

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. 13,927

APPLICATION OF YATES PETROLEUM )  
CORPORATION FOR A NONSTANDARD GAS )  
SPACING UNIT, EDDY COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Hearing Examiner

June 7th, 2007

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Hearing Examiner, on Thursday, June 7th, 2007, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

RECEIVED  
2007 JUN 21 AM 10:19

## I N D E X

June 7th, 2007  
 Examiner Hearing  
 CASE NO. 13,927

	PAGE
APPEARANCES	3
APPLICANT'S WITNESS:	
<u>CHARLES E. MORAN</u> (Landman)	
Direct Examination by Mr. Carr	5
Cross-Examination by Mr. Padilla	19
Redirect Examination by Mr. Carr	26
Examination by Examiner Brooks	28
REPORTER'S CERTIFICATE	37

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	8	19
Exhibit 2	12	19
Exhibit 3	12	19
Exhibit 4	17	19

\* \* \*

Additional submission by Ard Energy Group, not offered or  
 admitted:

	Identified
Operating agreement	22

\* \* \*

## A P P E A R A N C E S

## FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
110 N. Guadalupe, Suite 1  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: WILLIAM F. CARR

## FOR ARD ENERGY GROUP, L.L.C.:

PADILLA LAW FIRM, P.A.  
1512 South St. Francis Drive  
P.O. Box 2523  
Santa Fe, New Mexico 87504-2523  
By: ERNEST L. PADILLA

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:18 a.m.:

3  
4  
5  
6 EXAMINER BROOKS: Okay, let us proceed with the  
7 orders of the day.

8 At this time we will call Case Number 13,927, the  
9 Application of Yates Petroleum Corporation for a  
10 nonstandard gas spacing unit, Eddy County, New Mexico.

11 Call for appearances.

12 MR. CARR: May it please the Examiner, my name is  
13 William F. Carr with the Santa Fe office of Holland and  
14 Hart, L.L.P.

15 We represent Yates Petroleum Corporation, and I  
16 have one witness.

17 MR. PADILLA: Mr. Examiner, I'm Ernest L. Padilla  
18 for Ard Energy Group, L.L.C.

19 EXAMINER BROOKS: Witnesses -- one -- only one --  
20 You have no witnesses?

21 MR. PADILLA: I have no witnesses.

22 EXAMINER BROOKS: Okay, will the witness be  
23 sworn, please?

24 (Thereupon, the witness was sworn.)

25 EXAMINER BROOKS: You may proceed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHARLES E. MORAN,

the witness herein, after having been first duly sworn upon his oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CARR:

Q. Would you state your name for the record, please?

A. My name is Charles Moran.

Q. Mr. Moran, where do you reside?

A. Artesia, New Mexico.

Q. By whom are you employed?

A. Yates Petroleum Corporation.

Q. What is your position with Yates Petroleum Corporation?

A. I'm the chief landman for Yates Petroleum Corporation.

Q. Mr. Moran, have you previously testified before the New Mexico Oil Conservation Division?

A. Yes, I have.

Q. At the time of that testimony, were your credentials as an expert in petroleum land matters accepted and made a matter of record?

A. Yes, they were.

Q. Are you familiar with the Application filed in this case on behalf of Yates Petroleum Corporation?

A. Yes, I am.

1 Q. Are you familiar with the status of the lands  
2 that are the subject of this hearing?

3 A. Yes, I am.

4 Q. Have you prepared exhibits for presentation here  
5 today?

6 A. Yes, I have.

7 MR. CARR: We tender Mr. Moran as an expert in  
8 petroleum land matters.

9 EXAMINER BROOKS: So qualified.

10 Q. (By Mr. Carr) Mr. Moran, would you briefly state  
11 what Yates seeks with this Application?

12 A. Yates Petroleum is seeking an order from the  
13 Division for a nonstandard spacing unit comprised of the  
14 southwest quarter of Section 28, Township 20 South, Range  
15 28 East, in the Strawn formation for the Salader-Strawn Gas  
16 Pool. We seek this under Rule 104 because we cannot  
17 produce the Strawn until we have a 320-acre spacing unit or  
18 an approved nonstandard unit.

