

**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:**

**CASE NO. 15233  
ORDER NO. R-13946**

**APPLICATION OF HARVEY E. YATES COMPANY FOR A NON-STANDARD  
OIL SPACING AND PRORATION UNIT, COMPULSORY POOLING, AND AN  
UNORTHODOX OIL WELL LOCATION, LEA COUNTY, NEW MEXICO**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This case came on for hearing at 8:15 a.m. on November 20, 2014, and again on December 4, 2014, at Santa Fe, New Mexico, before Examiners William V. Jones and Michael McMillan.

NOW, on this 14<sup>th</sup> day of January, 2015, the Division Director, having considered the testimony, the record and the recommendations of Examiner William V. Jones,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) Harvey E. Yates Company ("Applicant") seeks approval of a non-standard 240-acre oil spacing and proration unit ("the Unit") in the Bone Spring formation comprised of the E/2 SE/4 of Section 22 and the E/2 E/2 of Section 27, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico.

(3) Applicant also seeks approval of a non-standard location for the proposed well within this Unit.

(4) Applicant further seeks an order pooling all uncommitted mineral interests in the Unit.

(5) The Mallon 27 Federal Com Well No. 1H, (API No. 30-025-42212, the "Proposed Well") will be drilled as a horizontal well from a surface location within Unit

letter P of Section 27, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico. The well is planned for oil production from the 3<sup>rd</sup> Bone Spring Sand at 10,860 feet vertical depth and will be located according to Division records within the Lea-Bone Spring Pool (37570). According to Exhibit No. 12, the first perforation/production will be located at approximately 807 feet from the South line and 660 feet from the East line (Unit letter P). The well will be drilled in a northern direction to a terminus at approximately 2310 feet from the South line and 660 feet from the East line of offsetting Section 22.

(6) Commission Order No. R-1827-A on December 21 of 1961, promulgated Special Rules for the Lea-Bone Spring Pool (37570) providing for 80-acre oil spacing and proration units with wells located within 150 feet of the quarter-quarter section. For the Proposed Well, the allowed well location window would therefore consist of a rectangle centrally located within the Unit, 300 feet wide by 6900 feet long. The Proposed Well will be located in the center of this location window, but the first and last production points may exceed the 150 feet limit; therefore, the applicant is asking for relief from that requirement.

(7) Applicant appeared at the hearings and presented witnesses for land and geologic evidence:

- (a) The proposed well will be drilled within the 3<sup>rd</sup> Bone Spring Sand beginning at a down-dip location and extending up-dip to the toe of the well. The proposed well is bounded by older wells with logs and production within the same interval being proposed in this case.
- (b) All of the standard sized oil spacing and proration units comprising this 240-acre project area are expected to contribute to production from the well.
- (c) Harvey E. Yates Company (OGRID 10179) has obtained interest in this spacing unit and this well via agreement with Cimarex Energy Co. (OGRID 215099), who is still listed as the Division's operator of record for this permitted well. That evidence of agreement was presented and accepted as Exhibit No. 13.
- (d) For formation of the 240-acre non-standard oil spacing and proration unit, notice was provided to all surrounding operators within the Bone Spring, and no protests were received.
- (e) Notice was provided as to the well's proposed non-standard location and no protests were received.
- (f) The Unit consists of only federal lands. There are owners of interests that have not been located and owners who have chosen not to participate in the proposed well. A diligent effort was made by the Applicant to locate

all owners and to obtain joinder in this well. Notice was provided to owners as to the hearing.

(8) This case was continued until the December 4<sup>th</sup> docket at which time a newspaper notice, labeled Exhibit 13, was admitted. No other party appeared at either hearing, or otherwise opposed the granting of this application.

(9) The proposed 240-acre non-standard oil spacing and proration unit and project area should be approved. The non-standard location for the proposed well within this Unit should also be approved.

(10) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(11) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

(12) There are interest owners in the Unit that have not agreed to pool their interests as well as interest owners that have not been located.

(13) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved and all uncommitted interests pooled, whatever they may be, in the oil and gas within the Unit.

(14) Harvey E. Yates Company (OGRID 10179) should be designated the operator of the proposed well and of the Unit.

(15) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well.

(16) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations."

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Harvey E. Yates Company ("Applicant"), the non-standard oil spacing and proration unit and project area ("the Unit") comprised of the E/2 SE/4 of Section 22 and the E/2 E/2 of Section 27, Township 19 South, Range 34

East, NMPM, Lea County, New Mexico, is hereby approved and all uncommitted interests, whatever they may be, in the oil and gas located in the Bone Spring formation underlying the Unit are hereby pooled.

(2) Applicant's **Mallon 27 Federal Com Well No. 1H** ("the proposed well"; API No. 30-025-42212), shall be drilled from a surface location within Unit letter P of Section 27, Township 19 South, Range 34 East, NMPM, Lea County, New Mexico. The well shall be drilled to test the 3<sup>rd</sup> Bone Spring Sand at approximately 10,860 feet vertical depth. The first perforation shall be located within Unit letter P at approximately 807 feet from the South line and 660 feet from the East line and the well drilled thereafter in a northerly direction to a terminus at approximately 2310 feet from the South line and 660 feet from the East line (Unit letter I) of offsetting Section 22. The unorthodox location of the completed interval within the Unit for Bone Spring production within the Lea-Bone Spring Pool (37570) is hereby approved.

(3) The operator of the Unit shall commence drilling the proposed well on or before January 1, 2016, and shall thereafter continue drilling the proposed well with due diligence to test the Bone Spring formation.

(4) In the event the operator does not commence drilling the proposed well on or before January 1, 2016, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraph (1) shall be of no further effect, and the Unit and project area shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not completed in all of the quarter-quarter sections included in the Unit within 120 days after commencement of drilling, then the operator shall apply to the Division to contract the Unit so that it includes only the quarter-quarter sections in which the well is completed.

(6) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled unit shall terminate, unless this Order has been amended to authorize further operations.

(7) Harvey E. Yates Company (OGRID 10179) is hereby designated the operator of the well and of the Unit.

(8) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the

Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(11) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(12) The operator is hereby authorized to withhold the following costs and charges from production from the well:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(13) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(14) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and

the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(15) Except as provided in Paragraphs (12) and (14) above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A7-8A-28, as amended).

(16) Any unleased mineral interests shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

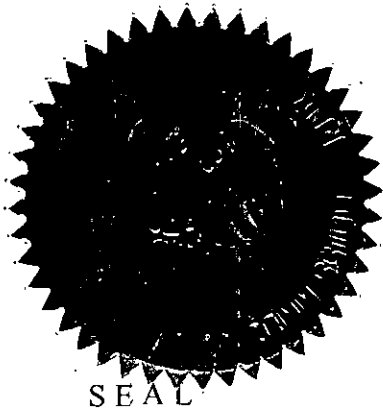
(17) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this Order, this order shall thereafter be of no further effect.

(18) This Order is contingent upon approval by the United States Bureau of Land Management of pooling of the federal interests included in the Unit.

(19) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this Order.

(20) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

*David R. Catanach*

DAVID R. CATANACH  
Director