

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 NO. 10490
ORDER NO. R-9990*

**APPLICATION OF NORANDA MINERALS, INC. REQUESTING THE DIVISION TO
RESCIND OR DENY AN APPLICATION TO DRILL A CERTAIN WELL IN THE
OIL/POTASH AREA, LEA COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on September 3 and 4, 1992 and at 8:00 a.m. on October 26, 1992 at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 18th day of October, 1993, 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 and in accordance with New Mexico Oil Conservation Division/Commission Order No. R-111-P, the Division has jurisdiction of this cause and the subject matter thereof.

(2) On April 1, 1992, Yates Petroleum Corporation ("Yates") filed an "Application for Permit to Drill" its Snyder "AKY" Well No. 1 at a standard oil well location 2310 feet from the South line and 990 feet from the West line (Unit L) of Section 1, Township 20 South, Range 32 East, NMPM, to test the Delaware formation, Lea County, New Mexico.

(3) On or about April 15, 1992, Noranda Minerals, Inc. (Noranda) filed with the Division an objection to said Yates' "Application for Permit to Drill" the Snyder "AKY" Well No. 1.

(4) Noranda, the applicant in this matter, under those portions of the "New Mexico Oil and Gas Act", Sections 70-2-1 through 70-2-36, NMSA (1978) pertaining to "potash", seeks an order of the Division rescinding or denying the approval by the Division of the aforementioned "Application for Permit to Drill" which would authorize Yates to drill its Snyder "AKY" Well No. 1 at a standard oil well location 2310 feet from the South line and 990 feet from the West line (Unit L) of Section 1, Township 20 South, Range 32 East, NMPM, to test the Delaware formation, Lea County, New Mexico.

(5) Snyder Ranches, Inc. ("Snyder Ranches") is the current fee owner of both the oil and gas minerals and potash minerals underlying the SW/4 NE/4, the S/2 NW/4, the NW/4 SW/4 and the SE/4 of said Section 1 (the "Snyder Ranches fee acreage"). Previously, Snyder Ranches sold the surface but retained the mineral estate for the Snyder Ranches fee acreage. Snyder Ranches appeared at the hearing in opposition to Noranda and in support of Yates.

(6) Yates as the current lessee of a valid oil and gas lease from Snyder Ranches for the Snyder Ranches fee acreage in said Section 1 and proposed operator of the Snyder "AKY" Well No. 1, appeared at the hearing and presented evidence in opposition to Noranda.

(7) Noranda is the current lessee of a valid potash lease with the State of New Mexico for all of Section 2, Township 20 South, Range 32 East, NMPM and for all of Section 36, Township 19 South, Range 32 East, NMPM. Noranda is also the current lessee of a valid federal potash lease with the United States Bureau of Land Management for the balance of said Section 1, all of Section 11 and the N/2 and SW/4 of Section 12, Township 20 South, Range 32 East, NMPM, all of Section 35, Township 19 South, Range 32 East, NMPM, all of Section 31, Township 19 South, Range 33 East, NMPM, and all of Sections 6 and 7, Township 20 South, Range 33 East, NMPM, all in Lea County, New Mexico.

(8) The proposed Yates well is within the designated oil/potash area as described in the New Mexico Oil Conservation Division/Commission Order No. R-111-P ("Order R-111-P").

(9) Order R-111-P provides that for wells on State Lands or on Federal Lands, the Division shall inquire of the New Mexico State Land Office ("SLO") or the United States Bureau of Land Management ("BLM"), as the case may be, as to whether the lands involved are within an area designated a Life of Mine Reserve ("LMR").

(10) According to Order R-111-P, an LMR determination by either the SLO or the BLM is within the exclusive authority of those agencies and such a determination by them is binding upon the Division.

(11) However, Order R-111-P makes no provision for an LMR determination when the proposed well is located on fee lands, nor does Order R-111-P authorize a potash lessee to designate an LMR over lands not leased to that potash lessee.

(12) While this particular matter is yet unresolved, it is a moot issue in this particular instance in that the proposed well location is within the half-mile buffer zone of a declared and recognized LMR filed by Noranda and designated by both the BLM and SLO.

(13) Sub-part G(e)3 of the Rules and Regulations Governing said oil/potash area, Order R-111-P, provides that;

application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of lessor and lessees of both potash and oil and gas interests".

(14) Snyder Ranches, as the owner of the unleased potash underlying its acreage, has consented to Yates drilling the Snyder "AKY" Well No. 1 and desires to have its oil and gas minerals developed first and in preference to any potash reserves underlying its fee property.

(15) Yates has followed the provisions of Order R-111-P, sub-part G(e)2, which requires it to provide notice of its intent to drill to all potash lessees within one mile of the proposed well location.

