

NEW MEXICO STATE LAND OFFICE
WATER DEVELOPMENT APPLICATION/EASEMENT

Water Development Easement No. WD-29

THIS AGREEMENT, dated this 5th day of Oct, 1992, made and entered into between the State of New Mexico, acting by and through the undersigned, its Commissioner of Public Lands, hereinafter called the Commissioner, and Yates Petroleum Corporation of (address) 105 South Fourth Street, Artesia, N.M., hereinafter called the Grantee.
88210

The Grantee has filed in the Land Office an application for a Water Development Easement and has tendered the sum of \$330.00, which sum includes the \$30.00 application fee and the first year's annual rental.

In consideration of the foregoing sum, the Commissioner grants to the Grantee a Water Development Easement for the sole and only purpose of appropriation, production, and development of groundwater under the following described lands, and putting such water to beneficial use:

Date Well Completed:

State Land Office Well Number:

State Engineer Office Well Number: Water Rights # L-10,212

<u>TOWNSHIP/RANGE</u>	<u>SECTION/SUBDIVISION</u>	<u>ACRES</u>
T-17-S R-33-E	2 SE $\frac{1}{4}$ SE $\frac{1}{4}$	2.5

(ONE WELL LOCATED WITHIN THE SE $\frac{1}{4}$ SE $\frac{1}{4}$)

together with the right to make such reasonable use of the land described for each well site as may be necessary to appropriate and develop the water therefrom. The grant under this easement is subject to all the terms and conditions set forth herein:

1. The grant of this Water Development Easement is for a term of five years, commencing October 5 1992, and ending 1997,
unless terminated earlier as provided herein.

2. Additional well sites may be added to this easement by amendment. The term of the easement shall be unaffected by such amendments. Each amendment shall be accompanied by an amendment filing fee of \$ 30.00 and an annual fee of \$300.00 per well.

3. The parties agree that the intention and purpose of this agreement is for the purpose of supplementing wells Water Rights #L-10,212.

4. Grantee shall pay to the Commissioner as consideration \$300.00 per well per year. :

5. Grantee shall act prudently in drilling, developing, appropriating, transporting and using water and water rights from state trust lands. "Prudent" within the context of this provision means that standard of care, operation and action of a reasonable water user acting pursuant to provisions of New Mexico water law.

6. Grantee shall not impair existing appropriations of water on state trust lands within the easement or on state trust lands in adjacent areas.

7. Grantee shall not be required to obtain a separate right of way grant from the Commissioner for pipelines and other facilities within the limited boundaries of the Water Development Easement. Right of way outside the boundaries of this easement must be obtained from the Commissioner where other state lands are crossed.

8. With the consent of the Commissioner and payment of a fee of \$30.00, the Grantee may surrender or relinquish this Water Development Easement, in whole or in part, to the Commissioner; provided, however, that this surrender clause shall become absolutely inoperative immediately and concurrently with the filing of any suit in any court of law or equity by the Commissioner or Grantee or any assignee to enforce any of the terms of this Water Development Easement.

9. Grantee, with the consent of the Commissioner, may assign this Water Development Easement, in whole or in part; provided, however, that no assignment of any undivided interest in the Water Development Easement or any part thereof, or any assignment of less than a legal subdivision, shall be recognized or approved by the Commissioner. Upon approval of the assignment, in writing, by the Commissioner, Grantee shall

stand relieved from all obligations to the Commissioner with respect to the lands embraced in the assignment, and the Commissioner shall likewise be relieved from all obligations to the assignor as to such tracts, and the assignee shall succeed to all of the rights and privileges of the assignor with respect to such tracts and shall be held to have assumed all of the duties and obligations of the assignor to the Commissioner as to such tracts.

10. The Commissioner may cancel this Water Development Easement for nonpayment of the annual consideration or for violation of any of the terms and covenants, herein; provided, however that before any such cancellation shall be made, the Commissioner must mail to the Grantee, by certified mail, addressed to the post office address of Grantee, shown by the records, a thirty day notice of intention to cancel said water easement, specifying the default for which the Water Development Easement is subject to cancellation. No proof of receipt of notice shall be necessary and thirty days after such mailing the commissioner may enter cancellation unless Grantee shall have sooner remedied the default.

11. Grantee shall furnish copies of records and such reports and plats of his operation, including but not limited to well logs, drill cores, and other data relating to hydrology and geological formations as the Commissioner may reasonably deem necessary to his administration of the lands.

