

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

APPLICATION OF YATES PETROLEUM CORPORATION FOR AN ORDER (1) DIRECTING PRIDE ENERGY COMPANY TO REIMBURSE YATES FOR THE WELL COSTS INCURRED BY YATES IN ITS ATTEMPT TO RE-ENTER THE STATE "X" WELL NO. 1 LOCATED IN SECTION 12, TOWNSHIP 12 SOUTH, RANGE 34 EAST, NMPM, PRIOR TO THE TIME PRIDE ASSUMED OPERATIONS OF THE WELL, AND (2) DIRECTING PRIDE ENERGY COMPANY TO ACCOUNT FOR AND PAY ALL SUMS IT IS NOW IMPROPERLY HOLDING PURSUANT TO EXPIRED ORDERS OF THE DIVISION AND COMMISSION, AND (3) REQUIRING PRIDE ENERGY COMPANY TO PLUG AND ABANDON THE STATE "X" WELL NO. 1 AT ITS SOLE EXPENSE, LEA COUNTY, NEW MEXICO.

CASE NO. 13531

**YATES PETROLEUM CORPORATION
CLOSING STATEMENT**

This case came on for hearing before Examiner David Catanach on January 5, 2006. At that time Yates Petroleum Corporation ("Yates")¹ requested that the portion of the application requesting an order requiring Pride Energy Company ("Pride") to plug and abandon the State "X" Well No. 1 at its sole expense be dismissed. There were certain questions raised concerning two new charges on Pride's list of well costs for which no supporting data had been provided. The Examiner continued the case for two weeks to enable Pride to provide data supporting these charges. Since that time, Pride has withdrawn those charges. At the hearing, Yates also agreed to withdraw its objection to Pride's claim for legal costs related to Pride's title opinion if a copy of that opinion was provided to Yates. Yates has not received a copy of this title opinion and therefore continues to object to this charge. At the conclusion of the hearing, the Examiner directed the parties to file written closing statements.

YATES' CLOSING STATEMENT

Yates seeks an order (1) directing Pride Energy Company ("Pride") to reimburse Yates for the costs Yates incurred in its re-entry operations on the State "X" Well No. 1 (**API No. 30-025-01838**) located 1980 feet from the North line and 660 feet from the West line (Unit E) of Section 12, Township 12 South, Range 34 East, NMPM, Lea County, New Mexico prior to the time Pride assumed operations of the well, and (2) an order directing Pride to account to and refund to Yates all of the portion of the estimated share of well costs for the State "X" Well now improperly held by Pride.

¹ Yates Petroleum Corporation, Yates Drilling Company, ABO Petroleum Corporation and MYCO Industries, Inc. are collectively referred to as "Yates" in this Closing Statement.

I.

REIMBURSEMENT FOR RE-ENTRY COSTS

On March 2, 2004, the Oil Conservation Division entered Order No. R- 12108 which granted the application of Pride Energy Company to rescind a Division-approved Application for Permit to Drill previously approved for Yates Petroleum Corporation. Pursuant to that APD, Yates had been attempting a re-entry of the State "X" Well No. 1 to which was dedicated a standard 320-acre spacing unit comprised of a single State of New Mexico Oil and Gas lease held by Yates. At the time the order was entered, Yates was engaged in re-entry operations on the well. Yates appealed this order and on September 9, 2004 the Commission entered Order No. R-12108-A that again granted Pride's application but also directed Pride to refund to Yates the actual well costs incurred while Yates was conducting re-entry operations on the well between August 25, 2003 and the time when Yates received notice of the filing of Pride's application.

Yates sought a rehearing contending, among other things, that the time frame set by the Commission for the refund of the costs it incurred while conducting re-entry operations was incorrect for it excluded many of the costs incurred prior to the time Yates voluntarily suspended operations on the well. By Order No. R-12108-B, the Commission granted a partial rehearing limited to the determination of costs for which Yates should be allowed reimbursement.²

The rehearing was held on August 12, 2004. Pride appeared and participated in the hearing. On December 9, 2004, the Commission entered Order No. R-12108-C that directed Yates to furnish "an itemized schedule of actual well costs incurred by Yates in conducting re-entry operations on the subject well after August 25, 2003 and prior to October 7, 2004, the time when Yates voluntarily ceased operations on the subject well..." (Order Paragraph 9). This order also provided that "If there is an objection to the reasonableness of such costs within the time allowed by this order, the Division will determine the amount thereof that constitutes reasonable well costs after notice and hearing." (Order Paragraph 9). The order then directed Pride "to pay to Yates the amount of actual costs incurred by Yates..." (Order Paragraph 11).

The Commission's directive was clear. The reimbursement of these costs to Yates was the only subject of the rehearing and the Commission's order directed Pride to pay these costs to Yates. Pride has not paid these costs to Yates.

Pride has not objected to the reasonableness of Yates costs

Order No. R-12108-C provided that Pride could object to the reasonableness of any of Yates well costs and, if it objected, "the Division would determine the amount

² Order Paragraph 2 provided: "The issue for consideration upon rehearing shall be limited to the determination of costs for which Yates shall be allowed reimbursement."

thereof that constitutes reasonable well costs after notice and hearing.” (Order Paragraph 9). Pride objected to certain of the Yates well costs. However, Pride objects not the reasonableness of the costs but, instead, objects because it had to re-incur certain of the costs after it assumed operations of the well. This is an issue that should have been raised by an application for rehearing and then an appeal. Pride did not object to the Commission’s order or apply for rehearing and therefore the provisions of Order No. R-12108-C became final and binding on Pride.

