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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 10449
ORDER NO. R-9655

APPLICATION OF YATES PETROLEUM CORPORATION FOR AUTHORIZATION TO DRILL, EDDY COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 19, 1992, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 20th day of March, 1992 the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) At the time of the hearing, this case was consolidated with Division Case Nos. 10446, 10447 and 10448 for the purpose of testimony.

(3) The applicant in this matter, Yates Petroleum Corporation (Yates), seeks approval to drill its Flora "AKF" State Well No. 2 within the "Designated Potash Area" pursuant to all applicable rules and procedures governing said area, as promulgated by Division Order No. R-111-P. The proposed well is to be located at a standard oil well location 1980 feet from the South line and 2310 feet from the West line (Unit K) of Section 2, Township 22 South, Range 31 East, to test the Delaware formation at an approximate depth of 8500 feet, Eddy County, New Mexico. The NE/4 SW/4 of said Section 2 is to be dedicated to said well forming a standard 40-acre oil spacing and proration unit for either the Undesignated Lost Tank-Delaware Pool or Undesignated Livingston Ridge-Delaware Pool.

(4) New Mexico Potash Corporation, owner of the state potash lease underlying all of Section 2 appeared at the hearing through counsel and opposed the application on the basis that there is a Life of Mine Reserve designation, ("LMR"), covering Section 2 and that oil and gas operations are prohibited within LMR areas under the provisions of Oil Conservation Commission Order R-111-P.

(5) Order R-111-P prohibits drilling operations within an LMR unless the oil and gas operator and the mine operator mutually agree to permit drilling.

(6) Under R-111-P, mine operators file LMR designation maps with the State Land Office ("SLO") and with the U.S. Bureau of Land Management. Section 2 is on State lands and the only agency involved is the SLO.

(7) *Yates characterized the application in this case as a challenge to the LMR designation in Section 2 by New Mexico Potash, and in the alternative argued that the LMR is not established until approved by the SLO.*

FINDING: The NMOCD does not have the authority or jurisdiction to review LMR designations and determine if they are supported by geologic data.

(8) *The order does not clearly specify the process by which the agencies approve the LMR designation. New Mexico Potash argued that the filing of the Map creates the LMR, and that the SLO does not approve the LMR designation. There is no provision in R-111-P for any person, other than the SLO, to challenge the geologic basis for designating an LMR, and the designation of an LMR effectively deprives the owner of oil and gas interests the right to develop those interests without any forum or opportunity to be heard. Such interpretation could raise constitutional questions about the validity of R-111-P.*

R-111-P provides that for wells on State Lands, the Division shall inquire of the SLO as to whether the lands involved are within an LMR.

FINDING: The determination of whether specific State lands are within an LMR is within the exclusive authority of the SLO, and such a determination by the SLO shall be binding upon the Division.

(9) Information filed with the SLO by the mine operator is confidential and not subject to inspection by the Division or any other party.

(10) *Pursuant to R-111-P, the Division examiner and Counsel, in the presence of counsel for the parties, requested a determination from the Oil, Gas and Minerals Division of the SLO as to whether an LMR existed in Section 2. The SLO provided the following information:*

(a) an LMR designation exists which includes most of Section 35, Township 21 South, Range 31 East, NMPM, Eddy County, New Mexico, (the Section immediately north of Section 2).

(b) New Mexico Potash Corporation filed with the State Land Office on January 16, 1992 an amendment to the LMR designation, pursuant to Rule G(a) of R-111-P, which includes most of said Section 2.

(c) by letter dated February 10, 1992 to New Mexico Potash Corporation, the State Land Office acknowledged receipt of the updated LMR, gave notification that the updated LMR could not be approved with the information received and requested additional supporting data to show that sufficient mineral deposits exist within the amended LMR area to support the designation.

FINDING: The SLO has not designated the amended LMR, and therefore an LMR does not yet exist covering Section 2.

(11) Since the proposed Flora "AKF" State Well No. 2 is not within an LMR, including a buffer zone defined in Rule G(e)(3) of said R-111-P, this application follows the guidelines of Rule G(e)(3) which states, in part, "Application to drill outside the LMR will be approved...; provided there is no protest from potash lessees within 20 days of his receipt of a copy of the notice..."

(12) This matter is before the Division on the timely filed objection of New Mexico Potash.

(13) At the hearing, Yates Petroleum Corporation requested the Division take this matter under advisement on its own merit without offering testimony and evidence.

(14) New Mexico Potash Corporation, subsequent to Yates' request to take this matter under advisement, followed suit and offered no testimony or evidence.

(15) *In order to determine if a well should be permitted within the Potash area, Ord R-111-P requires the Division to determine whether the drilling will result in the waste of potash No evidence was presented to show that this well, if drilled, would result in undue waste of potash deposits or constitute a hazard to or interfere unduly with mining of potash deposits.*

FINDING: This application should be approved.

IT IS THEREFORE ORDERED THAT:

(1) The application of Yates Petroleum Corporation to drill its Flora "AKE" State Well No. 2 at a standard oil well location 1980 feet from the South line and 2310 feet from the West line (Unit K) of Section 2, Township 22 South, Range 31 East, NMPM, Undesignated Lost Tank-Delaware Pool or the Undesignated Livingston Ridge-Delaware Pool, Eddy County, New Mexico, is hereby approved.

(2) All provisions of Division Order No. R-111-P applicable to the casing, setting, drilling, cementing and plugging of a deep well within the "Designated Potash Area" shall be strictly adhered to.

(3) Jurisdiction of this cause 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

WILLIAM J. LEMAY
Director

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