

**BEFORE THE
OIL CONSERVATION DIVISION
NEW MEXICO ENERGY, MINERALS AND
NATURAL RESOURCES DEPARTMENT**

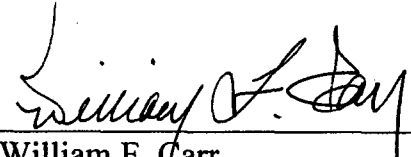
**IN THE MATTER OF THE APPLICATION OF
MACK ENERGY CORPORATION FOR
COMPULSORY POOLING, EDDY COUNTY, NEW
MEXICO.**

CASE NO. _____

AFFIDAVIT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

William F. Carr, attorney in fact and authorized representative of Mack Energy Corporation, the applicant herein, being first duly sworn, upon oath, states that notice has been given to all interested parties entitled to receive notice of this application under Oil Conservation Division rules, and that notice has been given at the addresses shown on Exhibit "A" attached hereto.

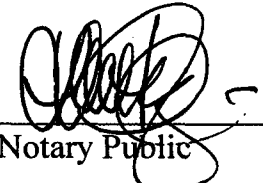


William F. Carr

SUBSCRIBED AND SWORN to before this 30th day of September 2003 by William F. Carr.



**OFFICIAL SEAL
LISAMARIE ORTIZ
NOTARY PUBLIC-STATE OF NEW MEXICO**
My commission expires 1/14/07



Notary Public

My Commission Expires: January 14, 2007

BEFORE THE OIL CONSERVATION DIVISION
Santa Fe, New Mexico
Case No. 13155 Exhibit No. 5
Submitted by:
MACK ENERGY CORPORATION
Hearing Date: October 9, 2003

EXHIBIT A

**APPLICATION OF MACK ENERGY CORPORATION
FOR COMPULSORY POOLING,
N/2, SECTION 28, TOWNSHIP 17 SOUTH, RANGE 29 EAST, NMPM,
EDDY COUNTY, NEW MEXICO.**

NOTIFICATION LIST

W. E. S. Griswold
132 Griswold Pt.
Old Lyme, Connecticut 06371

David L. Shepard
3542 Westminster Ave
Norfolk, Virginia 23502

Constance B. Cartwright
One East End Ave.
New York, New York 10021

Kent F. Warner
42 Samis Lane
White Plains, New York 10605

Blanche S. Nobel
3 Ronarm Drive
Mountain Lakes, New Jersey 07026

Alvan B. Fehn
11 Macspar Drive
Dover, New Jersey 07869

Olivia W. Switz
Post Office Box 732
Red Bank, New Jersey 07701

Leo R. Laflamme
2765 NE 35th Court
Ft Lauderdale, Florida 33308

Mel M. Burns
2009 Long Beach Blvd.
Long Beach, California 90806

Richard P. Kratz
15225 Vanowen Street
Van Nuys, California 91405

HOLLAND & HART^{LLP}
ATTORNEYS AT LAW

DENVER • ASPEN
BOULDER • COLORADO SPRINGS
DENVER TECH CENTER
BILLINGS • BOISE
CHEYENNE • JACKSON HOLE
SALT LAKE CITY • SANTA FE
WASHINGTON, D.C.

P.O. BOX 2208
SANTA FE, NEW MEXICO 87504-2208
110 NORTH GUADALUPE, SUITE 1
SANTA FE, NEW MEXICO 87501-6525

TELEPHONE (505) 988-4421
FACSIMILE (505) 983-6043

William F. Carr

wcarr@hollandhart.com

September 18, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

TO ALL AFFECTED INTEREST OWNERS:

Re: Application of Mack Energy Corporation for compulsory pooling, Eddy County, New Mexico.

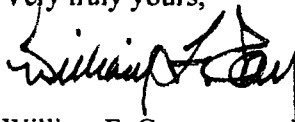
Ladies and Gentlemen:

This letter is to advise you that Mack Energy Corporation has filed the enclosed application with the New Mexico Oil Conservation Division seeking the force pooling of all mineral interests from 5000 feet to the base of the Ellenberger formation in certain spacing and proration units located in the N/2 of Section 28, Township 17 South, Range 29 East, NMPM., Eddy County, New Mexico. Mack Energy Corporation proposes to dedicate the referenced pooled units to its proposed Diamondbacks State Well No. 1 to be drilled at a standard location 1980 feet from the North and East lines of said Section 28.

