

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:

10/15
NOV 10 1993
CONSERVA. DIVISION

CASE NO. 11170

APPLICATION OF NEARBURG PRODUCING COMPANY
TO RESCIND APPROVAL OF YATES PETROLEUM
CORPORATION'S APPLICATION FOR PERMIT TO
DRILL ITS TACKITT "AOT" WELL NO. 1,
EDDY COUNTY, NEW MEXICO.

APPLICATION OF NEARBURG PRODUCING COMPANY

Comes now Nearburg Producing Company ("Nearburg") by and through its attorneys, Kellahin & Kellahin, and applies to the New Mexico Oil Conservation Division for the following relief:

- (1) Pursuant to Division Memorandum 3-85 requests that the Division Stay its approval of an Application for Permit to Drill "APD" requested by Yates Petroleum Corporation ("Yates") for its Tackitt "AOT" Well No. 1, SE/4 of Section 28, T19S, R25E, North Dagger Draw-Upper Pennsylvanian Pool, Eddy County, New Mexico.
- (2) That the Division schedule a hearing on the matter of the drilling by Yates of an "increased" density well within the same 160-acre spacing and proration unit in which the State "K" Well No. 2 is still a currently producing North Dagger Draw-Upper Pennsylvanian Pool well.

(3) That after notice and hearing the Division enter its order making the Stay permanent and thereby preventing the drilling by Yates of the subject well.

and as grounds therefore states:

(1) On June 27, 1994, Nearburg Producing Company commenced drilling its State "K" Well No 2, 1980 feet from the South line and 1980 feet from the East line of Section 28, T19S, R25E, NMPM, and completed it on July 13, 1994 for production from the North Dagger Draw-Upper Pennsylvanian Pool and dedicate it to a 160-acre spacing and proration unit consisting of the SE/4 of said Section 28.

(2) The North Dagger Draw-Upper Pennsylvanian Pool is currently governed by Special Rules and Regulations as promulgated by Division Order No. R-4691, as amended, and Order No. R-5565, which require 160-acre spacing with wells to be located no closer than 660 feet from the outer boundary of the proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary, an oil allowable of 700 barrels of oil per day and a limiting gas-oil ratio of 10,000 cubic feet of gas per barrel of oil.

(3) By letter dated October 7, 1994, Yates Petroleum Corporation ("Yates"), the current operator for the same 160-acre spacing unit which contains the Nearburg State "K" Well No 2, proposed to Nearburg and the other interest owners, the drilling of an additional well within the same spacing unit to be called the Tackitt "AOT" Well No 1, to be located 1650 feet from the South line and 990 feet from the East line of Section 28.

(4) Yates and Nearburg's respective interests in this spacing unit consisting of the SE/4 of said Section 28 is subject to a Joint Operating Agreement which in Article 12 (page 6) provides:

"Notwithstanding the provisions of this Section 12, it is agreed that without the mutual consent of all parties, no well shall be completed in or produced from a source of supply from which a well located elsewhere on the Unit Area is producing, unless such well conforms to the the existing well spacing pattern for such source of supply."

(5) By letter dated October 17, 1994, Nearburg advised Yates that Yates' proposed Tackitt "AOT" Well No. 1 was not in conformance with the well spacing pattern for this pool.

(6) By letter dated November 3, 1994, Yates advised Nearburg that it was rejection Nearburg's interpretation.

(7) On November 7, 1994, Nearburg learned that Yates has commenced to construct a location for this well.

(8) On November 9, 1994 the Division attorney issued an opinion letter in which Nearburg and Yates were advised that "the existing well spacing rules for North Dagger Draw provide for one well per 160-acre spacing unit."

(9) Despite a request by Nearburg to delay the commencement of the Tackitt well until this dispute could be resolved, Yates has informed Nearburg that Yates will commence drilling the disputed well on Saturday, November 12, 1994.

(10) Yates has failed to provide any justification about its reasons for this well, the basis for its location, why it is to be drilled now, at what rates it will be produced, how it will be produced in conjunction with the existing well or what method, if any, by which it will "share" the unit production allowable with the existing well.

(11) Unless the stay is granted, Nearburg will not be afforded a meaningful opportunity to have this matter heard by the Division prior to commencing the well.

(12) If Nearburg is correct in its contentions about this matter, then time is of the essence because Yates' commencement of this well prior to a decision by the Division may cause waste and impair correlative rights which might have otherwise been prevented, thus resulting in irreparable harm to Nearburg.

(13) Conversely, if the stay is granted but Nearburg is wrong in its contentions, then time is not of the essence and no substantial harm will result to any other party because Yates can drill the well later.

WHEREFORE, Nearburg respectfully requests that the NMOCD enter an order rescinding its approval of the APD in this matter and staying the drilling of the subject well pending ultimate decision on this matter. A copy of a proposed order granting the stay is enclosed.

