

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: )  
APPLICATION OF YATES PETROLEUM )  
CORPORATION FOR AN ORDER (1) DIRECTING )  
PRIDE ENERGY COMPANY TO REIMBURSE YATES )  
FOR THE WELL COSTS INCURRED BY YATES IN )  
ITS ATTEMPTS TO RE-ENTER THE STATE "X" )  
WELL NO. 1 (API NO. 30-025-01838) )  
LOCATED IN SECTION 12, TOWNSHIP 12 )  
SOUTH, RANGE 34 EAST, NMPM, PRIOR TO THE )  
TIME PRIDE ENERGY COMPANY ASSUMED )  
OPERATIONS OF THE WELL, (2) DIRECTING )  
PRIDE ENERGY COMPANY TO ACCOUNT FOR AND )  
PAY ALL SUMS IT IS NOW IMPROPERLY )  
HOLDING PURSUANT TO EXPIRED ORDERS OF )  
THE DIVISION AND COMMISSION, AND (3) )  
REQUIRING PRIDE ENERGY COMPANY TO PLUG )  
AND ABANDON THE STATE "X" WELL NO. 1, )  
LEA COUNTY, NEW MEXICO )

CASE NO. 13,531

2006 JUN 19 PM 4 25

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

January 5th, 2006  
Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, January 5th, 2006, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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Examiner Hearing  
CASE NO. 13,531

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## A P P E A R A N C E S

## FOR THE DIVISION:

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By: WILLIAM F. CARR

## FOR PRIDE ENERGY COMPANY:

JAMES G. BRUCE  
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P.O. Box 1056  
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\* \* \*

## ALSO PRESENT:

TOM WIER  
Joint Interest Manager  
Yates Petroleum Corporation

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 8:54 a.m.:

3           EXAMINER CATANACH: Call Case 13,531, the  
4 Application of Yates Petroleum Corporation for an order  
5 directing Pride Energy Company to reimburse Yates for the  
6 well costs incurred by Yates in its attempt to re-enter the  
7 State "X" Well No. 1 located in Section 12, Township 12  
8 South, Range 34 East, prior to the time Pride Energy  
9 Company assumed operations of the well, and (2) directing  
10 Pride Energy Company to account for and pay all sums it is  
11 now improperly holding pursuant to expired orders of the  
12 Division and Commission, and (3) requiring Pride Energy  
13 Company to plug and abandon the State "X" Well No. 1, Lea  
14 County, New Mexico.

15           That's got to be the longest ad I've ever read.

16           Call for appearances in this case.

17           MR. CARR: May it please the Examiner, my name is  
18 William F. Carr with the Santa Fe office of Holland and  
19 Hart, L.L.P. I represent Yates Petroleum Corporation in  
20 this matter.

21           EXAMINER CATANACH: Call for additional  
22 appearances.

23           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
24 representing Pride Energy Company. I have no witnesses.

25           EXAMINER CATANACH: Okay.

1 MR. CARR: May it please the Examiner, I have a  
2 brief opening statement.

3 This is the fifth time Mr. Bruce and I have  
4 appeared before you on the State "X" Well Number 1, and  
5 contrary to what you may believe, we're not trying to make  
6 a career out of this case.

7 We have, since the last orders were entered in  
8 this case, been attempting to resolve between the parties a  
9 number of issues that spring from this dispute, and I can  
10 tell you that we have significantly reduced the issues that  
11 we have to bring to you. Really, we have three things we  
12 need to discuss.

13 First are certain costs for the well, to which  
14 Yates objects. And although there were a number of these  
15 months ago, they have really been winnowed down to really  
16 three issues. One is whether or not it's appropriate to  
17 charge Mr. Pride's attorney's fees against the costs of the  
18 well in the context of this dispute. There were a couple  
19 of charges that were incurred prior to the time that we got  
20 into this matter that we think are inappropriate. And  
21 there were a couple of new charges which we discovered for  
22 the first time in data that was provided to us on Tuesday,  
23 for which there's been no backup information provided. So  
24 those are the issues on the first matter.

25 The second is that the Commission and the

1 Division entered orders pooling these lands and designating  
2 Pride operator. Pride provided an AFE to Yates. The  
3 various Yates companies paid their proportionate share of  
4 those costs. The well was lost. All of those costs were  
5 not incurred, and we believe that it is now time for Pride  
6 to refund the unused -- our share of the unused AFE costs.

7           The final issue springs from the orders that were  
8 entered by the Division and Commission, and that concerns a  
9 provision in those orders that directed Pride to reimburse  
10 Yates for the costs Yates had incurred while it was on the  
11 well, attempting to re-enter the well. As you may recall,  
12 Yates was on the well at the time Pride filed its initial  
13 application to rescind our APD and to pool the west half  
14 instead of the north half, and Yates voluntarily stood  
15 down. And yet prior to that time, \$84,000 in costs had  
16 been incurred.

17           And the orders that were entered directed us to  
18 provide a list of those well costs to Pride and then  
19 directed Pride, if they didn't object to them, to refund  
20 those to us. There has been an objection to some of those  
21 costs.

22           Since that time, however, Pride attempted the re-  
23 entry. It was unsuccessful, and the underlying compulsory  
24 pooling order has expired. And so that provision went out  
25 with the rest of the order, and we're asking you to again

1 reinstate that provision so we can recover those re-entry  
2 costs.

3 Today I have with me and I am calling as a  
4 witness Chuck Moran, landman for Yates. I also have with  
5 me here today, in case there are questions concerning any  
6 of these numbers, Tom Wier, who is Yates Petroleum  
7 Corporation's joint interest manager.

8 EXAMINER CATANACH: Mr. Bruce, do you have  
9 anything to state?

10 MR. BRUCE: Mr. Examiner, I would -- No, I think  
11 Mr. Carr has fairly summarized the current status of  
12 affairs, and I would just reserve time at the end to make a  
13 brief statement regarding certain of these costs.

