HARVEY E. YATES COMPANY

A MEMBER COMPANY OF HEYCO ENERGY GROUP

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2006 SEP 15 AM 8:33

September 14, 2006

VIA FEDERAL EXPRESS

Bureau of Land Management
Las Cruces District Office
1800 Marquess
Las Cruces, New Mexico 88005

Attention: John Besse

Re: Bennett Ranch Unit #6
Otero County, New Mexico
Application for Permit To Drill

Ladies & Gentlemen:

Attached please find Harvey E. Yates Co.'s ("HEYCO's") Application to Drill ("APD") for a location on Section 24, Township 26-South, Range 12-East. While the APD stands on its own merits, this letter addresses associated issues that may be pertinent in the current circumstances. The first section of the letter addresses the environmental and practical undesirability of an alternate drilling site. The second section of the letter addresses recent regulation from the New Mexico Oil Conservation Division ("OCD") that may limit or foreclose HEYCO's plan to air drill with a standard lined open pit system.

No Feasible Alternate Sites

HEYCO decided on this proposed drilling site, based on its geological and geophysical interpretation and evaluation of the area, because a reasonable alternative was not feasible from an exploration perspective. HEYCO is attempting to explore an underground anticline structure, and seeks to drill at its apex within a seismically identified fault block. From an exploration standpoint, drilling to the highpoint of this geological feature has the highest likelihood of returning positive results. HEYCO's proposed drilling site does just that; other alternative locations in Section 24 do not meet HEYCO's current exploration purposes and needs. Further, as it turns out from surface inspection, HEYCO's proposed drilling site is optimal from an environmental standpoint. The Bureau of Land Management ("BLM") has designated the Butterfield Stage Trail as an important cultural resource that should be avoided. Although HEYCO's lease does not include the new RMP lease stipulations covering the BLM's recent Butterfield Stage Trail, ½ mile wide, NSO Corridor designation, HEYCO's proposed location is well hidden by local topography and causes no direct visual impairment to the Butterfield Stage Trail. HEYCO's chosen site will also minimize rangeland degradation, being close to an existing road and approved pipeline ROW. HEYCO's site, although not flat, is in an area with top soil cover and gentle slope angles which should provide good reclamation conditions, and is away from any problem drainage situation. Close by, but less geologically-attractive sites to the north and northwest are also less attractive from environmental and cultural standpoints. Given these restraints, the proposed drilling site is the only good feasible alternative from an exploration and an environmental perspective.

500 N. Main Street, Suite One • P.O. Box 1933 • Roswell NM 88202-1933 • (505) 623-6601 • Fax (505) 627-2427 • www.heycoenergy.com
Harvey E. Yates Company HEYCO

Recent OCD Regulation Restricting Pits in the Otero Mesa Area

As the BLM knows, the OCD seeks to regulate operations conducted on leased federal BLM land. The OCD has recently promulgated a rule specifically applicable just to the Otero Mesa area, called "Rule 21," *see* NMAC 19.15.1.21 (B), that prevents the OCD from issuing permits for pits under NMAC 19.15.2.50. Given the local geology, HEYCO must conduct its exploratory drill with an underbalanced (air-drill) system that requires a reserve pit. OCD regulations appear to provide an opportunity to obtain an exemption from Rule 21's pit prohibition. Therefore, HEYCO plans to apply for an exemption as soon as possible and will keep the BLM fully informed of the progress of its application.

Very truly yours,

Vernon D. Dyer, CPL #3174
Senior Landman

VDD/dlm
Enclosures

BRU#6APDCoverLetter092006.doc/Land:BennettRanch#3

Form 3160-3
(April 2004)

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FORM APPROVED
OMB No. 1004-0137
Expires March 31, 2007

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

APPLICATION FOR PERMIT TO DRILL OR REENTER

5. Lease Serial No. **NMNM-71526**

6. If Indian, Allotee or Tribe Name

1a. Type of work: ☑ DRILL ☐ REENTER

7. If Unit or CA Agreement, Name and No. **BENNETT RANCH UNIT**

1b. Type of Well: ☐ Oil Well ☑ Gas Well ☐ Other ☑ Single Zone ☐ Multiple Zone

8. Lease Name and Well No. **BENNETT RANCH UNIT #06**

2. Name of Operator **HARVEY E. YATES COMPANY**

9. API Well No.

3a. Address **PO BOX 1933 ROSWELL, NM 88202-1933**

3b. Phone No. *(include area code)* **505.623.6601**

10. Field and Pool, or Exploratory **UNDES. MISSISSIPPIAN**

4. Location of Well *(Report location clearly and in accordance with any State requirements.*)*
At surface **660' FWL & 2130' FSL (Unit L) NW¼SW¼**
At proposed prod. zone

11. Sec., T. R. M. or Blk. and Survey or Area **SEC 24, T26S, R12E**

14. Distance in miles and direction from nearest town or post office* **53 miles to El Paso**

12. County or Parish **OTERO**

13. State **NM**

15. Distance from proposed* location to nearest property or lease line, ft. (Also to nearest drig. unit line, if any) **660'**

16. No. of acres in lease **2,360 Acres**

17. Spacing Unit dedicated to this well **640 acres, all of Section 24**

18. Distance from proposed location* to nearest well, drilling, completed, applied for, on this lease, ft. **7920'**

19. Proposed Depth **6100'**

20. BLM/BIA Bond No. on file **NM-B000317**

21. Elevations (Show whether DF, KDB, RT, GL, etc.) **5,106' GR**

22. Approximate date work will start* **ASAP**

23. Estimated duration **60 DAYS**

24. Attachments

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.
2. A Drilling Plan.
3. A Surface Use Plan (if the location is on National Forest System Lands, the SUPO shall be filed with the appropriate Forest Service Office).
4. Bond to cover the operations unless covered by an existing bond on file (see Item 20 above).
5. Operator certification
6. Such other site specific information and/or plans as may be required by the authorized officer.

25. Signature: Bob Williams — Name *(Printed/Typed)*: **Bob Williams** — Date: **09/12/2006**

Title: **Operations Manager**

Approved by *(Signature)*: Tim h. Sanders — Name *(Printed/Typed)*: Tim Sanders — Date: 9-25-08

Title: Assistant Asst. Mgr. — Office: Las Cruces District

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 conduct 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 it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

**(Instructions on page 2)*

Application
Harvey E. Yates Company
Bennett Ranch Unit # 6
660'FWL & 2130' FSL
Sec 24, T26S, R12E
Otero County, New Mexico

In conjunction with Form 3160-3, Application For Permit To Drill Or Deepen subject well, Harvey E. Yates Company submits the following ten items of pertinent information in accordance with Onshore Oil & Gas Order No. 10.

