

**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. 13270
ORDERS NO. R-12247**

**APPLICATION OF YATES PETROLEUM CORPORATION FOR AN ORDER
RESCINDING APPROVAL OF A CHANGE OF OPERATOR, EDDY COUNTY, NEW
MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came for hearing at 8:15 a.m. on July 8th, 2004 at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this ^{21st}~~th~~ day of December 2004, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Oil Conservation Division ("Division") has jurisdiction of this case and its subject matter.

(2) The applicant, Yates Petroleum Corporation ("Yates"), seeks rescission of the approval of a change of operator for C.W. Trainer for the Vandiver Com Well No. 1 (API No. 30-015-20783) located 990 feet from the South line and 660 feet from the West line (Unit M) of Section 18, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico.

(3) In 1973, after unitizing the working interests under the S/2 of Section 18 and obtaining approval for an unorthodox location, C&K Petroleum, Inc. drilled the Vandiver Com Well No. 1. At that time Division well file records supplied by C&K Petroleum, Inc. show that within the 317-acre, S/2 of Section 18, C&K Petroleum, Inc. was lessee of 245.56 acres and Yates Petroleum Corporation was lessee of 71.68 acres.

(4) The well was drilled to 8,935 feet, drill-stem-tested, and completed in the Morrow formation, West Atoka-Morrow Gas Pool (70760), through perforations from 8,716 feet to 8,802 feet. The first multipoint test indicated 2,333-psi shut-in tubing pressure and 15,405 Mcf per day Absolute Open Flow. A gas connection was made to Transwestern on April 26, 1973. Division records indicate that almost all of this well's 8.3-bcf cumulative gas production was made prior to 1980. The last month that any production was reported by the operator to the Division for this well was June 1999.

(5) Currently the following pools have been extended to within one mile of this wellbore: **Eagle Creek-Strawn Gas (76320)**, **Atoka-Pennsylvanian Prorated Gas (70800)**, **Rio Penasco-San Andres Gas (97123)**, **Atoka-San Andres (3610)**, and **Penasco Draw-San Andres Yeso Associated (50270)**.

(6) A review of Division "change of operator" forms **C-104** and **C-104A** indicates that:

(a) on May 22, 1984, the Division recorded a change of operator from C&K Petroleum, Inc. to ENSTAR Petroleum Company;

(b) on September 24, 1984, the Division recorded a change of operator from ENSTAR Petroleum Company to Union Texas Petroleum Corporation;

(c) on November 4, 1988, the Division recorded a change of operator from Union Texas Petroleum Corporation to Marathon Oil Company;

(d) on May 7, 1990, the Division recorded a change of operator from Marathon Oil Company to Yates Petroleum Corporation effective April 1, 1990; and

(e) on July 28, 2003, the Division recorded a change of operator from Yates Petroleum Corporation to C.W. Trainer, effective December 1, 2002.

(7) Division well records indicate the following violations were issued to the operator of this well by inspectors from the **Artesia** District office of the Division.

(a) Rule 201, "inactive well" violation issued to C.W. Trainer on January 12, 2004, corrective action due by April 13, 2004. Division Rule 201 requires an operator of a well to either Temporarily Abandon or Plug & Abandon the well if the well is continuously inactive for more than one year. This Vandiver Com Well No. 1 had been inactive since June of 1999.

(b) Rule 103, "current operator is not on the well sign", issued to C.W. Trainer on January 12, 2004, corrective action due by April 13, 2004.

(c) Rule 201, second "inactive well" violation issued to C.W. Trainer on May 4, 2004, corrective action due by June 4, 2004.

(d) Rule 103, second "current operator is not on the well sign", issued to C.W. Trainer on May 4, 2004, corrective action due by June 4, 2004.

(8) It appears that Yates has provided legal public notice of the application in this case in accordance with Division rules.

(9) C.W. Trainer, as protestor of this application, was represented at the hearing through legal counsel, but did not present witnesses.

(10) The Division was represented at the hearing through legal counsel and presented as a witness, the supervisor of the Artesia district of the Division. The Division did not take a stand on either side of this case, but did make its witness available for questioning to both sides.

(11) No other parties made appearance in this case.

