

**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 NOS. 10871 and 10875
Order No. R-10046**

**APPLICATION OF SANTA FE ENERGY OPERATING
PARTNERS, L. P. FOR COMPULSORY POOLING AND
TO SHUT IN A PRODUCING WELL, AND FOR A
NON-STANDARD SPACING AND PRORATION UNIT,
EDDY COUNTY, NEW MEXICO.**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on December 2, 1993, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 10th day of January, 1994, 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, the Division has jurisdiction of this cause and the subject matter thereof.

(2) Division Case Nos. 10871 and 10875 were consolidated at the time of the hearing for the purpose of testimony, and, inasmuch as approval of one application would necessarily require the concomitant denial of the other, one order should be entered for both cases.

(3) The applicant in Case No. 10871, Santa Fe Energy Operating Partners, L. P. (Santa Fe), seeks an order pooling all mineral interests from the surface to the base of the South Dagger Draw-Upper Pennsylvanian Associated Pool underlying the W/2 of Section 10, Township 20 South, Range 24 East, NMPM, Eddy County, New Mexico, forming a standard 320-acre spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, including the South Dagger Draw-Upper Pennsylvanian Associated Pool. Said unit is to be dedicated to a well to be drilled at a standard location within the SW/4 of Section 10.

(4) Santa Fe further seeks approval of a 160-acre non-standard spacing and proration unit in the South Dagger Draw-Upper Pennsylvanian Associated Pool comprising the SE/4 of Section 10, said unit to be dedicated to the Yates Petroleum Corporation Ocotillo "ACI" Federal Com Well No. 2 located 660 feet from the South and East lines (Unit P) of Section 10.

(5) Santa Fe also requests that the existing Yates Petroleum Corporation Judith "AIJ" Federal Well No. 1 located 660 feet from the South and East lines (Unit P) of Section 9, Township 20 South, Range 24 East, NMPM, be shut-in until its proposed well in the SW/4 of Section 10 is drilled.

(6) The applicant in Case No. 10875, Yates Petroleum Corporation (Yates), seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the S/2 of Section 10, Township 20 South, Range 24 East, NMPM, Eddy County, New Mexico, forming a standard 320-acre spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, including the South Dagger Draw-Upper Pennsylvanian Associated Pool. Said unit is to be dedicated to the aforesaid Ocotillo "ACI" Federal Com Well No. 2 located 660 feet from the South and East lines (Unit P) of Section 10, which has already been drilled.

(7) At the commencement of proceedings in these cases, a MOTION TO DISMISS CASE NO. 10871 was filed by Yates Petroleum Corporation on the basis that Santa Fe had executed an AFE for the Ocotillo "ACI" Federal Com Well No. 2. In support of its motion, Yates presented the following information:

- a) Yates and Santa Fe are the only working interest owners within Section 10. Within the S/2 of Section 10, 41.7 percent of the interest is owned by Yates and 58.3 percent is owned by Santa Fe. Within the W/2 of Section 10, 50 percent of the interest is owned each by Yates and Santa Fe;
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- b) the NW/4 of Section 10 is currently dedicated to the Yates Ocotillo "ACI" Federal Well No. 1, located in Unit A, which is currently completed in the North Dagger Draw-Upper Pennsylvanian Pool;
- c) Yates and Santa Fe executed a Joint Operating Agreement for development of the E/2 of Section 10 for the drilling of the aforesaid Ocotillo "ACI" Federal Well No. 1;
- d) by letter dated September 10, 1993, Santa Fe proposed to Yates the drilling of a well at a standard location in the SW/4 of Section 10, and sent an AFE for the proposed well. Santa Fe did not propose a specific acreage dedication;
- e) Yates responded by letter dated September 20, 1993, proposing the well in the SE/4 with a S/2 dedication, enclosing therewith an AFE, a title opinion covering the W/2 of Section 10, an approved Application to Drill (APD) and a Joint Operating Agreement (JOA) covering the S/2 of Section 10. In addition, Yates specifically requested that Santa Fe approve its proposed well in the SE/4 and withdraw its request for a well in the SW/4 of Section 10.
- f) Santa Fe signed Yates' AFE on October 20, 1993, and the Ocotillo "ACI" Federal Com Well No. 2 was drilled and is currently awaiting completion in the South Dagger Draw-Upper Pennsylvanian Associated Pool.