KELLAHIN AND KELLAHIN

By: 

W. Thomas Kellahin

P.O. Box 2265

Santa Fe, New Mexico 87504

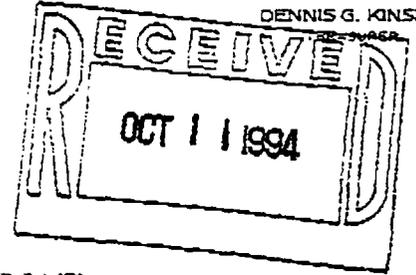
(505) 982-4285

MARTIN YATES, III
1912 - 1985
FRANK W. YATES
1936 - 1986



105 SOUTH FOURTH STREET
ARTESIA, NEW MEXICO 88210
TELEPHONE (505) 748-1471

S. P. YATES
CHAIRMAN OF THE BOARD
JOHN A. YATES
PRESIDENT
PEYTON YATES
EXECUTIVE VICE PRESIDENT
RANDY G. PATTERSON
SECRETARY
DENNIS G. KINSEY
TREASURER



October 7, 1994

To: Working Interest Owners
Addressee List Attached

CERTIFIED MAIL
Return Receipt Requested

Re: Tackitt AOT #1
Township 19 South, Range 25 East
Section 28: SE/4
Eddy County, New Mexico

Gentlemen:

Enclosed are two (2) copies of our Authority for Expenditure to drill the captioned well at a location of 1650' FSL and 990' FEL of Section 28-T19S-R25E.

If the AFE is satisfactory and you would like to participate in the drilling of this well, please sign and return one (1) executed copy of the AFE to our office within the thirty (30) day time period allowed.

Thank you for your prompt response. Please give us a call if you have any questions.

Very truly yours,

YATES PETROLEUM CORPORATION

Mecca Mauritsen
Landman

MM:dke
enclosure(s)

Tackitt AOT #1
Addressee Owner List

Nearburg Exploration Company
3300 Noth A. Street
Bldg. 2, Suite 120
Midland, Texas 79705

Mr. Curtis W. Mewbourne
P.O. Box 7698
Tyler, Texas 75711

Mrs. Patricia Ares
2819 Maxwell Drive
Midland, Texas 799705

Vintage Petroleum, Inc.
4200 One Williams Center
Tulsa, Oklahoma 74172
Attention: Don Metz

Yates Petroleum Corporation
105 South Fourth Street
Artesia, New Mexico 88210

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

October 17, 1994

CERTIFIED MAIL RETURN RECEIPT

Yates Petroleum Corporation
105 South Fourth Street
Artesia, New Mexico 88201
Attn: Mr. Randy Patterson

Re: Tackett "AOT" Well No. 1
1650 feet FSL & 990 feet FEL
Section 28, T19S, R25E
Eddy County, New Mexico
State "K" Prospect

Dear Mr. Patterson:

Our firm represents Nearburg Exploration Company ("NEC") who has received Yates Petroleum Corporation's ("Yates") letter dated October 7, 1994 which proposes that the referenced well be drilled and dedicated to a 160-acre spacing unit consisting of the SE/4 of said Section 28 for production from the North Dagger Draw-Upper Pennsylvanian Pool, Eddy County, New Mexico.

As you know, the New Mexico Oil Conservation Division has established 160-acre spacing and proration units for any production from the North Dagger Draw-Upper Pennsylvanian Pool.

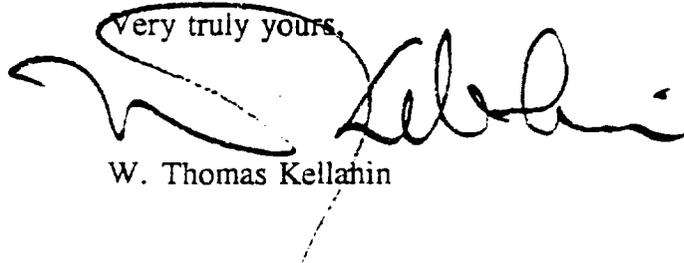
This acreage is subject to the terms and conditions of the January 15, 1975 Operating Agreement which in Article 12 (page 6) provides:

"Notwithstanding the provisions of this Section 12, it is agreed that without the mutual consent of all parties, no well shall be completed in or produced from a source of supply from which a well located elsewhere on the Unit Area is producing, unless such well conforms to the then existing well spacing pattern for such source of supply."

Yates Petroleum Corporation
October 17, 1994
Page 2

Because the SE/4 of said Section 28 is already dedicated to the State "K" Well No. 2 located 1980 feet FEL and 1980 feet FSL, then additional wells in that same 160-acre spacing and proration unit cannot be drilled without the unanimous consent of all parties. Please be advised that NEC does not grant its consent for the drilling of such additional well.

Accordingly, NEC declines to make an election with regard to the referenced well. Yates is prohibited from pursuing the referenced well without the consent of all working interest owners.

