

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

December 12, 1994

**VIA FACSIMILE**

(505) 827-8177

Mr. Michael E. Stogner  
Chief Hearing Examiner  
Oil Conservation Division  
P. O. Box 6429  
Santa Fe, New Mexico 87505

Re: **REQUEST TO DISMISS**  
NMOCD Case 11170  
*TACKITT "AOT" Well No. 1*  
*SE/4 Section 28, T19S, R25E, NMPM*  
*Application of Nearburg Producing Company*  
*to Stay the Drilling of the Referenced Well,*  
*Eddy County, New Mexico*

Dear Mr. Stogner:

On November 10, 1994, behalf of Nearburg Producing Company, I presented to William J. LeMay, Director of the Oil Conservation Division of New Mexico, an application requesting the Division to Stay its approval of the Application for Permit to Drill issued to Yates Petroleum Corporation for its Tackitt "AOT" Well No. 1 to be drilled at a location in SE/4 of Section 28, T19S, R25E, North Dagger Draw-Upper Pennsylvanian Pool, Eddy County, New Mexico.

As described in that Application, the Stay was based (1) upon the Division's letter to me dated November 9, 1994 which advised that "the existing well spacing rules for North Dagger Draw provided for one well per 160-acre spacing unit."; (2) a Joint Operating Agreement binding between the parties which provides "no well shall be completed in or produced from a source of supply from which a well located elsewhere on

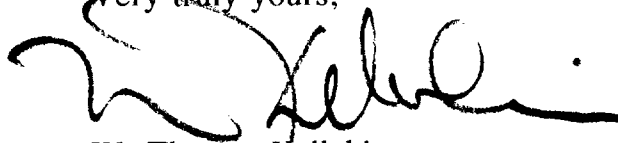
Mr. Michael E. Stogner  
December 12, 1994  
Page 2.

the Unit Area is producing, unless such well conforms to the then existing well spacing pattern for such source of supply"; and (3) that Nearburg had timely objected that the subject well was in violation of the foregoing.

On November 10, 1994, the Director declined to issue the Stay because it was his opinion that Nearburg was seeking an interpretation of the language of the Joint Operating Agreement and that was a matter within the exclusive jurisdiction of the Courts.

Because the Director has failed to timely exercise jurisdiction over this matter and because Yates has now drilled the well, Nearburg's Application to have the Division rescind the APD is moot. Accordingly, please dismiss Case 11170 from the December 15, 1994 docket.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', with a long horizontal flourish extending to the right.

W. Thomas Kellahin

cc: Nearburg Producing Company  
Attn: Bob Shelton

cc: Earnest L. Carroll, Esq.  
Attorney for Yates Petroleum Corporation