

**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. 11210  
Order No. R-10334**

**APPLICATION OF YATES PETROLEUM  
CORPORATION FOR COMPULSORY POOLING,  
CHAVES COUNTY, NEW MEXICO.**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on March 2, 1995, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 21st day of March, 1995, 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) The applicant, Yates Petroleum Corporation (Yates), seeks an order pooling all mineral interests from the surface to the base of the Abo formation underlying the SE/4 of Section 17, Township 10 South, Range 25 East, NMPM, Chaves County, New Mexico, thereby forming a standard 160-acre gas spacing and proration unit for the South Pecos Slope-Abo Gas Pool. Said unit is to be dedicated to the existing Rose Cannon "AOR" Com Well No. 1 located at a standard gas well location 1980 feet from the South line and 660 feet from the East line (Unit I) of Section 17.

(3) The evidence and testimony presented indicates that the Rose Cannon "AOR" Com Well No. 1 (formerly the Cannon Bitterlake Well No. 1) was spudded by Petroleum Development Corporation on April 4, 1983. On September 26, 1983, Sanders Oil & Gas Company assumed operations on the well and resumed drilling. The subject well reached a total depth of 4,145 feet on December 1, 1983.

(4) In January, 1984, the subject well was completed in the Abo formation through perforations at 3,888 feet to 3,917 feet at an initial producing rate of approximately 2,000 MCF gas per day.

(5) The subject well remained shut-in until January 30, 1995, due to the absence of a gas pipeline in this area.

(6) By agreement with Sanders Oil & Gas Company, Yates Petroleum Corporation assumed operations on the subject well on or about January 24, 1995.

(7) The applicant has the right to operate the subject well.

(8) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(9) Yates Petroleum Corporation proposes that the remaining non-committed interest owners be allowed to participate in the subject well by paying their share of the costs incurred thus far by Yates in bringing the subject well on production, which, according to an exhibit filed subsequent to the hearing, are approximately \$28,094.35.

(10) Estimated well costs, for the purpose of this order, should be established at \$28,094.35.

(11) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas production from the South Pecos Slope-Abo Gas Pool, or any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(12) The applicant should be designated the operator of the subject well and unit.

(13) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(14) Yates proposed that a risk penalty of 125 percent be assessed against those interest owners who elect not to participate in the well by paying their share of estimated well costs.

(15) Yates testified that the proposed risk penalty represents those risks associated with bringing the subject well on production and the risk that the subject well will not ultimately recover sufficient gas reserves to be economic.

(16) These factors should be taken into consideration, however, the proposed risk penalty is excessive in view of the circumstances in this case and should be reduced.

(17) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 75 percent thereof as a reasonable charge for the risk involved in bringing the well on production.

(18) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(19) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(20) \$400.00 per month while producing should be fixed as a reasonable charge for supervision; the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(21) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(22) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(23) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, from the surface to the base of the Abo formation underlying the SE/4 of Section 17, Township 10 South, Range 25 East, NMPM, Chaves County, New Mexico, are hereby pooled forming a standard 160-acre gas spacing and proration unit for the South Pecos Slope-Abo Gas Pool. Said unit shall be dedicated to the existing Rose Cannon "AOR" Com Well No. 1 located at a standard gas well location 1980 feet from the South line and 660 feet from the East line (Unit I) of Section 17.

(2) Yates Petroleum Corporation is hereby designated the operator of the subject well and unit.

(3) Within 30-days from the effective date of this order, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 120 days from the effective date of this order; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.
- (B) As a charge for the risk involved in bringing the subject well on production, 75 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$400.00 per month while producing is hereby fixed as a reasonable charge for supervision; the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Chaves County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

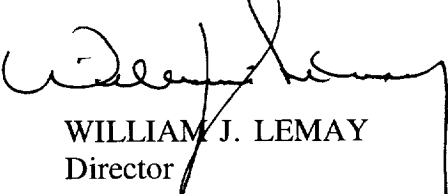
(13) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) Jurisdiction is hereby 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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