

**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. 12683
ORDER NO. R-11645**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on July 12, 2001, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 5th day of September, 2001, 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 Division has jurisdiction of this case and of the subject matter.

(2) Yates Petroleum Corporation, ("Applicant"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Ordovician formation underlying the E/2 of Section 3, Township 8 South, Range 26 East, NMPM, Chaves County, New Mexico, in the following manner:

The E/2, forming a standard 320-acre gas spacing and proration unit (the "320-Acre Unit") for all formations or pools spaced on 320 acres within this vertical extent, which presently include, but are not necessarily limited to, the Foor Ranch Pre-Permian Gas Pool.

The NE/4, forming a standard 160-acre spacing and proration unit (the "160-Acre Unit") for all formations or pools spaced on 160 acres within this vertical extent, which presently include, but are not necessarily limited to, the Pecos Slope Abo-North Gas Pool.

The 320-Acre Unit and the 160-Acre Unit are hereinafter sometimes called "the Units."

The applicant further seeks an order prescribing terms ("operating provisions") pursuant to which future operations may be conducted on the Units, to be applicable between the operator of the Units and those persons or parties who have not joined in, and do not hereafter join in, an operating agreement governing the Units.

(3) The 320-Acre Unit is to be dedicated to the applicant's proposed Coronet "TI" Well No. 3 (the "proposed well") to be drilled at a standard well location within the SW/4 NE/4 (Unit G) of Section 3, and to the applicant's existing Percentage APR Well No. 1, located at a standard location in the SW/4 SE/4 (Unit O) of Section 3, completed in the Foor Ranch Pre-Permian Gas Pool. The 160-Acre Unit is to be dedicated to the applicant's existing Coronet "TI" Well No. 1, located at a standard location in the NE/4 NE/4 (Unit A) of Section 3, completed in the Pecos Slope Abo-North Gas Pool and to the applicant's existing Coronet "TI" Well No. 2, located at a standard location in the SE/4 NE/4 (Unit H) of Section 3, completed in the Pecos Slope Abo-North Gas Pool.

(4) Two or more separately owned tracts are embraced within the Units, and/or there are owners of royalty interests and/or undivided interests in oil and gas minerals in one or more tracts within the Units which are separately owned.

(5) The applicant is an owner of an oil and gas working interest within the Units. The applicant had the right to drill and has previously drilled three wells (the "existing wells") to common sources of supply within the Units, to wit: Applicant's Coronet "TI" Well No. 1, located at a standard location in the NE/4 NE/4 (Unit A) of Section 3, completed in the Pecos Slope Abo-North Gas Pool; Applicant's Coronet "TI" Well No. 2, located in the SE/4 NE/4 (Unit H) of Section 3, completed in the Pecos Slope Abo-North Gas Pool; and Applicant's Percentage APR Well No. 1, located at a standard location in the SW/4 SE/4 (Unit O) of Section 3, completed in the Foor Ranch Pre-Permian Gas Pool. Applicant also has the right to drill and proposes to drill its Coronet "TI" Well No. 3 (the "proposed well") to a common source of supply at a standard well location within the SW/4 NE/4 (Unit G) of Section 3.

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

(7) 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 mineral interests,

whatever they may be, within the Units.

(8) Applicant should be designated the operator of the existing wells, the proposed well and the Units.

(9) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. ("Uncommitted working interest owners" are owners of working interests in either or both of the Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.)

(10) The applicant has previously recovered out of production all well costs heretofore incurred in connection with the Coronet "TI" Well No. 1 and the Percentage APR Well No. 1, and does not seek any risk penalty with respect to those wells. Applicant has incurred unrecovered well costs in connection with the drilling and completing of the Coronet "TI" Well No. 2, and seeks recovery of the prorata portion of those costs allocable to non-consenting working interest owners out of future production from said well, but does not seek any risk penalty with respect thereto.

(11) Any non-consenting working interest owner should be afforded the opportunity to pay its share of unrecovered actual well costs associated with the Coronet "TI" Well No. 2 in lieu of paying its share of reasonable costs out of production from such well and should be afforded the opportunity to pay its share of estimated well costs associated with the proposed well to the operator in lieu of paying its share of reasonable well costs out of production. Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated costs to the operator in lieu of paying its share of reasonable costs out of production for any operation proposed after the date of this order with respect to any of the existing wells, the proposed well or any subsequently drilled well completed or proposed to be completed within the horizontal and vertical limits of the Units.

