

KELLAHIN & KELLAHIN
Attorney at Law

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August 11, 2009

HAND DELIVERED

Mr. Mark E. Fesmire, Director
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

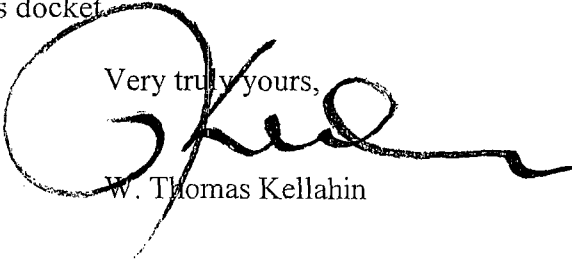
Case 14381

Re: Application of Marshall & Winston, Inc.
for Cancellation of a Permit to Drill ("APD")
issued to Yates Petroleum Corporation
Derbi BOD Com #1-H (API 30-005-29094)
S/2S/2 Sec 9, T15S, R31E
Chaves County, New Mexico

Dear Mr. Fesmire:

On behalf of Marshall & Winston, Inc., enclosed for filing is our referenced application to be set for hearing on September 17, 2009 on the Division's Examiner's docket.

Very truly yours,


W. Thomas Kellahin

CC: Marshall & Winston, Inc.
Attn: Kevin Hammit, Esq.

RECEIVED OCD
2009 AUG 11 A 11: 11

ADVERTISEMENT

CASE 14381 Application of Marshall & Winston, Inc. for cancellation of a permit to drill ("APD") issued to Yates Petroleum Corporation Chaves County, New Mexico. Applicant seeks an order canceling the Division's approval of the following application for permit to drill ("APD") issued to Yates Petroleum Corporation ("Yates"): API 30-005-29094 for the Derbi BOD Com #1H Well, a horizontal wellbore with a surface location in Unit M and a bottom-hole location in Unit P of Section 9, T15S, R31E, Chaves County and to be dedicated to a non-standard 160-acre spacing unit consisting of the S/2S/2 of this section. This unit is located approximately 12 miles north of Maljamar, New Mexico.

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

**IN THE MATTER OF THE APPLICATION
OF MARSHALL & WINSTON, INC. FOR
CANCELLATION OF A PERMIT TO DRILL ("APD")
ISSUED TO YATES PETROLEUM CORPORATION
FOR ITS DERBI BOD COM WELL No. 1-H
CHAVES COUNTY, NEW MEXICO.**

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2009 AUG 11 A 11: 11**

CASE NO. 14381

APPLICATION

Comes now Marshall & Winston, Inc. by its attorneys, Kellahin & Kellahin, applies to the New Mexico Oil Conservation Division ("Division") for an order canceling the Division's approval of the following for permit to drill ("APD") issued to Yates Petroleum Corporation: API 30-005-29094 for the Derbi DOB Com #1H Well, a horizontal wellbore with a surface location in Unit P and a bottom-hole location in Unit M of Section 9, T15S, R31E, Chaves County and to be dedicated to a non-standard 160-acre spacing unit consisting of the S/2S/2 of this section.

In support of its application, Marshall & Winston, Inc. states:

1. On May 4, 2009, Yates obtained an approved application for permit to drill ("APD") from the Bureau of Land Management-Roswell for the Derbi DOB Com #1H Well, (API # 30-005-29094) a horizontal wellbore with a surface location in Unit P and a bottom-hole location in Unit M of Section 9, T15S, R31E, Chaves County and to be dedicated to a non-standard 160-acre spacing unit consisting of the S/2S/2 of this section. See first page of APD and Division form C-102 attached as Exhibit "A" and "B"

2. On May 8, 2009, the New Mexico Oil Conservation Division, Hobbs, received this BLM approved APD

3. In order to obtain the BLM's approval, Yates filed Division Form C-102 signed by Cy Cowan, as regulatory agent for Yates, certifying that Yates has an interest the bottom-hole location for this wellbore.

4. In doing so, Yates has violated the Division Rules and Orders and has improperly certified Yates does not have any interest in two of the 40-acre tracts interest.