1. Geologic Name of Surface Formation:
   YESO

2. Estimated Tops of Significant Geologic Markers:

Formation	Depth
YESO	SURFACE
ABO	300'
HUECO	600'
POWWOW	2100'
PENN SHALE	2400'
CANYON/ U. STRAWN	3200'
PENN Ls	3400'
ATOKA	3800
MORROW Ls	4050'
MORROW CLASTIC	4200'
UPPER MISS & IGNEOUS SILL PAY	4300'
PERCHA	4775'
FUSSELMAN	4850'
EL PASO	5600'
PTD	6100'

3. Estimated Depths at which Water, Oil, or Gas Formations are expected:

Formation	Depth	Remarks
ABO	300'	WATER
POWWOW	2100'	WATER & GAS
PENN SHALE	2400'	GAS
CANYON	3200'	GAS
FUSSELMAN	4850'	OIL

4. Proposed Casing Program:

Hole size	Grade, size Csg	Wt/ft	Depth	Quantity of cement
17 ½"	13 3/8 H-40	48.0#	900'	circ to surface
12 ¼"	9 5/8" J-55	32.0#	2,500"	circ to surface
8 3/4"	5 ½" J-55	17.0#	6,100'	cmt up into 9 5/8 csg

If needed a 7" string, w/ 4 ½" production string well be run and cement tied into 9 5/8 csg

5. Pressure Control Equipment:
   This well will be 2 M BOP. Rig equipment is rated as 3M

6. Drilling Fluid Program:
   0 - ? Air drill until hole dictates otherwise
   ? – 6100 Fresh water system w/ shale guard, ammonia nitrate
   Sweep to clean hole. Should mud up be required, drispac and
   Shale guard. MW 8.6-8.8, 32-40 vis. 12-15 WL. 2000 – 3000 CL.

7. Auxiliary Equipment:
   N/A

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Application
Harvey E. Yates Company
Bennett Ranch Unit # 6
660'FWL & 2130' FSL
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Formation	Depth	Remarks
ABO	300'	WATER
POWWOW	2100'	WATER & GAS
CANYON	2400'	GAS
U. MISS	4300'	GAS – PRIMARY OBJECTIVE
FUSSELMAN	4850'	OIL

4. Proposed Casing Program:

Hole size	Grade, size Csg	Wt/ft	Depth	Quantity of cement
17 ½"	13 3/8 J-55	54.5#	900'	circ to surface
12 ¼"	9 5/8" J-55	32.0#	3,100'	circ to surface
7 7/8"	5 ½" N-80 & P-110	17.0#	6,100'	cmt up into 9 5/8 csg

5. Pressure Control Equipment:
   This well will be 2 M BOP. Rig equipment is rated as 3M

6. Drilling Fluid Program:
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   Sweep to clean hole. Should mud up be required, drispac and
   Shale guard. MW 8.6-8.8, 32-40 vis. 12-15 WL. 2000 – 3000 CL.

7. Auxiliary Equipment:
   N/A

8. Testing, Logging, & Coring Program:
   Mud log,1 DST- Strawn, Platform Express w/HALS, BHC Sonic and Rotary sidewall coring.

9. Abnormal Conditions, Pressures, Temperature, or Potential Hazards:
No abnormal conditions are anticipated in this well bore.
BHST-131 deg F
BHP – 1,300 psi

9. Anticipated Starting Date & Duration of Operation:
The anticipated starting date is set for as soon as possible after examination and approval of all drilling requirements.
Duration of this project will be approximately 60 days from start of
Construction of drilling pad until finish of completion operations

Surface Use Plan
Harvey E. Yates Company
BENNETT RANCH UNIT #6
660' FWL & 2130 FSL
Sec 24, T1826S, R12E
Otero County, New Mexico

1. **Existing Roads:**
Exhibit A is a portion of a New Mexico map showing the location of the proposed location. The location is approximately 2 miles north west of Alamo Mountain.
Direction: From Elpaso TX, Go approximately 25 miles east on 62/180. Just west of the Border Patrol check station, Turn left at Hueco Ranch sign. This is Otero Co road F1. Go 25.2 miles and turn right. Go 1.6 miles and turn left. Go1.4 miles and turn right. Go 0.4 miles in to location.

2. **Planned Access Roads:**
No new road will be built to access this location.

3. **Location of Existing Wells:**
See EXHIBIT B From the surveying company / vicinity map

4. **Location of Tank Batteries, Electric Lines, Etc:**
In the event a producing well is drilled, a tank battery will be built on the location.

5. **Location and Type of Water Supply:**
Water will be obtained from commercial sources.

6. **Source of Construction Material:**
We will use materials from reserve pit to build the location.

7. **Methods of Handling Waste Disposal:**
Waste will be handled in an approved manner. The wellsite will be cleaned of all waste within 30 days of final completion of the well.

8. **Ancillary Facilities:**
N/A

9. **Wellsite Layout:**
a. EXHIBIT D shows the relative location and dimensions of the well pad, reserve pits, and major rig components.

b. The land is relatively flat with sandy soil and sand dunes.

c. The pad and pit area have been staked.

10. **Plan for Restoration of the Surface:**
a. After drilling and completion operations are completed, all equipment and other materials not needed for further operations will be removed. Pits will be back filled and the location cleaned of all trash to leave the wellsite as pleasant in appearance as possible.

11. **Other Information:**
a. The mineral and surface owner is the Federal Government, Land and Grazing leasing Thomas Cooper has been contacted.

b. The topography consists of sandy soil with native grasses. No wildlife was observed, but the usual inhabitants of this region are Jackrabbits, Reptiles, Coyotes, etc.

c. There are no ponds, lakes, or rivers in this area.

d. An Archaeological Survey has been made and a copy has been sent to the Carlsbad BLM office. There is no evidence of any significant archaeological, historical, or cultural sites in the area. Further, there are no occupied dwellings or windmills in the area.

e. Should any incidental oil be recovered during testing of this well, this oil will be considered waste oil and not sellable due to contamination by drilling and/or completion fluids.

12. **Operator's Representative:**
I certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; that the work associated with operations proposed herein will be performed by Harvey E. Yates Company and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Bob Williams
Harvey E. Yates Company
P.O. Box 1933
Roswell, NM
505-623-6601

Bob Williams

September 12, 2006

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Roswell Resource Area
P.O. Drawer 1857
Roswell, New Mexico 88202-1857

Statement Accepting Responsibilities for Operations

Operator Name: Harvey E. Yates Company
Street or Box: P.O. Box 1933
City, State: Roswell, New Mexico
Zip Code: 88202

The undersigned accepts all applicable terms, conditions, stipulations, and restrictions concerning operations conducted on the leased land or portion thereof, as described below.

