

MARTIN YATES, III
1912 - 1988
FRANK W. YATES
1938 - 1988



105 SOUTH FOURTH STREET
ARTESIA, NEW MEXICO 88210
TELEPHONE (505) 748-1471

S. P. YATES
CHAIRMAN OF THE BOARD
JOHN A. YATES
PRESIDENT
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EXECUTIVE VICE PRESIDENT
RANDY G. PATTERSON
SECRETARY
DENNIS G. KINSEY
TREASURER

August 8, 1995

Mr. Michael E. Stogner
Chief Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

- Re: NMOCD Case 11332
Application of Yates Petroleum Corporation to
Rescind Order R-10372 which authorized the
unorthodox well location for the Aspden "AOH"
Federal Com Well No. 2 in Case 11235
Eddy County, New Mexico
- Re: NMOCD Case 11235 (Order R-10372)
Application of Yates Petroleum Corporation for
an Unorthodox Well Location
Eddy County, New Mexico
- Re: Administrative Application
dated June 19, 1995 of Yates Petroleum
Corporation for approval to now drill the Aspden
"AOH" Well No. 2 as a directionally drilled well
Eddy County, New Mexico

Dear Mr. Stogner:

This letter is to take exception and reply to letter dated August 7, 1995 from Mr. W. Thomas Kellahin. In Mr. Kellahin's letter, this company and our attorneys, as well as me personally, are accused of violating OCD Rules and Procedures in our attempt to resolve the captioned cases.

There is obviously some disagreement about the Order No. R-10372, its fairness, and the precedent for future cases it may set. To my recollection, the NMOCD has always held against downspacing of a proration unit on which production has already been obtained. Non standard spacing units are an acceptable solution prior to the drilling of wells, however once production has been established, there are royalty inequities that cannot be reconciled if a proration unit is downspaced. In this particular case, the State of New Mexico would be placed in the position of their royalty being diminished by a ruling requiring downspacing. Therefore, in the past, and correctly so, the Commission has always ruled against down spacing.

Mr. Michael E. Stogner
Oil Conservation Division
August 8, 1995

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Notwithstanding any disagreement we may have over the order, Mr. Kellahin's letter to which this is referred is an insult and appears to be a blatant attempt to make this company look bad before the Division. Mr. Kellahin should be the LAST one to accuse anyone of *ex parte* communications. The accusation of illegal behavior, violation of rules, and the flavor of blackmail is completely inappropriate and we object to this treatment.

Very truly yours,

YATES PETROLEUM CORPORATION



Randy G. Patterson
Land Manager

RGP/mw

cc: Mr. Rand Carroll, Oil Conservation Division, Santa Fe, NM
Mr. David Catanech, Oil Conservation Division, Santa Fe, NM
Mr. Bill Hardy, Conoco Inc., Midland, TX
Mr. Ernest Carroll, Losee Firm, Artesia, NM
Mr. W. Thomas Kellahin, Kellahin and Kellahin, Santa Fe, NM

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Fax Cover Sheet

To: Mr. Michael E. Stogner
Company: New Mexico Oil Conservation Division
Phone: 505-827-7131
Fax: 505-827-8177

From: **Randy G. Patterson**
Company: **Yates Petroleum Corporation**
Phone: **505-748-4355**
Fax: **505-748-4572**

Date: August 8, 1995
Pages including this
cover page: 3

Comments:

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300 YATES PETROLEUM BUILDING

P. O. BOX 1720

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August 7, 1995

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Michael Stogner, Chief Hearing Examiner
New Mexico Oil Conservation Division
2040 S. Pacheco
P. O. Box 6429
Santa Fe, New Mexico 87505-5472

- Re: NMOCD Case 11332
Application of Yates Petroleum Corporation to
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approval to now drill the Aspden "AOH" Well
No. 2 as a directionally drilled well, Eddy
County, New Mexico

Dear Mr. Stogner:

I have just received a faxed copy of the hand-delivered
August 7, 1995, letter of W. Thomas Kellahin to you concerning
the referenced cases.

The major tenor of Mr. Kellahin's letter indicates that he
feels that there has been some improper communication between me
on behalf of Yates Petroleum Corporation and the Division and
that Yates Petroleum Corporation has engaged in some sort of
blackmail to improperly influence Conoco in this matter. The
one fact that Mr. Kellahin has blatantly failed to advise the
Division is that the technical people at Conoco were surprised to
learn of the filing of the objection and has not approved such
because they could not testify against an orthodox location. It
appears that Mr. Kellahin, because he has not "gotten his way"
with the Division, has chosen a juvenile and asinine way of
dealing with the problem. Furthermore, Mr. Kellahin states that
I have violated Division Rules 1208 and 1203 by engaging in
several ex parte discussions with the Division Examiner and the

Michael Stogner
August 7, 1995
Page 2

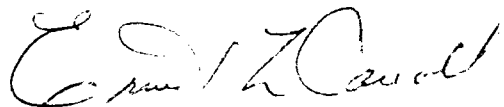
Division Attorney. First of all, I would recommend the reading of Rules 1208 and 1203 to Mr. Kellahin. Rule 1203 deals with the method of initiating a hearing and Rule 1208 deals with the filing of pleadings and the delivery of copies to adverse parties. Those two rules do not deal with ex parte communications, and again, Mr. Kellahin is shooting his mouth off without any substantiation. There were no ex parte communications. There were communications between this counsel and the appropriate Division personnel concerning Division policy with respect to matters which concerned a decision that had already been made by the Examiner. Such communications were neither improper secretive, as evidenced by the fact that they were brought to the attention of all parties through my letter of July 11, 1995.