This application has been set for hearing before a Division Examiner on October 9, 2003 in Porter Hall located in the Division's Santa Fe Office located at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505. You are not required to attend this hearing, but as an owner of an interest that may be affected by this application, you may appear and present testimony. Failure to appear at that time and become a party of record will preclude you from challenging the matter at a later date.

Parties appearing in cases are required by Division Rule 1208.B to file a Pre-hearing Statement at the Division's Santa Fe office three days in advance of a scheduled hearing. This statement must include: the names of the parties and their attorneys; a concise statement of the case; the names of all witnesses the party will call to testify at the hearing; the approximate time the party will need to present its case; and identification of any procedural matters that are to be resolved prior to the hearing.

Very truly yours,



William F. Carr
ATTORNEY FOR MACK ENERGY CORPORATION

Enc.

cc: Ronald W. Lanning
Mack Energy Corporation

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

**IN THE MATTER OF THE APPLICATION
MACK ENERGY CORPORATION
COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

CASE NO. _____

APPLICATION

MACK ENERGY CORPORATION ("Mack Energy"), through its undersigned attorneys, hereby makes application pursuant to the provisions of N. M. Stat. Ann. § 70-2-17, (1978), for an order pooling all mineral interests from a depth of 5000 feet to the base of the Ellenberger formation, under the following acreage in Section 28, Township 17 South, Range 28 East, NMPM, Eddy County, New Mexico:

- A. the N/2 to form a standard gas spacing and proration unit for formations and/or pools developed on 320-acre spacing within that vertical extent that includes but is not limited to the Grayburg-Morrow Gas Pool and the Undesignated Grayburg-Atoka Gas Pool;
- B. the NE/4 to form a standard gas spacing and proration unit for formations and/or pools developed on 160-acre spacing within that vertical extent;
- C. the W/2 NE/4 to form a standard 80-acre spacing and proration unit for formations and/or pools developed on 80-acre spacing within that vertical extent which includes but is not necessarily limited to the Undesignated South-Wolfcamp Pool; and

- D. the SW/4 NE/4 to form a standard 40-acre spacing and proration unit for formations and/or pools developed on 40-acre spacing within that vertical extent which includes but is not necessarily limited to the Undesignated Empire Abo Pool and the Undesignated Grayberg-Upper Pennsylvanian Pool.

These spacing and proration units are to be dedicated to the Mack Energy Corporation Diamondbacks State Well No. 1 which it proposes to drilled at a standard location in the N/2 of Section 28, and in support of its application states:

1. Mack Energy is a working interest owner in the N/2 of said Section 34 and has the right to drill thereon.
2. Mack Energy proposes to dedicate the above-referenced spacing or proration units to its Diamondbacks State Well No. 1 to be drilled at a standard location 1980 feet from the North and East lines of said Section 28 to a depth sufficient to test any and all formations to the base of the Ellenberger formation.
3. Mack Energy has sought and been unable to obtain either voluntary agreement for pooling or farmout from certain interest owners in the N/2 of said Section 28 that are identified on Exhibit A to this application.
4. The requested pooling of interests will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.
5. In order to permit the applicant to obtain its just and fair share of the oil and gas underlying the subject lands, all mineral interests should be pooled, and Mack Energy Corporation should be designated the operator of the well to be drilled.

WHEREFORE, Mack Energy Corporation requests that this application be set for hearing before an Examiner of the Oil Conservation Division on October 9, 2003 and that after notice and hearing as required by law the Division enter its order:

- A. pooling all mineral interests in the subject spacing and proration unit,
- B. designating Mack Energy Corporation operator of the unit and the well to be drilled thereon,
- C. authorizing Mack Energy Corporation to recover its costs of drilling, equipping and completing the well,
- D. approving the actual operating charges and costs of supervision while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures, and
- E. imposing a penalty for the risk assumed by Mack Energy Corporation in drilling and completing the well against any working interest owner who does not voluntarily participate in the drilling of the well.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87504
Telephone: (505) 988-4421

ATTORNEYS FOR MACK ENERGY CORPORATION

CASE _____:

Application of Mack Energy Corporation for compulsory pooling, Eddy County, New Mexico. Applicant in the above-styled cause seeks an order pooling all mineral interests in the following described spacing and proration units in Section 28, Township 17 South, Range 29 East as follows: the N/2 for all formations and/or pools developed on 320-acre spacing which includes but is not limited to the Grayburg-Morrow Gas Pool and the Undesignated Grayburg-Atoka Gas Pool; the NE/4 for all formations and/or pools developed on 160-acre spacing; the W/2 NE/4 for all formations and/or pools developed on 80-acre spacing which includes but is not necessarily limited to the Undesignated South Empire-Wolfcamp Pool; and the SW/4 NE/4 for all formations and/or pools developed on 40-acre spacing which includes but is not necessarily limited to the Undesignated Empire Abo Pool and the Undesignated Grayburg-Upper Pennsylvanian Pool. Said units are to be dedicated to applicant's Diamondbacks State Well No. 1 to be drilled at a standard location 1980 feet from the North and East lines of said Section 28 to test all formations and/or pools from a depth of 5000 feet to the base of the Ellenberger formation. Also to be considered will the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 6 miles west of Loco Hills, New Mexico.