Lease No.:

Lease Name: Bennett Ranch Unit #6
Legal description of land: Sec 24, T26S, R12E, Otero County, New Mexico

Formation(s) (if applicable): U. Miss

Bond Coverage: Statewide Bond

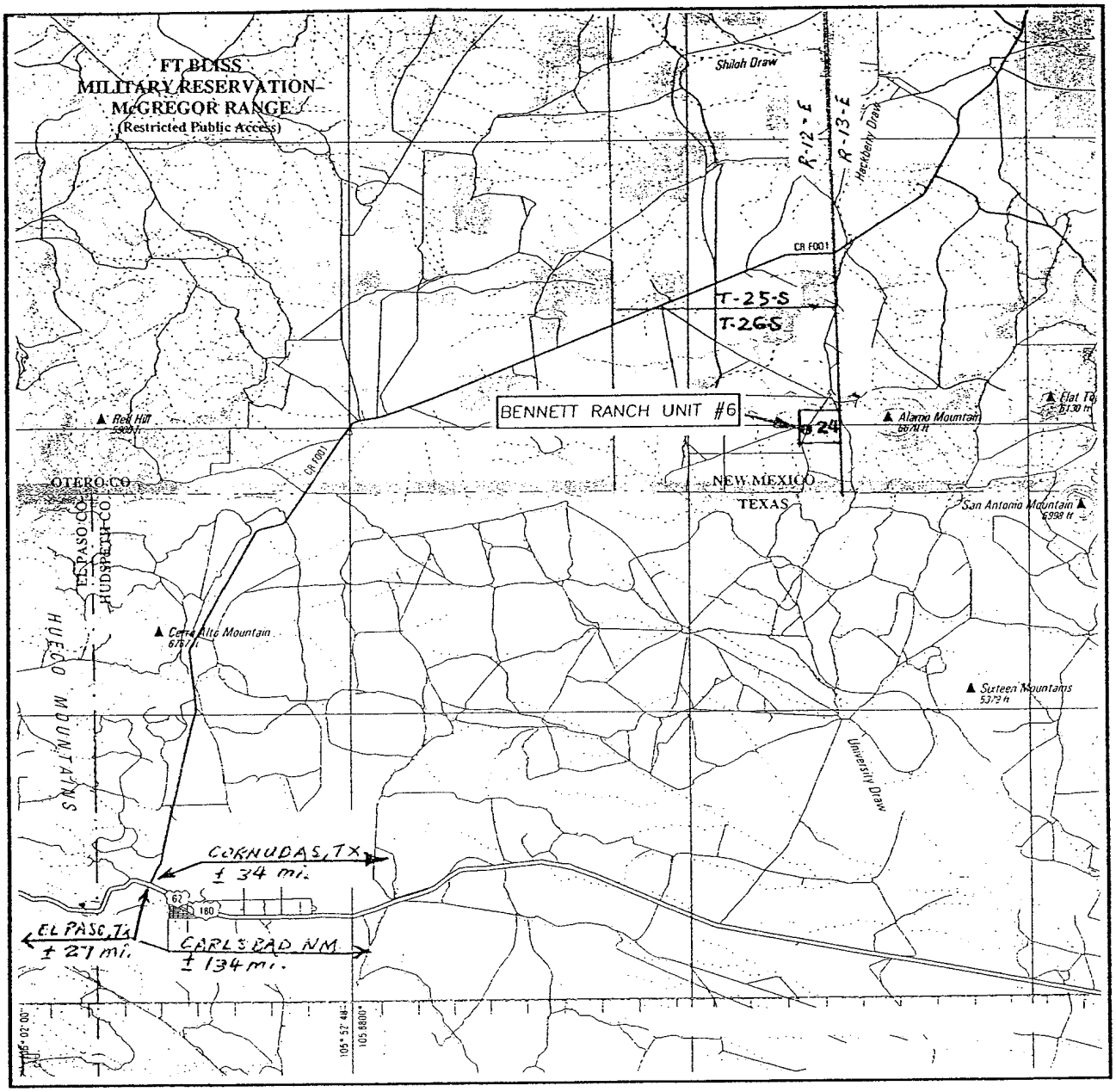
BLM Bond File No.: NM-B000317

Authorized Signature: Bob Willson

Title: Operations Manager

Date: September 12, 2006

VICINITY MAP



SCALE: 1" = 4.5 MILES

SEC. 24 TWP. 26-S RGE. 12-E

SURVEY N.M.P.M.

COUNTY OTERO STATE NEW MEXICO

DESCRIPTION 2130' FSL & 660' FWL

ELEVATION 5106'

OPERATOR HARVEY E. YATES COMPANY

LEASE BENNETT RANCH UNIT

PROVIDING SURVEYING SERVICES
SINCE 1946
JOHN WEST SURVEYING COMPANY
412 N. DAL PASO
HOBBS, N.M. 88240
(505) 393-3117

State of New Mexico

Energy, Minerals and Natural Resources Department

DISTRICT I
1625 N. FRENCH DR., HOBBS, NM 88240

DISTRICT II
1301 W. 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

OIL CONSERVATION DIVISION
1220 SOUTH ST. FRANCIS DR.
Santa Fe, New Mexico 87505

Form C-102
Revised October 12, 2005
Submit to Appropriate District Office
State Lease - 4 Copies
Fee Lease - 3 Copies

WELL LOCATION AND ACREAGE DEDICATION PLAT

☐ AMENDED REPORT

API Number	Pool Code	Pool Name
		WILDCAT MISSISSIPPIAN

Property Code	Property Name	Well Number
19008	BENNETT RANCH UNIT	6

OGRID No.	Operator Name	Elevation
10179	HARVEY E. YATES COMPANY	5106'

Surface Location

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
L	24	26-S	12-E		2130	SOUTH	660	WEST	OTERO

