

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION
4 STATE LAND OFFICE BUILDING
5 SANTA FE, NEW MEXICO

6
7
8 15 February 1989

9 EXAMINER HEARING

10 IN THE MATTER OF:

11 Application of Yates Petroleum Company CASE
12 for compulsory pooling, Eddy County, 9605

13
14 BEFORE: Michael E. Stogner, Examiner

15
16 TRANSCRIPT OF HEARING

17
18 A P P E A R A N C E S

19 For the Division:

20 For Yates Petroleum Company: Chad Dickerson
21 Attorney at Law
22 DICKERSON, FISK & VANDIVER
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24 Artesia, New Mexico 88210
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1 MR. STOGNER: Let's call next
2 Case Number 9605, which is the application of Yates Petro-
3 leum Company for compulsory pooling in Eddy County, New
4 Mexico.

5 We'll call for appearances.

6 MR. DICKERSON: Mr. Examiner,
7 I'm Chad Dickerson of Artesia, New Mexico on behalf of the
8 applicant and I have two witnesses.

9 MR. STOGNER: Are there any
10 other appearances in this matter?

11 MR. DICKERSON: One of my
12 witnesses is Mr. Beck, who was sworn in the previous
13 hearing.

14 MR. STOGNER: Okay, let the
15 record show that Mr. Beck was previously sworn in in Case
16 Number 9604. Will the other witness please
17 stand at this time?

18
19 (Witness sworn.)

20
21 MR. STOGNER: Mr. Dickerson?

22
23 KEN BEARDEMPHL,
24 being called as a witness and being duly sworn upon his
25 oath, testified as follows, to-wit:

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DIRECT EXAMINATION

BY MR. DICKERSON:

Q Mr. Beardemphl, will you state your name, your occupation, and by whom you're employed, please?

A Ken Beardemphl, employed by Yates Petroleum Corporation in Artesia, New Mexico. I'm a landman.

Q Mr. Beardemphl, you have testified as a landman in the recent past before this Division, have you not?

A Yes, sir.

Q And are you familiar with the land situation and the contracts entered into among the parties in the proposed -- drilling of the proposed well which is the subject of this application?

A Yes, sir, I am.

MR. DICKERSON: Tender Mr. Beardemphl as a petroleum landman, Mr. Stogner.

MR. STOGNER: Mr. Beardemphl is so qualified.

Q Mr. Beardemphl, will you summarize the purpose of Yates' application in Case 9605?

A Yates Petroleum Corporation is asking for compulsory pooling. They seek an order pooling all mineral interest from the surface to the base of the Morrow

1 formation underlying the following described acreage in
2 Section 2, Township 20 South, Range 24 East, and in the
3 following described manner: The northwest quarter of the
4 southeast quarter to form a standard 40-acre oil spacing
5 and proration unit for any and all formations and/or pools
6 developed on 40-acre spacing; the southeast quarter to
7 form a standard 160-acre proration unit for any and all
8 formations and/or pools developed on 160-acre spacing,
9 which includes but is not necessarily limited to the Unde-
10 signated Dagger Draw Wolfcamp Gas Pool and the Undesignated
11 North Dagger Draw Upper Pennsylvanian Pool and the south
12 half to form a standard 320-acre gas spacing and proration
13 unit for any and all formations and/or pools developed on
14 120-acre spacing -- 320-acre spacing, excuse me.

15 Q Mr. Beardemphl, refer to the land map
16 which we have submitted as Exhibit Number One and tell us
17 what it shows.

18 A It is a latest land map plat showing the
19 south half of Section 2 and we are proposing the well as
20 the red dot in the -- 1980 from the south, 1980 from the
21 east.

22 Q Which is a standard location for the
23 south half proration unit?

24 A Yes, sir, a standard location.

25 Q Okay, identify for us the joint

1 operating agreement, Exhibit -- submitted as Exhibit Number
2 Two.

3 A Exhibit Number Two is a standard AAPL
4 Form 610, 1977, Model Form Operating Agreement for the
5 Cacti "AGB" State Com No. 1, dated December 1, 1988.