All statements made by this counsel in the July 11, 1995, communication were invited because of the assertions made by Mr. Kellahin in his July 6, 1995, communication to you, and are therefore justified. Furthermore, Mr. Kellahin's comments concerning the actions and business decisions of Yates Petroleum are nothing more than a true ex parte communication made in an attempt to prejudice any future appearances by Yates Petroleum Corporation before the Commission, and as such is not only improper but in fact the very same kind of act which Mr. Kellahin complains of. However, his comments are much worse because the comments made by this counsel and acts by its client were not done intentionally to harm Conoco before the eyes of the Division, where Mr. Kellahin's acts are obviously done for that sole purpose.

This counsel does not have any information to contradict the statement that Conoco does not engage in frivolous or unsupported protests, but we do have the knowledge of facts indicating that Conoco's counsel, Mr. Kellahin, does.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.



Ernest L. Carroll

ELC:kth

xc: Mr. W. Thomas Kellahin
Mr. Randy Patterson

LAW OFFICES

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Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.



Ernest L. Carroll

ELC:kth
Encl.

xc: Mr. W. Thomas Kellahin
Mr. Randy Patterson

LAW OFFICES

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FAX TRANSMITTAL DATE: 8/7/95

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

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KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

17 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

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August 7, 1995

HAND DELIVERED

Mr. Michael E. Stogner
Chief Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

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*Application of Yates Petroleum Corporation
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Re: NMOC Case 11235 (Order R-10372)
*Application of Yates Petroleum Corporation for
an Unorthodox Well Location, Eddy County, New Mexico*

Re: Administrative Application
*dated June 19, 1995 of Yates Petroleum
Corporation for approval to now drill the
Aspden "AOH" Well No. 2 as a directionally
drilled well, Eddy County, New Mexico.*

Dear Mr. Stogner:

On July 6, 1995, I filed an objection on behalf of Conoco Inc. to Yates Petroleum Corporation's request to rescind Order R-10372 and for administrative approval to now directionally drill its Aspden "AOH" Well No. 2 which Mr. Bob Fant testifying for Yates at the hearing in Case 112235 held on April 7, 1995 said could not be economically directionally drilled.

I filed that objection, in part because Yates without notice to me or to Conoco and in violation of Division Rule 1208 and Rule 1203 engaged in several "ex parte" discussions with the Division Examiner and the Division attorney in an attempt to invalidate an order which Yates chose not to appeal to a De Novo hearing but rather simply wanted the Division to void because Yates considers it to be a "bad precedent."

RECEIVED

AUG 7 1995

Oil Conservation Division

Mr. Michael E. Stogner

August 7, 1995

Page 2.

That objection was also filed because Conoco believes that Order No. R-10372 was a uniquely fair and clear solution to the granting of unorthodox well locations in multiple well proration units and set an excellent precedent for future cases of this type. Mr. Catanach is to be commended for his solution and insight to this complex case.

Now, I have received a letter dated July 11, 1995 from Yates' attorney in which Yates admits a detailed "ex parte" communication with the Division concerning this matter.

This is not the first occasion in which Yates, without notice to me or to Conoco, has attempted to get the Division to grant Yates special treatment in this case. Yates previously sought to have the Division allow Yates to commence the well even over Conoco's objection. At least, on that occasion the Division Examiner called and advised me of Mr. Yates' action to which I filed a written objection and copied counsel for Yates.

Now, I have found out Yates has already commenced the drilling of the Aspden well. Such action is presumptuous of the Division procedures and makes any further involvement by Conoco in this matter moot.

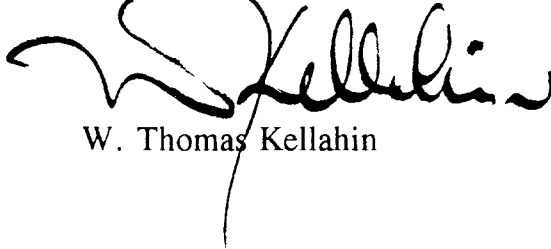
While I disagree with the assertions raised by Yates' attorney in his July 11, 1995 letter to the Division, I will not engage in a rebuttal because I have been advised by Conoco Inc. that it has been forced by other unrelated Yates' action to withdraw from this matter and therefore will leave the issues in the referenced cases to the Division to resolve with Yates without further involvement from Conoco.

Conoco is withdrawing from this matter, because Mr. Randy Patterson of Yates Petroleum Corporation, refused to allow Conoco access to certain Yates controlled acreage for a 2-D Seismic Survey which Conoco had already commenced and unless Yates' refusal was resolved, then Conoco either had to cancel the seismic shoot or pay \$23,000 per day seismic crew standby fee until Yates consented. Yates refused to consent unless Conoco withdrew from the Aspden well dispute.

Mr. Michael E. Stogner
August 7, 1995
Page 3.

Conoco does not engage in frivolous or unsupported protests, but the violation of OCD rules and procedures in regard to the above referenced cases and applications by Yates could not be left unchallenged. Frankly, Conoco is exasperated by the actions of Yates but was forced to concede to the demands of Yates in order to continue with its seismic work and therefore is hereby withdrawing from this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', with a long vertical line extending downwards from the end of the signature.

W. Thomas Kellahin

cc: *Rand Carroll, Esq. OCD*
David Catanach, OCD
Conoco Inc.
Attn: Jerry Hoover
Ernest Carroll, Esq.
Attorney for Yates Petroleum Corporation