14 EXAMINER CATANACH: Okay, can I get the witness  
15 to stand to be sworn in?

16 (Thereupon, the witness was sworn.)

17 CHARLES E. MORAN,

18 the witness herein, after having been first duly sworn upon  
19 his oath, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CARR:

22 Q. Would you state your name for the record, please?

23 A. My name is Charles Moran.

24 Q. Mr. Moran, where do you reside?

25 A. Artesia, New Mexico.

1 Q. By whom are you employed?

2 A. Yates Petroleum Corporation.

3 Q. And what is your current position with Yates?

4 A. I am the chief landman.

5 Q. Have you previously testified before the Oil  
6 Conservation Division and had your credentials as an expert  
7 in petroleum land matters accepted and made a matter of  
8 record?

9 A. Yes.

10 Q. Are you familiar with the Application filed in  
11 this case on behalf of Yates?

12 A. Yes, I am.

13 Q. Are you familiar with the status of what, for the  
14 purpose of this hearing, we'll call the State "X" Well  
15 Number 1?

16 A. Yes, I am.

17 Q. Are you familiar with Yates's efforts to re-enter  
18 this well and the subsequent Division and Commission orders  
19 affecting the well?

20 A. Yes, I am.

21 Q. Are you familiar with Pride's activities on this  
22 well?

23 A. Yes, I am.

24 Q. Have you prepared certain exhibits for  
25 presentation in this hearing?

1 A. Yes, I have.

2 Q. The ad for the case also contains a provision  
3 directing that the well be plugged and abandoned. We're  
4 not pursuing that issue in this case here today, are we?

5 A. Not currently.

6 MR. CARR: We tender Mr. Moran as an expert in  
7 petroleum land matters.

8 EXAMINER CATANACH: Any objection?

9 MR. BRUCE: No, sir.

10 EXAMINER CATANACH: Mr. Moran is so qualified.

11 Q. (By Mr. Carr) Would you briefly state what Yates  
12 seeks with the Application?

13 A. We are here today to simply get our money back.  
14 Under the existing orders, we elected to participate in the  
15 well. We tendered the money that was required of us to be  
16 tendered to be able to participate in the wells, to protect  
17 our interest. They have not spent all that money. And we  
18 have also moneys that they were ordered to pay us, that  
19 they have failed to pay us, and we're here to get our money  
20 back.

21 Q. When we talk about Yates can you tell me who  
22 we're talking about?

23 A. We're talking about Yates Petroleum Corporation,  
24 Yates Drilling Company, Abo Petroleum Corporation, and MYCO  
25 Industries, Inc.

1 Q. All of these Yates entities did participate by  
2 paying their proportionate share of the AFE costs?

3 A. Yes, they did.

4 Q. Mr. Moran, let's go to what's been marked as  
5 Yates Exhibit Number 1, the chronology. And we've all been  
6 involved with this case before and I don't think we have to  
7 go through it in great detail, but could you just summarize  
8 the highlights of the -- provide the background that's  
9 relevant to what we're doing here today?

10 A. Probably the most important parts are that Yates  
11 Petroleum Corporation commenced work on re-entering the  
12 well under an approved APD. Subsequent to that work, a  
13 force pooling order was applied for Pride Energy Company  
14 and received. We voluntarily stood down until that matter  
15 was resolved. There have been several hearings that have  
16 gone on, the culmination in orders by the Commission.

17 Q. Those orders actually granted the Application of  
18 Pride, correct?

19 A. Yes, they did.

20 Q. They pooled the west half of Section 12?

21 A. Correct.

22 Q. And they designated Pride operator of the well?

23 A. Correct.

24 Q. Did Yates join in the well?

25 A. Yes, all the Yates entities joined in the

1 drilling of the well.

2 Q. Following the Commission order in this case,  
3 Yates filed an application for re-hearing, did it not?

4 A. Yes, we did.

5 Q. And was a re-hearing granted?

6 A. Yes.

7 Q. And what was the sole issue that was the subject  
8 of the re-hearing?

9 A. The sole issue of the re-hearing was a  
10 determination of the costs for which Yates should be  
11 allowed reimbursement.

12 Q. And following that re-hearing another pooling  
13 order was entered, was it not?

14 A. Correct, it was --

15 Q. And how did it deal with the costs that Yates had  
16 incurred during its re-entry attempt?

17 A. It -- the order read that the costs between  
18 August 25th, 2003, and prior to August 7th, 2004, were to  
19 be repaid to Yates by Pride.

20 Q. Did Pride appeal that order?

21 A. They did not appeal that order.

22 Q. And what is the status of that pooling order?

23 A. That pooling order expired on its own terms.

24 Q. And was a re-entry attempt made by Pride?

25 A. Pride commenced re-entry operations on February

1 15th, 2005, and ceased operations, I think, March 27th,  
2 2005, from the information I've been able to determine.

3 Q. Was the re-entry successful?

4 A. The re-entry was unsuccessful, for reasons that  
5 were not exactly and understand, the hole was lost.

6 Q. And what is the current status of the pooling  
7 orders in this case?

8 A. The pooling order expired on its own terms. It  
9 said the work should be commenced and completed within 120  
10 days. If not, the order would expire on its face.

11 Q. And it did?

12 A. It did.

13 Q. What is the status of the Yates lease comprising  
14 the north half of Section 12 and the southeast quarter of  
15 Section 12?

16 A. That lease is currently held by production by a  
17 well that we were required to go drill in order to save our  
18 lease, because the operations that Pride was undertaking  
19 were not going to save our lease.