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

Dedicated Acres	Joint or Infill	Consolidation Code	Order No.
640.00		UNITIZED	

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

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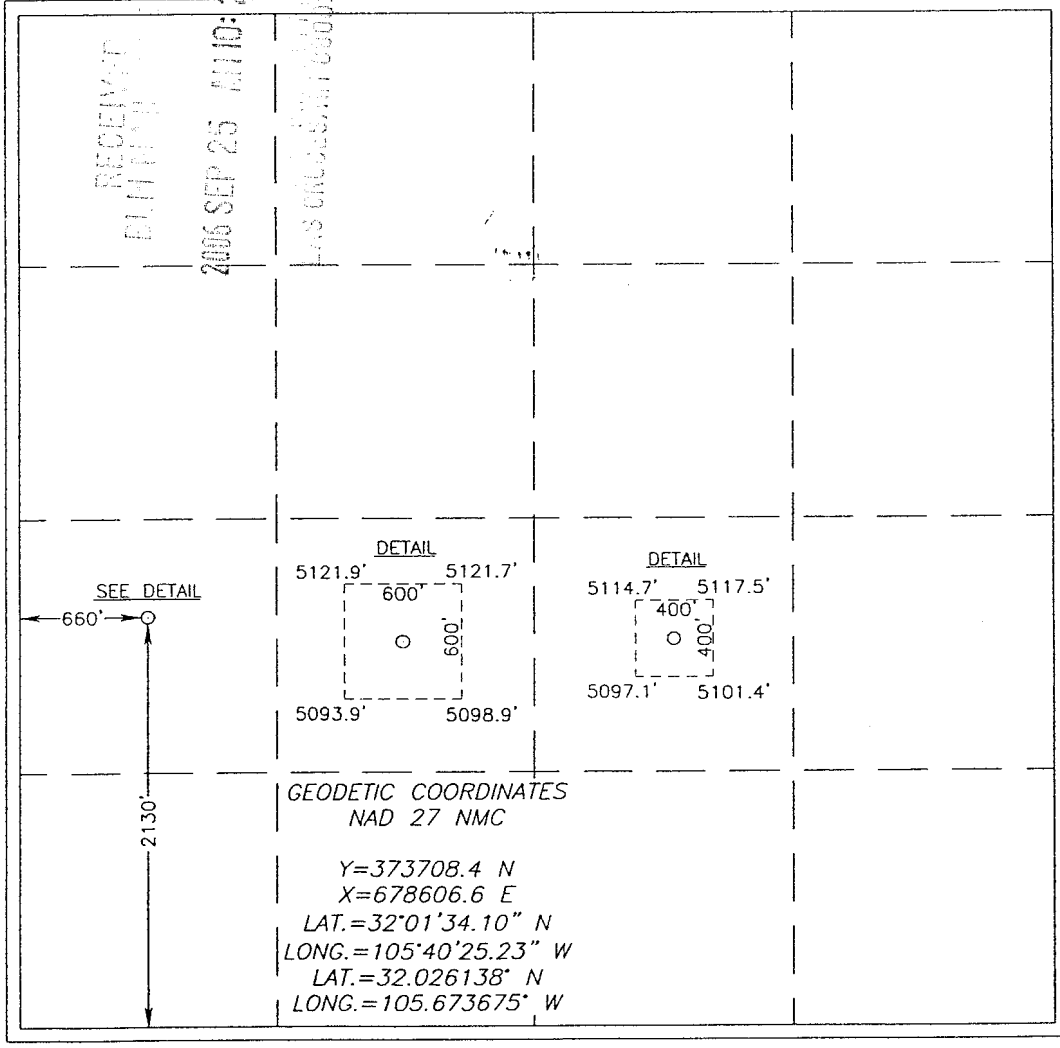


OPERATOR CERTIFICATION

I hereby certify that the information 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 mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.

Jen Serrano 9-22-06
Signature Date

JEN SERRANO
Printed Name

SURVEYOR CERTIFICATION

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.

AUGUST 15, 2006
Date Surveyed LA REV: 9/20/06

Signature & Seal of Professional Surveyor

Gary L. Eidson 9/20/06

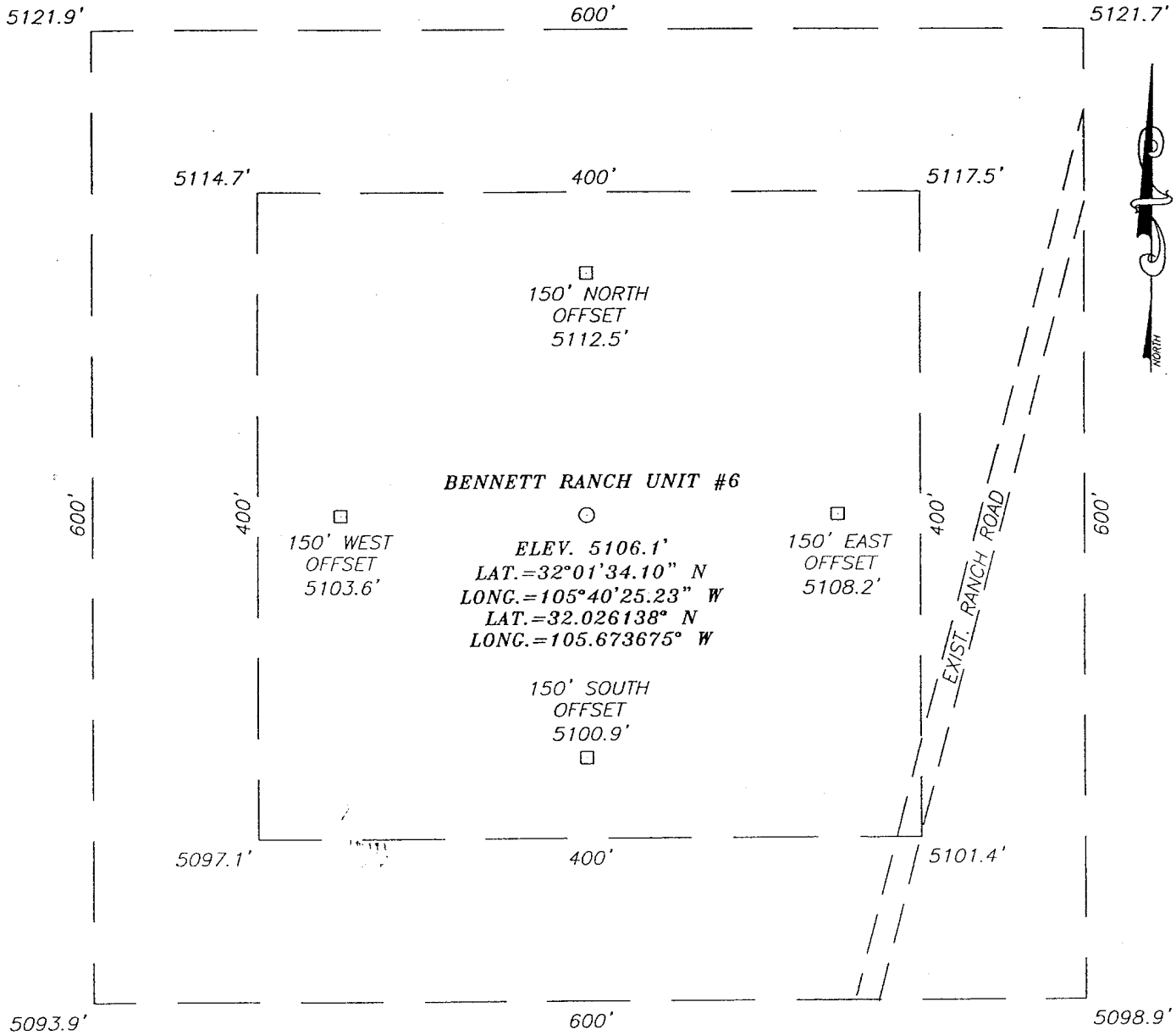
06.11.1308

Certificate No. GARY EIDSON 12641

GARY L. EIDSON NEW MEXICO 12641 REGISTERED PROFESSIONAL SURVEYOR

SECTION 24, TOWNSHIP 26 SOUTH, RANGE 12 EAST, N.M.P.M.,

OTERO COUNTY, NEW MEXICO



DIRECTIONS TO LOCATION

FROM THE INTERSECTION OF U.S. HWY. #62–180 & HUECO RANCH ROAD (BEING APPROX. 34 MILES WEST OF CORNUDAS, TEXAS) GO NORTH ON HUECO RANCH ROAD APPROX. 15.8 MILES. VEER RIGHT AND CONTINUE NORTHEAST APPROX. 10.0 MILES ON CO. RD. F001. TURN RIGHT @ BENNETT RANCH SIGN. GO SOUTH APPROX. 3.0 MILES. FOLLOW RANCH ROAD SOUTH AND EAST AROUND RANCH HOUSE. CONTINUE ON EAST APPROX. 2.9 MILES THRU CATTLE GUARD. TURN RIGHT AND GO SOUTHEAST ON RANCH ROAD APPROX. 1.1 MILES. THIS LOCATION IS APPROX. 250 FEET WEST IN PASTURE.

