

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION

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IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING:

APPLICATION OF SOVEREIGN EAGLE, LLC  
FOR COMPULSORY POOLING, ROOSEVELT  
COUNTY, NEW MEXICO.

Case No. 15,224

YATES BROTHERS REPLY  
IN SUPPORT OF ITS MOTION FOR CONTINUANCE

Yates Brothers submits this supply in support of its motion for continuance:

1. The primary reason for Yates Brothers requesting a continuance is because Mr. Ball, who will be the witness for Yates Brothers, is unavailable for the October 30th hearing. That alone is reason enough for a continuance.

2. In an e-mail from Mr. Hall to the Division last week, Applicant stated that it needs to move forward with the October 30th hearing because it will commence a well shortly (the Stoltenberg Well No. 2). However, Applicant had no problem commencing (failed) re-entry operations on the Stoltenberg Well No. 1 weeks before the October 30th hearing. Obviously, there is no need now to rush to hearing.

3. Applicant has filed an amended application to pool for the Stoltenberg Well No. 2. Under Division regulations, that application cannot be heard until the December 4th hearing. Therefore, the October 30th hearing is moot as to the well that will actually be drilled.

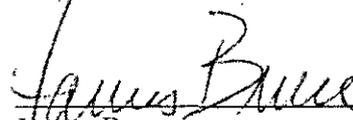
4. Applicant seems to say that well information is irrelevant to a pooling application. However, the pooling statute clearly states that pooling is necessary where an owner "has drilled or proposes to drill a well." **NMSA 1978 §70-2-17.C** (copy attached). Order No. R-13165 does say that the exact footages are not necessary in the application. However, that is because the exact footages are required in the well proposal. **Order No. R-13165, Paragraph 5(a)**.

5. Finally, Order No. R-13165 does not differentiate between oil and gas lessees and unleased mineral interests. The undersigned has informed his clients for decades that if a fee mineral owner cannot be leased, a well proposal is required to be provided to them. In fact, a number of unleased mineral owners have participated in wells under pooling orders.

6. Applicant apparently believes that unleased mineral owners should be treated as mushrooms. That shouldn't be allowed.

WHEREFORE, Yates Brothers requests that the case be continued from the October 30th hearing docket.

Respectfully submitted,

  
James Bruce  
Post Office Box 1056  
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(505) 982-2043

Attorney for Yates Brothers and R.B.  
Cowden Family Properties Limited

CERTIFICATE OF SERVICE

The foregoing pleading was served upon the following counsel of record this 28<sup>th</sup> of October, 2014 via e-mail:

J. Scott Hall  
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James Bruce

## 70-2-17. Equitable allocation of allowable production; pooling; spacing.

A. The rules, regulations or orders of the division shall, so far as it is practicable to do so, afford to the owner of each property in a pool the opportunity to produce his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as such can be practicably obtained without waste, substantially in the proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for this purpose to use his just and equitable share of the reservoir energy.

B. The division may establish a proration unit for each pool, such being the area that can be efficiently and economically drained and developed by one well, and in so doing the division shall consider the economic loss caused by the drilling of unnecessary wells, the protection of correlative rights, including those of royalty owners, the prevention of waste, the avoidance of the augmentation of risks arising from the drilling of an excessive number of wells, and the prevention of reduced recovery which might result from the drilling of too few wells.

C. When two or more separately owned tracts of land are embraced within a spacing or proration unit, or where there are owners of royalty interests or undivided interests in oil and gas minerals which are separately owned or any combination thereof, embraced within such spacing or proration unit, the owner or owners thereof may validly pool their interests and develop their lands as a unit. Where, however, such owner or owners have not agreed to pool their interests, and where one such separate owner, or owners, who has the right to drill has drilled or proposes to drill a well on said unit to a common source of supply, the division, to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste, shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit.

All orders effecting such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil or gas, or both. Each order shall describe the lands included in the unit designated thereby, identify the pool or pools to which it applies and designate an operator for the unit. All operations for the pooled oil or gas, or both, which are conducted on any portion of the unit shall be deemed for all purposes to have been conducted upon each tract within the unit by the owner or owners of such tract. For the purpose of determining the portions of production owned by the persons owning interests in the pooled oil or gas, or both, such production shall be allocated to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit. The portion of the production allocated to the owner or owners of each tract or interest included in a well spacing or proration unit formed by a pooling order shall, when produced, be considered as if produced from the separately owned tract or interest by a well drilled thereon. Such pooling order of the division shall make definite provision as to any owner, or owners, who elects not to pay his proportionate share in advance for the prorata reimbursement solely out of production to the parties advancing the costs of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, but which shall include a reasonable charge for supervision and may include a charge for the risk involved in the drilling of such well, which charge for risk shall not exceed two hundred percent of the nonconsenting working interest owner's or owners' prorata share of the cost of drilling and completing the well.

In the event of any dispute relative to such costs, the division shall determine the proper costs after due notice to interested parties and a hearing thereon. The division is specifically authorized to provide that the owner or owners drilling, or paying for the drilling, or for the operation of a well for the benefit of all shall be entitled to all production from such well which would be received by the owner, or owners, for whose benefit the well was drilled or operated, after payment of royalty as provided in the lease, if any, applicable to each tract or interest, and