6 Q And is this the contractual arrangement
7 under which all working interest owners who will voluntar-
8 ily participate in the drilling of this well will operate?

9 A Yes, sir, this is it.

10 Q Mr. Beardemphl, let me ask you to turn
11 to Exhibit A to that joint operating agreement. Roman
12 Numeral III part of that gives the names of the parties
13 who are the subject; those are all working interest owners
14 in the proposed south half spacing unit?

15 A Yes, sir, that's all of them.

16 Q And if we turn the page to Exhibit A-1,
17 we see an itemized breakdown of the answers of each of
18 those parties?

19 A Yes, sir.

20 Q Will you tell us which of the parties on
21 the lefthand of the -- column to Exhibit 1, A-1, have not
22 voluntarily committed their interest and who are sought to
23 be pooled in this hearing today?

24 A The parties are Tenneco Oil Company and
25 Douglas L. Cone.

1 Q And their collective interest in the
2 south half of this section is -- is shown in the column
3 labeled Unit Percentage?

4 A Yes, sir.

5 Q So in the case of Tenneco Oil Company we
6 have .78125 --

7 A Yes, sir.

8 Q -- percent? And in the case of Douglas
9 L. Cone, 1.25 percent of the acreage in the south half?

10 A Yes, sir.

11 Q All right, with those two exceptions,
12 all other parties who are shown on this list have either
13 voluntarily participated by paying their proportionate part
14 of the cost of drilling this well or have farmed out to the
15 parties who are paying their proportionate parts?

16 A That is correct.

17 Q Turn to Exhibit A-2 on the next page and
18 locate for us the specific interest in the acreage so that
19 we can see where the Douglas L. Cone interest and the
20 Tenneco Oil Company interest is physically located.

21 MR. STOGNER: Mr. Dickerson,
22 that's A-2. Is that A Roman Numeral II?

23 MR. DICKERSON: That's sup-
24 posed to be A Roman Numeral II. It looks like A-11, but we
25 know what we mean, Mr. Stogner.

1 MR. STOGNER: I just wanted to
2 know -- just wanted to make sure I know what you mean.

3 Q Specifically look at Tracts 8 and 10,
4 Mr. Beardemphl, and tell us if those are the tracts in
5 which the Douglas Cone interest and the Tenneco Oil Company
6 interest is represented.

7 A Yes, sir. Tract 8 has Douglas Cone and
8 Tract 10 is Tenneco Oil Company.

9 Q Okay, and both those are in the -- Tract
10 10 is the southeast quarter of the southeast quarter and
11 Tract 8 is the northeast quarter of the southeast quarter.

12 A Yes, sir.

13 Q So those parties which you're seeking to
14 compulsory pool today do not own an interest in the 40-acre
15 tract which would be dedicated to any well drilled on the
16 northwest/southeast which is developed on 40-acre spacing.

17 A That is correct.

18 MR. DICKERSON: Mr. Stogner,
19 since we have all that interest under control, we would
20 dismiss that portion of our application which sought com-
21 pulsory pooling of the 40-acre oil unit on the northwest
22 quarter of the southeast quarter.

23 MR. STOGNER: Thank you, Mr.
24 Dickerson.

25 Q Mr. Beardemphl, in Exhibit Number Two is

1 there a provision which the working interest owners who
2 have agreed to the drilling of this well have agreed among
3 themselves upon a penalty to be assessed against non-join-
4 ing interest owners in any subsequent wells which might be
5 drilled under the terms of this joint operating agreement?

6 A Yes, sir, on page 5 under Unit B, Subse-
7 quent Operations. You'll notice down at the bottom of 2-A,
8 100 percent. 2-B is 300 percent.

9 Q So basically this is in the form ordi-
10 narily referred to as 100 percent, 300 percent, nonconsent
11 penalty, which the parties have agreed to impose a penalty
12 upon any nonjoining parties in subsequent operations of 300
13 percent of actual --

14 A 300 percent.

15 Q -- well costs incurred?

16 A Yes, sir.

17 Q That would be equivalent, would it not,
18 although phrased differently, to our statutory maximum of
19 cost plus 200 percent?

