

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 NOS. 11,913
	)	11,914
APPLICATIONS OF YATES PETROLEUM	)	11,915
CORPORATION FOR AUTHORIZATION TO	)	11,916
DRILL WITHIN THE POTASH AREA AS	)	(Consolidated)
DEFINED BY ORDER NO. R-111-P,	)	
EDDY COUNTY, NEW MEXICO	)	

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

January 30th, 1998

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Friday, January 30th, 1998, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

STEVEN T. BRENNER, CCR  
(505) 989-9317

## I N D E X

January 30th, 1998  
Examiner Hearing  
CASE NOS. 11,913, 11,914, 11,915 and 11,916 (Consolidated)

PAGE

REPORTER'S CERTIFICATE

12

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## A P P E A R A N C E S

## FOR THE DIVISION:

RAND L. CARROLL  
Attorney at Law  
Legal Counsel to the Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

LOSEE, CARSON, HAAS & CARROLL, P.A.  
311 West Quay  
Post Office Box 1720  
Artesia, New Mexico 88210  
By: ERNEST L. CARROLL

(Continued...)

## A P P E A R A N C E S (Continued)

## FOR MISSISSIPPI POTASH:

JENKENS & GILCHRIST, P.C.  
1445 Ross Avenue, Suite 3200  
Dallas, TX 75202-2799  
By: CHARLES C. HIGH, JR.

and

KEMP, SMITH, DUNCAN & HAMMOND, P.C.  
2000 Norwest Plaza  
El Paso, TX 79901-1441  
BY: STEVEN J. BLANCO

## FOR POGO PRODUCING COMPANY:

JAMES G. BRUCE, Attorney at Law  
612 Old Santa Fe Trail, Suite B  
Santa Fe, New Mexico 87501  
P.O. Box 1056  
Santa Fe, New Mexico 87504

and

HINKLE, COX, EATON, COFFIELD & HENSLEY, L.L.P.  
400 Penn Plaza, Suite 700  
P.O. Box 10  
Roswell, New Mexico 88202  
By: JAMES A. GILLESPIE

## FOR PENWELL ENERGY, INC.:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.  
Suite 1 - 110 N. Guadalupe  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: WILLIAM F. CARR

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:25 a.m.:

3           EXAMINER STOGNER: This hearing will come to  
4   order. Please note today's date, January 18th, 1998 -- I'm  
5   sorry, January 30th, 1998.

6           This is a special hearing today to consider four  
7   particular cases that have appeared on the January 18th  
8   docket, Docket Number 2-98, and they're continued to  
9   today's date for special consideration or special hearing  
10   to accommodate all the parties' concerns.

11           And for the record, I'm Michael Stogner,  
12   appointed Hearing Examiner for today.

13           At this time I will call Cases 11,913, 11,914,  
14   11,915 and 11,916 at this time.

15           MR. RAND CARROLL: Application of Yates Petroleum  
16   Corporation for authorization to drill within the Potash  
17   Area as defined by Order Number R-111-P, Eddy County, New  
18   Mexico.

19           EXAMINER STOGNER: At this time I will call for  
20   appearances.

21           MR. ERNEST CARROLL: Mr. Stogner, I'm Ernest  
22   Carroll of the Artesia law firm of Losee, Carson, Haas and  
23   Carroll, and I'm here appearing on behalf of the Applicant,  
24   Yates Petroleum.

25           MR. HIGH: Good morning. My name is Charlie

1 High. I'm with the Jenkins and Gilchrist law firm in  
2 Dallas. Also appearing in the case, although not present  
3 today, is Stephen J. Blanco, of the Kemp Smith in El Paso.  
4 We're appearing on behalf of Mississippi Potash.

5 EXAMINER STOGNER: Other appearances?

6 MR. CARR: May it please the Examiner, my name is  
7 William F. Carr with the Santa Fe law firm Campbell, Carr,  
8 Berge and Sheridan. We represent Penwell Energy, Inc.  
9 We're entering our appearance in support of Yates Petroleum  
10 Corporation.

