

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:

APPLICATION OF YATES PETROLEUM  
COMPANY FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

*Case No. 11310*

APPLICATION OF NEARBURG EXPLORATION  
COMPANY FOR COMPULSORY POOLING, EDDY  
COUNTY, NEW MEXICO.

*Case No. 11311*

*Order No. R-10520*

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on August 10, 1995 and on October 5, 1995, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 20th day of November, 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) At the time of the hearings both Division Case Nos. 11310 and 11311 were consolidated for the purpose of presenting testimony. Also, inasmuch as both cases encompass the same acreage and the subject matter in both are analogous, the approval of

one application would necessarily require denial of the other, and one order should therefore be entered for both cases.

(3) The applicant in Case No. 11310, Yates Petroleum Corporation ("Yates"), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool.

(4) The applicant in Case No. 11311, Nearburg Exploration Company ("Nearburg"), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool.

(5) The subject 160-acre tract is included within the boundary of the North Dagger Draw-Upper Pennsylvanian Pool, which is governed by "*Special Rules and Regulations*", as promulgated by Division Order No. R-4691, as amended, which require standard 160-acre oil spacing and proration units with wells to be located no closer than 660 feet from the outer boundary of the spacing and proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary, an oil allowable of 700 barrels per day per standard 160-acre unit, and a limiting gas/oil ratio of 10,000 cubic feet of gas per barrel of oil.

(6) In Case 11310, Yates originally sought at the August 10th hearing to dedicate the subject 160-acre tract to its proposed Boyd "X" Well No. 9 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the NW/4 SE/4 (Unit J) of said Section 16. Subsequent to the August 10th hearing Yates requested this matter be reopened and amended to reflect a well location move to a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SW/4 SE/4 (Unit O) of said Section 16 and its redesignation to the Boyd "X" Well No. 10.

(7) In Case 11311, Nearburg seeks to dedicate said unit to its Arroyo "16" Well No. 1 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SE/4 SE/4 (Unit P) of said Section 16.

(8) Each applicant (Yates and Nearburg) has the right to drill and each proposes to drill their respective well to a depth sufficient to test the North Dagger Draw-Upper Pennsylvanian Pool, both seek to be designated the operator of the proposed 160-acre spacing and proration unit, and both seek the adoption of drilling and production overhead charges and the assessment of a 200% risk penalty factor for non-consent.

(9) No voluntary agreement for development of this acreage has been reached by either party as to whom should be the operator.

(10) *Although the standard spacing within the North Dagger Draw-Upper Pennsylvanian Pool is 160 acres, the established practice within this pool is to drill a well on each of the four 40-acre tracts that form a standard 160-acre oil spacing and proration unit. Testimony by both parties indicate that the SE/4 of said Section 16 would most likely be developed in this manner with the operator, whoever is named, drilling wells on each of the four quarter-quarter sections. FURTHER, both parties presented geologic and engineering evidence to support the drilling of the initial well at what each perceives to be the most optimum location within this quarter section.*

**FINDING:** This point becomes moot since Yates changed its location once and as stated above the SE/4 of said Section 16 could ultimately be developed with four wells, one in each quarter-quarter section.

(11) Nearburg's authorization for expenditure ("AFE") costs for its well was \$722,985.00, while Yates' final AFE was for \$655,700.00. The difference between the two is \$67,285.00.

(12) The significant working interest owners within the SE/4 of said Section 16 are as follows:

Yates Petroleum Corporation	37.500000%
Nearburg Exploration Company	37.500000%
Unit Petroleum Company of Tulsa, Oklahoma	24.443924%

With sixteen various other interest owners owning the remainder.

(13) According to the evidence presented, Yates is supported in its application by a number of the working interest owners, including Unit Petroleum Company, making up a total of 62.158646% of those owning an interest.

(14) Difference between the two requested overhead and administrative costs were somewhat significant, for Yates proposes fixed overhead rates of \$4,500.00 per month while drilling and \$450.00 per month while producing and Nearburg proposed overhead rates were \$5,440.00 per month while drilling and \$540.00 per month while producing.