20 A Yes, sir.

21 Q What are the requested overhead and sup-
22 ervision costs for drilling this well and where is that
23 located in your Exhibit Number Two?

24 A That is in the COPAS Exhibit C, page 4,
25 on overhead, Roman Numeral III, Overhead, is in No. 1-A,

1 Overhead Fixed Rate Basis, for drilling well rate is 5000;
2 producing well rate is 500.

3 Q And those are the rates which have been
4 agreed to by the participating working interest owners?

5 A Yes, sir.

6 Q Have those rates been the subject of
7 negotiation?

8 A Yes, sir, they've been decreased.

9 Q So that they have been decreased to
10 these amounts and these are the currently agreed upon rates
11 by the parties who are participating?

12 A Yes, sir.

13 Q Okay. Mr. Beardemphl, turn to the
14 packet which we have submitted as Exhibit Number Three, and
15 review that document for us.

16 A Exhibit Number Three is a list of the --
17 a list of all the correspondence taken on with all the
18 working interest owners; starting in the back, September
19 14th, 1987, when we proposed a lease from the Cone family.
20 And then the next one is May 26, 1988, another letter to
21 the Cone family.

22 Q That is Douglas Cone that you seek to
23 pool here?

24 A Yes, sir, all of these include Douglas
25 L. Cone.

1 And then another letter, November 21st,
2 1988, again asking or proposing this time to drill a well,
3 as they've all recommended in phone calls, that we proposed
4 a well.

5 Q And that letter invites them to partici-
6 pate in the drilling of the well if they --

7 A Yes, sir.

8 Q -- desire to do so?

9 A Participate or farm out, or lease, if
10 they like.

11 December 1st, 1988, it's proposing the
12 well and we have the well name on the top, and the descrip-
13 tion and the location of the well, and that is to all
14 working interest owners this time, the Cones and all other
15 working interest owners.

16 Q Including Tenneco Oil Company.

17 A Including Tenneco and Cone.

18 January 3rd, 1989, another letter re-
19 questing to spud the well in two weeks, and it's again to
20 all the people, including Douglas L. Cone and Tenneco.

21 Then January 24th, 1989 is another let-
22 ter to all of them, including the Cones and Tenneco, chang-
23 ing the operating agreement as requested.

24 Q I understand from your testimony that
25 with the exception of Douglas L. Cone and Tenneco Oil Com-

1 pany you have at this point secured the voluntary joinder
2 by one method or another of all these parties in this pro-
3 posed well.

4 A Yes, sir, they'd all agreed to it. We
5 hadn't got all the papers in until last week but we re-
6 ceived all the papers in from everyone except Mr. Cone and
7 Tenneco.

8 Q What communication have you had from
9 Tenneco and/or Douglas L. Cone? What do you know about the
10 status of their joinder and do you have any correspondence
11 from those parties? Have you had any?

12 A No. We've had several telephone --
13 trying to have telephone conversations with Mr. Cone, and
14 he's never been available.

15 Q So you basically have not had a response
16 to any of your correspondence by these parties?

17 A No, sir, and Tenneco is -- Santa Fe
18 Energy is working on them, also, trying to get them to
19 cooperate --

20 Q And Santa Fe is a nonoperating working
21 interest owner in this well?

22 A Yes, sir.

23 Q Are you continuing to attempt to contact
24 those two parties and obtain a voluntary agreement, if pos-
25 sible, in the drilling of this well?

1 A Yes, sir.

2 Q What's the current status of drilling of
3 this well, Mr. Beardemphl?

4 A Right now the well is approximately half
5 way down. It's around, I'm not exactly sure, it's either
6 4000 or 5000, somewhere in that area.

7 Q And so at this point you have somewhat
8 slightly more than 2 percent of the total interest in the
9 well uncommitted.

10 A Yes, sir, 2.03125 uncommitted (unclear).

11 Q Refer to the AFE submitted as Exhibit
12 Number Four and tell us who prepared that and what it is.

13 A The AFE was prepared by our Engineering
14 Department by Mike Slater, who signed it and approved it,
15 and as you can see, it's been revised a few times with peo-
16 ple either farming out or joining and we'd have to change
17 it.