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

LONG BEACH, CA 90806

WFC Mack Diamondbacks
 Postage \$.60
 Certified Fee 2.30
 Return Receipt Fee (Endorsement Required) 1.75
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees 4.65

UNIT ID: 0991
 Clerk: KPSS

Sent To Mel M. Burns
 2009 Long Beach Blvd.
 Long Beach, California 90806

PS Form 3800, January 1999

Mail Returned

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

NEW YORK, NY 10021

WFC Mack Diamondbacks
 Postage \$ 1.00
 Certified Fee 2.30
 Return Receipt Fee (Endorsement Required) 1.75
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees 5.05

UNIT ID: 0991
 Clerk: KPSS

Sent To Constance B. Cartwright
 One East End Ave.
 New York, New York 10021

PS Form 3800, January 1999

Mail Returned

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

RANDOLPH, NJ 07869

WFC Mack Diamondbacks
 Postage \$.60
 Certified Fee 2.30
 Return Receipt Fee (Endorsement Required) 1.75
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees 4.65

UNIT ID: 0991
 Clerk: KPSS

Sent To Alvan B. Fehn
 11 Macspar Drive
 Dover, New Jersey 07869

PS Form 3800, January 1999

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Alvan B. Fehn
 11 Macspar Drive
 Dover, New Jersey 07869

2. Article Number (Copy from)

7001 1140 0002 5601 8004

PS Form 3811, July 1999

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

☐ Agent

☐ Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

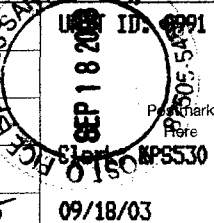
☐ Yes

Domestic Return Receipt

102595-00-M-0952

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OLD LYME, CT 06371

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Diamondbacks	Certified Fee	2.30	
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	Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees		\$ 4.05	

09/18/03

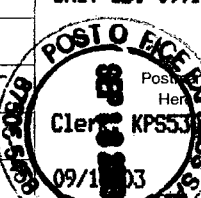
Sent To

W. E. S. Griswold
132 Griswold Pt.
Old Lyme, Connecticut 06371

PS Form 380

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

VAN NUYS, CA 91405

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Total Postage & Fees		\$ 4.05	

09/18/03

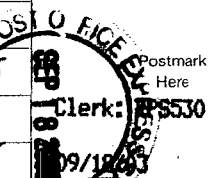
Sent To

Richard P. Kratz
15225 Vanowen Street
Van Nuys, California 91405

PS Form 380

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

FORT LAUDERDALE, FL 33308

WFC/ Mack	Postage	\$ 1.00	
Diamondbacks	Certified Fee	2.30	
	Return Receipt Fee (Endorsement Required)	1.75	
	Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees		\$ 4.05	

09/18/03

Sent To

Leo R. Laflamme
2765 NE 35th Court
Ft Lauderdale, Florida 33308

PS Form 380

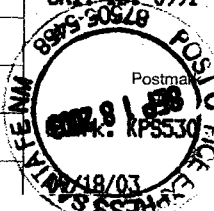
Mail
Returned

MAIL
Returned

Mail
Returned

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

GARFIELD, NJ 07026

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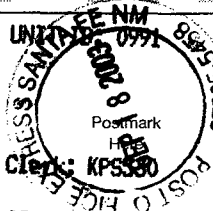
Sent To Blanche S. Nobel
 3 Ronarm Drive
 Mountain Lakes, New Jersey
 City, State, ZIP+4 07026

PS Form 3800, J

Mail Returned

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

NORFOLK, VA 23502

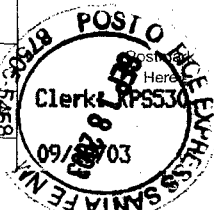
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	Return Receipt Fee (Endorsement Required)	1.75	
	Restricted Delivery Fee (Endorsement Required)		
	Total Postage & Fees	\$ 4.65	