12. Grantee may make or place such improvements and equipment upon the granted land as may reasonably be necessary to appropriate the water, and upon termination of this Water Development Easement for any reason, Grantee may remove such improvements and equipment as can be removed without material injury to the premises; provided, however that all sums due the Commissioner have been paid and that such removal is accomplished within (60) days of the termination date or before such earlier date as the Commissioner may set upon thirty (30) days written notice to the Grantee. All improvements and equipment remaining upon the premises after the removal date, as set forth in accordance with this paragraph, shall be forfeited to the Commissioner without compensation. It is expressly understood and agreed that water rights are not improvements of the Grantee. All pipelines constructed hereunder shall be buried below plow depth on tillable soils and no wells shall be drilled within one-fourth miles of any existing well without the prior written permission of the Commissioner.

13. Grantee shall survey each well site and submit a copy of the survey plat to the Commissioner. Grantee shall post on each well a sign with the Grantee's name, Water Development Easement number, State Land Office well number, State Engineer Office permit number and location by legal description.

14. This Water Development Easement is made subject to all the provisions and requirements applicable thereto which are to be found in various acts of the legislature of New Mexico and the rules of the Commissioner of Public Lands of the State of New Mexico, the same as though they were fully set forth herein, and said laws and rules, so far as applicable to this Water Development Easement, are to be taken as a part hereof.

15. All the obligations, covenants, agreements, rights and privileges of this Water Development Easement shall extend to and be binding and inure to the benefit of the lawful and recognized assigns or successors in interest of the parties hereto.

16. Nothing contained herein shall be construed as depriving the lawful holder, present or future of any geothermal resource, oil and gas, grazing, mineral, or business lease, or the holder of any water easement or Water Development Easement, present or future, upon the same lands herein embraced of their right to develop water or to use the land to develop and use the water thereupon or therein in accordance with their leases or easements. That is to say, the doctrine of prior appropriation for beneficial use shall prevail and Grantee shall comply with all laws pertaining to, and with all rules and regulations and procedures of, the State Engineer where the State Engineer has assumed jurisdiction over the water.

17. Payment of all sums due hereunder shall be made at the office of the Commissioner of Public Lands, 310 Santa Fe Trail, P. O. Box 1148, Santa Fe, New Mexico 87504-1148.

18. Grantee, including its heirs, assigns, agents and contractors shall at their own expense fully comply with all laws, regulations, rules, ordinances, and requirements of city, county, regional, state and federal authorities and agencies, in all matters and things affecting the premises and operations thereon which may be enacted or promulgated under the governmental police powers pertaining to public health and welfare, including but not limited to conservation, sanitation, aesthetics, pollution, cultural properties, fire, and environment. Such agencies are not

to be deemed third party beneficiaries hereunder; however, this clause is enforceable by the Commissioner as herein provided or as otherwise permitted by law.

19. Grantee shall save and hold harmless, indemnify and defend the State of New Mexico, the Commissioner of Public Lands, and their agents, employees and officers, in their official and individual capacities, from any and all liability claims, losses, or damages arising out of or alleged to arise out of or indirectly connected with the operations of lessee hereunder, off or on the hereinabove described lands, or the presence on said lands of any agent, contractor or sub-contractor of Grantee.

20. Prior to the Commencement of operations under this Water Development Easement, Grantee shall file a good and sufficient bond with the Commissioner in the amount of \$ 500.00 to secure the payment of such damage as may occur to livestock, range, water, crops or tangible improvements on the subject lands as may be suffered by the Commissioner, a lessee or other person utilizing such lands under an agreement with the Commissioner, by reason of the developments use and occupation of such lands by Grantee. Such bond may be utilized for reclamation of disturbed lands following the operations of Grantee under this easement.

21. Grantee shall file all necessary documents regarding declarations of or permits for appropriation of water with the State Engineer's Office. Grantee shall diligently pursue all such filings in order that water rights are perfected in a timely and efficient manner, pursuant to the Water Rights Agreement (WR-17) entered into previously by the parties. The Commissioner, in his discretion, may assist Grantee in any such filings or proceedings before the State Engineer. Grantee shall additionally act promptly and diligently to protect any water rights developed under this easement from impairment. Grantee shall notify the Commissioner of any actions before or filings with the State Engineer, whether by Grantee or others, which affect water underlying state trust lands within this easement or water rights developed under this agreement. The Commissioner will notify Grantee of any such actions or filings which he has received actual notice.

IN WITNESS WHEREOF, the State of New Mexico has hereunto signed and caused its name to be signed by its Commissioner of Public Lands, thereunto duly authorized with the seal of this office affixed, and Grantee has signed this agreement to be effective the day and year above written.

STATE OF NEW MEXICO

(SEAL)

Jim Baca
COMMISSIONER OF PUBLIC LANDS

GRANTEE

YATES PETROLEUM CORPORATION

BY: Clifton E. May

TITLE PERMIT AGENT

Subscribed and sworn to before me this 29th day of September 1992.