18 Q You've changed it as far as their per-
19 centages based on the status of the agreements among the
20 parties?

21 A Yes, sir.

22 Q Okay, have all the parties now agreed to
23 the anticipated cost to be incurred in this well?

24 A Yes, sir.

25 Q And what are the anticipated dry hole

1 costs shown in this exhibit?

2 A The dry hole cost is \$334,200 and the
3 completion cost would be \$678,000.

4 Q And so the Douglas Cone and Tenneco
5 interests are shown by your AFE still to be with a working
6 interest recognized in your AFE for their proportionate
7 part of those total well costs.

8 A Yes, sir.

9 Q Is this AFE prepared based on Yates
10 drilling experience in the area in wells to this depth?

11 A Yes, sir.

12 Q And it has been accepted by approxi-
13 mately 98 percent of the working interest owners?

14 A Yes, sir.

15 MR. DICKERSON: Mr. Stogner, I
16 would identify Exhibit Number Five, or -- yes, Exhibit Num-
17 ber Five is an affidavit of mailing to, among other par-
18 ties, Douglas L. Cone and Tenneco Oil Company, more than 20
19 days prior to the date of today's hearing, with original
20 return receipts attached to your copy.

21 Q And you compiled Exhibits One through
22 Four, Mr. Beardemphl?

23 A Yes, sir. Yes, sir.

24 MR. STOGNER: Exhibits One
25 through Four will be admitted into evidence.

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CROSS EXAMINATION

BY MR. STOGNER:

Q Mr. Beardemphl, let's look at your \$5000 and \$500 overhead charges. Now you said this has been negotiable?

A It has been negotiated between working interest owners, yes, sir.

Q Now, anyone in particular or just everybody in general?

A Well, it was first approached by Santa Fe Operating and I believe the Cones also asked for a reduction, so we decreased it from what it originally was.

Q Now whenever you say "decreased it" did you decrease it for everybody or was this copy of the operating agreement for the 98 percent of the people that have already agreed? Did they go along with the \$5000 or --

A Yes, sir, it's --

Q -- did you --

A -- for the total working interest.

Q For everybody, I see.

A For everybody.

Q In your communications with Mr. Cone, it seems strange to me that all the Cones have signed except him. Is there -- have you talked to him over the phone?

1 Have you had personal contact with him?

2 A I've -- I started talking to him, let's
3 see, 1987, on this and several other ones and sometimes he
4 returns calls, sometimes he doesn't. I just -- whatever he
5 does. He's out --

6 Q But he is around.

7 A Well, he's out of pocket a lot. He's
8 got a secretary that says he'll call back when he shows up
9 and we just keep calling him.

10 Q And he's in Albuquerque, is that
11 correct?

12 A Well, let's see.

13 Q That's Douglas Cone, right?

14 A Yeah, he moves around a lot; Albuquer-
15 que, yes. He was in Lovington for awhile.

16 Q As a -- what kind of contact or what
17 kind of response have you got from Tenneco?

18 A We --

19 Q I know that they're going through a take
20 over --

21 A Yes.

22 Q -- and everything --

23 A Yes.

24 Q -- but what correspondence and answers
25 and phone conversations have you had?

1 Besides our letters we've really -- Santa Fe Ener-
2 gy had approached them, I believe, first before we did, and
3 Santa Fe's trying to negotiate their interest and we just
4 kind of let Santa Fe handle it. We've sent them copies of
5 all the letters with their name on it but Santa Fe already
6 had approached them before us trying to work a deal with
7 them.

8 Q Have you talked to, let's see, it looks
9 like your correspondence has gone to a Mr. Rex Bourland,
10 B-O-U-R-L-A-N-D?

11 A Uh-huh.

12 Q In San Antonio with Tenneco? Have you
13 had contact with him over the phone?

14 A No, I haven't. I think Kathy Colbert
15 had been talking to him on the last (unclear).

16 MR. DICKERSON: It's our
17 understanding, Mr. Stogner, that Tenneco proposes to sell
18 this acreage as part of the divestiture and Fina is suppos-
19 edly going to buy it. Nothing shows up in the records now
20 and it's our information that somebody is supposed to let
21 us know something.

