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May 16, 2006

BY HAND DELIVERY

Mr. David Catanach, Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

Re: Oil Conservation Division Case No. 13690: Application of Pride Energy
Company for Compulsory Pooling, Lea County, New Mexico.

Dear Mr. Catanach:

At the conclusion of the May 11, 2006 examiner hearing on the above-referenced application, you requested a proposed order from Pride Energy Company. Enclosed for your consideration is the proposed order of Yates Petroleum Corporation in this case.

As you will see from the enclosed, Yates believes that Pride has failed to meet the statutory preconditions for an order pooling the subject lands for a second re-entry attempt in the State "X" Well No. 1. Yates has filed its Motion to Dismiss this Application which was argued to the Division on April 13, 2006. Yates requests that its motion be granted based on its motion and the arguments presented to the Division on that date.

Yates also objected at the May 11, 2006 hearing to the pooling of the W/2 of this section for the drilling of the State "X" Well No. 2 in the SW/4 of this section. Yates arguments are set out in Findings 7 through 14 of the enclosed proposed order. As shown there, pooling the W/2 of this section for the proposed State "X" Well No. 2 would violate the Oil and Gas Act as well as the provisions of new Division Rule 36.

If the Division should grants any of the matters raised by the Pride application in this case, the order must be based on the record made before the Examiner on May 11th. In this regard, Yates points out the Pride did not request the imposition of a charge for risk against any owner that does not voluntarily participate in either well and, therefore, no risk penalty can be imposed.



Your attention to the enclosed proposed order of the Division and the comments contained in this letter is appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "William F. Carr".

William F. Carr

cc: Gail MacQuesten, Esq.
James Bruce, Esq.
Charles Moran, Esq.

**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:**

**APPLICATION OF PRIDE ENERGY
COMPANY FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.**

**CASE NO. 13690
ORDER NO. R-_____**

**YATES PETROLEUM CORPORATION'S
PROPOSED ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a. m. on May 11, 2006, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this ____ day of May 2006, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Pride Energy Company ("Pride") seeks an order pooling all mineral interests in all formations from the surface to the base of the Mississippian formation underlying the W/2 of Section 12, Township 12 South, Range 34 East, NMPM, Lea County, New Mexico, "... to re-enter the State "X" Well No. 1, located 1980 feet from the north line and 660 feet from the west line of Section 12, and deepen the well to test the Mississippian formation, and seeks to dedicate the W/2 of Section 12 to the well to form a standard 320 acre gas spacing and proration unit for any formation and/or pools developed on 320 acre spacing within that vertical extent, including the Undesignated Four Lakes-Mississippian Gas Pool." (Pride Application, paragraph 2) Pride also requests that the order entered in this case "provide for the drilling of an infill well pursuant to division rules." (Pride Application, paragraph 5)

(3) The Applicant is the Oil and gas lessee of the SW/4 of Section 12. Yates Petroleum Corporation and its related companies is the oil and gas lessee of the N/2 and SE/4 of Section 12.

(4) This acreage was previously compulsory pooled by the Division by Order No. R-12108 and Pride was designated operator of the State "X" Well No. 1. Pride's first re-entry attempt failed and the pooling order expired of its own terms. Issues remain between the parties concerning the refund to Yates of approximately \$116,000 held by Pride. The Division by Order No. R- 12547 has ordered Pride to pay these monies to Yates.

STATE "X" WELL NO. 1

(5) At the time of hearing on this application, Yates appeared in opposition to the application and by motion sought dismissal of the application for an order pooling the W/2 of Section 12 for a second re-entry attempt in the State "X" well No. 1. The motion was argued to the Division on April 13, 2006, and in support of its request for dismissal Yates asserts that (i) Pride has not made the required good faith effort to be entitled to another pooling order, (ii) that Pride does not have the right to drill the well, and (iii) that to issue another pooling order while Pride was continuing to hold \$116,595.69 that the Division has order Pride to pay to Yates from the first re-entry attempt would be an arbitrary, unreasonable and capricious action by the Division since under the new pooling order Yates to have to pay an additional sum of approximately \$1,000,000 to participate in the new re-entry without penalty.

(6) Pride's application for an order pooling the W/2 of Section 12 for the re-entry of the State "X" well No. 1 should be denied for Pride did has not made a good faith effort to reach a voluntary agreement for the development of these lands with this well and until Pride pays the sums that it is withholding from Yates as a result of its first attempt to re-enter the State "X" well, it would be unreasonable for the Division to require Yates to pay additional sums to Pride for a second re-entry attempt. Pride's application for an order pooling the W/2 of Section 12 for a second re-entry attempt in the State "X" well No. 1 should be dismissed.