Pride allowed the Commission order to expire

While the parties were negotiating the issues concerning these charges and other cost-related issues, Pride allowed the pooling order to expire. Order No. R-12108-C pooled the W/2 of Section 12 and provided in Order Paragraph No. 4 that “Should the subject well not be completed within 120 days after resumption of re-entry operations pursuant to this order, then this order shall be of no further effect, and the unit created by this order shall terminate, unless the operator obtains a time extension from the Division Director following notice and hearing.” Pride commenced operations on the well on February 15, 2005. It failed to complete the well within 120 days after resumption of re-entry operations and failed to obtain a time extension from the Division Director as required by Order Paragraph No. 4 of Order No. R-12108-C. This order is now of no effect and the unit created by this order has terminated.

If Pride’s objections are approved by the Division, Yates suffers substantial harm

At the hearing, Yates illustrated how it would be harmed if Pride’s objections were accepted by the Division with the following example. Yates showed that it had to acquire insurance prior to commencement of re-entry operations. Pride also had to acquire insurance and has included these costs in the well costs that it is billing to Yates pursuant to the AFE for the well. If the Division disallows the reimbursement of Yates’ insurance cost, Yates will pay 100% of its insurance costs. It will also pay 50% of Pride’s insurance costs. Simply put, Yates will have to pay three dollars for every dollar spent by Pride for insurance, and this is only because Pride was successful in convincing the Division to take operations away from Yates and give operations to Pride. See Testimony of Moran.

Pride should not be allowed to benefit from its failure to maintain the pooling order. Yates therefore seeks an order from the Division reinstating the provision of Commission Order No. R-12108-C that requires Pride to reimburse to Yates the actual well costs incurred by Yates in conducting re-entry operations on the subject well after August 25, 2003 and prior to October 7, 2004, the time when Yates voluntarily ceased operations on the subject well. Since there is no dispute about the reasonableness of these numbers, Yates also requests that the costs set out on its schedule of actual well costs be accepted by the Division as the reasonable costs for Yates re-entry of the State “X” Well No. 1.

Yates Exhibit No. 8. is its itemized schedule of well costs and it totals \$84,391.58. These funds should be reimbursed to Yates.

II.

ACCOUNTING FOR AND PAYMENT OF ALL SUMS OWED TO YATES

Refund of AFE funds

Pursuant to Order No. R-12108-C, Pride provided an AFE for the State "X" Well No. 1 to Yates. On October 13, 2004, Yates signed Pride's AFE (Yates Exhibit No. 3) and paid to Pride \$376,647.43 for its share of the AFE costs (Yates Exhibit No. 4). As of the hearing date, Pride reported that it had expended \$708,402.78 on the well. See Yates Exhibit No. 7. This number included certain figures to which Yates objected. The items to which Yates objects include the following:

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|----|---|--------------|
| A. | Legal Expenses: (less \$1,363.71- for a Title Opinion) | \$ 15,215.11 |
| B. | Nutech: \$ 2756.00 and \$407.60 | \$3,163.60 |
| C. | Heartland Equipment Company: | \$888.46 |
| D. | Phillips Casing and Tubing: | \$248.97 |

Total --\$19,516.14

Legal fees may be charged against another party only where authorized by Contract or by statute. Neither of these facts is present in this dispute. Furthermore, Yates objects to Pride's claim for its legal fees and believes that each party should bear its own legal fees and expenses in this matter. If the Division believes that any party should pay the other side's legal fees, Yates submits that Pride should also have to pay 50% of all of Yates' legal fees, including those it has had to incur to recover the funds that Pride is wrongfully retaining in this case.

Nutech charges are not related to this dispute, were incurred prior to the time of the reentry by Pride and should not be charged to Yates.

The charges related to Heartland Equipment Company and Phillips Casing and Tubing have been withdrawn by Pride.

As shown on Yates Exhibit No. 7, when these charges are subtracted from the total well costs reported by Pride, the revised well cost is \$688,886.64. $(708,402.78 - \$19,516.14 = \$688,886.64)$. When these actual costs are subtracted from Pride's AFE costs and then divided by 50% to reflect the interest of Yates, Pride is improperly withholding \$32,203.91 of the AFE costs previously paid to Pride by Yates. Yates seeks a Division Order requiring the immediate repayment of this sum to Yates.

III.

CONCLUSION

Yates is in this situation because of orders entered by the Division and Commission over the objections of Yates. These orders gave Pride the right to operate a well on property owned by Yates. As a result of these orders and Pride's actions and/or failure to act, (1) the State "X" Well No. 1 has now been lost, (2) Pride has failed to reimburse funds to Yates that Yates incurred while it was attempting to re-enter the well as required by the Oil Conservation Commission, (3) Pride is improperly holding funds paid by Yates pursuant to Pride's AFE and Commission orders that have now expired, (4) Pride has failed or refused to provide information to Yates or to respond to Yates' questions concerning these operations, and (5) forced Yates to drill a well to protect its lease.

The Division should require that all sums owed by Pride to Yates be paid within 14 days of the date of the entry of this order. Pride is holding \$116,595.49 of Yates money. Some of this money was paid out by Yates over three years ago. No interest is being paid to Yates for these funds and every day Pride is enjoying the benefit of these payments.

Yates asks the Division to enter an order directing the repayment of the funds to Yates within fourteen days of the date of its order in this case.