

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

**IN THE MATTER OF THE APPLICATION
OF HARVEY E. YATES COMPANY FOR AN
EXEMPTION TO COMMISSION RULE
19.15.2.50(A)**

**CASE NO. 13817
ORDER NO. R-12656**

ORDER

BY THE DIVISION:

This matter came on for decision before the Director of the Oil Conservation Division ("Division") upon the application of Harvey E. Yates Company ("HEYCO") for an exemption to 19.15.2.50(A) NMAC to allow the use of a reserve pit in the Bennett Ranch Federal Exploratory Unit (BRU) as part of an under balanced (air drill) system for the proposed BRU #6 exploratory well in Section 24, Township 26-South, Range 12-East, Otero County, New Mexico.

NOW, on this 27th day of October 2006, the Division Director, having considered the request,

FINDS THAT:

- (1) The Division has jurisdiction over this case and its subject matter.
- (2) The BRU #6 is a federal well located in Section 24, Township 26-South, Range 12-East, Otero County, New Mexico.
- (3) The Bureau of Land Management has not yet approved a permit to drill the BRU #6 well.
- (4) HEYCO's application for an exemption from 19.15.2.50(A) NMAC to allow it to use a reserve pit at the BRU #6 is not ripe for decision, because the Bureau of Land Management has not approved a permit to drill the well and the Division does not know what conditions, if any, the Bureau of Land Management may impose if it approves the permit to drill.
- (5) HEYCO's application for an exemption from 19.15.2.50(A) NMAC seeks relief that is unavailable under Oil Conservation Commission rules.
 - a. HEYCO seeks an exemption from 19.15.2.50(A) NMAC, which requires operators to obtain a permit from the Division to discharge into or construct any pit or below grade tank. Rule 19.15.2.50 NMAC sets out the requirements for pits and below grade tanks. Rule 19.15.2.50(G) NMAC provides the procedure for obtaining an exemption from any requirement if the operator demonstrates

that the granting of such exemption will not endanger fresh water, public health or the environment.

- b. Rule 19.15.2.50(G) NMAC does not provide for exemptions from the requirement that the operator obtain a permit from the Division to discharge into or construct any pit or below grade tank.
- c. Rule 19.15.1.21(B) NMAC, rather than Rule 19.15.2.50 NMAC, addresses the issue of pits in certain areas of Otero County, including Section 24 where the BRU #6 is to be located. Rule 19.15.1.21(B) NMAC prohibits the Division from issuing permits under 19.15.2.50 NMAC for pits located in those areas.
- d. Rule 19.15.1.21 NMAC does not provide for exemptions.

IT IS THEREFORE ORDERED THAT:

(1) Harvey E. Yates Company's application for an exemption to 19.15.2.50(A) NMAC to allow the use of a reserve pit in the Bennett Ranch Federal Exploratory Unit as part of an underbalanced (air drill) system for the proposed BRU #6 exploratory well in Section 24, Township 26-Sourth, Range 12-East, Otero County, New Mexico is denied.

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

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



MARK E. FESMIRE, P.E.
Director

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