100 0 100 200 Feet

Scale: 1"=100'

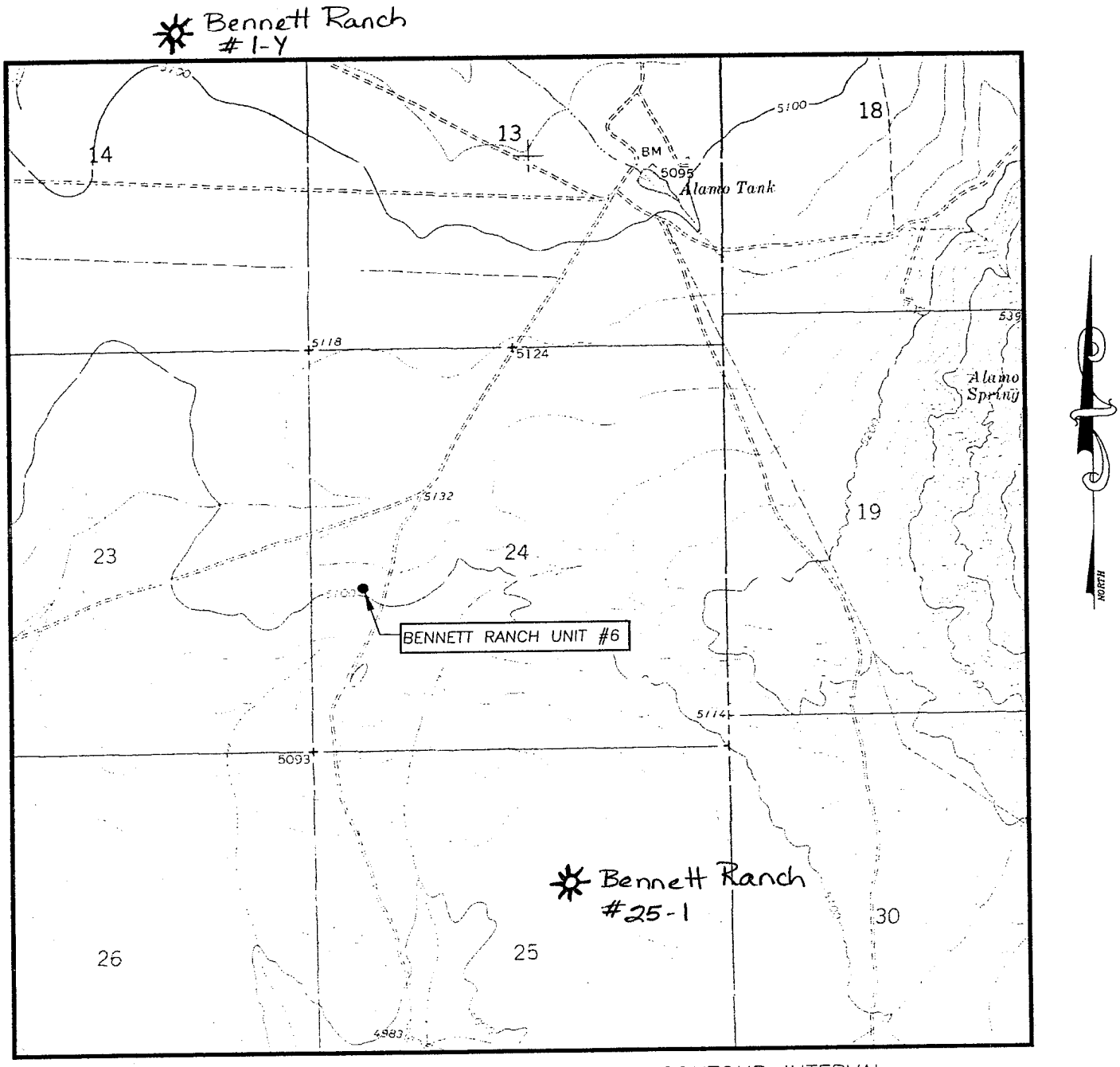
PROVIDING SURVEYING SERVICES
SINCE 1946
JOHN WEST SURVEYING COMPANY
412 N. DAL PASO
HOBBS, N.M. 88240
(505) 393-3117

HARVEY E. YATES COMPANY

BENNETT RANCH UNIT #6 WELL
LOCATED 2130 FEET FROM THE SOUTH LINE
AND 660 FEET FROM THE WEST LINE OF SECTION 24,
TOWNSHIP 26 SOUTH, RANGE 12 EAST, N.M.P.M.,
OTERO COUNTY, NEW MEXICO.

Survey Date: 8/15/06	Sheet 1 of 1 Sheets		
W.O. Number: 06.11.1308	Dr By: LA	Rev 1:9/20/06	
Date: 8/21/06	Disk: CD#5	06111308	Scale: 1"=100'

LOCATION VERIFICATION MAP



SCALE: 1" = 2000'

CONTOUR INTERVAL:
ALAMO MOUNTAIN, N.M. – 10'

SEC. 24 TWP. 26-S RGE. 12-E

SURVEY N.M.P.M.

COUNTY OTERO STATE NEW MEXICO

DESCRIPTION 2130' FSL & 660' FWL

ELEVATION 5106'