19 Currently we have a well called the Hedgerow BFH  
20 State Com Well Number 1, located 660 feet from the south  
21 line and 1136 feet from the west line in Section 28 that we  
22 would plan to use this for.

23 Q. Is that well at a standard location?

24 A. Yes, that well is at a standard location.

25 Q. And what rules govern the development of this

1 acreage?

2 A. Statewide spacing rules, which for the Strawn  
3 formation is a 320-acre spacing unit.

4 Q. Do those rules also provide for an optional  
5 infill well on the quarter section on which the original  
6 well is not located?

7 A. Yes, they do.

8 Q. What is the status of the Hedgerow BFH State Com  
9 Well Number 1?

10 A. The Hedgerow is a currently producing well from  
11 the Atoka formation on a south-half spacing unit.

12 Q. Was it originally drilled to test the Morrow?

13 A. Yes, it was.

14 Q. And what results did you obtain in the Morrow?

15 A. We initially were able to produce the Morrow.  
16 However, it quickly depleted and we have since plugged back  
17 to the Atoka.

18 Q. And Yates is the operator of the well?

19 A. Yes, Yates Petroleum Corporation is the operator.

20 Q. Did Yates actually drill the well?

21 A. Yates Petroleum Corporation drilled the well.

22 Q. What size casing did you use when you drilled the  
23 well?

24 A. We set 7-1/2-inch production casing.

25 Q. And why did you use this large casing?

1           A.    Because we knew that at some point we might need  
2   to dually complete the well.

3           Q.    Did all interest owners in the south half of the  
4   section approve the AFE and the use of this casing?

5           A.    I believe they all did, yes.

6           Q.    Now this well was drilled pursuant to a joint  
7   operating agreement; is that correct?

8           A.    Yes, it was.

9           Q.    And did the JOA cover the Morrow?

10          A.    The JOA did cover the Morrow formation.

11          Q.    Does it also cover the Atoka?

12          A.    Yes, it does cover the Atoka formation.

13          Q.    What about the Strawn formation?

14          A.    The Strawn formation was excluded from the  
15   operating agreement.

16          Q.    And you're proposing to complete in the Strawn?

17          A.    We have plans to complete in the Strawn  
18   formation, yes.

19          Q.    Let's refer to what has been marked Yates Exhibit  
20   Number 1. Would you identify that and review it for the  
21   Examiner, please?

22          A.    Yates Exhibit Number 1 is a customary land map  
23   showing -- representing Township 20 South, Range 28 East,  
24   with Section 28 in the center of the map, showing the well  
25   location in the southwest quarter for the Hedgerow, in the



1 southwest quarter of Section 28.

2 Q. That acreage is shaded yellow, is it not?

3 A. Yes, it is.

4 Q. What is the status of the southeast quarter of  
5 this section?

6 A. The southeast quarter section is committed to the  
7 Burton Flat Deep Unit, which is also depicted on the map by  
8 the dashed line, and it's -- you can see it boxing around  
9 the south half, or the southeast quarter of Section 28,  
10 continuing down into 33, down below -- crossing over the  
11 township into Sections 3 below, crossing over to 4, and  
12 then back up if you follow the line.