(12) Any non-consenting working interest owner who does not pay its share of unrecovered actual well costs of the Coronet "TI" Well No. 2 should have withheld from production from that well only its share of unrecovered, reasonable well costs of such well. Any non-consenting working interest owner who does not pay its share of estimated well costs associated with the proposed well should have withheld from production from the proposed well only its share of reasonable well costs of such well plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well. Any non-consenting working interest owner who does not pay its share of estimated costs of any operation proposed after the date of this Order in accordance with the operating provisions hereinafter set forth should, following performance of such proposed operation, have withheld from production from the well or completion to which such operation relates only, its share of the reasonable costs of

such proposed operation, plus an additional 200% thereof as a reasonable charge for the risk involved in such operation.

(13) Any non-consenting interest owner should be afforded the opportunity to object to actual costs, but actual costs should be adopted as the reasonable costs in the absence of such objection.

(14) Following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of actual, unrecovered well costs associated with the Coronet "TI" Well No. 2 should receive from the operator any amount that paid, actual well costs exceed reasonable well costs, and any non-consenting working interest owner who has paid its share of estimated well costs of the proposed well should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid, estimated well costs exceed reasonable well costs.

(15) Following determination of reasonable costs of any subsequent operation conducted pursuant to the operating provisions of this Order, any non-consenting working interest owner who has paid its share of estimated costs of such operation should pay to the operator any amount that the reasonable costs of such operation exceed estimated costs and should receive from the operator any amount that paid, estimated costs of such operation exceed reasonable costs.

(16) 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*." The operator should be 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 are reasonable, attributable to each non-consenting working interest.

(17) Except as noted in Findings (12) and (16) above, all proceeds from production from the Units that are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(18) Provision should be made for the operator to conduct subsequent operations on the Units that may be proposed by the operator, or by other owners of working interests in the Units, including the drilling of additional wells on the Units if permitted by applicable spacing and well density rules, and the reworking, recompleting, deepening or plugging back of existing wells, the proposed well or subsequently drilled wells, and for the recovery by the parties paying the costs of such subsequent operations of the share of such costs allocable to non-consenting working interest owners, as herein

defined, together with a reasonable risk penalty, in accordance with NMSA Section 70-2-17 (1978).

(19) In order to accomplish the ends described in Finding No. (18), the hereinafter stated provisions ("operating provisions") should be adopted for all purposes for any drilling or work proposed after the date of this Order to be performed on any well completed or proposed within the horizontal and vertical limits of the Units forced pooled by this Order, including but not necessarily limited to the existing wells and the proposed well. These provisions are identical to provisions of Article VI.B of the joint operating agreement in force and effect between the consenting working interest owners in the Units (which joint operating agreement is attached to and forms a part of Yates Petroleum Corporation's Exhibit #9 presented to the Division in this Case No. 12683), except to the extent such provisions are hereby amended to conform to the statutes of the State of New Mexico and to Division rules and procedures and to afford non-consenting working interest owners due process of law. The operating provisions, to the extent they differ from the provisions of the joint operating agreement, as the same may be hereafter amended, should apply only as between the operator (or other party proposing an operation pursuant hereto) and the non-consenting working interest owners (as such term is defined in this Order), and should not affect the rights or duties as between themselves of any parties who now are, or hereafter become, parties to the joint operating agreement or any amendment thereto. The operating provisions that should be adopted are as follows:

Proposed Operations: Should any owner of a working interest in the Units desire to drill any well on the Units other than the existing wells or the proposed well, or to rework, deepen or plug back a dry hole or a well now or hereafter existing on the Units, the party desiring to drill, deepen, rework or plug back such a well shall give the other parties and the Division written notice of the proposed operation, specifying the work to be performed, the location, proposed depth and objective formation, and an itemized schedule of the estimated costs of the operation. The parties receiving such notice shall have thirty (30) days after the receipt of such notice in which to notify the operator whether or not they elect to participate in the cost of the proposed operation, or to file with the Division an application to modify the provisions of this Order with respect to the proposed operation. Any non-consenting working interest owner, as defined in this Order, who elects to participate in the cost of any proposed operation shall, within thirty (30) days after receipt of the above-provided notice, pay to the operator such owner's share of the estimated costs of the proposed operation. Upon delivery to the Operator of a notice of election to participate, together with payment of its share of estimated

costs of the proposed operation, such non-consenting working interest owner shall be deemed a Consenting Party within the meaning of these operating provisions as to such proposed operation only. Failure of a party receiving notice of a proposed operation either to reply thereto, or to file an application with the Division as above provided, within thirty (30) days after receipt of such notice, or failure to tender payment of its share of the estimated costs of such proposed operation as herein provided, shall constitute an election by that party not to participate in the cost of the proposed operation. If any non-consenting working interest owner who receives a notice of a proposed operation as provided in this paragraph files an application with the Division for modification of this Order with respect thereto, the Division shall, after notice and hearing, determine whether the risk penalty herein provided should apply to such proposed operation. If the Division determines that such risk penalty should not apply to such proposed operation, the Division may fix a risk penalty, not to exceed 200% of reasonable costs of such operation, which shall apply thereto in lieu of the risk penalty provided herein.