OPERATOR HARVEY E. YATES COMPANY

LEASE BENNETT RANCH UNIT

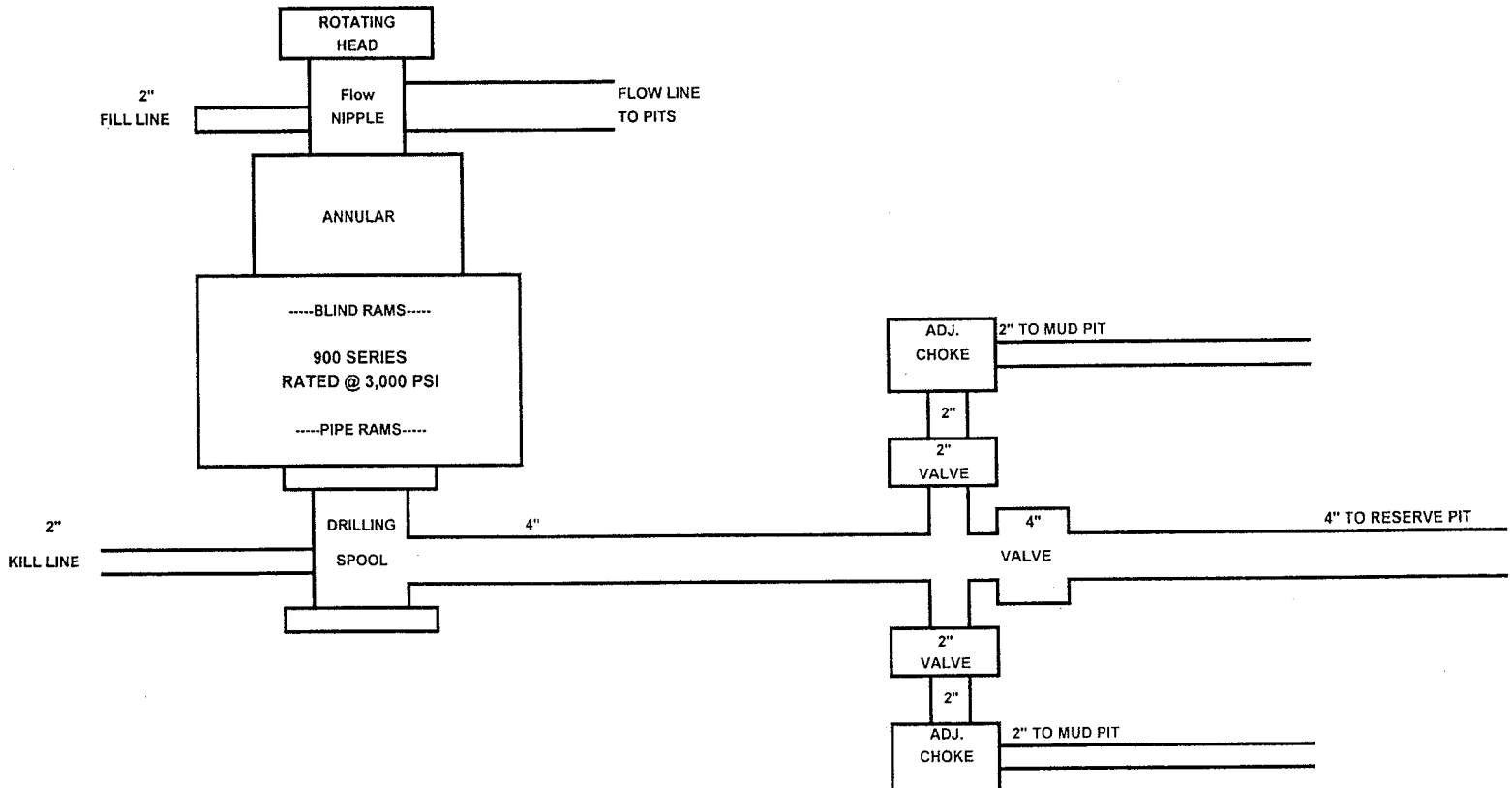
U.S.G.S. TOPOGRAPHIC MAP
ALAMO MOUNTAIN, N.M.

PROVIDING SURVEYING SERVICES
SINCE 1946
JOHN WEST SURVEYING COMPANY
412 N. DAL PASO
HOBBS, N.M. 88240
(505) 393-3117

EXHIBIT "C" BOP STACK

BENNETT RANCH UNIT #6
660' FWL & 2130' FSL
SEC 24, T26S, R12E
OTERO CO. N.M.

Although rig equipment is rated at 3000# this well be 2m



NORTH

PROPOSED LOCATION PLAT FOR BENNETT RANCH UNIT #06

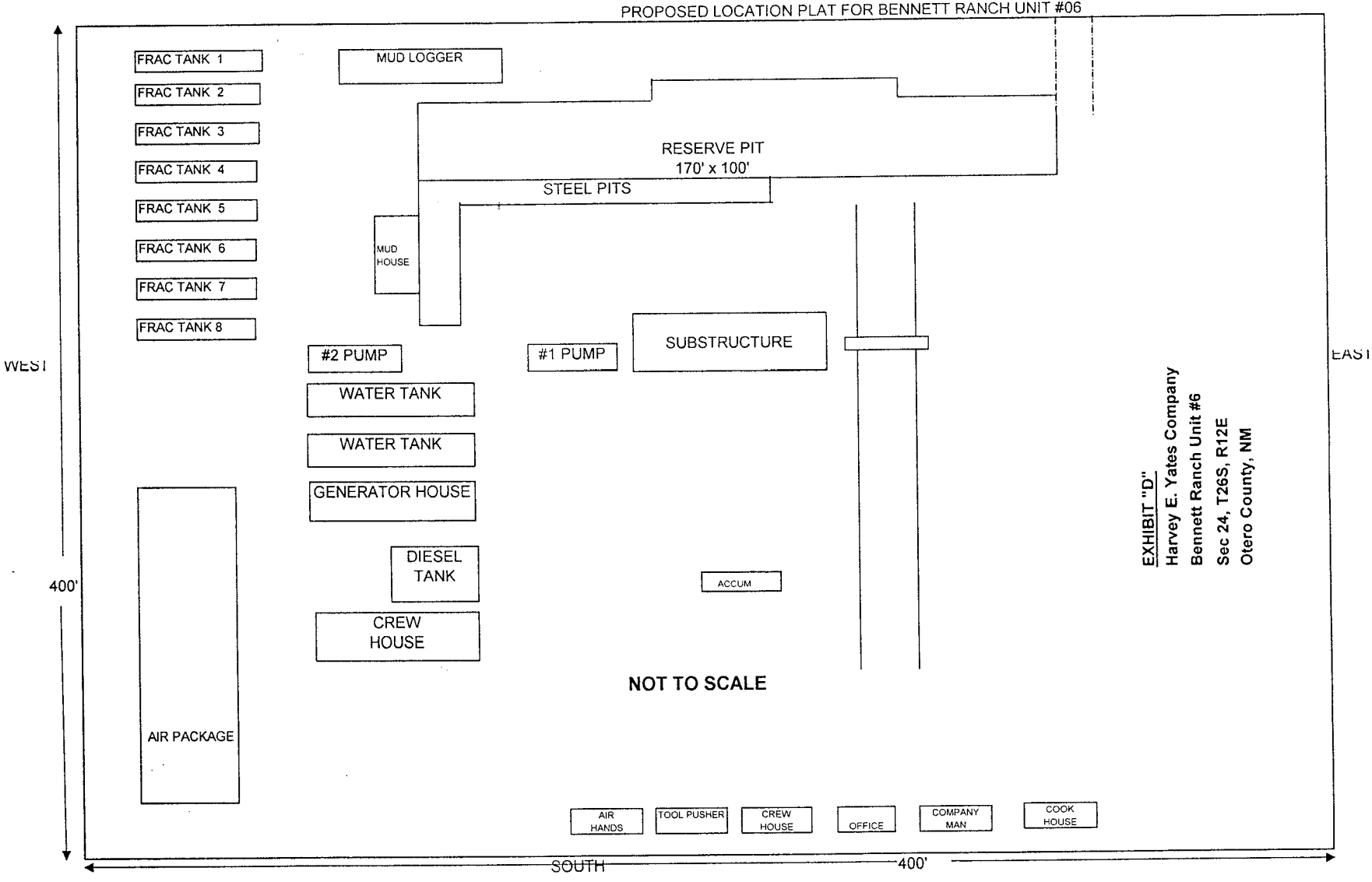
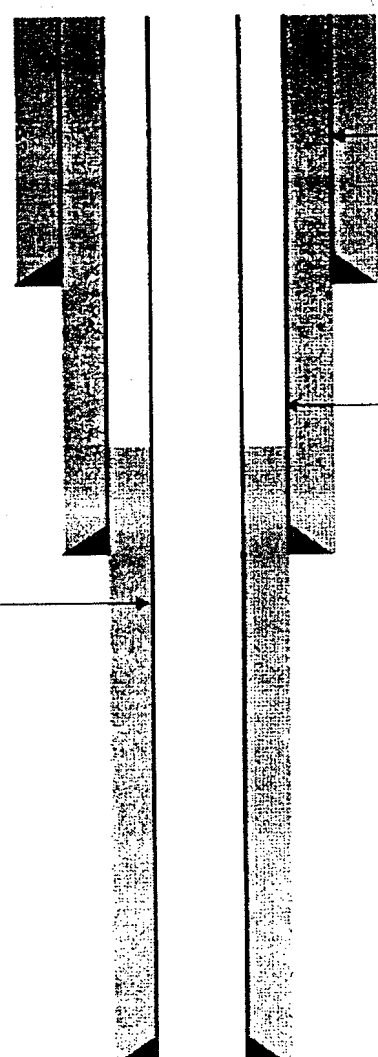


