



MODRALL SPERLING  
L A W Y E R S

November 22, 2006

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Ms. Florene Davidson  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

Dear Ms. Davidson:

Enclosed for filing are an original and six copies of an application for the Oil Conservation Commission to hear de novo Harvey E. Yates Company's application for an exemption from Rule 19.15.250(A). Also enclosed is a proposed advertisement. Thank you.

Very truly yours,

Adam H. Greenwood

AHG/ssc  
Enclosures

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

2006 NOV 27 AM 9 14

**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**

**CONDITIONAL APPLICATION FOR HEARING DE NOVO**

Harvey E. Yates Co. ("HEYCO") is a party of record adversely affected by Order R-12656 filed by the New Mexico Oil Conservation Division (the "Division") on October 27, 2006. Pursuant to 1978 NMSA § 70-2-13 (1981), HEYCO request that all matters raised in this case be heard de novo before the Oil Conservation Commission (the "Commission").

HEYCO styles this application as conditional because the Division's Order is ambiguous as to whether it is a final ruling on the matters raised in HEYCO's Application for an exemption from Rule 21 filed with the Division. Specifically, the Division denied the Application in part based on its determination that the Application was not yet ripe, as the United States Bureau of Land Management ("BLM") had not yet ruled on HEYCO's application for permit to drill the well in question. If the BLM issues an APD to HEYCO then presumably the Division would reconsider the matter.

In addition, this Application for Hearing De Novo is made without prejudice to, and reserving, any argument that the Division (and the Commission's) authority is preempted by federal law.

Respectfully Submitted,

By: Adam H. Greenwood

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ATTORNEYS FOR HARVEY E. YATES COMPANY

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PROPOSED ADVERTISEMENT

**Case 13817: De Novo. Application of the Harvey E. Yates Company for an exemption from Oil Conservation Commission Rule 19.15.2.50(A) NMAC.**

Applicant seeks to use a reserve pit in the Bennett Ranch Federal Exploratory Unit (BRU) as part of an underbalanced (air drill) system for the proposed BRU #6 exploratory well in Section 24, Township 26-South, Range 12-East, Otero County, New Mexico. Upon application of the Harvey E. Yates Company, this case will be heard De Novo pursuant to the provisions of Rule 1221.