

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

IN THE MATTER OF THE APPLICATION OF  
NEARBURG EXPLORATION COMPANY FOR  
COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO

CASE NO. 11232

IN THE MATTER OF THE APPLICATION  
OF YATES PETROLEUM CORPORATION FOR  
COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO

CASE NO. 11264

RESPONSE TO  
MOTION TO DISMISS CASE 11264  
OR IN THE ALTERNATIVE  
MOTION TO REINSTATE CASE 11232

COMES NOW Yates Petroleum Corporation, by and through its attorneys, Losee, Carson, Haas & Carroll, P. A., and hereby responds to Nearburg Exploration Company's Motion to Dismiss Case 11264 or in the Alternative Motion to Reinstate Case 11232, and moves the New Mexico Oil Conservation to deny Nearburg's motion, and as grounds therefore states as follows:

1. On May 3, 1995, the Division Director, having considered the record in Case No. 11232 and upon the motion of Nearburg Exploration Company, Nearburg's Application for Compulsory Pooling was dismissed.

2. Nearburg Exploration Company should not be allowed to reinstate its Application for Compulsory Pooling without the obligations to give notice as required by the rules of the Division. Should Nearburg Exploration Company desire to file a case for compulsory pooling, then it should file an appropriate application and give notice according to the Division rules.

3. On April 6, 1995, Nearburg Exploration Company agreed to voluntarily dismiss its case No. 11232 and acquiesced to sign Yates' operating agreement and accept Yates as operator per Yates' request for compulsory pooling in Case No. 11264. Based upon Nearburg's representation that it would immediately agree to execute the appropriate paperwork, Yates tentatively set commencement for the subject well on or before July 1, 1995.

4. There are additional working interest owners in the subject acreage who had also voluntarily agreed to join in the drilling of said well. As of this date, HEYCO has not returned its executed operating agreement and AFE, although by oral communications within the last week between Yates and HEYCO, HEYCO indicated that it would likely join in the drilling of the well, but was watching production rates from nearby wells prior to its final commitment to the project.

5. Because of numerous other disputes between Nearburg Exploration Company and Yates Petroleum Corporation, Nearburg refused to sign and return the operating agreement and AFE which it indicated it would do on April 6, 1995. Only after numerous phone calls and letters was action taken by Nearburg to sign the operating agreement and AFE.

6. Contrary to Nearburg's representation in its motion, it was not until May 25, 1995, that the actual signed operating agreement and AFE was received by Yates Petroleum Corporation.

7. Due to the delay intentionally caused by Nearburg Producing Company in refusing to timely return the executed

operating agreement and AFE, it is impossible for Yates to begin the well on or before July 1, 1995, and Yates is in the process of securing voluntary extension of the spud date to September 1, 1995.

8. Because of the unreasonable delay of Nearburg Producing Company specified above and because of the failure of HEYCO to execute and return the operating agreement and AFE Yates had Case No. 11264 continued to July 13, 1995, in order to allow for such paperwork to be signed.

9. No grounds, legal or factual, exist upon which the Division can dismiss Yates' compulsory pooling Case No. 11264.

ACCORDINGLY, Yates Petroleum Corporation hereby requests that the Division deny Nearburg Exploration Company's motion in all respects.

Respectfully submitted,

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I hereby certify that I caused to be mailed a true and correct copy of the foregoing to all counsel of record this June 15, 1995.

  
Ernest L. Carroll