(15) *In summary, Yates: controls 62.158646% of the working interest under the proposed 160-acre spacing and proration unit; has estimated well costs of \$67,285.00 less than that of Nearburg; and, has requested a lesser amount for overhead and administrative costs than Nearburg.*

FINDING: The application of Yates Petroleum Corporation in Case No. 11310 should be granted and the application of Nearburg Exploration Company in Case No. 11311 should be denied.

(16) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent 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 production in any pool completion resulting from this order, the application of Yates Petroleum Corporation in Division Case 11310 should be approved by pooling all mineral interests, whatever they may be, from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to its proposed Boyd "X" Well No. 10 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SW/4 SE/4 (Unit P) of said Section 16.

(17) Yates Petroleum Corporation should be designated the operator of the subject well and unit.

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

(19) 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 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(20) Any non-consenting 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.

(21) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well 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.

(22) \$4,500.00 per month while drilling and \$450.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); 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.

(23) 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.

(24) Upon the failure of the operator of said pooled unit to commence drilling of its Boyd "X" Well No. 10 in Unit "O" of said Section 16 on or before March 15, 1996, the order pooling said unit should become null and void and of no effect whatsoever.

(25) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(26) The operator of said well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

**IT IS THEREFORE ORDERED THAT:**

(1) The application of Nearburg Exploration Company ("Nearburg") in Case No. 11311 for an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said

vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool, and to dedicate to said unit its Arroyo "16" Well No. 1 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SE/4 SE/4 (Unit P) of said Section 16, is hereby denied.

(2) The application of Yates Petroleum Corporation ("Yates") in Case No. 11310 for an order pooling all mineral interests, whatever they may be, from the surface to the base of the Canyon formation underlying the SE/4 of Section 16, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, to form a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool, and to dedicate to said unit its Boyd "X" Well No. 10 to be drilled at a standard North Dagger Draw-Upper Pennsylvanian oil well location in the SW/4 SE/4 (Unit O) of said Section 16, is hereby approved.

PROVIDED HOWEVER THAT, the operator of the subject unit shall commence the drilling of said Boyd "X" Well No. 10 on or before the fifteenth day of March, 1996, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the North Dagger Draw-Upper Pennsylvanian Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence drilling operations on the Boyd "X" Well No. 10 on or before the fifteenth day of March, 1996, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandoned, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Yates Petroleum Corporation is hereby designated the operator of the subject 160-acre spacing and proration unit and its well to be drilled in the SW/4 SE/4 (Unit O) of said Section 16.

(4) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject units an itemized schedule of estimated well costs.

(5) 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.

(6) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; 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 an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated 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.

(8) 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; and,
- (B) As a charge for the risk involved in the drilling of the well, 200 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.

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

(10) \$4,500.00 per month while drilling and \$450.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); 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.

(11) 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.

(12) 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.

(13) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy 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.

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

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



Case No. 11310-11311

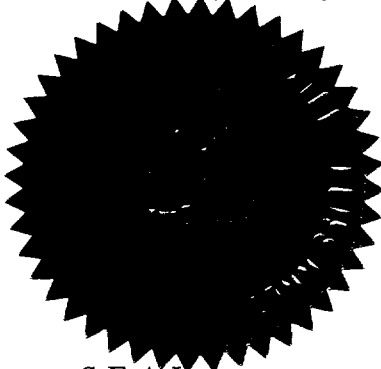
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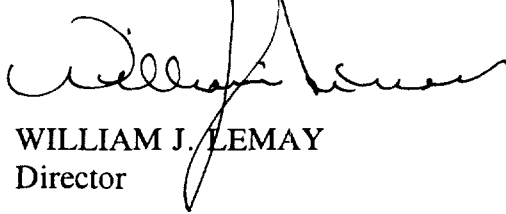
(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY  
Director