22 MR. STOGNER: So then you have
23 not been -- had any contact as of yet on that change.

24 A No, they're -- they're in a big -- they
25 don't exactly know, I don't think, what they're doing right

1 now, so that's pending.

2 MR. STOGNER: Thank you, Mr.
3 Beardemphl.

4 A That's a good way, I guess.

5 MR. STOGNER: I have no
6 further questions of this witness.

7 Are there any other questions
8 of Mr. Beardemphl?

9 MR. DICKERSON: No, sir.

10 MR. STOGNER: He may be
11 excused.

12 Mr. Dickerson?

13 MR. DICKERSON: Call Mr. Ray
14 Beck.

15 MR. STOGNER: For the record,
16 Exhibit Number Five will be admitted into evidence at this
17 time.

18

19 RAY BECK,
20 being called as a witness being previously sworn and
21 remaining under oath, testified as follows, to-wit:

22

23 DIRECT EXAMINATION

24 BY MR. DICKERSON:

25 Q Mr. Beck, you are a petroleum geologist,

1 you were sworn and your credentials were established in the
2 immediately preceding case, was it not?

3 A Yes, sir.

4 Q Have you made a study of the geological
5 information available in the area of the subject well for
6 the purpose of recommending a risk penalty to be imposed
7 upon the nonjoining partners in drilling this well?

8 A Yes, sir.

9 Q And have you prepared an exhibit in the
10 form of a cross section, submitted as Number Six, upon
11 which to base your opinion?

12 A It's a montage, a cross section of two
13 wells and a small geological map.

14 Q All right, identify that for us and
15 review the information contained on that exhibit.

16 A What this exhibit wants to show is that
17 -- that there is risk in drilling Morrow wells in the nine
18 contiguous sections around the proposed location, and there
19 were eight wells drilled in the nine contiguous sections
20 and the primary objective in seven wells was the Morrow
21 formation. Now it turns out after it's all said and done
22 that only three Morrow wells were economic.

23 Q Which three were they?

24 A This Yates Oakason in Section 34 of 19,
25 24. The Yates Eng in Section 35 of 19, 24. And the Conoco

1 D in Section 36 of 19, 24.

2 Q So the fact that the remainder of the
3 wells which penetrated the Morrow there are not commercial
4 wells, does that have a relevance to the question of risk
5 involved in drilling a well to test the Morrow formation?

6 A Yes, it does, not only -- so in other
7 words, if four of the seven wells drilled for the Morrow
8 are uneconomic, that's risk.

9 Q All right, what else have you shown on
10 your Exhibit Number Six?

11 A The two -- two wells just to show how --
12 what can happen to you out here in this area, the Conoco D
13 is the best well in the nine contiguous sections. It has
14 34 foot of clean sand and it produced 3 -- over 3.7 BCF
15 through 1987.

16 Conoco Debbie was drilled to the Morrow
17 and it was -- it had virtually only -- only had 4-foot of
18 sand in it and was uneconomic in the Morrow.

19 They tried to make a well in the Canyon
20 formation and they were unsuccessful in that, too. It only
21 produced about 400 -- 5,496 barrels of oil and they plugged
22 it.

23 Q So the Conoco Debbie Well located in
24 Section 11 and the Conoco D Well in Section 36, what, less
25 than 2 miles away, or approximately 2 miles separating

1 those wells?

2 A Yes, sir, it's a little over 2 miles.

3 Q All right. What other factors enter
4 into the determination of an appropriate risk penalty, Mr.
5 Beck?

6 A Well, from a geological standpoint I
7 think I've pretty well shown that here is a geological risk
8 in drilling to the Morrow, even though we think and hope
9 ahead of time that we'll make a Morrow well here. It's by
10 no means assured until you actually drill it, as this evi-
11 dence shows.