Any election by any non-consenting working interest owner to participate in the drilling of any additional well on the Units or in the deepening, reworking or plugging back of any existing well or subsequently drilled well, shall include all reasonable costs for drilling, deepening, reworking, plugging back, testing, completing or recompleting and equipping the well, including reasonable and necessary tankage and/or surface facilities.

Operations by Less than All Parties: If any party receiving notice of a proposed operation as provided above elects not to participate in the proposed operation, then, in order to be entitled to the benefits of these operating provisions, the operator, on behalf of the party or parties giving the notice and such other parties as shall elect to participate in the proposed operation ("Consenting Parties") shall, within sixty (60) days after the expiration of the notice period of thirty (30) days, actually commence work on the proposed operation and thereafter complete it with due diligence. If operations are not commenced within the time provided, and if any party still desires to conduct such operation, written notice proposing same must again be submitted in accordance with the provisions hereof as if no prior proposal had been made. The operator shall perform all work for the account of the Consenting Parties unless the Division, after notice and hearing, authorizes any other party to conduct any such work.

The proposing party shall be solely responsible for carrying the interest of non-consenting interest owners who elect not to join in the proposed operation, subject, however, to any agreement the proposing party may enter into or may have entered into with other owners of working interests in the Units. If such an operation results in a dry hole, the Consenting Parties shall plug and abandon the same at their sole cost, risk and expense. If any well drilled, reworked, deepened or plugged back under the provisions of this Article results in a well capable of producing oil and/or gas in paying quantities, the operator shall complete and equip the well and shall operate same in accordance with any applicable agreement and this Order, provided that the operator may withhold each non-consenting working interest owner's share of production, to the extent provided in Finding (20) below, until the proceeds of the sale of such share, calculated at the well, or market value thereof if such share is not sold (after deducting production taxes, crude oil excise taxes, royalty, overriding royalty and other interests existing on the effective date hereof, payable out of or measured by the production from such well accruing with respect to such interests until it reverts) shall equal the non-consenting working interest owner's proportionate share of reasonable costs of such operation, plus an additional 200% thereof as a reasonable charge for the risk involved in the operation.

(20) Production from each well and completion within the vertical and horizontal extent of the Units should be separately maintained and accounted for (unless otherwise authorized by the Division upon such terms and conditions as the Division shall determine) to the end that:

- (a) each non-consenting working interest owner's share of the costs initially drilling a well to projected total depth and of the initial completion attempted in such well, together with any associated risk penalty, shall be applied only against all subsequent production from such well, but from such well only, and
- (b) each non-consenting working interest owner's share of the costs of any reworking, deepening or plugging back of any well subsequent to the first completion attempted, together with the risk penalty associated with such costs, shall be recovered only from production attributable to such operation.

(21) If all the parties to this forced pooling reach voluntary agreement subsequent to the entry of this order, this order should become of no effect.

(22) The operator should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Yates Petroleum Corporation, all uncommitted mineral interests from the surface to the base of the Ordovician formation underlying the E/2 of Section 3, Township 8 South, Range 26 East, N.M.P.M., Eddy, New Mexico, are hereby pooled, as follows:

- (a) The E/2, forming a standard 320-acre 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 Foor Ranch Pre-Permian Gas Pool.
- (b) The NE/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 Pecos Slope Abo-North Gas Pool.

The 320-Acre Unit shall be dedicated to Applicant's proposed Coronet "TI" Well No. 3 to be drilled at a standard well location within the SW/4 NE/4 (Unit G) of Section 3, and to Applicant's existing Percentage APR Well No. 1, located at a standard location in the SW/4 SE/4 (Unit O) of Section 3, completed in the Foor Ranch Pre-Permian Gas Pool. The 160-Acre Unit shall be dedicated to Applicant's existing Coronet "TI" Well No. 1, located at a standard location in the NE/4 NE/4 (Unit A) of Section 3, completed in the Pecos Slope Abo-North Gas Pool and to Applicant's existing Coronet "TI" Well No. 2, located at a standard location in the SE/4 NE/4 (Unit H) of Section 3, completed in the Pecos Slope Abo-North Gas Pool.

(2) The applicant is hereby designated the operator of the existing wells, the proposed well and the Units.

