

RECEIVED

OCT 12 1980

OIL CONSERVATION DIVISION
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION
OF HARVEY E. YATES COMPANY FOR COM-
PULSORY POOLING AND DIRECTIONAL DRILL-
ING, EDDY COUNTY, NEW MEXICO

Case No. 9787

MOTION TO DISMISS
THE APPLICATION OF HARVEY E. YATES COMPANY
FOR COMPULSORY POOLING AND DIRECTIONAL DRILLING

COMES NOW TXO Production Corp. (hereinafter "TXO"), by and through its attorneys, KELLAHIN, KELLAHIN & AUBREY, and moves for dismissal of Harvey E. Yates Company's (hereinafter "HEYCO") application for compulsory pooling and directional drilling in Eddy County, New Mexico because HEYCO failed to attempt to obtain the voluntary consent of TXO to participate in HEYCO's TXO "14" Fed. Com. #1 Well, prior to the filing of the above-captioned application. Section 70-2-17, N.M.S.A., 1978 authorizes compulsory pooling only when the "owners have not agreed to pool their interests." In this case, TXO, as an interest owner, has not been given the opportunity to agree or disagree. Therefore, HEYCO's Application should be dismissed.

In support of its motion, TXO states:

1. TXO is the working interest owner of the NW/4 of Section 14, T20S, R29E, Eddy County, New Mexico.
2. Upon information and belief, HEYCO, Yates Petroleum Company and Cibola Energy are working interest owners in the SW/4 of said Section 14.

3. In August 1989, TXO filed an application with the Division to directionally drill its Burton Flat Fed. No. 1 Well to a bottomhole location in the NW/4 of Section 14. This matter was set for hearing by the Division as Case No. 9762 on the September 20, 1989 docket. As a result of Heyco's objection, the case has been continued.

4. On September 26, 1989, HEYCO filed the above-captioned compulsory pooling application with the Division, proposing to drill the HEYCO TXO "14" Fed. Com. #1 Well (Exhibit A).

5. On September 28, 1989, TXO received its first proposal from HEYCO regarding the HEYCO TXO "14" Fed. Com. #1 Well.

6. HEYCO's proposal on the TXO "14" Well was in the form of a letter, dated September 27, 1989, the day after the application for compulsory pooling was filed with the Division (Exhibit B).

HEYCO has failed to give TXO the opportunity to agree or disagree to pool its interests. Contrary to the express intent of Section 70-2-17, N.M.S.A., 1978 and in violation of the custom and practice of the Division, HEYCO seeks compulsory pooling as its initial effort to obtain a spacing unit for its well, rather than as a last resort. HEYCO should be required by the Division to abide by the statutes governing compulsory pooling and its application should be dismissed.

Respectfully submitted,

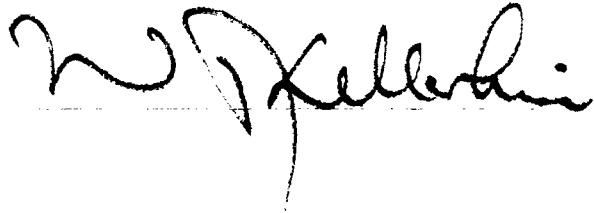
KELLAHIN, KELLAHIN & AUBREY



W. Thomas Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285
Attorneys for TXO

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Dismiss the Application of Harvey E. Yates Company was hand-delivered to William F. Carr, 110 North Guadalupe, Santa Fe, New Mexico 87504 on this 12 day of October, 1989.

A handwritten signature in black ink, appearing to read "W. F. Carr", written over a horizontal line.

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BEFORE THE
OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL

OIL CONSERVATION DIVISION
RESOURCES

IN THE MATTER OF THE APPLICATION
OF HARVEY E. YATES COMPANY, FOR
COMPULSORY POOLING, AND DIRECTIONAL
DRILLING, EDDY COUNTY, NEW MEXICO.