11 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
12 representing Pogo Producing Company. We're also in support  
13 of Yates' Applications.

14 MR. GILLESPIE: And, Mr. Stogner, Jim Gillespie  
15 with the law firm of Hinkle, Cox, Eaton, Coffield and  
16 Hensley in Roswell, also on behalf of Pogo.

17 EXAMINER STOGNER: Other appearances?

18 Okay. At this time is there any need for any  
19 opening remarks at this point?

20 MR. ERNEST CARROLL: Mr. Stogner, one  
21 housekeeping matter. I would officially like to move the  
22 consolidation of the four cases to be heard as one case for  
23 the presentation of any evidence if necessary, or any  
24 argument or any orders. They are all related, and all the  
25 issues and witnesses would be identical.

1 MR. HIGH: We have no objection to consolidation,  
2 Mr. Stogner.

3 We would also inform you at this time that we are  
4 withdrawing our objection to these four wells, and we would  
5 simply ask the State to require that they be drilled as  
6 close as possible to the west section line of Section 34.  
7 They are currently within the buffer zone of an LMR on file  
8 with the State Land Office, but we nevertheless are  
9 withdrawing our objection and would ask the State to move  
10 them as far as it can to that west section line of Section  
11 34.

12 MR. RAND CARROLL: Well, Mr. High, it sounds like  
13 you're objecting to the proposed locations.

14 MR. HIGH: We're asking the State to determine  
15 the bottomhole location. If this bottomhole location is  
16 acceptable to the State, it's up to the State. That's all  
17 we're doing.

18 MR. ERNEST CARROLL: Mr. Carroll, I was only  
19 advised of this development a few moments ago. I have had  
20 a quick chance to visit with my client, the representatives  
21 and what have you, but I'm a little unsure myself. I would  
22 suggest that we might take a recess and let the lawyers --  
23 let us kind of discuss how we want to proceed and then go  
24 from there, because I'm not sure how -- what your position  
25 and Mr. Stogner's position is going to be relative to this.

1 I personally feel that there is probably no need to waste  
2 Mr. Stogner's time and your time with the presentation of  
3 evidence. But there is these issues.

4 And I would also put on the record that Yates  
5 stands by the locations as they are presently listed in  
6 their four Applications. I would point out to you that we  
7 are at the low -- the closest legal distance.

8 They are all -- well, all four of these -- And  
9 there's one problem I would point to you. The Number 1  
10 well, the Number 2 well and the Number 4 well are along the  
11 west line. They are all 330 feet off of that west line,  
12 which is the closest legal distance that you can get to  
13 that line without asking for an unorthodox.

14 We will not ask for an unorthodox location, for  
15 any closer. We would oppose any such, because the Pogo  
16 wells are 330 off that same line, and we believe that it  
17 would cause waste, it would be a situation for  
18 interference.

19 The Number 3 well is due west of the Number 1 --  
20 excuse me, due east of the Number 1 well. It is 330 feet  
21 off of the south line. I'm not sure what that means, what  
22 Mr. High's position is with -- to that one well.

23 But again, we would oppose -- and I would also  
24 point out for the record that, as advertised, we couldn't  
25 even consider the unorthodox position, and I would sure --

1 I would believe that Pogo, for certain, would have an  
2 objection to moving these wells any closer than the legal  
3 distance now allowed by the rules of the Commission.

4 MR. RAND CARROLL: Well, Mr. High, you're --  
5 these wells are as close as possible under OCD rules. Are  
6 you asking for an exception to the rules for an unorthodox  
7 location?

8 MR. HIGH: No, we're not. We are withdrawing our  
9 objection to these APDs. We're not agreeing the wells can  
10 be safely drilled. All we're saying is, we're going to  
11 leave that up to the State. If under State rules these  
12 locations are acceptable, we'll live with that.

13 We are withdrawing our objection, but we're not  
14 -- We're not agreeing to where they ought to be. We will  
15 agree that the four wells can be drilled along the west  
16 side of Section 34. Where they should be placed, we're  
17 going to leave to the State.