20 Q. And when did you drill that well?

21 A. We commenced that well sometime in April of 2005.

22 Q. And what were the costs incurred in drilling that  
23 well?

24 A. That -- Rough cost estimate to complete that well  
25 was \$2.3 million.

1 Q. Mr. Moran, could you refer to what has been  
2 marked as Yates Exhibit Number 7 and just identify that,  
3 please?

4 A. Yates Exhibit Number 7 --

5 Q. I'm sorry, Yates Exhibit Number 2.

6 A. Yates Exhibit Number 2 is copies of the several  
7 orders involved in the history of this case, starting with  
8 Order Number R-12,108, the *de novo* hearing, Order Number  
9 R-12,108-A, Order Number 12,108-B, and Order Number  
10 12,108-D, but I believe that's what --

11 Q. C, C and D. Would you identify what has been  
12 marked as Yates Petroleum Corporation Exhibit Number 3?

13 A. Yates Petroleum Corporation Exhibit Number 3.  
14 I'm not sure I have it. Ah. Exhibit Number 3 is page 2 of  
15 the AFE that Pride Energy Company submitted to the Yates  
16 entities pursuant to the relevant order.

17 Q. This shows that each of the Yates entities signed  
18 the AFE; is that correct?

19 A. That is the signature for all the Yates entities  
20 electing to participate and their proportionate part of the  
21 well costs.

22 Q. What is Yates Exhibit Number 4?

23 A. Exhibit Number 4 is the letter submitted by Yates  
24 Petroleum Corporation on behalf of the Yates entities  
25 electing to participate in the well, with the attached

1 copies of the checks sent to Pride Energy Company. And if  
2 you will note, these letters were also copied to the  
3 Division and Mr. Bruce at the time of the hearing.

4 Q. And how much did the Yates entities pay to  
5 participate in Pride's re-entry of the State "X" Number 1  
6 well?

7 A. In total, the four entities paid \$376,647.43,  
8 which represented 50 percent of the estimated costs to be  
9 paid by -- pursuant to the AFE submitted.

10 Q. Could you identify Yates Exhibit Number 5?

11 A. Yates Exhibit Number 5 is a drilling report that  
12 we keep as a result of the information provided by the  
13 operator.

14 Q. And what does it show us as to the last date  
15 there were operations on the well?

16 A. The last information submitted to us for  
17 operations on the well was March 27th, 2005.

18 Q. Do you have what is marked Yates Exhibit Number  
19 6?

20 A. I do.

21 Q. Could you identify that, please?

22 A. Yates Exhibit Number 6 is our -- is the Yates  
23 re-typed cost as provided by Pride, with notes as to what  
24 we were objecting to and what we were eventually granted  
25 with regards to information on costs associated with the

1 drilling of the State "X" Number 1 by Pride.

2 Q. So what we have here is a list of the well costs  
3 from Pride?

4 A. Yes.

5 Q. And the yellow matters are things which were  
6 originally objected to by Yates; is that correct?

7 A. That is correct. The information was given to us  
8 sporadically, and this is a running total of how -- what we  
9 objected to and what information was finally provided to  
10 us.

11 Q. Some data was even received this week, correct?

12 A. We received new data as of Tuesday.

13 Q. Now, looking at this list, how many matters are  
14 still at issue?

15 A. The big issues that are at issue here are  
16 yellowed all the way across on the exhibit. There's one on  
17 page 2 and several on page 3, which -- on page 3, two of  
18 those have been cleared up in the last day. But, you know,  
19 they would account to, I would surmise, as attorney's fees  
20 and geologic costs incurred prior to the well being re-  
21 entered that were not of benefit to the well.

22 Q. So we have attorney's fees --

23 A. Attorney's fees.

24 Q. -- we have the geological costs. Those are from  
25 Nutech?

1 A. Those are from Nutech.

2 Q. And those are really the only issues from this  
3 list that are still in issue; isn't that correct?

4 A. Correct, the two that fell off of this list, that  
5 are still highlighted, are on page 3, a bill from Pettitt  
6 Wireline Services and a bill from Phillips Casing crew,  
7 which upon review we've determined are probably properly  
8 charged.

9 Q. Okay. As of this week there were two new charges  
10 that appeared; is that fair to say?

11 A. Yes, they are.

12 Q. We received a new estimate of well costs, and  
13 there were two new items on that.

14 A. Correct.

15 Q. Has there been supporting data provided for  
16 either of those charges?

17 A. No, there has not.

18 Q. Can you just explain what those charges were?

19 A. They are listed on Exhibit Number 7, on page 3,  
20 at the bottom. One is a charge from Heartland Equipment  
21 Company for \$888.46, and one -- an additional charge from  
22 Phillips Casing and Tubing for \$248.97.

23 Q. So where we stand now is, we stand with  
24 objections to four cost items, correct?

25 A. Correct.

1 Q. We object to the legal expenses being billed to  
2 us --

3 A. Yes.

4 Q. -- the Nutech charges for geology prior to the  
5 time this effort was undertaken --

6 A. Yes.

7 Q. -- and two new charges?

8 A. Correct.

9 Q. What do they total, how much money?

10 A. The total of those charges that we're objecting  
11 to is \$19,516.14.

12 Q. And if we go to Exhibit Number 7 and we look at  
13 the bottom of page 3 -- it says 3 of 8, but there are  
14 really only 3 of 4, because the last pages were all blank  
15 -- over on the right-hand side it shows the number  
16 \$19,516.14. Those are the matters that we believe are now  
17 in dispute; is that correct?

18 A. Correct.

19 Q. Why does Yates object to the payment of the legal  
20 expenses that are shown on this list of well costs?

21 A. Well, there are a few reasons. One, when we  
22 submitted our attorney's fees cost in the -- one of the  
23 prior hearings, they were objected to. We agreed to  
24 withdraw those because on the advice of counsel, unless  
25 there is a contract or a statute that authorizes attorney's

1 fees, they cannot be recovered. And so, one, we withdrew  
2 our request for attorney's fees. And, two, there is no  
3 basis for him to receive the attorney's fees.