Sent To David L. Shepard
 3542 Westminister Ave
 Norfolk, Virginia 23502

PS Form 3800, January 2001

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

RED BANK, NJ 07701

WFC Mack Diamondbacks	Postage	\$ 1.00	
	Certified Fee	2.30	
	Return Receipt Fee (Endorsement Required)	1.75	
	Restricted Delivery Fee (Endorsement Required)		
	Total Postage & Fees	\$ 4.65	

Sent To Olivia W. Switz
 Post Office Box 732
 Red Bank, New Jersey 07701

PS Form 3800, January 2001

Mail Returned

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

WHITE PLAINS, NY 10605

WFE
Mack
Diamondbacks

Postage

\$

.860

UNIT ID: 0991

Certified Fee

2.32030

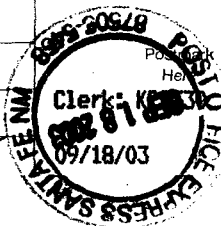
Return Receipt Fee
(Endorsement Required)

1.7575

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$ 4.65



Sent To

Kent F. Warner

Street, Apt. No.
or PO Box No.

42 Samis Lane

City, State, ZIP

White Plains, New York 10605

PS Form 3800

MAIL
RETURNED

HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1
110 NORTH GUADALUPE
SANTA FE, NEW MEXICO 87501-6525
P.O. BOX 2208
SANTA FE, NEW MEXICO 87504-2208



9264

0001 1140 0002 5601 8035

Mel M. Burns
2009 Long Beach Blvd.
Long Beach, California 90806

U.S. POSTAGE
PAID
SANTA FE, NM
87505
SEP 18, 03
AMOUNT

\$0.00
00015876-03

87501-6525/03

CERTIFIED MAIL

HOLLAND & HART
ATTORNEYS AT LAW

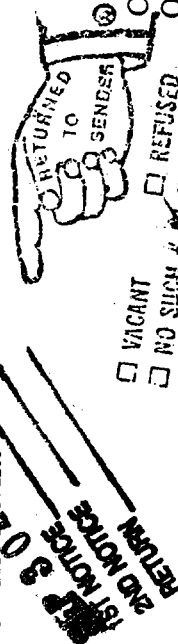
SUITE 1
110 NORTH GUADALUPE
SANTA FE, NEW MEXICO 87501-6525
P.O. BOX 2208
SANTA FE, NEW MEXICO 87504-2208



9264

10021

0001 1140 0002 5601 7977



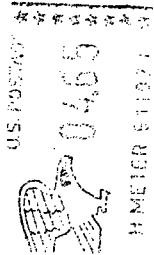
- ☐ VACANT
☐ NO SUCH #
☐ REFUSED
☐ TEMPORARILY AWAY
☐ NO POSTAGE
☐ POSTAGE ACCEPTANCE
☐ OTHER

Constance B. Cartwright
One East End Ave.
New York, New York 10021

U.S. POSTAGE
PAID
SANTA FE, NM
87505
SEP 18, 03
AMOUNT

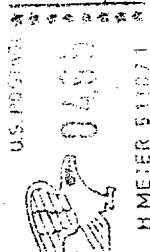
\$0.00
00015876-03

10021+1102



1ST NOTICE 9-27
2ND NOTICE _____
RETURN _____

RETURN RECEIPT REQUESTED



HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1

110 NORTH GUADALUPE

SANTA FE, NEW MEXICO 87501-6525

P.O. BOX 2208

SANTA FE, NEW MEXICO 87504-2208



U.S. POSTAGE
PAID
SANTA FE, NM
87505-03
SEP 18, 2003
AMOUNT

\$0.00
00015876-03

9264

1ST NOTICE 9-27

2ND NOTICE _____

RETURN _____

06371+2838 87504/2208

CERTIFIED MAIL

HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1

110 NORTH GUADALUPE

SANTA FE, NEW MEXICO 87501-6525

P.O. BOX 2208

SANTA FE, NEW MEXICO 87504-2208

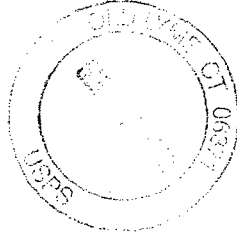
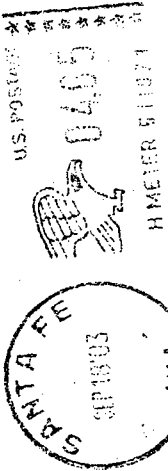
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UNITED STATES
POSTAL SERVICE