12 Q Is there anything further you'd wish to
13 add about your log cross section that you've shown?

14 A I believe that covers the subject.

15 Q Mr. Beck, you understand that the maxi-
16 mum risk penalty that can be assessed under our compulsory
17 pooling statute is cost plus 200 percent --

18 A Yes, sir.

19 Q -- as a risk penalty?

20 A Yes, sir.

21 Q What is your opinion as to an appro-
22 priate charge to be made for the risk involved in drilling
23 this well in the event the operator has to carry the par-
24 ties who have not agreed to participate at this point?

25 A I agree with the risk that you just laid

1 out, cost plus 200 percent risk penalty.

2 Q And that would be your recommendation to
3 the Examiner?

4 A Yes, sir.

5 MR. DICKERSON: I have no fur-
6 ther questions of Mr. Beck, Mr. Stogner.

7 I would move admission of
8 Yates Exhibit Number Six.

9 MR. STOGNER: Exhibit Number
10 Six will be admitted into evidence at this time.

11

12 CROSS EXAMINATION

13 BY MR. STOGNER:

14 Q Mr. Beck, in referring to your Exhibit
15 Number Six, you show information concerning the -- some of
16 the Pennsylvanian and the Morrow, especially in this area.

17 However, your application is for all
18 formations and let's discuss the Wolfcamp. You are within
19 a mile of a designated Dagger Draw Wolfcamp Gas Pool, are
20 you not?

21 A There is a Wolfcamp well -- let's see --

22 Q The northwest of 1, does that sound
23 right?

24 A I believe, sir, as far as I can see, the
25 nearest Wolfcamp well would be in Section 31 of 19, 25, and

1 that was a -- no, I take that back. In Section 36, excuse
2 me, of 19, 24, in the northeast of the northwest there was
3 a well ironically drilled by the Cone Estate, or the Cone
4 Estate Gorman State No. 1, and that well was drilled, I
5 believe, and made a well from the -- from the Wolfcamp
6 there, and I think that's the nearest one, and all these
7 other wells have penetrated the Wolfcamp and we haven't
8 found anything economic in (unclear).

9 Q Okay.

10 MR. STOGNER: I have no other
11 questions of Mr. Beck.

12 Are ther any other questions
13 of this witness?

14 MR. DICKERSON: No, sir.

15 Mr. Stogner, excuse me.

16 MR. STOGNER: Yes.

17 MR. DICKERSON: As I stated,
18 the well is currently drilling and to the extent it's
19 possible, we'd request expedited treatment.

20 MR. STOGNER: And I believe
21 your other witness testified that the well's about halfway
22 down, is that correct?

23 MR. DICKERSON: Approximately
24 4000 feet, is my understanding, Mr. Stogner.

25 MR. STOGNER: And the name of

1 that well?

2 MR. BECK: The name of the
3 well is the Cacti, C-A-C-T I.

4 MR. STOGNER: Well No. -- I
5 say it here somewhere.

6 MR. BECK: The Cacti "AGB" No.
7 1.

8 MR. STOGNER: Do you have the
9 footage location of that well, Mr. Beck?

10 MR. BECK: I think it's 1980
11 from the south and 2230 from the east.

12 MR. BEARDEMPHL: No, this is a
13 legal location.

14 MR. DICKERSON: 1980 from the
15 south and east, shown by Exhibit Number Four, Mr. Stogner.

16 MR. STOGNER: Exhibit Number
17 Four. 1980 from the south and east, is that correct? Is
18 that what I'm hearing?

19 MR. DICKERSON: Yes.

20 MR. STOGNER: Okay, I have no
21 further questions of Mr. Beck. He may be excused.

22 Mr. Dickerson, do you have
23 anything further in Case Number 9605?

24 MR. DICKERSON: No, sir.

25 MR. STOGNER: Does anybody

1 else have anything further in Case Number 9605?

2 This case will be taken under
3 advisement.

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5 (Hearing concluded.)
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C E R T I F I C A T E

I, SALLY W. BOYD, C. S. R. DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division (Commission) was reported by me; that the said transcript is a full, true and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 9605, heard by me on 15 February 1989.
Michael E. Stephens, Examiner
Oil Conservation Division