

1 NEW MEXICO OIL CONSERVATION DIVISION

2 STATE LAND OFFICE BUILDING

3 STATE OF NEW MEXICO

4 CASE NOS. 10386 and 10363 (Consolidated)

5
6 IN THE MATTER OF:7 The Application of McKay Oil
8 Corporation for Compulsory Pooling
Eddy County, New Mexico.9 The Application of Yates Petroleum
10 Corporation for Compulsory Pooling
Eddy County, New Mexico.11
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13
14 BEFORE:

15 DAVID R. CATANACH

16 Hearing Examiner

17 State Land Office Building

18 November 7, 1991

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21 REPORTED BY:22 CARLA DIANE RODRIGUEZ
23 Certified Shorthand Reporter
for the State of New Mexico24
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ORIGINAL

A P P E A R A N C E S

FOR THE NEW MEXICO OIL CONSERVATION DIVISION:

ROBERT G. STOVALL, ESQ.

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FOR YATES PETROLEUM CORPORATION:

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Post Office Box 2208
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BY: WILLIAM F. CARR, ESQ.

FOR McKAY OIL CORPORATION:

KELLAHIN, KELLAHIN & AUBREY
Post Office Box 2265
Santa Fe, New Mexico 87504-2265
BY: W. THOMAS KELLAHIN, ESQ.

1 EXAMINER CATANACH: At this time we'll
2 call Case 10386.

3 MR. STOVALL: Application of McKay Oil
4 Corporation for compulsory pooling, Eddy County,
5 New Mexico.

6 EXAMINER CATANACH: I believe we'll
7 call Case 10363 also at the present time.

8 MR. STOVALL: That's the application of
9 Yates Petroleum Corporation for compulsory
10 pooling, Eddy County, New Mexico.

11 MR. CARR: May it please the Examiner,
12 the Division in its infinite wisdom has already
13 entered orders in these cases at the Examiner
14 level. They have been appealed de novo;
15 therefore, there is nothing before you and the
16 cases need not be reopened since they are now
17 before the Commission.

18 We would request that the record so
19 reflect and that they be removed from today's
20 docket.

21 MR. STOVALL: Mr. Carr, we're going to
22 get to the same place you suggest but for
23 slightly different reasons. The issues for which
24 they've been reopened by the Examiner, Mr.
25 Examiner, for the record, are different issues

1 than that for which the order was actually
2 entered.

3 However, Yates Petroleum has filed a
4 request for de novo hearing in this case.
5 Specifically the issue regarding assignments of
6 overriding royalty interests, which could have
7 affected the recovery of certain costs from McKay
8 Oil Corporation had Yates prevailed on the
9 applications, is, for all practical purposes,
10 moot before the Division.

11 Therefore, it would be appropriate at
12 this time to remove this part of the case and
13 consolidate it with the de novo case before the
14 Commission.

15 I do agree with Mr. Carr's result that
16 there is no need for the Division to hear any
17 testimony or information on this case at this
18 time.

19 EXAMINER CATANACH: Do you suggest, Mr.
20 Stovall, that we just continue these or
21 consolidate it somehow?

22 MR. STOVALL: It is a rather new thing,
23 but I don't think there's any reason why you
24 can't either do it on the record or by a
25 supplemental order, just consolidating the

1 reopened cases with the de novo cases. I don't
2 think dismissal is the appropriate method.

3 MR. CARR: No, ~~dismissal~~ isn't, and I
4 might suggest that pursuant to a conference we
5 had with you several weeks ago, the cases were on
6 the docket, not reopened, but to argue whether or
7 not they should be reopened. Consequently that
8 point is moot, and I think you must simply remove
9 them from the docket. The matter now stands
10 before the Commission, and the issues that we
11 intended to raise on rehearing are now relevant
12 and germane there, and we will pursue them at
13 that level.

14 I really don't think there's anything
15 to do except--I don't think there's an order
16 appropriate at this point. I would just simply
17 withdraw my request that they be reheard. I
18 don't think there's anything you need to do
19 except let the matter go forward at the
20 Commission level, really.

21 MR. STOVALL: I don't disagree with
22 that. I don't think there's any additional
23 action, other than this transcript, necessary to
24 take that step.

25 MR. CARR: So that when we get all the

1 transcripts together in this case, I'll withdraw
2 the request that it be reopened at the Division
3 level.

4 MR. KELLAHIN: May the record reflect
5 my appearance on behalf of Mr. McKay.

6 Mr. Catanach, we have no opposition to
7 Mr. Carr's desire to withdraw his request to have
8 the cases reopened for this supplemental matter,
9 and we would like it removed from the docket.

10 EXAMINER CATANACH: Mr. Stovall, can we
11 just mechanically remove them from the docket?

12 MR. STOVALL: Simply say, just in the
13 transcript, indicate that the requests for
14 reopening these cases to consider the question of
15 the overrides is withdrawn, and the de novo
16 cases, and therefore the cases are not reopened.
17 I think that's the way to do it. They're
18 reopened for the purpose of not being reopened.

19 EXAMINER CATANACH: Let the record
20 reflect such action.

21 Thank you, gentlemen. This hearing is
22 adjourned.

23 (And the proceedings concluded.)

24 I do hereby certify that the foregoing is
25 a complete record of the proceedings in
the Examiner's hearing of Case No. _____
heard by me on November 7 1991.

David L. Catanach, Examiner
Oil Conservation Division

CERTIFICATE OF REPORTER

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

I, Carla Diane Rodriguez, Certified
Shorthand Reporter and Notary Public, HEREBY
CERTIFY that the foregoing transcript of
proceedings before the Oil Conservation Division
was reported by me; that I caused my notes to be
transcribed under my personal supervision; 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 November 15,
1991.


CARLA DIANE RODRIGUEZ, RPR
CSR No. 91