

**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. 13722
ORDER NO. R-12568**

**APPLICATION OF YATES PETROLEUM CORPORATION FOR
COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came for hearing at 8:15 a.m. at Santa Fe, New Mexico on June 8, 2006 before Examiner William V. Jones.

NOW, on this 13th day of June, 2006, 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 has jurisdiction of this case and of the subject matter.

(2) The applicant, Yates Petroleum Corporation (“applicant”), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the N/2 of Section 23, Township 21 South, Range 26 East, NMPM, Eddy County, New Mexico, in the following manner:

the N/2 forming a standard 321.84-acre, more or less, gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Burton Flat-Morrow Prorated Gas (73280), Crozier Bluff-Atoka Gas (75730), Undesignated Avalon-Upper Penn Gas (71000), Undesignated Avalon-Strawn Gas (71080), and the Undesignated NE Happy Valley-Strawn Gas (78075) Pools; and

the NW/4 forming a standard 160-acre spacing and proration unit for all formations or pools spaced on 160 acres within this vertical extent, which

presently include but are not necessarily limited to the Undesignated West Magruder-Bone Spring Gas (96370) Pool; and

the NW/4 NW/4 forming a standard 40-acre spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent.

(3) The above-described units ("the Units") are to be dedicated to the applicant's South Avalon "AUA" Com Well No. 1 (API No. 30-015-31001), drilled at a standard well location 660 feet from the North line and 660 feet from the West line, in the NW/4 NW/4 (Unit D) of Section 23.

(4) Division records show this well was drilled to a depth of 11,300 feet on August 6, 2000 and is operated by Yates Petroleum Corporation. The Division granted a downhole commingle permit for the Morrow, Atoka, and Strawn gas intervals (DHC-2825 on September 22, 2000), but the only record of completion to this date is in the Morrow formation, Burton Flat-Morrow Prorated Gas Pool (73280).

(5) Two or more separately owned tracts are embraced within the Units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Units that are separately owned.

(6) Applicant is an owner of an oil and gas working interest within the Units. Applicant had the right to drill and has drilled to a common source of supply within the NW/4 NW/4 of Section 23.

(7) No other parties entered an appearance in this case or otherwise opposed this application.

(8) This application was presented by affidavit from a landman.

(a) This acreage consists of a mixture of fee and federal minerals.

(b) All owners that were located have voluntarily agreed to pool their interests.

(c) Yates conducted a diligent search and failed to locate the following owners of 16 as yet unleased acres: Pearl C. Colony, Lizzie G. Colony, Albert Lang, Lizzie M. Stephenson, Alma Green and William Heckman.

(d) The primary and the deepest geologic target is the Morrow formation.

(9) There are interest owners in the proposed Units that have not agreed to pool their interests.

(10) To avoid the drilling of unnecessary wells, protect correlative rights,

prevent waste and afford to the owner of each interest in the Units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Units.

(11) Yates Petroleum Corporation should be designated the operator of the well and of the Units.

(12) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(13) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,400 per month while drilling and \$540 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Yates Petroleum Corporation ("applicant"), all uncommitted mineral interests, whatever they may be, in the oil and gas from the surface to the base of the Morrow formation underlying the N/2 of Section 23, Township 21 South, Range 26 East, NMPM, Eddy County, New Mexico, are hereby pooled, as follows:

the N/2 forming a standard 321.84-acre, more or less, gas spacing and proration unit for all formations or pools spaced on 320 acres within this vertical extent, which presently include but are not necessarily limited to the Burton Flat-Morrow Prorated Gas (73280), Crozier Bluff-Atoka Gas (75730), Undesignated Avalon-Upper Penn Gas (71000), Undesignated Avalon-Strawn Gas (71080), and the Undesignated NE Happy Valley-Strawn Gas (78075) Pools; and

the NW/4 forming a standard 160-acre spacing and proration unit for all formations or pools spaced on 160 acres within this vertical extent, which presently include but are not necessarily limited to the Undesignated West Magruder-Bone Spring Gas (96370) Pool; and

the NW/4 NW/4 forming a standard 40-acre spacing and proration unit for all formations or pools spaced on 40 acres within this vertical extent.

The above-described units ("the Units") shall be dedicated to the applicant's South Avalon "AUA" Com Well No. 1 (API No. 30-015-31001), located 660 feet from the North line and 660 feet from the West line, in the NW/4 NW/4 (Unit D) of Section 23.

(2) Yates Petroleum Corporation (OGRD 25575) is hereby designated the operator of the well and of the Units.

(3) Upon final plugging and abandonment of the South Avalon "AUA" Com Well No. 1, the pooled units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(4) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(5) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(6) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well or the date of this order whichever is later. If no objection to the actual well costs is received by the Division, and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(8) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and

(b) as a charge for the risk involved in drilling the well,
200% of the above costs.

(9) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(10) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,400 per month while drilling and \$540 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what is reasonable, attributable to pooled working interest owners.

(11) Except as provided in Ordering Paragraphs (7) and (9) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

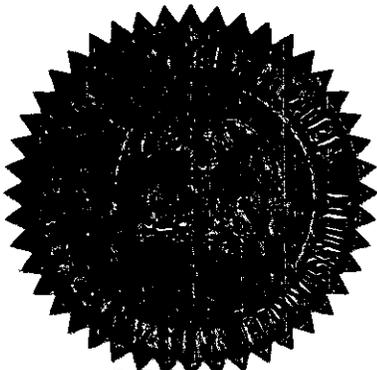
(12) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(13) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and Units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) 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.



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