EXHIBIT "E" CASING DESIGN

Bennett Ranch Unit #6
660' FWL & 2130' FSL
SEC 24, T26S, R12E
Otero County, NM



From surface to 900'
900' 13 3/8", 48#/Ft, ST&C, H-40 Casing.
Cement circulated to surface

From surface to 2,500'
2,500' 9 5/8", 32#/Ft, ST&C, J-55 Casing
Cement circulated to surface

From Surface to 6,100'
6,100", 5 1/2", 17#/Ft, LT&C, J-55 Casing
Cement tied back into 9 5/8 casing

7" Contingency String
4 1/2 Production string

CONDITIONS OF APPROVAL - DRILLING

Operator's Name: **Harvey E. Yates Company**
Well Name & No. **Bennett Ranch Unit #6**
Location: **2130' FSL, 660' FWL, Section 24, T. 26 S., R. 12 E., Otero County, New Mexico**
Lease: **NM-71526**

I. DRILLING OPERATIONS REQUIREMENTS:

1. The Bureau of Land Management (BLM) is to be notified at the Roswell Field Office, 2909 West Second Street, Roswell, NM 88201, 505-627-0272, and the Las Cruces Field Office, 1800 Marquess Street, Las Cruces, NM 88005-3371, 505-525-4300, in sufficient time for a representative to witness:

   A. Well spud

   B. Cementing casing: **13-3/8** inch **9-5/8** inch **5-1/2** inch

   C. BOP tests

2. **Resistivity logs shall be run from total depth to the surface if the operator switches from an air drilling system to a fresh water mud system while drilling the surface hole.**

3. Unless the production casing has been run and cemented or the well has been properly plugged, the drilling rig shall not be removed from over the hole without prior approval.

4. Submit a Sundry Notice (Form 3160-5, one original and five copies) for each casing string, describing the casing and cementing operations. Include pertinent information such as spud date, hole size, casing (size, weight, grade and thread type), cement (type, quantity and top), water zones and problems or hazards encountered. The Sundry shall be submitted within 15 days of completion of each casing string. The reports may be combined into the same Sundry if they fall within the same 15-day time frame.

5. The API No. assigned to the well by NMOCD shall be included on the subsequent report of setting the first casing string.

II. CASING:

1. The **13-3/8** inch surface casing shall be set at **approximately 900 feet** and cement circulated to the surface. If cement does not circulate to the surface the appropriate BLM office shall be notified and a temperature survey or cement bond log shall be run to verify the top of the cement. Remedial cementing shall be completed prior to drilling out that string.

2. The minimum required fill of cement behind the **9-5/8** inch intermediate casing is **to circulate to the surface**.

3. The minimum required fill of cement behind the **5-1/2** inch production casing is **to be sufficient to tie at least 200 feet into the 9-5/8 inch intermediate casing.**

III. PRESSURE CONTROL:

1. All BOP systems and related equipment shall comply with well control requirements as described in Onshore Oil and Gas Order No. 2. The BOP and related equipment shall be installed and operational before drilling below the **13-3/8** inch casing shoe and shall be tested as described in Onshore Order No. 2. Any equipment failing to test satisfactorily shall be repaired or replaced.

2. Minimum working pressure of the blowout preventer and related equipment (BOPE) shall be **2000** psi.

3. The appropriate BLM office shall be notified in sufficient time for a representative to witness the tests.

- The tests shall be done by an independent service company.
- The results of the test shall be reported to the appropriate BLM office.
- Testing fluid must be water or an appropriate clear liquid suitable for sub-freezing temperatures. Use of drilling mud for testing is not permitted since it can mask small leaks.
- Testing must be done in a safe workman-like manner. Hard line connections shall be required.

Attachment #1
Conditions of Approval

OPERATOR: Harvey E. Yates Company
LEASE NO: NM-71526
WELL NAME & NO.: Bennett Ranch Unit #6
LOCATION: Section 24, T. 26 S., R. 12 E., NMPM.
QUARTER/QUARTER & FOOTAGE: NW¼SW¼ - 660 feet FWL & 1140 feet FSL
COUNTY: Otero County, New Mexico

1. The Harvey E. Yates Company shall hereafter be identified as the operator in these requirements. The Authorized Officer is the person who approves the Conditions of Approval.

2. The operator shall indemnify the United States against any liability for damage to life or property arising from occupancy or use of public land under this authorization.

3. The operator shall have surface use approval prior to any construction work on change(s) or modification(s) to the access road and/or well pad. The operator shall submit (Form 3160-5), Sundry Notice and Report On Wells, an original plus one (1) copy to the Roswell Field Office, stating the basis for any changes to previously approved plans. Prior to any revised construction, the holder shall have an approved Sundry Notice and Report On Wells or written authorization to proceed with the change in plans ratified by the Authorized Officer.

4. Weed Control:

A. The operator shall be held responsible if noxious weeds become established within the area. Evaluation of the growth of noxious weeds shall be made upon discovery. Weed control will be required on the disturbed land where noxious weeds exist, which includes the roads, pads, associated pipelines, and adjacent land affected by the establishment of weeds due to this action. The holder is responsible for consultation with the Authorized Officer for acceptable weed control methods, which include following EPA and BLM requirements and policy.
B. The operator shall insure that the equipment or vehicles that will be used to construct, maintain and administer the access roads, well pad and resulting well are not transporting invasive and noxious weed seed. Transporting of invasive and noxious weed seed could occur if the equipment and vehicles were previously used in noxious weed infested areas. In order to prevent the spread of noxious weeds, the Authorized Officer shall require that the equipment and vehicles be cleaned with either high pressure water or air prior to moving the equipment to the site of construction, maintenance and administration of the access roads, well pad, and resulting well.