CASE NO. _____

APPLICATION

HARVEY E. YATES COMPANY, by and through its undersigned attorneys, hereby makes application to the Oil Conservation Division pursuant to Section 70-2-17, N.M.S.A. (1978) for an order pooling all of the mineral interests from the surface to the base of the Strawn formation in and under the W/2 of Section 14, Township 20 South, Range 29 East, N.M.P.M., Eddy County, New Mexico, and in support thereof would show the Division:

1. Applicant owns or represents approximately 50% of the working interest in and under the W/2 of Section 14.

2. Pursuant to Division Rule 11, Applicant proposes to directionally drill a well from a surface location of approximately 1980 feet from the West line and 760 feet from the South line of Section 11, Township 20 South, Range 29 East, N.M.P.M., Eddy County, New Mexico, to a standard bottom hole location within 100 feet of a point 2180 feet from the North line and 1880 feet from the West line of Section 14, Township 20 South, Range 29 East, N.M.P.M., Eddy County, New Mexico with the intent of testing the Strawn formation, Burton Flat East Strawn Pool, at an approximate

depth of 11,000 feet true vertical depth.

3. Applicant proposes to dedicate to the well a standard proration unit comprised of the W/2 of said Section 14.

4. Applicant has sought and obtained either voluntary agreement for pooling or farmout from all other interest owners in the W/2 of said Section 14 except for TXO Production Corp. the owner of a 50% working interest.

5. Said pooling of interests will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.

6. The directional drilling of this well will enable the applicant to produce the reserves which underlie the above-referenced proration unit in the most economical and efficient manner.

7. In order to permit the Applicant to obtain its just and fair share of the oil and gas underlying the subject lands, the mineral interests should be pooled, and Applicant should be designated the operator of the well to be drilled.

WHEREFORE, Applicant requests that this application be set for hearing before a duly appointed Examiner of the Oil Conservation Division on October 18, 1989, and that after notice and hearing as required by law, the Division approve the directional drilling of the subject well, enter its Order pooling the W/2 of Section 14, including provisions for Applicant to recover its costs of drilling, equipping and completing the well, its costs of supervision while drilling and after completion, including overhead

charges, and imposing a risk factor for the risk assumed by the Applicant in drilling, completing and equipping the well, and making such other and further provisions as may be proper.

Respectfully submitted,

CAMPBELL & BLACK, P.A.

By: 

WILLIAM F. CARR

Post Office Box 2208

Santa Fe, New Mexico 87504

Telephone: (505) 988-4421

ATTORNEYS FOR HARVEY E. YATES
COMPANY

HEYCO**PETROLEUM PRODUCERS****HARVEY E. YATES COMPANY**

P.O. BOX 1933

ONE SUNWEST CENTRE

505 / 623-6601

FAX 505 / 622-4221

ROSWEEL, NEW MEXICO 88202-1933

September 27, 1989

TXO Production Corporation
900 Wilco Building
Midland, Texas 79701

Attention: Richard Coats

Re: HEYCO's TXO "14" Fed. Com #1
T-20S, R-29E, N.M.P.M.
Section 14: W/2
Eddy County, New Mexico

Gentlemen:

Harvey E. Yates Company (HEYCO) proposes to drill a directional well in the East Burton Flat Strawn gas pool to test the Strawn formation. The surface location for the well would be at a legal location approximately 1880' FWL and 760' FSL of Section 11, T-20S, R-29E, Eddy County, New Mexico. HEYCO would drill to a measured depth of approximately 11,450', or to a depth to adequately test the Strawn formation, whichever is the shallower. The anticipated Strawn target location will be at approximately 1880' FWL and 2080' FNL of Section 14, T-20S, R-29E.

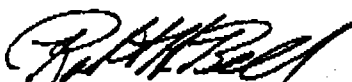
HEYCO intends to communitize the W/2 of Section 14, in compliance with the East Burton Flat Strawn gas pool rules, which require 320-acre spacing.

HEYCO invites TXO to participate in the drilling of the well with its 50% working interest, or, alternatively, farming out your interest to HEYCO. Estimated AFE costs are \$538,468 for a dry hole and \$833,836 for a producing well.

Enclosed is a joint operating agreement along with an extra set of signature pages, a Memorandum of Operating Agreement and two copies of the AFE for your review and signature.

Thank you for your consideration of this offer. Please call if you have any questions or comments.

Very truly yours,


Robert H. Bell
Landman

RHB/dlm
Enclosures

txofdjoa/MAR

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In support of its motion, TXO states:

1. TXO is the working interest owner of the NW/4 of Section 14, T20S, R29E, Eddy County, New Mexico.
2. Upon information and belief, HEYCO, Yates Petroleum Company and Cibola Energy are working interest owners in the SW/4 of said Section 14.