5. Contrary to the certification, Yates does not have an interest in (a) the bottom-hole location or (b) in any portion of the producing interval of this wellbore within the S/2SW/4 of Section 9 nor has it not reached a voluntary agreement with Marshall & Winston or obtained a Division compulsory pooling order. See Exhibit "B" attached

6. Yates' proposed 160-acre non-standard oil spacing unit each contains four 40-acre tracts consisting of S/2S/2: (See Yates' Form C-102 attached as Exhibit "B")

Unit M and Unit N	Marshall & Winston= 100%
Unit O and Unit P	Yates= 100%

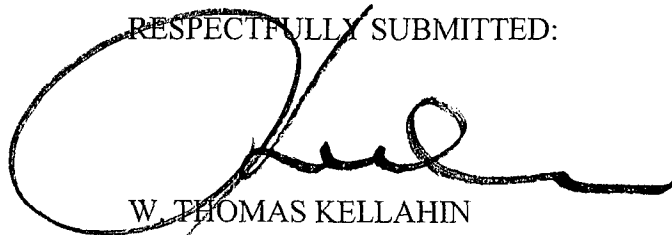
7. In compliance with Commission Order R-12343-E, dated March 16, 2007, the Division revised and modified its Form C-102 to require that the Operator certify that:

"I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division."

8. Notice of this application and hearing has been send to the parties set forth on Exhibit "C"
Attached

WHEREFORE, Marshall & Winston, as applicant, requests that this application be set for hearing on September 17, 2009 before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order canceling this APD.

RESPECTFULLY SUBMITTED:



W. THOMAS KELLAHIN
KELLAHIN & KELLAHIN
706 Gonzales Road
Santa Fe, New Mexico 87501
(505) 982-4285

VERIFICATION

STATE OF TEXAS)

COUNTY OF Midland) SS

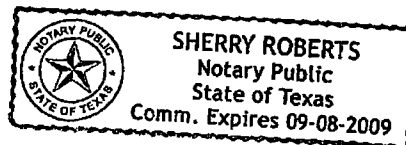
Tom Brandt, being duly sworn upon his oath, deposes and states: He is president of Marshall & Winston, Inc., that he is familiar with the matters set forth in this application and the statements therein are true and correct to the best of his knowledge.

Tom Brandt
Tom Brandt

SUBSCRIBED AND SWORN to before me this 10th day of August 2009, by Tom Brandt

Sherry Roberts
Notary Public

My commission expires:



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MAY 08 2009

HOBBSDO

New Mexico Oil Conservation Division, District I
1625 N. French Drive
Hobbs, NM 88240

Form 3160-3
(August 2007)

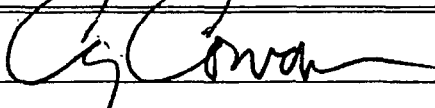
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
APPLICATION FOR PERMIT TO DRILL OR REENTER

FORM APPROVED
OMB NO. 1004-0137
Expires: July 31, 2010

1a. Type of Work: <input checked="" type="checkbox"/> DRILL <input type="checkbox"/> REENTER		5. Lease Serial No Fee & NM-105886
1b. Type of Well: <input checked="" type="checkbox"/> Oil Well <input type="checkbox"/> Gas Well <input type="checkbox"/> Other <input type="checkbox"/> Single Zone <input type="checkbox"/> Multiple Zone		6. If Indian, Allottee or Tribe Name N/A
2. Name of Operator Yates Petroleum Corporation		7. If Unit or CA Agreement, Name and No N/A
3a. Address 105 South Fourth Street, Artesia, NM 88210		8. Lease Name and Well No. Derbi BOD Com #1 37703
3b. Phone No. (include area code) 505-748-1471		9. API Well No 30-005-29084
4. Location of well (Report location clearly and in accordance with any State requirements. *) At surface: 330' FSL & 350' FEL, Sec.9-15S-31E, <u>ULP, SESE</u> At proposed prod zone: 950' FSL & 330' FWL, Sec. 9-15S-31E, UL M, SWSW		10. Field and Pool, or Exploratory Wildcat Abo - <u>WC</u>
14. Name of Operator Yates Petroleum Corporation 025575		11. Sec., T., R., M., or Blk And Survey or Area Section 9-T15S-R31E
15. Distance from proposed* location to nearest property or lease line, ft (Also to nearest drlg unit line, if any) 330'		12. County or Parish Chaves
16. No. of acres in lease 560.00		13. State NM
17. Spacing Unit dedicated to this well S2S2		
18. Distance from proposed location* to nearest well, drilling, completed, applied for, on this lease, ft None		19. Proposed Depth TVD-8877' MD-13177'
20. BLM/ BIA Bond No. on file NATIONWIDE BOND #NMB000434		
21. Elevations (Show whether DF, KDB, RT, GL, etc.) 4418' GL		22. Approximate date work will start* ASAP
23. Estimated duration 45 days		
24. Attachments ROSWELL CONTROLLED WATER BASIN		

The following, completed in accordance with the requirements of Onshore Oil and Gas Order No. 1 shall be attached to this form:

- | | |
|--|--|
| 1. Well plat certified by a registered surveyor | 4. Bond to cover the operations unless covered by existing bond on file (see item 20 above). |
| 2. A Drilling Plan. | 5. Operator certification |
| 3. A Surface Use Plan (if the location is on National Forest System Lands, the SUPO must be filed with the appropriate Forest Service Office). | 6. Such other site specific information and/ or plans as may be required by the BLM |