(12) The applicant presented land testimony at the hearing as follows:

(a) All mineral ownership is fee in this S/2 of Section 18. Yates' original lease was for the S/2 SW/4 of Section 18, but Yates entities now own 100 percent of this S/2 of Section 18 spacing unit. Since the well has been shut-in, Yates has continuously paid shut-in royalties to the estate of the original lessor, and those checks have been cashed.

(b) Yates had not signed the C-104A form that C.W. Trainer presented to the Division for approval. Yates was not notified by anyone of the **change-of-operator** request.

(c) Yates became aware that something was amiss, after receiving notice of an application of C.W. Trainer for a non-standard spacing unit, covering the S/2 SW/4 of Section 18. The letter from C.W. Trainer did not reference an API number. Yates protested this application by letter to the Division dated December 12, 2002, and indicated that the well in C.W. Trainer's application may be another Vandiver well, since Yates was the operator of the Vandiver Com Well No. 1 located in the SW/4 SW/4 of Section 18.

(d) Yates has plans to resume production in this well and does not want to temporarily or permanently abandon it.

(13) C.W. Trainer submitted the request for a change-of-operator to the Artesia district office of the Division on December 18, 2002. This request included the C-104A form without a signature from Yates, a cover letter, and copies of lease assignments for the S/2 SW/4 of Section 18. The cover letter stated in part:

(a) The original leases for acreage covering the S/2 SW/4 of Section 18 have expired under their terms due to non-production and they are not being held by production from any other wells. Mr. Trainer has acquired new leases covering this acreage. Mr. Trainer feels the operator of record will refuse to sign the form, but has forfeited its rights by inactivity, subject to its responsibility to the State of New Mexico.

(b) It is Mr. Trainer's intention to obtain the operating rights by appointment from the Division and assume all responsibilities of operator of this well.

(14) Under questioning from all parties, the District supervisor of the Artesia district office of the Division stated that he received and reviewed these documents, verified that Yates was the designated operator, received one telephone call from a representative of C.W. Trainer, received a verbal OK from a Division attorney, and signed the C104A form, thereby designating C.W. Trainer as operator of this well.

(15) All parties agreed that two issues have arisen from this case, (i) the mineral ownership, and (ii) the Division designation of operator. All parties also agreed that the Division has no jurisdiction in determining ownership in oil and gas minerals.

(16) As of December 18, 2002, this well had not reported production for over three years, but remained configured with open Morrow perforations. Yates was, therefore, in violation on this well of Division Rule 201, even though Division inspectors had never issued a formal notice of violation.

(17) Yates is a Division recognized operator of wells in New Mexico. Currently, in 2004, 2,312 wells have reported production and are operated by Yates Petroleum Corporation. As required by New Mexico statutes, it has posted a \$50,000 blanket, plugging bond, in place since 1993.

(18) C.W. Trainer is a Division recognized operator of wells in New Mexico. Currently, in 2004, 11 wells have reported production and are operated by C.W. Trainer. As required by New Mexico statutes, it has posted a \$50,000 blanket, plugging bond.

(19) Yates is accessible by phone or mail and should have been contacted by both C.W. Trainer and the Division prior to taking this action. The Division should not have honored this request to change the designated operator of this well without obtaining a properly completed form C104A with signatures from both the latest designated operator and from the entity requesting to be the designated operator.

(20) The applicant's request in this case should be granted.

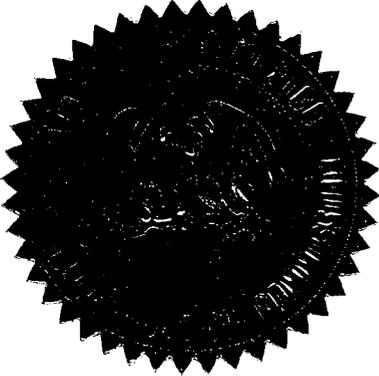
IT IS THEREFORE ORDERED THAT:

(1) The application of Yates Petroleum Corporation for rescission of change of operator for C.W. Trainer for the Vandiver Com Well No. (API No. 30-015-20783) located 990 feet from the South line and 660 feet from the West line (Unit M) of Section 18, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico, is hereby approved.

(2) Form C-104A, signed by the Division on July 28, 2003, naming C.W. Trainer (OGRD 003474) as operator of the Vandiver Com Well No. (API No. 30-015-20783), is no longer valid and Yates Petroleum Corporation remains as the Division designated operator of this well.

(3) Jurisdiction of this case is retained for the entry of such further orders, as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.,
Director