

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:

JAN 31 1994

APPLICATION OF YATES PETROLEUM  
CORPORATION FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

CASE NO. 10905

APPLICATION OF NEARBURG EXPLORATION  
CORPORATION FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

CASE NO. 10906

CONSOLIDATED  
PRE-HEARING STATEMENT

This pre-hearing statement is submitted by NEARBURG  
EXPLORATION CORPORATION, as required by the Oil Conservation  
Division.

**APPEARANCE OF PARTIES**

APPLICANT IN CASE 10906  
OPPONENT IN CASE 10905

ATTORNEY

Nearburg Exploration Corporation  
3300 North "A" Street  
Midland, Texas 79705  
(915) 686-8235  
attn: Bob Shelton

W. Thomas Kellahin  
KELLAHIN AND KELLAHIN  
P.O. Box 2265  
Santa Fe, New Mexico 87504  
(505) 982-4285

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OPPONENT IN CASE 10906  
APPLICANT IN CASE 10905

ATTORNEY

Yates Petroleum Corporation

Earnest L. Carroll, Esq  
P. O. Drawer 239  
Artesia, N.M. 88211  
(505) 746-3505

#### STATEMENT OF CASE

NEARBURG EXPLORATION COMPANY seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 29, T19S, R25E, NMPM, Eddy County, New Mexico forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acres spacing within said vertical extent, which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool. Said unit to be dedicated to Nearburg Exploration Company's Boyd "X" State #3 Well to be located at a standard well location 1980 feet FSL and 1980 feet FEL of said Section 29.

Nearburg Exploration Company ("Nearburg") has a 50% working interest ownership in the oil and gas minerals in the SE/4 of Section 29. The other working interest owner in the SE/4 of Section 29 is Yates Petroleum Corporation.

On December 30, 1993, Nearburg sent to Yates Petroleum Corporation ("Yates") a proposal concerning Nearburg's Boyd "X" #3 Well in the SE/4 of Section 29 in which Nearburg sought, among other things, to be designated the operator and to have Yates participate in the well, to pay its share of the AFE costs of the well.

On January 3, 1994, Yates: (a) sent a compulsory pooling application to the Division seeking to pool Nearburg for the well that Nearburg has just proposed; and (b) sent a proposal to Nearburg proposing that Yates operate the Boyd "X" #3 Well.

By its conduct, Yates has rejected Nearburg's proposal, has refused to discuss this matter with Nearburg, and has refused to consider Nearburg's effort to voluntarily form a spacing unit for this well.

That all reasonable efforts by Nearburg to form a voluntary agreement for this well has failed and it has been unable to obtain a voluntary agreement.

Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of the potential production underlying the above tract, Nearburg needs an order pooling the mineral interest involved in order to protect Nearburg's correlative rights and prevent waste that (a) designates Nearburg Producing Company be named operator of the well; (b) makes provisions for applicant and all working interest owners to participate in the costs of drilling, completing and equipping the well; (c) establishes a risk factor penalty of 200%.

PROPOSED EVIDENCE

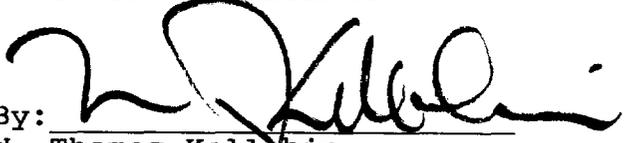
APPLICANT:

WITNESSES	EST. TIME	EXHIBITS
Bob Shelton (landman)	20 min.	@ 4 exhibits
Jerry Elger (geologist)	20 Min.	@ 3 exhibits
Tim McDonald (petroleum engineer)	20 Min.	AFE-costs

**PROCEDURAL MATTERS**

Motion to dismiss or in the alternative to deny the Yates application in Case 10905 for violation of Section 70-2-17(c) NMSA (1978).

KELLAHIN AND KELLAHIN

By:   
W. Thomas Kellahin  
P.O. Box 2265  
Santa Fe, New Mexico 87504  
(505) 982-4285