4 Q. Is there a contract that would require our  
5 reimbursing Mr. Pride for his attorney's fees?

6 A. There is no contract.

7 Q. If, in fact, you're paying half of Mr. Pride's  
8 attorney's fees, you'd be paying expenses he incurred to  
9 remove us as operator; is that right?

10 A. Yes, we would.

11 Q. And half the expenses to chase the funds, we  
12 think, are being improperly withheld; is that also correct?

13 A. That is correct.

14 Q. In the legal expenses, there is a charge for  
15 \$1363.71 for a title opinion.

16 A. Correct.

17 Q. Is Yates willing to pay that cost?

18 A. Yates is willing to pay their proportionate part  
19 of it, conditioned on they receive a copy of the title  
20 opinion, which they have never received.

21 Q. But if you get the copy of that, it would no  
22 longer --

23 MR. BRUCE: Mr. Examiner, I'm the person who  
24 prepared the title opinion, and I will mail a full copy to  
25 Mr. Moran later today.

1 EXAMINER CATANACH: Okay.

2 Q. (By Mr. Carr) So that cost issue is no longer on  
3 the table?

4 A. That's no longer there, and it's not reflected in  
5 the \$19,516.

6 Q. Okay. Why does Yates object to the Nutech  
7 geological charges?

8 A. The -- My understanding of what the Nutech  
9 charges are is, that is geologic review. And if you will  
10 -- so that is internal information that they expended on  
11 their own behalf to make their own decisions. Those are  
12 not charges to the well.

13 And that is supported by, if you look at the  
14 dates of the charges they are dated back in 2003, you know,  
15 back in August of 2003 for log analysis, is how they billed  
16 them to us. And at that point there were no logs run.  
17 That's -- the well had not even been re-entered at that  
18 time period. Those appear to me to be costs that they're  
19 doing their own geology based off of, and not properly  
20 charged to the well.

21 MR. BRUCE: Mr. Examiner, if I could interject,  
22 and I think it might have gotten lost in the -- Mr. Carr  
23 and I have exchanged quite a few letters and e-mails in the  
24 last few days, but those two Nutech charges, \$2756 and  
25 \$407.60, Pride Energy does withdraw those costs and does

1 not request those costs.

2 EXAMINER CATANACH: I'm sorry, can you give me  
3 those amounts again?

4 MR. BRUCE: Yes, it's on the -- what's called  
5 page 3 of 8 of Exhibit Number 7 --

6 EXAMINER CATANACH: Okay.

7 MR. BRUCE: -- in the middle of the yellow  
8 group --

9 EXAMINER CATANACH: Okay.

10 MR. BRUCE: -- \$2756 --

11 EXAMINER CATANACH: Okay.

12 MR. BRUCE: -- and \$407.60, and Pride does not  
13 request those costs.

14 MR. CARR: And then in that same portion of that  
15 exhibit, if you go down two lines, there's one in white  
16 that that represents the title opinion charge, and that's  
17 been resolved also. So in the last day we've actually  
18 resolved five of these, I think.

19 Q. (By Mr. Carr) Mr. Moran, what about the new  
20 charges?

21 A. The new charges are listed on the bottom of that  
22 page there. It's for \$888.46 to Heartland Equipment  
23 Company and \$248.97 to Phillips Casing and Tubing. Those  
24 charges were brought to my attention yesterday on a  
25 resubmitted cost schedule received from Pride in

1 preparation for this hearing.

2 Q. If we look at Exhibit Number 7, the one that  
3 shows Heartland and Phillips Casing and Tubing charges,  
4 this is the list of costs we received this week, correct?

5 A. Correct.

6 Q. And the total costs shown over on the left for  
7 the well are \$708,402.78, correct?

8 A. Correct.

9 Q. If we go to Exhibit Number 6 and we go to the  
10 last page of that exhibit, these are the numbers we've been  
11 working from prior to yesterday --

12 A. Correct.

13 Q. -- or prior to this week. It shows the gross  
14 amount for the well of \$707,265.35.

15 A. Correct.

16 Q. And the difference is the Heartland and Phillips  
17 Casing and Tubing?

18 A. Those two costs.

19 Q. Have you reviewed the information provided to you  
20 by Pride?

21 A. With regards to these two costs, they were  
22 actually discovered yesterday and there is no information  
23 supporting that.

24 Q. There's no supporting information in the material  
25 previously supplied?

1 A. None.

2 Q. So for the purpose of this hearing, is it your  
3 recommendation that we work off the numbers that are set  
4 forth in Exhibit Number 7?

5 A. I would prefer to work off the numbers in Exhibit  
6 6, which don't include these two.

7 Q. But the current numbers in their claim would  
8 include those charges; is that not correct?

9 A. Yes.

10 Q. And so if we start with the last number we've  
11 received from them, we'd be looking at the \$708,402?

12 A. -- -402, correct.

13 Q. And then the number that we've previously  
14 discussed, being the charges to which we object, being --

15 A. -- the \$19,000 are included in -- the \$19,516.14.

16 Q. If we go below that, we have listed Pride Energy  
17 50 percent and we have Yates Petroleum at 35, and that  
18 column continues on the next page. What are the numbers  
19 shown off to the right of those interests?

20 A. Those numbers reflect the proportionate cost of  
21 the page 2 AFE costs that Pride submitted that we agreed to  
22 participate under. That is the allocation of the total  
23 cost of the well.

24 Q. If we look at the bottom of page 3 of Exhibit 7  
25 it says, Pride Energy 50 percent, and 50 percent of the

1 \$708,402 cost would be \$354,201; is that right?

