

HOLLAND & HART^{LLP}



William F. Carr
wcarr@hollandhart.com

April 14, 2004

BY HAND DELIVERY

RECEIVED

APR 14 2004

Ms. Joanna Prukop, Acting Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

Re: Case 13253: Application of Yates Petroleum Corporation for an order authorizing the drilling of three wells in the Potash Area, Eddy County, New Mexico.

Dear Ms Prukop,

Enclosed is a Subpoena Duces Tecum in the above-referenced case that Yates Petroleum Corporation requests be issued and returned to us for service on IMC Potash Carlsbad Inc.

Your attention to this matter is appreciated.

Very truly yours,

William F. Carr

Enc.

Holland & Hart^{LLP}

Phone [505] 988-4421 Fax [505] 983-6043 www.hollandhart.com

110 North Guadalupe Suite 1 Santa Fe, NM 87501 Mailing Address P.O. Box 2208 Santa Fe, NM 87504-2208

Aspen Billings Boise Boulder Cheyenne Colorado Springs Denver Denver Tech Center Jackson Hole Salt Lake City Santa Fe Washington, D.C. ♻

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

**APPLICATION YATES PETROLEUM CORPORATION FOR AN ORDER
AUTHORIZING THE DRILLING OF THREE WELLS IN THE POTASH AREA, EDDY
COUNTY, NEW MEXICO.**

CASE NO. 13253

SUBPOENA DUCES TECUM

TO: IMC Potash Carlsbad, Inc.
c/o Dan Moreland, Superintendent
Mine Engineering and Construction
1361 Potash Mines Road
Carlsbad, New Mexico 88221-0071

Pursuant to NMSA 1978, § 70-2-8 (1978) and Rule 1211 of the New Mexico Oil Conservation Division's Rules of Procedure, you are hereby ORDERED to appear at 8:15 a.m., April 29 2004, at the offices of the Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87504, and to produce the documents and items specified in attached Exhibit A and to make available to Yates Petroleum Corporation, and their attorney, William F. Carr of Holland & Hart, LLP, for copying, all of said documents.

This subpoena is issued on application of Yates Petroleum Corporation, through their attorneys, Holland & Hart LLP, Post Office Box 2208, Santa Fe, New Mexico 87504.

Dated this 14th day of April, 2004

NEW MEXICO OIL CONSERVATION DIVISION

David K. Brooks
BY: *assistant General Counsel*
JOANNA PRUKOP, ACTING DIRECTOR

EXHIBIT A
TO SUBPOENA DUCES TECUM
TO IMC POTASH CARLSBAD INC.
IN NEW MEXICO OIL CONSERVATION DIVISION
CASE 13253

PURPOSE: The purpose of this subpoena is to provide all of the information necessary for Yates Petroleum Corporation, to be able to prepare for New Mexico Oil Conservation Division Case 13253.

PRODUCE THE FOLLOWING DOCUMENTS as they relate to the present or future development of IMC Potash Carlsbad, Inc. ("IMC") for the development of Potash reserves, if any, underlying Section 2, Township 23 South, Range 30 East, NMPM, Eddy County, New Mexico, and underlying any lands within one mile of Section 2, which are utilized by, relied upon or otherwise relate to the objections of IMC to the following wells that Yates Petroleum Corporations proposes to drill in said Section 2:

- (A) Yates Petroleum Corporation Theodore "BDY" State Well No. 1 1980 feet from the South and West lines (Unit K);
- (B) Yates Petroleum Corporation Theodore "BDY" State Well No. 2 330 feet from the South line and 1650 feet from the East line (Unit O); and
- (C) Yates Petroleum Corporation Theodore "BDY" State Well No. 3 843 feet from the South line and 774 feet from East line (Unit P).