13 Q. If we look at this exhibit, is the southeast  
14 quarter of Section 28 in the Burton Flat Deep Unit?

15 A. Yes, it is.

16 Q. And is the southwest quarter?

17 A. The southwest quarter is not in the Burton Flat  
18 Deep Unit.

19 Q. And who is the operator of the unit?

20 A. Devon Energy Production Company is -- I believe,  
21 is the operator of the unit.

22 Q. Is there a Strawn well in the southeast quarter  
23 of this section?

24 A. Yes, there is. It is the Burton Flat Deep Unit  
25 13, located in the southwest, southeast of Section 13.

1 Q. Is that --

2 A. I mean, Section 28.

3 Q. Is that well at a standard location?

4 A. Yes, it is.

5 Q. And the Hedgerow is also at a standard location?

6 A. Yes, the Hedgerow is at a standard location too.

7 Q. When was this well in the southeast quarter  
8 completed in the Strawn formation?

9 A. The well was originally completed in the Strawn  
10 formation in 2001.

11 Q. And what acreage was dedicated to the well?

12 A. At that time they did not dedicate acreage to the  
13 well. They later found the error of their ways and  
14 dedicated the acreage in 2003, after obtaining a  
15 nonstandard spacing unit for the well.

16 Q. And so the well actually had produced without  
17 either a standard unit or an approved nonstandard unit for  
18 a couple of years?

19 A. Yes.

20 Q. Why was it delayed? Do you know?

21 A. I truly believe it was oversight at the time.

22 Q. Looking at this section, what is the status of  
23 the north half of the section?

24 A. Currently the north half of the section is  
25 dedicated to a well located -- it's the COG -- I can't

1 remember the name of the -- The COG Blue Ridge Number 28 in  
2 the northeast northeast of the section. It is producing  
3 out of the Atoka formation on a north-half spacing unit.

4 Q. That will originally test the Morrow?

5 A. I believe it went to the Morrow formation, yes.

6 Q. And it's been plugged back just like the Hedgerow  
7 to the --

8 A. Yes.

9 Q. -- Atoka?

10 Has the Strawn formation previously been  
11 developed in the northwest quarter?

12 A. It is my belief that there was a well that did  
13 produce at one point in the northwest quarter out of the  
14 Strawn formation.

15 Q. And that has since been plugged?

16 A. I understand it to be plugged.

17 Q. What is the status of the south half of this  
18 section?

19 A. The south half of the section is currently  
20 dedicated to the Hedgerow well producing out of -- the  
21 Hedgerow BFH well producing out of the Atoka formation.

22 Q. Is the southeast quarter -- you indicated  
23 currently a nonstandard spacing unit?

24 A. It is a nonstandard spacing unit for the Strawn  
25 formation.

1 Q. What is -- Could you go to what has been marked  
2 Exhibit Number 2 and just identify those for the Examiner?

3 A. Exhibit Number 2, page 1 is the C-104 for the  
4 Blue Ridge 28 State Number 1, operated by COG. Page 2 of  
5 the exhibit is the C-104 for the Devon Unit well, the  
6 Benson Deep Unit Number 13, in the southeast quarter of  
7 Section 28.

8 Q. If we go now to Yates Exhibit Number 3, would you  
9 identify that for Mr. Brooks?

10 A. Exhibit Number 3 is Order Number R-11,928, which  
11 is the order that set the nonstandard spacing unit in the  
12 Strawn formation for the Benson Deep Unit Number 13 well.

13 Q. Typically when that well was drilled, the south  
14 half should have been dedicated to it; is that correct?

15 A. Yes, it should have been dedicated to the south  
16 half.

17 Q. When they discovered the problem did the then  
18 operator, Ocean Energy, approach Yates?

19 A. Yes, the operator at the time, being Ocean,  
20 approached us and asked us to waive objection to the  
21 formation of the nonstandard spacing unit.

22 Q. And did you do that?

23 A. We did.

24 Q. Have you communitized the two state leases that  
25 comprise the south half of this section for the Morrow and

1 the Atoka?

2 A. We are in the process of a communitized, if the  
3 State has agreed to accept the communitization agreement  
4 for the south half, absent a signature. We're still trying  
5 to obtain one signature from a partner to the well so that  
6 we can turn it into the Bureau of Land Management too.

7 Q. And when you say you're trying to obtain  
8 signatures to form a south-half communitization, you have  
9 to get all the interest owners, not only in that acreage,  
10 but the unit interest owners; is that correct?

11 A. That well is -- because of the spacing being a  
12 320-acre unit, we have committed the -- requested obtaining  
13 signatures for all the owners in the south half. That  
14 would include the owners of the formations being produced  
15 in the Benson Deep Unit.