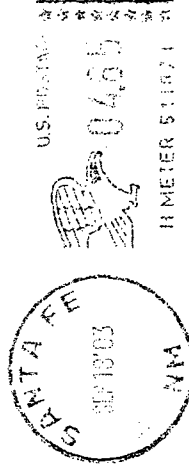
9264

91405



W. E. S. Griswold
132 Griswold Pt.
Old Lyme, Connecticut 06371

RETURN RECEIPT



Richard K. Kratz
13225 Vanowen Street
Van Nuys, California 91405

U.S. POSTAGE
PAID
SANTA FE, NM
87505-03
SEP 18, 2003
AMOUNT

\$0.00
00015876-03

**RETURN RECEIPT
REQUESTED**

HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1
110 NORTH GUADALUPE
SANTA FE, NEW MEXICO 87501-6525
P.O. BOX 2208
SANTA FE, NEW MEXICO 87504-2208

7001 1140 0002 5601 8028

1ST NOTICE 9-27
2ND NOTICE _____
RETURN _____



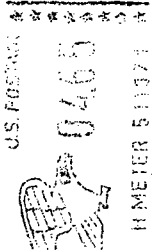
9284

U.S. POSTAGE
PAID
SANTA FE, NM
87505
SEP 18 '03
AMOUNT

\$0.00
00015876-03

2330846334

RETURN RECEIPT
REQUESTED



Leo R. Laflamme
2765 NE 35th Court
Ft Lauderdale, Florida 33308

☐ Moved, left no address
☐ No such number
☒ Addressed, Not forwardable
☒ Addressee unknown

CERTIFIED MAIL

HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1
110 NORTH GUADALUPE
SANTA FE, NEW MEXICO 87501-6525
P.O. BOX 2208
SANTA FE, NEW MEXICO 87504-2208

7001 1140 0002 5601 7771



9264 U/026

1ST NOTICE 9-27
2ND NOTICE _____
RETURN _____

U.S. POSTAGE
PAID
SANTA FE, NM
87505
SEP 18 '03
AMOUNT

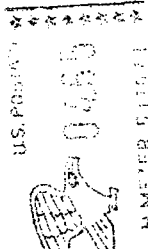
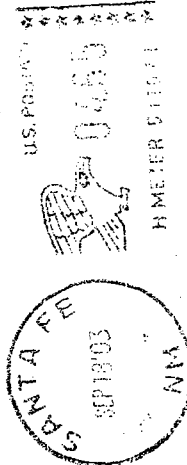
\$0.00
00015876-03

A ☐ INSUFFICIENT ADDRESS
C ☐ ATTEMPTED NOT KNOWN
S ☐ NO SUCH NUMBER/STREET
S ☒ NOT DELIVERABLE AS ADDRESSED
S ☐ UNABLE TO FORWARD

Blanche S. Nobel
3 Ronarm Drive
Mountain Lakes, New Jersey
07026

RTS
RETURN TO SENDER

UPM RECEIPT
REQUESTED



87504/2208

HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1

110 NORTH GUADALUPE

SANTA FE, NEW MEXICO 87501-6525

P.O. BOX 2208

SANTA FE, NEW MEXICO 87504-2208

7004-12450 0002 5601 8784

Postage Due

Unable To Forward

Insufficient Address

Moved, Left No Address

Undelivered, Refused

Undelivered, Not Known

Postage Due

Deceased



9264

1ST NOTICE

2ND NOTICE

RETURN

Olivia W. Switz
Post Office Box 132

U.S. POSTAGE
PAID
SANTA FE, NM
87505
SEP 18 '03
AMOUNT
\$0.00
00015876-03

9264
00015876-03

9/10/9-27

REQUESTED

HOLLAND & HART
ATTORNEYS AT LAW

SUITE 1

110 NORTH GUADALUPE

SANTA FE, NEW MEXICO 87501-6525

P.O. BOX 2208

SANTA FE, NEW MEXICO 87504-2208

7004-12450 0002 5601 7984

Attempted-Not Known

Addressee Unknown

Refused

Unclaimed

Insufficient Address

Moved Not Forwardable

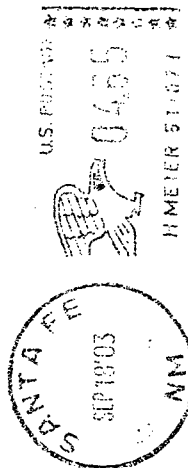
Postage Due

Deceased

Kent F. Warner

42 Sam's Lane

White Plains, New York 10605



U.S. POSTAGE

PAID

NO SUCH NUMBER

Box Closed-No Order

Postage Due

Deceased



9264

RETURN RECEIPT
REQUESTED

10605+4723