25. Signature 	Name (Printed/ Typed) Cy Cowan	Date 3/25/2009
Title Regulatory Agent		
Approved By (Signature) <u>/s/ Angel Mayes</u>	Name (Printed/ Typed) Angel Mayes	Date MAY 04 2009
Title Assistant Field Manager, Lands And Minerals		Office ROSWELL FIELD OFFICE APPROVED FOR 2 YEARS

Application approval does not warrant or certify that the applicant holds legal or equitable title to those rights in the subject lease which would entitle the applicant to operations thereon

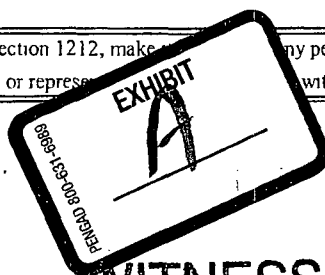
Conditions of approval, if any, are attached

Title 18 U.S.C Section 1001 and Title 43 U.S.C Section 1212, make any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations within its jurisdiction

(Instructions on page 2)

DECLARED WATER BASIN

CEMENT BEHIND THE 138"
CASING MUST BE CIRCULATED



WITNESS

APPROVAL SUBJECT TO
GENERAL REQUIREMENTS AND
SPECIAL STIPULATIONS ATTACHED

DISTRICT I

1825 N. French Dr., Hobbs, NM 88240

DISTRICT II

1 Grand Avenue, Artesia, NM 88210

DISTRICT III

1000 Rio Brazos Rd., Aztec, NM 87410

DISTRICT IV

1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico
Energy, Minerals and Natural Resources DepartmentForm C-102
Revised October 12, 2005Submit to Appropriate District Office
State Lease - 4 Copies
Fee Lease - 3 CopiesOIL CONSERVATION DIVISION
1220 South St. Francis Dr.
Santa Fe, New Mexico 87505☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

API Number 30-005-29084	Pool Code 1	Pool Name WILDCAT A60
Property Code 37703	Property Name DERBI "BOD" COM	Well Number 1H
OGRID No. 025575	Operator Name YATES PETROLEUM CORP.	Elevation 4418'

Surface Location

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
P	9	15 S	31 E		330	SOUTH	350	EAST	CHAVES

Bottom Hole Location If Different From Surface

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
M	9	15 S	31 E		950	SOUTH	330	WEST	CHAVES

Dedicated Acres	Joint or Infill	Consolidation Code	Order No.
160			

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED
OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION

<div data-bbox="454 1039 779 1312" data-label="Image"> </div>		<div data-bbox="751 1272 1023 1365" data-label="Text"> <p>Penetration Point 395' FSL and 833' FEL</p> </div>		<div data-bbox="1133 1026 1476 1052" data-label="Section-Header">OPERATOR CERTIFICATION</div> <div data-bbox="1112 1071 1515 1260" data-label="Text"> <p>I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.</p> </div> <div data-bbox="1112 1335 1500 1358" data-label="Text"> <p>Signature _____ Date _____</p> </div> <div data-bbox="1112 1386 1531 1440" data-label="Text"> <p>Cy Cowan, Regulatory Agent Printed Name</p> </div>	
<div data-bbox="89 1554 332 1680" data-label="Text"> <p>BOTTOM HOLE LOCATION Lat - N 33°01'32.67" Long - W 103°50'03.64" NMSPC- N 737264.798 E 694272.008 (NAD-83)</p> </div>		<div data-bbox="370 1524 764 1585" data-label="Text"> <p>Project Area</p> </div>		<div data-bbox="846 1554 1078 1680" data-label="Text"> <p>SURFACE LOCATION Lat - N 33°01'26.53" Long - W 103°49'09.60" NMSPC- N 736666.5 E 698875.8 (NAD-83)</p> </div>	
<div data-bbox="1133 1482 1472 1507" data-label="Section-Header">SURVEYOR CERTIFICATION</div> <div data-bbox="1105 1537 1515 1654" data-label="Text"> <p>I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.</p> </div> <div data-bbox="1105 1724 1500 1801" data-label="Text"> <p>Date Surveyed _____ Signature & Seal of Professional Surveyor</p> </div> <div data-bbox="1105 1946 1508 1974" data-label="Text"> <p>Certificate No. Gary L. Jones 7977</p> </div> <div data-bbox="1211 2003 1382 2030" data-label="Text"> <p>BASIN SURVEYS</p> </div>					

Exhibit "C"

Yates Petroleum Corporation
105 South Fourth Street
Artesia, NM 88210
Attn: Chuck Moran