STATE "X" WELL NO. 2

(7) At the hearing Pride testified that it now planned to drill an "infill well" in the SW/4 of Section 12, the State "X" Well No. 2, prior to again attempting a re-entry of the State "X" Well No. 1 and requested that the order entered in this case also pool the W/2 for an infill well.

(8) Pride testified, and its exhibits confirmed, that the State "X" Well No. 2 was first proposed to Yates by a letter dated May 4, 2006 which was only seven days prior to the hearing on this application and over three weeks after it filed its application in this case. Pride testified that this was its only contact with Yates concerning the drilling of the State "X" Well No. 2.

(9) Yates objected to the pooling of the W/2 of Section 12 for the drilling of the State "X" Well No. 2 for the following reasons:

- (a) Pride's application does not address the State "X" well No. 2 but, instead, seeks an order pooling the W/2 of Section 12 for a re-entry attempt in the State "X" Well No. 1 in the NW/4 of the section. Therefore, the Division lacks jurisdiction to hear an application for pooling the W/2 of the section for the State "X" Well No. 2 because no notice of this matter has been provided as required by the rules of the Division.
- (b) Pride's evidence in support of its assertion that it has been engaged in good faith negotiations with Yates for the drilling of the State "X" Well No. 1 was expressly limited to that well. Pride has failed to met the statutory preconditions for a pooling order for the State "X" Well No. 2 for its has not made a good faith effort to reach voluntary agreement for the well has required before invoking the states pooling authority under the Oil and Gas Act;
- (c) The State "X" Well No. 2 cannot be drilled under this application in the SW/4 of Section 12 as an "infill well" pursuant to Division Rule 36 for by definition it will be the original well on the spacing unit;
- (d) Division Rule 36 establishes a precise and an orderly process for the drilling of infill wells on pooled units which first requires there be (i) a pooled spacing unit, and (ii) a completed initial well on the unit.
- (e) Pride cannot drill the State "X" Well No. 2 as an infill well as it proposes because infill wells on pooled units are proposed and approved in accordance with the procedures set out in Rule 36 and are not the subject of subsequent pooling applications and hearings.

(10) Pride testified that it intended to drill the infill well first. By definition this cannot happen. There is no pooled unit and no completed well in the W/2 of Section 12 and, therefore, the State "X" Well No. 2 is not the infill well but the original well on the unit and the Division rules for infill wells cannot apply to this well.

(11) Yates argued that Division Rule 36 does not authorize an operator to change wells on a proposed pooled spacing unit at the time of hearing. To do so requires the operator start over and complying with the compulsory pooling provisions of the Oil and Gas Act.

(12) In this case Pride's proposed the State "X" Well No. 1 in the NW/4 of Section 12 and the State "X" Well No. 2 in the SW/4 of the section present different issues for the parties to consider in determining whether or not to voluntarily participate in the well. The wells are not the same. One is a proposed re-entry while the other is a new drill. They are located in different quarter sections where the geology is different. Yates may desire to participate in one but not the other.

(13) Since the State "X" Well No. 2 will be the first well on this pooled unit, Pride must comply with the statutory preconditions for a pooling order. These include a showing that Pride has made a good faith offer to reach voluntary agreement for the development of the spacing units with the other owners therein. Pride cannot make this showing. Pride cannot have made a good faith effort to reach a voluntary agreement for the drilling prior to filing its pooling application when it admits that the application was filed three weeks prior to its first offer to Yates to participate in the well.

(14) Pride's application for an order compulsory pooling all interests in the W/2 of Section 12 for the drilling of the State "X" Well No. 2 should be denied.

IT IS THEREFORE ORDERED THAT:

(1) The application of Pride Energy Company ("Pride") for an order pooling all mineral interests in all formations from the surface to the base of the Mississippian formation underlying the W/2 of Section 12, Township 12 South, Range 34 East, NMPM, Lea County, New Mexico, "... to re-enter the State "X" Well No. 1, located 1980 feet from the north line and 660 feet from the west line of Section 12, and deepen the well to test the Mississippian formation, and seeks to dedicate the W/2 of Section 12 to the well to form a standard 320 acre gas spacing and proration unit for any formation and/or pools developed on 320 acre spacing within that vertical extent, including the Undesignated Four Lakes-Mississippian Gas Pool is hereby dismissed.

(2) The application of Pride for an order pooling the W/2 of said Section 2 for the drilling of the State "X" Well no. 2 is not properly before the Division and is hereby denied.

(3) Jurisdiction is hereby 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

MARK E. FESMIRE, P.E.
Director

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