Very truly yours,

W. Thomas Kellahin

cc: Ernest L. Carroll, Esq.
P. O. Box 239
Artesia, New Mexico 88211-0239

Nearburg Exploration Company
3300 North "A" Street
Building 2, Suite 120
Midland, Texas 79705

Mrs. Patricia Ares
2819 Maxwell Drive
Midland, Texas 79705

Mr. Curtis W. Mewbourne
P. O. Box 7698
Tyler, Texas 75711

Mr. Don Metz
Vintage Petroleum, Inc.
4200 One Williams Center
Tulsa, Oklahoma 74172

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SECRETARY
DENNIS G. KINSEY
TREASURER

November 3, 1994

Kellahin & Kellahin
P.O. Box 2265
Santa Fe, New Mexico 87504-2265

CERTIFIED MAIL
Return Receipt Requested

Attention: W. Thomas Kellahin

Re: Tackitt AOT #1
Township 19 South, Range 25 East
Section 28: SE/4
Eddy County, New Mexico

Gentlemen:

Pursuant to your letter of October 17, 1994, Yates Petroleum Corporation disagrees with your interpretation of the paragraph in Article 12, of the January 15, 1975 Operating Agreement, quoted in your letter stating that Yates Petroleum Corporation cannot drill the captioned well without the consent of all parties.

The last part of the sentence states "unless such well conforms to the then existing well spacing pattern for such source of supply". Our attorney, Ernest Carroll, and the New Mexico Oil Conservation Division have advised us that this new well proposal does conform to the existing well spacing pattern for the N. Dagger Draw Pool. Therefore, this provision does not apply and we are allowed to pursue this proposal without the consent of all parties.

Nearburg Exploration Company received our proposal to drill this well on October 12, 1994 and has until November 11, 1994 to elect to participate or be considered a non-consenting party.

Very truly yours,

YATES PETROLEUM CORPORATION

Mecca Mauritsen
Landman

MM:dke

cc: Ernest Carroll
Nearburg Exploration Company
Mrs. Patricia Ares
Mr. Curtis W. Mewbourne
Mr. Don Metz



BRUCE KING
GOVERNOR

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

2040 S. PACHECO
SANTA FE, NEW MEXICO 87503
(305) 827-7131

November 9, 1994

Mr. Thomas W. Kellahin
Kellahin And Kellahin
Attorneys At Law
Post Office Box 2265
Santa Fe, New Mexico 87504-2265

Mr. Ernest Carroll
Lossee, Carson, Hass & Carroll
Attorneys At Law
P. O. Drawer 1720
Artesia, New Mexico 88211-0239

Dear Mssrs. Kellahin and Carroll:

Nearburg Producing Company has requested the Division's interpretation of the well spacing rules for the North Dagger Draw Pool.

Mr. Kellahin has advised us that there is a Joint Operating Agreement applicable to the SE/4 of Section 28, T19S, R25E, Eddy County, New Mexico, which in Article 12 (page 6) provides:

"Notwithstanding the provisions of this Section 12, it is agreed that without the mutual consent of all parties, no well shall be completed in or produced from a source of supply from which a well located elsewhere on the Unit Area is producing, unless such well conforms to the then existing well spacing pattern for such source of supply."

We have been further advised that there currently exists a State K Well No. 2 in the SE/4 of said Section 28 to which 160-acres is dedicated for production from the North Dagger Draw-Upper Pennsylvanian Pool.

Mssrs. Kellahin and Carroll
November 9, 1994
Page Two

Finally, we have been advised that Yates Petroleum now has proposed to Nearburg a second well to be drilled in this same spacing unit to the same source of supply.

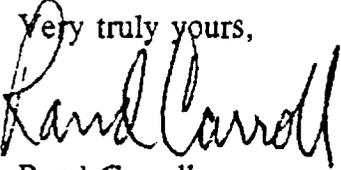
Please be advised that the North Dagger Draw-Upper Pennsylvanian Pool is currently governed by Special Rules and Regulations as promulgated by Division Order No. R-4691, as amended, and Order No. R-5565, which require 160-acre spacing with wells to be located no closer than 660 feet from the outer boundary of the proration unit nor closer than 330 feet from any quarter-quarter section line or subdivision inner boundary, an oil allowable of 700 barrels per day and a limiting gas-oil ratio of 10,000 cubic feet of gas per barrel of oil.

Accordingly, the existing well spacing rules for North Dagger Draw provide for one well per 160-acre spacing unit.

Although the Division has found that well spacing of one well per 160-acres could efficiently and economically drain and develop the pool, the Division has allowed additional wells for this pool and other oil pools where production is subject to the "proration rules." The Division allows these additional wells in the prorated oil pools because all wells in that spacing unit would be limited to the production allowable established for that spacing unit. Under OCD procedures, additional wells are routinely approved provided no objections are received.

For example, in the North Dagger Draw Pool, the first well may produce up to 700 barrels of oil per day and 7,000 MCF per day. A second well may be allowed under Division practice provided that it "shares" the allowable with the first well on that same spacing unit.

In summary, although the well spacing rules for the North Dagger Draw Pool provide for planned spacing of one well per 160-acre spacing unit, in actuality more than one well has been approved and drilled in some spacing units in that pool.

Very truly yours,

Rand Carroll

cc: Jim Morrow, Chief Petroleum Engineer
David Catanach, Petroleum Engineer
Michael Stogner, Petroleum Engineer
OCD Artesia Office
OCD Hobbs Office