16 Q. And you have received signatures from all owners?

17 A. Yes, we have received signatures from all the  
18 owners except one.

19 Q. And who is that?

20 A. Ard Energy Group.

21 Q. Has the State Land Office this week finally  
22 agreed to accept the com agreement without the Ard  
23 signatures?

24 A. Yes, they have.

25 Q. How much of a working interest does Yates own in

1 the south half of this section?

2 A. Yates collectively owns 50 percent of the spacing  
3 unit, that being the southwest quarter.

4 Q. Did you own anything in the southeast quarter?

5 A. We do not.

6 Q. And the Yates companies own all of the working  
7 interest in the southwest?

8 A. Yes.

9 Q. Currently, is there a Strawn well in the  
10 southwest quarter of this section?

11 A. There's no producing Strawn well in the southwest  
12 quarter at this time.

13 Q. Is a well in the southwest required if you're  
14 going to recover the reserves under this acreage?

15 A. Yes, a well is required.

16 Q. Have you contacted the owners in the south half  
17 of the section, being all the unit owners, concerning your  
18 proposal to dually complete the Hedgerow well in the  
19 Strawn?

20 A. Yes, I have.

21 Q. And what response have you received?

22 A. From all the owners except Ard Energy Group, I  
23 received favorable response to permit the dual completion  
24 of the Hedgerow well in the Strawn formation.

25 Q. And has the operator of the unit also agreed?

1           A.    Yes, the operator of the unit has agreed, that  
2   being Yates Petroleum Corporation.

3           Q.    Now assume that this Application was granted and  
4   a nonstandard unit formed. What impact would that have on  
5   the prevention of -- or waste of hydrocarbons?

6           A.    It would prevent waste.

7           Q.    And why is that?

8           A.    Because currently, without the nonstandard  
9   spacing unit, we would not be allowed to produce the Strawn  
10   formation. Because under the statewide rules it requires a  
11   320-acre spacing unit, but that is not obtainable here  
12   because of the nonstandard spacing unit existing in the  
13   southeast quarter, and the dedication of the north half up  
14   there, which they potentially will complete in the Strawn  
15   at their location up there.

16          Q.    So under Rule 104, to comply with it, you must  
17   have a nonstandard unit?

18          A.    Yes, it must.

19          Q.    How would it impact your correlative rights if a  
20   nonstandard unit is denied?

21          A.    It would impair our ability to develop if we are  
22   not allowed to have a nonstandard unit. We would be  
23   prevented from developing the reserves.

24          Q.    So the southeast quarter, because of the  
25   nonstandard unit, would be developed in the Strawn?

1 A. It is currently being developed.

2 Q. And yours would not?

3 A. Right.

4 Q. And your correlative rights would be impacted,  
5 because you'd be denied an opportunity to produce those  
6 without it --

7 A. Yes, we would.

8 Q. -- is that right?

9 Do you know what the Ards' working interest  
10 ownership is in the south half of the section?

11 A. It's a little over one half of one percent.

12 Q. And so everybody else is going along with this?

13 A. Everybody else has agreed.

14 Q. And do you know if they have actual working  
15 interest in the south half, or just own an interest because  
16 of their unit ownership?

17 A. My memory is that their membership derives from  
18 an ownership in the unit and that it's not exactly based on  
19 the ownership of something in the southeast quarter.

20 Q. Have you been in contact with the Ard --

21 A. I have --

22 Q. -- with the Ards concerning this?

23 A. -- had conversations with the Ards, or --

24 Q. Do you --

25 A. -- attempted conversations. Very -- They've been



1 very unsuccessful.

2 Q. Do you today know why they're opposing the  
3 Application?

4 A. They have not given me a reason -- objectionable  
5 reason. They claim the operating agreement does not permit  
6 this, but have not expanded upon that reason, nor have I  
7 been able to have a conversation to understand their  
8 reasoning.