(3) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. Within thirty (30) days after the effective date

of this order, the operator shall furnish the Division and each known non-consenting working interest owner in the Units an itemized schedule of unrecovered actual well costs of the Coronet "TI" Well No. 2. Within 30 days from the date the schedule of unrecovered actual well costs is furnished, any non-consenting working interest owner shall have the right to pay its share of unrecovered actual well costs to the operator in lieu of paying its share of unrecovered actual well costs out of production as hereinafter provided. If no objection to such unrecovered actual well costs is received by the Division, and the Division has not objected thereto, within 45 days following the receipt of the schedule of such unrecovered actual well costs, actual well costs shall be deemed to be reasonable well costs; provided, however, that if there is an objection to actual well costs within said 45-day period, the Division will determine reasonable well costs after notice and hearing. Within 60 days following determination of reasonable well costs any non-consenting working interest owner who has paid its share of actual unrecovered well costs shall receive from the operator its share of the amount that actual well costs exceed reasonable well costs.

(4) Within 30 days after the effective date of this Order, the operator shall furnish the Division and each known non-consenting working interest owner in the Unit an itemized schedule of estimated well costs of the proposed well. Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting working interest owner shall have the right to pay its share of such 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.

(5) The operator shall furnish the Division and each known non-consenting working interest owner, within 90 days following completion of the proposed well, and within 90 days following completion of any subsequent operation pursuant to the operating provisions adopted in this order, an itemized schedule of actual costs of such well or operation. If no objection to the actual costs is received by the Division, and the Division has not objected thereto, within 45 days following receipt of the schedule, the actual costs shall be deemed to be the reasonable costs; provided, however, that if there is an objection to actual well costs within the 45-day period, the Division will determine reasonable costs after notice and hearing.

(6) Within 60 days following determination of reasonable costs of the proposed well or any subsequent operation, any non-consenting working interest owner who has paid its share of estimated costs of such well or operation in advance as herein provided shall pay to the operator its share of the amount that reasonable costs of such well or operation exceed estimated costs thereof, and shall receive from the operator its share of the amount that paid, estimated costs exceed reasonable costs.

(7) The operator is hereby authorized to withhold from production from the Coronet "TI" Well No. 2 only the proportionate share of reasonable, unrecovered well costs of such well attributable to each non-consenting working interest owner who has not paid its share of actual unrecovered well costs thereof.

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

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs of the proposed well within 30 days from the date the schedule of estimated well costs is furnished; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(9) Following the drilling and completion of the proposed well, subsequent operations on the Units, including but not limited to, any reworking, recompletion, deepening or plugging back of any existing well or any subsequent reworking, recompletion or plugging back of the proposed well, shall be conducted in accordance with the operating provisions set forth in Finding No. (19) of this Order, provided that such operating provisions shall apply only as between the operator and the non-consenting working interest owners, as such term is defined in this Order, and shall not affect the rights and duties, as between themselves, of any persons who now are, or hereafter become, parties to any joint operating agreement governing the Units, or any amendment thereto.

(10) The operator is hereby authorized to withhold the following costs and charges from production from any well on which an operation by less than all parties has been conducted under the operating provisions:

- (b) the proportionate share of reasonable costs of such operation attributable to each non-consenting working interest owner who has not paid its share of estimated costs within 30 days from the date the schedule of estimated costs is furnished; and
- (c) as a charge for the risk involved in such operation, 200% of the above costs.

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

(12) Production from each well and completion within the vertical and horizontal extent of the Units shall be separately maintained and accounted for (unless otherwise authorized by the Division upon such terms and conditions as the Division shall determine) to the end that:

- (a) each non-consenting working interest owner's share of the costs initially drilling a well to projected total depth and of the initial completion attempted in such well, together with any associated risk penalty, shall be applied only against all subsequent production from such well, but from such well only, and
- (b) each non-consenting working interest owner's share of the costs of any reworking, deepening or plugging back of any well subsequent to the first completion attempted, together with the risk penalty associated with such costs, shall be recovered only from production attributable to such operation.

(13) 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 should 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 are reasonable, attributable to each non-consenting working interest.

(14) Except as provided in Ordering Paragraphs (7), (8), (10) and (13) above, all proceeds from production from the Units 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.

Case No. 12683
Order No. R-11645
Page 12

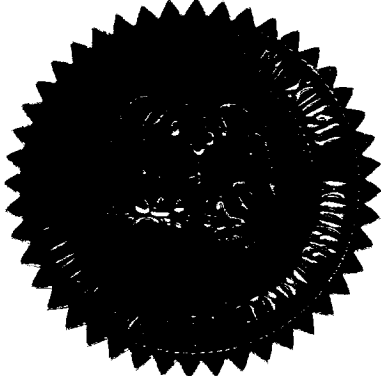
(15) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any costs or charges that are to be paid out of production shall be withheld only from the working interests'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

(16) 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.

(17) 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.

(18) 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

Lori Wrotenbery
LORI WROTENBERY
Director