5. Hazardous Substances:

A. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act Of 1976, as amended (15 U.S.C. 2601, *et. seg.*) with regard to any toxic substances that are used, generated by or stored on the project/pipeline route or on facilities authorized. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.

B. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substances or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et. seg.* or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et. seg.*) on this project/pipeline (unless the release or threatened release is wholly unrelated to the holder's activity on the pipeline). This agreement applies without regard to whether a release is caused by the operator, its agent, or unrelated third parties.

C. Leaking equipment will be promptly repaired or removed from the site to prevent contamination from spills. Any soil or water that has been contaminated will be placed in appropriate containers and removed from the site. Disposal of vehicle fluids on public land will not be authorized.

D. Copies of spill prevention, control, and countermeasure plans are required, and must be provided to the Authorized Officer.

E. Use of pesticides and herbicides shall comply with applicable Federal and State laws. Prior to use of pesticides, the BLM Authorized Officer will approve a plan for its use.

F. Storage tanks will have a berm constructed around them, of sufficient dimensions to contain the contents of the largest tank, to serve as secondary containment should a spill occur.

G. The concentration of hazardous substances in the reserve pit at the time of pit backfilling must not exceed the standards set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

H. All drilling-related CERCLA hazardous substances removed from the location and not reused at another drilling location must be disposed of in accordance with applicable Federal and State regulations.

I. All pits and tanks containing liquids or semi-liquids, including drilling and workover pits, will be covered with non-monofiliment small mesh netting which extends to ground level to prevent the entrapment or contamination of wildlife. Netting shall be in place at all times when workers are not actually present at the site.

J. Reserve pits, if used, shall be lined with BLM approved materials and shall be surrounded by a BLM approved 4 strand barb wire fence to exclude livestock.

6. Well Pad Construction:

A. Construction must conform to the approved well site and layout plan in the Surface Use Plan of Operations (SUPO).

B. All topsoil shall be removed from the area to be disturbed and stockpiled for reapplication during reclamation.

C. The total surface area disturbed for construction of the well pad shall be limited to the absolute minimum required subject to the approval of the Authorized Officer. Upon completion of the well, the pad shall be reduced to the minimum area necessary for production and the remainder reclaimed.

D. Control measures (water bars, slope reduction, recontouring, terracing etc.) shall be utilized as necessary to prevent erosion of soil disturbed by construction of the well pad.

E. In the BRU project area, New Mexico Oil Conservation Division (NMOCD) rules (Rule 21) prohibit earthen pits and require the use of a closed loop system with steel tanks to contain drilling fluids. The BLM understands that HEYCO is currently pursuing a waiver of Rule 21 for this well. Should HEYCO obtain a Rule 21 waiver from NMOCD and a reserve pit used, it shall be constructed in 100 percent cut material at a depth which will allow for at least 3 feet of cover when the pad is recontoured to original grade.

F. Aboveground structures shall be painted to blend with the natural color of the landscape. A flat color from the Standard Environmental Colors Chart specified by the Authorized Officer shall be used on all facilities to closely approximate the vegetation within the setting.

G. The operator shall notify the BLM 15 days notice prior to commencing work at the site to provide for a pre-construction aplomado falcon survey.

7. Interim Well Pad Reclamation:

A. Following completion of a producing well, the well pad shall be reduced in size to the minimum area required for actual operation of the well. All caliche shall be removed from the balance of the disturbed area followed by recontouring and topsoil reapplication. Seeding will be accomplished prior to the beginning of the next growing season.

B. Reserve pits, if used, shall be dry prior to backfilling and pit contents shall not exceed CERCLA standards for hazardous substances.

C. Pit shall be covered with a minimum of 3 feet of fill and mounded to facilitate drainage and allow for settling.

D. Seeded areas shall be fenced to exclude cattle for the duration of the revegetation process.

8. Well Pad Abandonment:

A. All surface structures including tanks, poles, powerlines etc., shall be removed upon abandonment, relinquishment or termination of use

B. Proper disposal methods for debris and other trash including all toxic products shall be followed.

C. Wells shall be plugged in accordance with BLM and New Mexico State requirements.

D. All caliche applied for surfacing during construction/operation shall be removed from the site prior to recontouring. Caliche may be recovered and reused for road maintenance or other beneficial use.

E The disturbed area shall be restored to original pre-disturbance contours and stockpiled topsoil reapplied prior to reseeding.

F. The entire disturbed area shall be fenced to exclude cattle for the duration of the revegetation process

9. Seed Mixes:

A. The operator shall use a BLM prescribed seed mix the composition of which will be determined according to soil and range type.

10. Dust Control:

A. The operator shall utilize all means necessary to control surface erosion and airborne dust emissions from the site during construction and operation. Dust abatement measures shall include water application and avoiding construction activity during periods of high winds.

11. Reclamation Standards:

A. The operator shall be responsible for successful completion of reclamation to BLM standards and reclamation success will be evaluated using performance based standards. Reclamation will be considered successful when healthy, mature perennials are established with a composition and density that closely approximates the surrounding vegetation as prescribed by the BLM, and the reclamation area is free of noxious weeds. Parameters will include percent basal cover of mature approved species as compared to an adjacent undisturbed area. Timeframes for release will be at least 2 years. Operators shall use any BLM approved means necessary to achieve acceptable revegetation including, but not limited to:

- Importation of additional topsoil if stockpiled topsoil from the site proves insufficient in quantity or quality.
- Irrigation if rainfall during the growing season proves insufficient to sustain plant growth.
- Mulching to control wind erosion, evaporative water loss and seed loss.

Operators shall make every effort to accomplish reclamation of the site within two growing seasons. If revegetation is not acceptable at the end of that timeframe more intensive reclamation methods may be required by the Authorized Officer.

Under no circumstances will the operator be released from responsibility for reclamation until the site is determined to be fully recovered by the Authorized Officer based on BLM standards. Reclamation efforts by the operator shall continue for as long as required to achieve full recovery.

12. Archaeological, Paleontology, and Historical Sites:

A. Any cultural or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on the holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder shall be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

B. The holder is hereby obligated to comply with procedures established in the Native American Graves Protection and Repatriation Act (NAGPRA) to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of project implementation. In the event that any of the cultural items listed above are discovered during the course of the project work, the holder shall immediately halt the disturbance and contact the BLM within 24 hours for instructions. The holder or initiator of any project shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the BLM in consultation with Indian Tribes. Any unauthorized collection or disturbance of cultural resources may result in a shutdown order by the Authorized Officer.

13. Sanitation:

A. The holder shall be responsible for maintaining the site in a sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

14. Open-top Tanks:

A. Any open-top tank containing oil or toxic fluids shall be covered with netting or equipped to prevent birds, bats, and other wildlife from entering the open-top tank.

15. Undesirable Events:

A. If, during any phase of the construction, operation, maintenance, or termination of the authorization, any oil or other pollutants, should be discharged, and impacting Federal land, the control and total removal, disposal, and cleaning up of such oil or other pollutants, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal land, or to repair all damages to Federal land resulting there from, the Authorized Officer may take such measures as deemed necessary to control and cleanup.