2 A. No, because the 50 percent is -- I don't think  
3 that's right. I think those numbers are tied back to the  
4 actual AFE costs on Exhibit 2. I don't think that's a  
5 multiplication of the cost times the --

6 Q. Well, if we look at this, we have Pride Energy,  
7 correct, at the bottom of that page?

8 A. Right, that Pride Energy. But the 50 percent is  
9 of the AFE cost, I believe, on Exhibit 2.

10 Q. Is the \$708,000 figure the actual cost incurred  
11 in the well?

12 A. That is the costs that were submitted to us by  
13 Pride, yes.

14 Q. And the \$354,201 is half of that; is that not  
15 right?

16 A. I have to pull the computer up to remember how I  
17 calculated that. I think that number is -- the \$354,000 is  
18 50 percent of the \$753,000 estimated well costs.

19 Q. Well that number is half of \$708,000.

20 A. Oh, okay, then I guess it is. I'm trying to  
21 remember my spreadsheet on how I did it, and I just --  
22 without my computer here I can't --

23 Q. But if we take the number that's the well cost  
24 that has been reported to us by Pride, 50 percent of those  
25 costs are charged to Pride, and that's what that number is?

1 A. Okay, yes.

2 Q. And then Yates would have 35 percent, and that's  
3 what these numbers show on these columns for each of those  
4 interest owners; isn't that right?

5 A. Correct, that is what I -- yeah, if I -- I can  
6 look at that and calculate it in my head.

7 Q. And if we go down to the last entry on the last  
8 page of Exhibit 7, we have prepayment by Yates. Do you see  
9 that? Or "Pre Payment by:", and it's --

10 A. That's by the four entities --

11 Q. Okay, and --

12 A. -- and the amounts represented there are the  
13 amounts that were paid by the Yates entities.

14 Q. Then if we go over and we have revised cost of  
15 well, we have a \$688,886.64 number; is that right?

16 A. That is correct.

17 Q. That is actually the \$708,000 figure that was  
18 reported by Pride, shown on the previous page, less the  
19 well cost to which you're objecting, as shown on the  
20 previous page?

21 A. Correct.

22 Q. And then in that column, you have taken that  
23 number and divided it out by the same percentage; is that  
24 not right?

25 A. That is correct.

1 Q. And when you subtract one from the other, in the  
2 column, "Money Owed Yates", if the matters you're objecting  
3 to -- if there is agreement on those, that is the dollar  
4 amount that is owed to each of these entities by Pride from  
5 the AFE sums that were originally paid?

6 A. That is correct.

7 Q. And what do they total?

8 A. The total dollars, \$32,203.91.

9 Q. How long have these moneys been held by Pride?

10 A. These moneys have been held by Pride since  
11 October of 2004.

12 Q. Does Yates collect interest on these sums?

13 A. We are not collecting interest on these sums. We  
14 could if we had them.

15 Q. And is Yates asking the Division to direct that  
16 those unused AFE sums now be paid to Yates?

17 A. Yes, we are.

18 Q. The last question concerns the refund of re-entry  
19 costs. Could you go back to what's Exhibit 2 -- that's a  
20 stack of the orders -- and go through Order Number C and  
21 turn to page 9 of Order Number C -- sorry, page 11.

22 EXAMINER CATANACH: Sorry, page 11 of what?

23 MR. CARR: Of Order 12,108-C.

24 EXAMINER CATANACH: 12,108-C. Hang on a second.

25 Q. (By Mr. Carr) There should be some entries

1 highlighted on that page. In fact, if you go to the one on  
2 the top, it extends, I think, from the preceding page.

3 What does Order paragraph number 4 provide?

4 A. Order number paragraph [sic] provides, "Should  
5 the subject well not be completed within 120 days after  
6 resumption of re-entry operations pursuant to this order,  
7 then this order shall be of no further effect, and the unit  
8 created by this order shall terminate, unless the operator  
9 obtains a time extension from the Division Director  
10 following notice and hearing."

11 Q. This order has terminated, has it not?

12 A. Yes, there was no application for an extension of  
13 time.

14 Q. Would you review what is now set forth in Order  
15 paragraph number 9?

16 A. Order paragraph number 9 reads, "Within 5 days  
17 after issuance of this order, Yates shall furnish the  
18 Division and Pride an itemized schedule of actual well  
19 costs incurred by Yates in conducting re-entry operations  
20 on the subject well after August 25th, 2003 and prior to  
21 August 27th, 2004 [sic], the time when Yates voluntarily  
22 ceased operations on the subject well. If no objection to  
23 such actual costs is received by the Division, and the  
24 Division has not objected on or before December 31, 2004,  
25 such costs shall be deemed to be the reasonable well costs.

1 If there is an objection to the reasonableness of such  
2 costs within the time allowed by this order, the Division  
3 will determine the amount thereof that constitutes  
4 reasonable well costs after notice and hearing."

5 Q. Now, this is the order that resulted from the  
6 rehearing application that was granted in part by Yates?

7 A. Yes.

8 Q. And that rehearing was granted to address one  
9 issue, was it not?

10 A. It was directed to address one issue only.

11 Q. And what issue was that?

12 A. That issue was -- the issue -- consideration upon  
13 rehearing shall be limited to the determination of costs,  
14 which Yates shall be allowed the reimbursement.

15 Q. And you were reading from the order that was  
16 granted -- that was entered granting the partial rehearing?

17 A. Yes.

18 Q. And that's Order -- bears the sub-number B; is  
19 that right?

20 A. That is B.

21 Q. Okay. Was the repayment of Yates -- were any of  
22 these funds ever repaid?

23 A. We have not received payment for any of these.

24 Q. Did Pride appeal this order?

25 A. No, they did not.

1 Q. Did Pride provide an itemized -- or did Yates  
2 provided the itemized schedule of well costs to Pride?

3 A. Yes, we did provide the itemized costs to Pride.

4 Q. Would you identify Yates Exhibit Number 8?

5 A. Yates Exhibit Number 8 is the list of costs that  
6 Yates provided pursuant to the order, to the Division and  
7 Pride.