18 So we are withdrawing our objection, and if the  
19 State wants to approve these APDs at the location proposed,  
20 that's up to the State. That's all we're saying.

21 (Off the record)

22 EXAMINER STOGNER: We're going to take a ten-  
23 minute -- I'm sorry, before we get started, Mr. --

24 MR. BRUCE: Mr. Examiner, Jim Bruce on behalf of  
25 Pogo again. I would concur with Mr. Carroll, these cases



1 were advertised for specific legal locations, and we think  
2 that's what these cases should consider.

3 If there is any attempt to move them to the --  
4 the wells, to the south, further to the south or further to  
5 the west, they wouldn't be unorthodox, and of course Pogo  
6 as the offset operator would have to reconsider its  
7 position in this case.

8 We don't think there's any need geologically or  
9 for land reasons to move the well locations, and we would  
10 support the Yates Applications as they stand right now.

11 EXAMINER STOGNER: Thank you, Mr. Bruce.

12 MR. RAND CARROLL: Mr. High, we're a little  
13 confused. Since these are legal locations and you don't  
14 object to these wells being drilled -- If somebody's  
15 drilling a legal location, we really don't decide  
16 otherwise. If it's an unorthodox location, we'd take a  
17 look at it.

18 MR. HIGH: Yeah, and I have no problem with that.  
19 If you want to approve these wells at these proposed  
20 locations, that's fine with us. We don't have the  
21 information necessary to determine where they ought to be,  
22 so we can't say they ought to be here, they ought to be  
23 there.

24 From a mining standpoint, we're saying we have no  
25 objection to four wells along the west side of Section 34,

1 and we're leaving it up to the State to decide where that  
2 bottomhole location ought to be.

3 EXAMINER STOGNER: We'll take a five-minute  
4 recess at this time.

5 (Thereupon, a recess was taken at 8:35 a.m.)

6 (The following proceedings had at 8:46 a.m.)

7 EXAMINER STOGNER: This hearing will come to  
8 order again.

9 I've been in conference with my legal counsel.  
10 I'll turn it over to him at this point.

11 MR. RAND CARROLL: Well, it appears to the  
12 Division Yates has filed its Application for four wells in  
13 the Potash Area. Mississippi Potash objected in all four  
14 cases but withdrew their objection and asked the Division  
15 to select the proper location.

16 Since these are orthodox locations, the Division  
17 will approve these locations, and we're dismissing the case  
18 unless we hear objections or argument to overturn that  
19 determination.

20 MR. ERNEST CARROLL: You won't hear an objection  
21 from Yates.

22 EXAMINER STOGNER: Does anybody else have  
23 anything further, then?

24 MR. RAND CARROLL: Mr. High, do you have anything  
25 to say?

1 MR. HIGH: I have no objection. I've stated as  
2 clearly as I can, Mr. Carroll, our position. If the State  
3 thinks those are the locations where the wells ought to be,  
4 then that's up to the State. We don't want to be a party  
5 to the selection of locations of oil and gas wells.

6 MR. RAND CARROLL: Neither do we. If they're  
7 orthodox locations, we'd only be second-guessing the  
8 operator.

9 MR. HIGH: Well, then, that's up to the State.  
10 We withdraw our objection to these APDs.

11 MR. RAND CARROLL: Okay.

12 EXAMINER STOGNER: Then in that case, Cases  
13 11,913 through -16 are hereby dismissed.

14 Hearing adjourned.

15 (Thereupon, these proceedings were concluded at  
16 8:48 a.m.)

17 \* \* \*

18  
19 I do hereby certify that the foregoing is  
20 a complete record of the proceedings in  
21 the Examiner hearing of Cases 11913, 11914, 11915, 11916  
22 heard by me on Jan 30 1998.  
23 Michael E. Stogner, Examiner  
24 Oil Conservation Division  
25

## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                  )   ss.  
COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL January 30th, 1998.



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STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 1998