Documents:

1. Any and all maps and/or other documents that show:
 - A. Potash leases in Section 2 and within one mile thereof.
 - B. Active potash mine operations (open mine workings) and mined-out areas (abandoned mine workings) and the depth of the potash ore in Section 2 and within one mile thereof.
 - C. The dates of all mining operations in Section 2 and within one mile thereof including the dates when potash was last mined in this acreage and, if not presently being mined, the reason mining was stopped.
 - D. All mining plans, including all three-year mining plans, that include

any acreage in Section 2 or any acreage within one mile of Section 2.

- E. The type of ore that was mined (sylvite, langbeinite, mixed ore, etc.) from Section 2 and any land within one mile thereof.
 - F. The grade of the ore last mined in Section 2 and within one mile thereof.
 - G. All maps that show any buffer zones as defined by Oil Conservation Division Order No. R-111-P and 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."
 - H. Areas determined by IMC to contain "life of mine reserves," to be "barren," or contain contain "minor potash mineralization," and all data use by IMC or others to make these determinations and to prepare these maps.
- 2. Schedules or other documents that discuss, relate to or contain information utilized by IMC or others to project IMC's future mining plans and the area or areas to be mined in Section 2 and within one mile thereof.
 - 3. Any geologic data used by you to justify your opposition to the proposed well locations that are the subject of NMOCD Case No. 13253.
 - 4. Any engineering data used by you to justify your opposition to the proposed well locations that are the subject of NMOCD Case No. 13253.
 - 5. Any and all reserve calculations including reservoir parameters utilized, to estimate the ultimate recovery of potash from mining operations in Section 2 and within one mile thereof.

Correspondence/Communications/Accounting/Land Files:

- 1. Any and all correspondence, contracts, agreements, leases, or other agreements that relate to any of IMC's plans for the mining of potash ore under Section 2 and any lands within one mile thereof.
- 2. All IMC land files.
- 3. All letters and other documents between you and the New Mexico State Land Office concerning Section 2 and any lands within one mile thereof.

4. All letters and other documents between you and the New Mexico Oil Conservation Division concerning Section 2 and any lands within one mile thereof.

Hearing Exhibits:

1. Copies of all land exhibits and ownership data and exhibits to be used by you at the Oil Conservation Division hearing in this case.
2. Copies of any geologic data and exhibits including all maps, to be used by you at the Oil Conservation Division hearing in this case.
3. Copies of any and all geophysical data/studies and exhibits to be used by you at the Oil Conservation Division hearing in this case.
4. Copies of any and all engineering data/studies and exhibits to be used by you at the Oil Conservation Division hearing in this case.
5. If not already included above, all data and documents utilized by you in support of all exhibits you will present at the hearing in this case.

IF NOT ALREADY INCLUDED ABOVE, THE FOLLOWING ADDITIONAL DATA:

1. All geological and reservoir engineering analysis pertaining to IMC's plans to mine the potash ore in Section 2 and in all lands within one mile of Section 2.
2. All geological and engineering analysis, authorizations for expenditure and any other documents pertaining to IMC's plans to mine the potash ore in Section 2 and within one mile thereof.
3. All geological, geophysical and engineering data used to prepare IMC's testimony and exhibits in this case.

INSTRUCTIONS

This Subpoena Duces Tecum seeks all information available to you or in your possession, custody or control from any source, wherever situated, including but not limited to information from any files, records, computers documents, employees, former employees, consultants, counsel and former counsel. It is directed to each person to whom such information is a matter of personal knowledge.

When used herein, "you" or "your" refers to the persons and entity to whom this Subpoena Duces Tecum is addressed to including all of his or its attorneys, officers, agents, consultants, employees, directors, representatives, officials, departments, divisions, subdivisions, subsidiaries, or predecessors in interest.

The term "document" as used herein means every writing and record of every type and description in the possession, your custody or control, 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, computer disks, 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, agenda, 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 notice 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.

References to the Oil Conservation Division and to the New Mexico State Land Office means any employee or officer of the agency whether located in Santa Fe or other location in New Mexico. References to the Oil Conservation Division also includes the Oil Conservation Commission and its members, and employees.