My commission expires:

3-1-94

William A. Holloway
NOTARY PUBLIC

NEW MEXICO STATE LAND OFFICE

WATER RIGHTS AGREEMENT

WATER RIGHTS AGREEMENT NO. WR-29

THIS AGREEMENT, is made and entered into this 5th day of October, 1992 by and between the State of New Mexico, acting by and through the Commissioner of Public Lands, hereinafter called the "Commissioner," and Yates Petroleum Corporation of 105 South Fourth Street, Artesia, New Mexico 88210, hereinafter called "Grantee."

WHEREAS, Grantee has made application to the Commissioner for the right to enter upon state trust lands described in Paragraph 1 below (hereinafter "subject lands"), for the purpose of establishing a point(s) for the discovery, appropriation, and diversion of groundwater to be put to beneficial use; and

WHEREAS, the Commissioner, in his fiduciary role as administrator of the subject lands for a designated beneficiary, has the duty to act exclusively for the interest of that beneficiary pursuant to the New Mexico Enabling Act, Act of June 20, 1910, 36 Stat. 557, Ch. 310; and

WHEREAS, the Commissioner believes that any water right or rights created by Grantee's beneficial use of water discovered, appropriated, and diverted from subject lands should vest in the Commissioner in trust for the designated beneficiary; and

WHEREAS, Grantee also desires and agrees that any water right or rights created by Grantee's beneficial use of water discovered, appropriated and diverted from subject lands shall vest in the Commissioner in trust for the designated beneficiary.

NOW, THEREFORE, in consideration of the mutual covenants made herein, the Commissioner and Grantee agree as follows:

1. The description of the subject state trust lands for discovering and locating water for development is:

<u>TOWNSHIP/RANGE</u>	<u>SECTION/SUBDIVISION</u>	<u>ACRES</u>
17 SOUTH/ 31 EAST 33	2/SE4SE4	40.00

2. Any water rights created at any time by the beneficial use of the water by Grantee appropriated from the subject lands shall vest from the date of initiation of activities to appropriate water in the Commissioner of Public Lands, State of New Mexico, on behalf of the particular beneficiary of the subject land. The date of initiation is understood to be the first affirmative step taken to explore for or develop water rights or, in the case of a declared underground water basin, it is understood to be the date of filing an application for a permit to appropriate water. Grantee shall file all necessary documents with the State Engineer to perfect said rights in the name of the Commissioner of Public Lands. The date of initiation shall be utilized by Grantee

in all filings with the State Engineer which may have the effect of establishing a water right priority date. Grantee shall be responsible for protection of the water rights perfected under this and subsequent agreements arising herefrom.

3. The parties agree that the intention of this agreement, and of subsequent agreements arising herefrom, is for the exploration for, development of and appropriation to beneficial use of approximately 100 acre feet of water of a fresh nature (approximately 0 to 1000 mg. dissolved solids/liter) for the purpose(s) of secondary oil recovery, waterflood projects at the following location(s):

<u>TOWNSHIP/RANGE</u>	<u>SECTION/SUBDIVISION</u>	<u>ACRES</u>
PROPOSED SANMAL QUEEN WATERFLOOD UNIT		
17 SOUTH/33 EAST	1 / S $\frac{1}{2}$ and NE $\frac{1}{4}$	480.00
17 SOUTH/33 EAST	2 / SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
17 SOUTH/33 EAST	11 / NE $\frac{1}{4}$	160.00
17 SOUTH/33 EAST	12 / N $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
		<u>760.00</u>

Any substantial deviation in water quantity, water quality, place of use or purpose of use from that stated herein shall constitute grounds by the Commissioner to amend, modify, renegotiate, cancel or otherwise change this agreement.

4. Upon the location and identification by Grantee of well sites for appropriation and development of water and upon the timely filing of an application the Commissioner will issue Grantee a Water Development Easement for well site location for the purpose of appropriating and developing water for

use.

5. The consideration paid by Grantee to the Commissioner for the granting of the use of water from the sites identified by the Water Development Easement shall be the \$ 300.00 per well annual fee referred to in Paragraph 4 above.

6. The terms of this agreement are binding upon the successors in interest, heirs, devisees, agents and assigns of the Commissioner and Grantee.

Witness the hands and seal of the parties hereto the day and year first written above.

YATES PETROLEUM CORPORATION
GRANTEE
By: Clifton R. May
Clifton R. May
Permit Agent
TITLE

Subscribed and sworn to before me this 14th day of
September, 1992.

My Commission Expires: March 9, 1996

Rhonda A. Becker
NOTARY PUBLIC

STATE OF NEW MEXICO

Jim Baca
COMMISSIONER OF PUBLIC LANDS