8 Q. And what is the total for those costs?

9 A. Those costs total \$84,391.58.

10 Q. Has Pride objected to the reasonableness of any  
11 of these costs?

12 A. No, they have not objected to the reasonableness  
13 of any of these costs.

14 Q. What are the items shaded in green?

15 A. The items shaded in green represent objections by  
16 Pride based off what they believe would be a double bill.

17 Q. In other words, Pride did object to the costs?

18 A. They did object to the cost.

19 Q. And if we look at even the last line on this  
20 exhibit that's shaded green, it says "C.O.W. insurance",  
21 and then it's from J.S. Ward and Son, Inc., and there is a  
22 \$4858 amount?

23 A. Yes.

24 Q. And Pride has objected to that?

25 A. They have.

1 Q. Because, as we understand it, they had no benefit  
2 from that because they had to inquire [*sic*] their own  
3 insurance?

4 A. That is correct.

5 Q. And each of these items, as we understand it, is  
6 covered by that objection?

7 A. Correct, the objection being that they received  
8 no benefit.

9 Q. What impact did the orders of this Division and  
10 Commission have on Yates?

11 A. Yates suffered, based on conducting activities  
12 authorized under an approved permit, and incurred all these  
13 costs in operations that we were conducting pursuant to the  
14 approved permit.

15 Q. And then --

16 A. And subsequently, the per- -- you know, through  
17 the hearings, the operations were taken away from Yates and  
18 given to Pride, and we incurred these costs in our attempts  
19 to re-enter the well.

20 Q. In addition to this, you were required to drill  
21 another well to maintain your lease after the re-entry  
22 attempt failed; is that right?

23 A. Yes, we were required to go drill a well on a --  
24 the east half of the section, expending approximately \$2.3  
25 million to save our oil and gas lease which was going to

1 expire, because Pride had not completed the well.

2 Q. What do you ask the Division to do? What are you  
3 asking the Division to do?

4 A. We're asking the Division to reinstate the  
5 provision in the order that Pride let expire by not  
6 performing, that ordered them to repay the cost that the  
7 Commission determined the Yates entities should be repaid,  
8 based on their decisions.

9 Q. These costs were incurred and the value of these  
10 investments were lost because of an action filed by Pride?

11 A. Yes.

12 Q. And because of orders entered by the Division?

13 A. Yes.

14 Q. If we go to the last entry on Exhibit Number 8,  
15 again the insurance issue, if this is disallowed Yates  
16 would pay \$4858 for insurance, correct?

17 A. Yes, we did pay that.

18 Q. And you would, if this is a disallowed charge, it  
19 would be --

20 A. Yes.

21 Q. -- that entire amount?

22 A. Yes.

23 Q. And then you would also be required to pay your  
24 half of the insurance acquired by Mr. Pride; isn't that  
25 right?

1 A. That would be a normal well charge, yes.

2 Q. So you'd be paying three dollars for every one  
3 that Mr. Pride is paying?

4 A. That is correct.

5 Q. And this is because of his application and the  
6 OCD order which you resisted?

7 A. Yes.

8 Q. Do you have anything further to add to your  
9 testimony?

10 A. No, I do not.

11 Q. Were Exhibits 1 through 8 either prepared by you  
12 or compiled under your direction and supervision?

13 A. Yes, they were.

14 MR. CARR: I move the admission of Yates  
15 Petroleum Corporation Exhibits 1 through 8.

16 EXAMINER CATANACH: Any objection?

17 MR. BRUCE: No, Mr. Examiner.

18 EXAMINER CATANACH: Exhibits 1 through 8 will be  
19 admitted.

20 MR. CARR: That concludes my direct examination  
21 of Mr. Moran.

22 EXAMINER CATANACH: Mr. Bruce?

23 CROSS-EXAMINATION

24 BY MR. BRUCE:

25 Q. Just a few questions. Mr. Moran, I hand you

1 what's been marked Pride Exhibit A. Have you seen that  
2 before, Mr. Moran?

3 A. Yes, I have.

4 Q. And that was a listing provided by me on behalf  
5 of Pride to Mr. Carr --

6 A. Back in October --

7 Q. -- objecting to Yates's costs that are reflected  
8 on Exhibit 8, is it not?

9 A. Yes.

10 Q. Okay. And so it identifies those costs and said  
11 that they are simply costs duplicated by Pride, and you  
12 understand that's Pride's position?

13 A. Right.

14 Q. Okay. And you mentioned the expiration date of  
15 the order. Do you recall roughly when the pooling order  
16 expired?

17 A. 120 days from March 27th, which puts you June --

18 Q. In June of 2005?

19 A. Yeah.

20 Q. Okay. And you mentioned that Yates did drill a  
21 well. What is the location of that well in Section 12?

22 A. The well is in the southeast quarter, but I don't  
23 remember the actual footages.

24 Q. Okay, is that a commercial well?

25 A. I think we believe it to be a commercial well.

1 Q. Okay. Do you recall the formation it was  
2 completed in?

3 A. I do not.

4 MR. BRUCE: Mr. Examiner, I'd ask the Division to  
5 take administrative notice of the file -- of its file on  
6 the Limbaugh AYO State Well Number 2, which is located in  
7 the southeast quarter of Section 12 and its completion  
8 report. It was completed -- I'm looking at a completion  
9 report or a request for allowable that shows it was  
10 completed in the Atoka formation. I can't tell anything  
11 from the commerciality of the completion report, but it was  
12 completed at 1.6 million a day.