(16) The subject Noranda Minerals, Inc. application should therefore be denied and the Yates Petroleum Corporation's "Application for Permit to Drill" the Snyder "AKY" Well No. 1 at a standard oil well location 2310 feet from the South line and 990 feet from the West line (Unit L) of Section 1, Township 20 South, Range 32 East, NMPM, to test the Delaware formation, Lea County, New Mexico, remain in full force and effect.

(17) At the time of the hearing Yates presented two casing and cementing plans for the subject well as shown in Exhibits 12 and 12A. The proposal submitted in Exhibit 12A calls for four strings of casing all to be cemented back to surface:

20 inch to 1150 feet;
13-3/8 inch to 3100 feet;
8-5/8 inch to 4500 feet; and,
5-1/2 inch to 8000 feet.

This proposed casing and cementing program meet the criteria for wells drilled and completed to the Delaware formation in the oil/potash area, as provided in sub-part D of Order R-111-P.

(18) Exhibit No. 12A in this case should be incorporated by reference into this order.

(19) Subsequent to the hearing both Yates and Noranda requested postponement of a decision in this matter because of a possible financial transaction between Noranda and Horizon Potash Corporation of Carlsbad, New Mexico ("Horizon") and the concurrent negotiations for a mutual agreement of understanding between Yates, Noranda, and Horizon. Such an agreement and transaction could have resulted in a dismissal of this application.

(20) In late April, 1993 the Division was notified that such discussions and possible transaction had terminated and that these proceedings were to resume. Also, at that time both Yates and Noranda submitted the required post hearing findings and memoranda requested by the Division at the conclusion of the hearings. Such information was not received from the third party in this case, Snyder Ranches, until May 26, 1993.

(21) By correspondence dated April 22, 1993, the applicant, Noranda requested this matter be reopened to consider surface ownership of the subject fee acreage as described in Finding Paragraph No. (5), above, and to allow the submission of an Exhibit designated "No. 38", which is a "Subsidence Waiver Agreement" between Kenneth Smith, Inc. and Noranda.

(22) As provided in sub-part H of Order R-111-P, a representative of Noranda or a representative of any potash lessee within one mile of the Snyder "AKY" Well No. 1 may be present during drilling, cementing, casing, and plugging of said well to observe conformation with all requirements of Order R-111-P and of this order.

(23) Many of the same technical issues such as waste, safety, and the methodology of determining LMR's brought out in this case paralleled those of said Commission Cases 10446 and 10447. The fundamental difference still remains however that all parties owning potash and oil and gas interest underlying a particular lease reached an agreement on the extraction of their minerals. Further, the Division's potash/oil and gas rules provided the opportunity for those lessors owning potash leases within a mile of the proposed well to present evidence and air its concerns and gives them the opportunity to witness the critical operations over the life of the subject well.

IT IS THEREFORE ORDERED THAT:

(1) The application of Noranda Minerals Inc. ("Noranda") to rescind or deny approval of an "Application for Permit to Drill" authorizing Yates Petroleum Corporation ("Yates") to drill its Snyder "AKY" Well No. 1 at a standard oil well location 2310 feet from the South line and 990 feet from the West line (Unit L) of Section 1, Township 20 South, Range 32 East, NMPM, to test the Delaware formation, Lea County, New Mexico, is hereby denied.

IT IS FURTHER ORDERED THAT:

(2) The Yates Petroleum Corporation "Application for Permit to Drill" said well is hereby in full force and effect.

(3) The Division shall take administrative notice of Noranda's correspondence to the Division dated April 22, 1993 and Yates' response; however, such Motion to Reopen and Supplement the Record in this case is hereby denied.

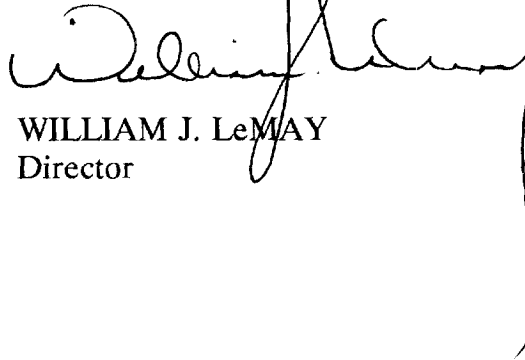
(4) All provisions of Commission Order R-111-P applicable to the casing, actual drilling, cementing and plugging of a deep well within the "Designated Potash Area" shall be strictly adhered to.

FURTHER

(5) Yates shall cause its Snyder "AKY" Well No. 1 to be cased and cemented in the manner described in Finding Paragraph No. (17), above. Additionally Yates' Exhibit No. 12A presented at the time of the hearing shall be incorporated by reference into this Order.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read 'William J. LeMay', is written over the printed name and title. The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

WILLIAM J. LeMAY
Director

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