3. In August 1989, TXO filed an application with the Division to directionally drill its Burton Flat Fed. No. 1 Well to a bottomhole location in the NW/4 of Section 14. This matter was set for hearing by the Division as Case No. 9762 on the September 20, 1989 docket. As a result of Heyco's objection, the case has been continued.

4. On September 26, 1989, HEYCO filed the above-captioned compulsory pooling application with the Division, proposing to drill the HEYCO TXO "14" Fed. Com. #1 Well (Exhibit A).

5. On September 28, 1989, TXO received its first proposal from HEYCO regarding the HEYCO TXO "14" Fed. Com. #1 Well.

6. HEYCO's proposal on the TXO "14" Well was in the form of a letter, dated September 27, 1989, the day after the application for compulsory pooling was filed with the Division (Exhibit B).

HEYCO has failed to give TXO the opportunity to agree or disagree to pool its interests. Contrary to the express intent of Section 70-2-17, N.M.S.A., 1978 and in violation of the custom and practice of the Division, HEYCO seeks compulsory pooling as its initial effort to obtain a spacing unit for its well, rather than as a last resort. HEYCO should be required by the Division to abide by the statutes governing compulsory pooling and its application should be dismissed.

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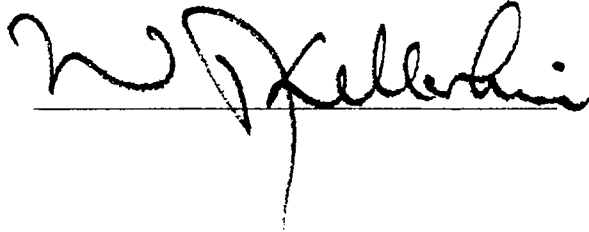
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1. Applicant owns or represents approximately 50% of the working interest in and under the W/2 of Section 14.

2. Pursuant to Division Rule 11, Applicant proposes to directionally drill a well from a surface location of approximately 1980 feet from the West line and 760 feet from the South line of Section 11, Township 20 South, Range 29 East, N.M.P.M., Eddy County, New Mexico, to a standard bottom hole location within 100 feet of a point 2180 feet from the North line and 1880 feet from the West line of Section 14, Township 20 South, Range 29 East, N.M.P.M., Eddy County, New Mexico with the intent of testing the Strawn formation, Burton Flat East Strawn Pool, at an approximate

depth of 11,000 feet true vertical depth.

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By: 

WILLIAM F. CARR

Post Office Box 2208

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Telephone: (505) 988-4421

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COMPANY

HEYCO

PETROLEUM PRODUCERS



HARVEY E. YATES COMPANY

P.O. BOX 1933

ONE SUNWEST CENTRE

505/623-6601

FAX 505/622-4221

ROSWEIL, NEW MEXICO 88202-1933

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TXO Production Corporation
900 Wilco Building
Midland, Texas 79701

Attention: Richard Coats

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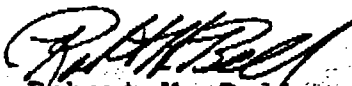
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KELLAHIN, KELLAHIN & AUBREY

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W. Thomas Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285
Attorneys for TXO

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By: 

WILLIAM F. CARR

Post Office Box 2208

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HEYCO

PETROLEUM PRODUCERS



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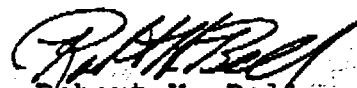
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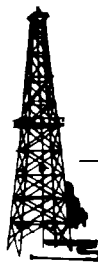
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Enclosures

txofdjoa/MAR

EXHIBIT "B"

HEYCO

PETROLEUM PRODUCERS



HARVEY E. YATES COMPANY

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505/623-6601

FAX 505/622-4221

ROSWELL, NEW MEXICO 88202-1933

'89 OCT 19 AM 8 57

October 17, 1989

New Mexico Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87501

Attention: Florine Davidson

Re: Cancellation of Force Pool
Hearing
Case No. 9787

Gentlemen:

To follow up on my telephone call to your office on Monday, October 16, 1989, Harvey E. Yates Company hereby cancels our force pool hearing (Case No. 9787) scheduled for Wednesday, October 18, 1989.

Very truly yours,

Diana L. Marshall
Land Department

/dlm

txocdhrq/LL