13 EXAMINER CATANACH: I'm sorry, 6 million a day?

14 MR. BRUCE: 1.6 million a day.

15 EXAMINER CATANACH: 1.6 million a day. Okay, the  
16 Division will take administrative notice of that well file.

17 Q. (By Mr. Bruce) Mr. Moran, Mr. Carr earlier  
18 stated that he and I were not trying to make a career out  
19 of this case. Do you think we were?

20 A. I think somebody's client might be, and it's not  
21 me.

22 MR. BRUCE: Mr. Examiner, like I said, I have a  
23 brief closing statement, but I have no further questions of  
24 Mr. Moran.

25 MR. CARR: Just one follow-up.

## REDIRECT EXAMINATION

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BY MR. CARR:

Q. Mr. Moran, the Pride Exhibit Number 8, these are the same -- we've intended to shade on our Exhibit Number 8 those items; is that not right?

A. Yeah, that --

MR. BRUCE: Yeah, I meant to imply that, yes.

MR. CARR: Okay.

MR. BRUCE: Mr. Examiner, if I could move the admission of Exhibit A if there's no objection.

MR. CARR: No objection, no objection.

EXAMINER CATANACH: Exhibit A will be admitted.

## EXAMINATION

BY EXAMINER CATANACH:

Q. A couple of questions for my own clarification. The costs that Yates incurred prior to probably taking over the well, your Exhibit Number 8, these are costs that you seek reimbursement from Pride?

A. Pursuant to the orders defining the costs we were allowed to recover from Pride.

Q. Okay, and --

A. Notably absent from here are our attorney's fees, which we previously submitted in one of the prior hearings. This was a revised schedule, prepared pursuant to a previous order -- or a previous hearing, updated for the

1 costs they objected to.

2 EXAMINER CATANACH: Okay. Now as far as I know,  
3 or as far as I can tell, there's been no negotiations with  
4 regards to these costs, Mr. Carr?

5 MR. CARR: No, there are not.

6 EXAMINER CATANACH: Between the parties. So  
7 these are all -- This is current, this is what you're  
8 seeking?

9 MR. CARR: Yes.

10 EXAMINER CATANACH: And Pride's Exhibit A is  
11 basically their objection to some of these costs?

12 MR. CARR: Correct, if you're asking me, and Jim  
13 can correct me, but these are costs that Yates incurred.  
14 These are costs that Pride re-incurred, really, after they  
15 resumed operations. And the one I've used is the insurance  
16 at the bottom, because it was insuring Yates's operation,  
17 and then Pride took over and he had his own insurance to  
18 insure his.

19 EXAMINER CATANACH: So this is one of the issues  
20 that we have to resolve?

21 MR. BRUCE: That is correct, Mr. Examiner.

22 EXAMINER CATANACH: Okay. Let me ask Mr. Bruce  
23 about the -- on Yates Exhibit Number 7, which shows the two  
24 new costs that were just brought to the attention of Yates  
25 this week, I understand --

1 MR. BRUCE: And Mr. Examiner, tell you the truth,  
2 I went through all my file and I didn't even see these  
3 costs until Mr. Carr informed me of them this morning. I  
4 would, with respect to those two costs ask a week to get  
5 backup data, because I did not -- I'm sorry, but there's  
6 been so much paper in this case, I did not even see those  
7 in the last file I -- or the last line item that I e-mailed  
8 or faxed over to Mr. Carr, did not even have it on those,  
9 on here, and I would request a week to provide backup data  
10 to Mr. Carr on that, and whatever decision is made by Yates  
11 on that, we'll abide by.

12 EXAMINER CATANACH: Okay, let's --

13 MR. CARR: I mean, we discovered it yesterday  
14 too. I was trying to make numbers work and I was \$1000  
15 off, and we spent time and that's where we found it. I  
16 mean, it's a new matter to us as of yesterday.

17 EXAMINER CATANACH: Okay.

18 THE WITNESS: Point of clarification. We were  
19 submitted a cost sheet in October of this year. That cost  
20 sheet totaled out \$707,000. And upon preparation  
21 yesterday, on some exchanges between the attorneys  
22 yesterday, the number was determined to be \$708,000, and  
23 that would appear to be a new spreadsheet that appeared to  
24 be provided just this week even to Mr. Bruce.

25 EXAMINER CATANACH: Okay.

1 THE WITNESS: We all had trouble getting  
2 information.

3 EXAMINER CATANACH: Let's give Mr. Bruce two  
4 weeks to try and find that data and provide it to Yates,  
5 and at that point can Yates make a determination whether  
6 they want to --

7 MR. CARR: Yes, and we'll respond in writing to  
8 both of you immediately on receipt of that.

9 EXAMINER CATANACH: Okay. And can I get a  
10 summary -- After that, after you decide on that issue, can  
11 I get a summary again, stating each --

12 MR. CARR: Yes.

13 EXAMINER CATANACH: -- each cost that you're  
14 objecting to?

15 MR. CARR: Yeah.

16 EXAMINER CATANACH: I just want to be clear that  
17 we have the right numbers and the right, you know, items  
18 here that we're dealing with.

19 EXAMINATION

20 BY MS. MacQUESTEN:

21 Q. Mr. Moran, is Exhibit Number 8 the list of Yates  
22 costs that they were to provide under the order from the  
23 Commission?

24 A. Yes.

25 Q. And did Pride file any objections to this?

1           A.    To my knowledge, there was never an objection  
2 filed with the Commission to these costs.

3           Q.    So when you say now that they're objecting, that  
4 is in the course of your --

5           A.    -- negotiations.

6           Q.    -- negotiations, but not an official objection?

7           MR. CARR: Well, I received the list that Jim  
8 marked as Exhibit A prior to December 31, which was an  
9 objection to the items as double costs, but we've never  
10 been quarreling between either of us on the reasonableness  
11 of any number involved, but this objection did come in at  
12 that time.