(8) Santa Fe filed its original application for compulsory pooling with the Division on October 26, 1993.

(9) Yates contends that Santa Fe's execution of the AFE for the Ocotillo "ACI" Federal Com Well No. 2 constitutes Santa Fe's agreement to participate in the drilling of the subject well and also constitutes Santa Fe's agreement to a S/2 dedication.

In defense of its position, Santa Fe argued that it executed the AFE for the Ocotillo "ACI" Federal Com Well No. 2 so as not to be considered a non-consent working interest owner subject to the non-consent penalty under the existing operating agreement.

The operating agreement between the parties covered only the E/2 of Section 10 and could not be used to govern operations in a S/2 proration unit, which is acknowledged by both Yates and Santa Fe.

Execution of an AFE normally creates merely an agreement to participate in the costs of drilling a well, without anything more, unless the circumstances surrounding that execution indicate a different intent by the parties.

Santa Fe's AFE of September 10, 1993, constituted an offer to drill a well in the SW/4 and a request that Yates agree to pay its share of the costs of that well. Yates' response of September 20, 1993, was a counter-offer to drill a well in the SE/4, which invited Santa Fe not only to join in the well, but to accept a S/2 dedication and enter into a Joint Operating Agreement which would govern the parties' subsequent relationship. Nothing in Yates' package indicated the acceptance of the AFE was requested under the terms of the E/2 operating agreement.

Considering the evidence presented as a whole, Santa Fe was not required to sign the AFE offered by Yates to preserve its rights under the old operating agreement. Execution of the AFE by Santa Fe was acceptance of the offer of September 20, 1993.

FINDING: There is an agreement between the parties under which a standard S/2 proration unit is dedicated to the Ocotillo "ACI" Federal Com Well No. 2, and therefore the Division does not have jurisdiction to pool the interests of any party in the proration unit.

(10) Inasmuch as the parties' interests within the S/2 of Section 10 are considered to be committed to the proration unit dedicated to the Ocotillo "ACI" Federal Com Well No. 2, the application of Yates Petroleum Corporation to pool the S/2 of Section 10 is unnecessary and should therefore be dismissed.

(11) Inasmuch as the SW/4 of Section 10 is within an existing S/2 proration unit, it cannot be included in Santa Fe's proposed W/2 proration unit, and therefore the application of Santa Fe to pool the W/2 of Section 10, to form a non-standard 160-acre proration unit comprising the SE/4 of Section 10, and to shut in the Yates Petroleum Corporation Judith "AIJ" Federal Well No. 1 located 660 feet from the South and East lines (Unit P) of Section 9, Township 20 South, Range 24 East, NMPM, should be dismissed.

IT IS THEREFORE ORDERED THAT:

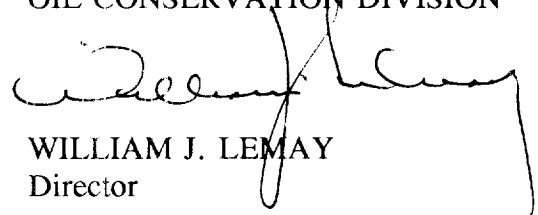
(1) The application of Yates Petroleum Corporation in Case No. 10875 for an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the S/2 of Section 10, Township 20 South, Range 24 East, NMPM, Eddy County, New Mexico, forming a standard 320-acre spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, including the South Dagger Draw-Upper Pennsylvanian Associated Pool, is hereby dismissed.

(2) The application of Santa Fe Energy Operating Partners, L. P. in Case No. 10871 for an order pooling all mineral interests from the surface to the base of the South Dagger Draw-Upper Pennsylvanian Associated Pool underlying the W/2 of Section 10, Township 20 South, Range 24 East, NMPM, Eddy County, New Mexico, for approval of a 160-acre non-standard spacing and proration unit in the South Dagger Draw-Upper Pennsylvanian Associated Pool comprising the SE/4 of Section 10, said unit to be dedicated to the Yates Petroleum Corporation Ocotillo "ACI" Federal Com Well No. 2, and for an order shutting in the Yates Petroleum Corporation Judith "AIJ" Federal Well No. 1 located in Unit P of Section 9, Township 20 South, Range 24 East, NMPM, until such time as its proposed well in the SW/4 of Section 10 is drilled, is hereby dismissed.

(3) Jurisdiction of this cause is hereby 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



WILLIAM J. LEMAY
Director

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