Furthermore, the District Court has the authority to require New Mexico Potash to post a bond, should it decide that is appropriate, to insure that Yates is compensated for any harm it may suffer as a result of the Temporary Restraining Order or subsequent injunction, should Yates prevail on the merits.

THEREFORE, the Division declines to act on the Application of New Mexico Potash while the matter is before the District Court, and it shall hold said application in abeyance as a pending matter until further notice.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY
Director

S E A L

April 20, 1992