13           THE WITNESS: Mr. Carr, that objection there from  
14 that list is a subsequent list. There's a prior objection  
15 that I think you're referring to, which included additional  
16 costs that they were objecting to, that they did reduce  
17 down from.

18           MR. CARR: Okay.

19           MR. BRUCE: Mr. Examiner, I can provide a copy.  
20 I did provide Pride Exhibit A to Mr. Carr by my letter  
21 dated September 30, 2005.

22           MR. CARR: But there was a time limit --

23           THE WITNESS: They --

24           MR. CARR: -- objection on these issues --

25           THE WITNESS: They're --

1 MR. CARR: -- covered more, but we winnowed that  
2 list down to --

3 MS. MacQUESTEN: Was that objection filed with  
4 the Division as required by the order?

5 MR. CARR: I don't know.

6 MR. BRUCE: I couldn't tell you.

7 MR. CARR: I don't know.

8 MR. BRUCE: I thought I had copied the Division,  
9 but I know -- like I said, I did fax and not mail it to Mr.  
10 Carr on September 30th.

11 MS. MacQUESTEN: Thank you.

12 EXAMINER CATANACH: As far as the expenses  
13 relating to legal charges, your position, Mr. Carr, is that  
14 that shouldn't be allowed?

15 MR. CARR: No, it shouldn't be allowed. Charges  
16 like that are only allowed if they're authorized by  
17 contract or statute. Neither of those exist here. If  
18 legal fees are appropriate for Pride, they would be  
19 appropriate for Yates. And I've worked the case harder  
20 than Mr. Bruce --

21 (Laughter)

22 MR. CARR: -- I think that wouldn't be a good  
23 thing for him.

24 MR. BRUCE: Start my facial tic going, Mr.  
25 Examiner.

1           Mr. Examiner -- and I recognize what Mr. Carr is  
2 saying. My client's position is simply -- To take a step  
3 back from what Mr. -- just with respect to attorney's fees,  
4 what Mr. Moran testified to, if you go back and look at the  
5 record the actual status was that Pride had an approved APD  
6 and made an offer or contacted Yates about doing something  
7 on the west half with respect to the State "X" 1 well. And  
8 at some point after that, the Hobbs District Office of the  
9 Division unilaterally revoked Pride's APD without notice to  
10 Pride. And it's Pride's position that it would not have  
11 had to incur these legal fees of that had not occurred.

12           EXAMINER CATANACH: Mr. Bruce, the current status  
13 of the well, is it just --

14           MR. BRUCE: It is -- I believe it's currently  
15 TA'd. As Mr. Moran testified, the re-entry was  
16 unsuccessful. They were going to continue it, and they ran  
17 into rig-availability problems, which is why the order  
18 expired, because it was not completed within 120 days. Mr.  
19 Moran provided only a part of the daily drilling reports,  
20 but they're -- I forget what the problems were. There were  
21 problems on re-entry, they pulled the rig off, we're  
22 planning on putting a new one on, they couldn't get a rig,  
23 and so the order expired. The well is still sitting there,  
24 and -- which is the -- since there is now an east-half unit  
25 for the Limbaugh AYO Well Number 2, something at some point

1 will have to be done in the west half, and probably in the  
2 near term, because at this point Pride has a lease which  
3 expires in about five months.

4 EXAMINER CATANACH: We may see this again.

5 MR. BRUCE: I hope not, Mr. Examiner.

6 EXAMINER CATANACH: Okay. I guess, why don't we  
7 continue for two weeks, and at that time can you guys show  
8 up at the January 19th hearing and just give a --

9 MR. CARR: Yes.

10 EXAMINER CATANACH: -- report on whether or not  
11 those specific issues --

12 MR. BRUCE: Two items.

13 EXAMINER CATANACH: -- were addressed and  
14 resolved or --

15 MR. CARR: Yes, we can do that.

16 EXAMINER CATANACH: And at that time you might --  
17 I don't know if you'll have it prepared by then, but you  
18 might try to get that prepared.

19 MR. CARR: The summary --

20 EXAMINER CATANACH: -- summary, yeah --

21 MR. CARR: Okay.

22 EXAMINER CATANACH: -- of exactly what Yates is  
23 asking for.

24 MR. CARR: Okay.

25 EXAMINER CATANACH: And also -- Pride might

1 prepare something also.

2 MR. BRUCE: Yeah, I think at this point Pride is  
3 asking for two things, and I can mention those whenever you  
4 want.

5 EXAMINER CATANACH: I'd prefer to have them in  
6 writing, if you wouldn't mind.

7 MR. BRUCE: In a written closing? Is that what  
8 you --

9 EXAMINER CATANACH: Yeah, that would be fine.

10 MR. BRUCE: That would be fine. It comes down to  
11 the attorney's fees, and then the items on Exhibit 8.

12 EXAMINER CATANACH: Okay. Anything further?

13 MR. CARR: Nothing further.

14 EXAMINER CATANACH: There being nothing further,  
15 we'll continue this case to the January 19th hearing.

16 That's all we have on this docket, isn't it?

17 This hearing is adjourned.

18 (Thereupon, these proceedings were concluded at  
19 9:43 a.m.)

20 \* \* \*

21 I do hereby certify that the foregoing is  
22 a complete record of the proceedings in  
23 the Examiner hearing of Case No. 13531,  
heard by me on Monday, 5, 2006.

24 David R. Catanach, Examiner  
25 Oil Conservation Division

## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                   )    ss.  
 COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL January 6th, 2006.




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STEVEN T. BRENNER.  
 CCR No. 7

My commission expires: October 16th, 2006