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L A W Y E R S

June 6, 2007

VIA FAX NO. (505) 476-3462  
AND FEDERAL EXPRESS

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

Re: 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

Dear Ms. Davidson:

Attached is a copy of Harvey E. Yates Company's Motion for  
Rehearing.

Additionally, we are sending by FedEx an original and six copies of the  
Motion.

Very truly yours,

*ssc*

Adam H. Greenwood

AHG/ssc  
Enclosures

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**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 (De Novo)**

**MOTION FOR REHEARING**

Pursuant to 19.15.14.1223 NMAC, Harvey E. Yates Company (HEYCO) hereby moves for rehearing of the Oil Conservation Commission's Order R-12656-A (the Order), and as grounds therefore states as follows:

In the Order, the Oil Conservation Commission (the Commission) appeared to indicate that it was not definitively dismissing all possibility of a HEYCO exemption from 19.15.1.21 NMAC. Instead, the Commission made clear that it was only responding to HEYCO's argument for an exemption under 19.15.2.50 NMAC and that other potential arguments for an exemption conceivably remained open. *See* Order at 3 ("The Harvey E. Yates Company may seek an exemption to 19.15.1.21 NMAC . . . .")

In its current form the Order could be interpreted to require HEYCO to seek immediate judicial review of the Commission's ruling with respect to 19.15.2.50 NMAC even if HEYCO were willing to return to the Oil Conservation Division and raise other potential arguments. At the hearing held April 19, 2007, the Commission orally ruled that the dismissal of HEYCO's Application was without prejudice but the Order does not state that it is without prejudice. In order to avoid the waste and duplication of judicial review while other potential arguments remain unconsidered, HEYCO requests that the Commission clarify that the dismissal of HEYCO's 19.15.2.50 NMAC argument is without prejudice.

WHEREFORE, the Harvey E. Yates Company respectfully requests the Oil Conservation Commission to modify Order R-12656-A to reflect the Commission's ruling that the Order dismissing HEYCO's Application is made without prejudice.

Respectfully Submitted,

By: \_\_\_\_\_

Earl E. DeBrine, Jr.

Walter E. Stern

Patrick J. Rogers

Adam Greenwood

Modrall, Sperling, Roehl, Harris, & Sisk, P.A.

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**ATTORNEYS FOR HARVEY E. YATES COMPANY**

**CERTIFICATE OF SERVICE**

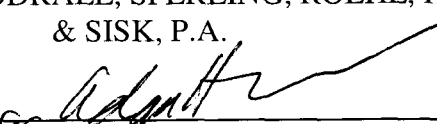
WE HEREBY CERTIFY that a true and correct copy of the foregoing pleading was mailed to the following counsel of record this 6th day of June, 2007:

Cheryl Bada, Esq.  
NM Energy, Minerals & Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87504

Gail MacQuesten, Esq.  
Assistant General Counsel  
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1220 South St. Francis Drive  
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MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By:

  
\_\_\_\_\_  
Earl E. DeBrine, Jr.

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