9 Q. If this Application is granted, would Yates gain  
10 a drainage advantage on the unit?

11 A. We would not. Currently that -- we're being --  
12 you know, there's potential that we could be -- being the  
13 party that's being drained, based off of the unit well.

14 Q. And all wells are at standard locations?

15 A. All wells are at a standard location.

16 Q. If this Application is granted, would the  
17 opportunity of the Ards or any owner in the unit -- would  
18 any of them be denied the opportunity to produce the  
19 reserves under their acreage?

20 A. It is my belief they're being paid right now for  
21 the reserves under their acreage --

22 Q. And --

23 A. -- producing and being paid for those reserves.

24 Q. -- is Yates Exhibit Number 4 an affidavit  
25 confirming that notice of this hearing has been provided in

1 accordance with the Rules of the Division?

2 A. Yes, it is.

3 Q. And to whom was notice provided?

4 A. We provided notice to everybody that was in the  
5 unit, we provided notice to the operator in the north half,  
6 and all the operators in the southwest quarter.

7 Inadvertently, we omitted the State Land Office,  
8 and we do need to notify the State Land Office.

9 MR. CARR: And so we're going to request that the  
10 case be continued for two weeks. We have at one point  
11 discussed the waiver with the Land Office. They did grant  
12 a waiver for the southeast quarter, and we believe within  
13 two weeks we can provide a copy of that to the Division.

14 EXAMINER BROOKS: Very good.

15 Q. (By Mr. Carr) Mr. Moran, were Yates Exhibits 1  
16 through 4 either prepared by you or compiled under your  
17 direction?

18 A. They were compiled under my direction, yes, sir.

19 Q. Can you testify to their accuracy?

20 A. I can.

21 MR. CARR: At this time, Mr. Examiner, we would  
22 move the admission into evidence of Yates Exhibits 1  
23 through 4.

24 EXAMINER BROOKS: Objection?

25 MR. PADILLA: No objection.

1 EXAMINER BROOKS: One through 4 are admitted.

2 MR. CARR: That concludes my direct examination  
3 of Mr. Moran.

4 EXAMINER BROOKS: Mr. Padilla?

5 CROSS-EXAMINATION

6 BY MR. PADILLA:

7 Q. Mr. Moran, on May 29th, 2007, you wrote a letter  
8 to Ard Energy Group, LTD, and in that letter you talked  
9 about resolution of the problem with the Ards, correct?

10 A. I did.

11 Q. And you stated two options in your letter. Do  
12 you recall what those options were?

13 A. The two options were, I asked them if they would  
14 consider selling their interest, or going back to my  
15 proposal originally from November of '06, which is the --  
16 what everybody else has agreed to.

17 Q. Which --

18 A. Which was an offer to split the overhead on the  
19 well and charge half of it to the owners of the Strawn  
20 formation and half to the owners in the Atoka. Basically  
21 under the operating agreements, divide the overhead charges  
22 in half.

23 Q. Would that require an amendment of the operating  
24 agreement?

25 A. It requires everybody's concurrence. Otherwise,

1 under a dually completed well you could charge overhead to  
2 both formations.

3 Q. Did you propose an amendment to the Ard Group?

4 A. I believe the November letter was such a  
5 proposal.

6 Q. Did you ever send them a proposed agreement?

7 A. I asked them to sign the November 3rd -- or -- I  
8 don't remember the exact date of the November letter, but  
9 that would have accomplished modification of the operator  
10 agreement, if they would have signed that letter.

11 Q. Okay. Did you propose also to purchase the  
12 interest of the Ard Energy Group?

13 A. I have inquired of them if they would be  
14 interested in selling.

15 Q. Have you --

16 A. I've -- I've received no response.

17 Q. Have you proposed a buyout amount?

18 A. I have at this point. I have on in mind, but  
19 I've not been able to have a conversation with them. I  
20 don't know what they want.

21 Q. But in your May 29th, 2007, letter, you did not  
22 propose any --

23 A. There were no dollar terms discussed. At that  
24 point in time I was exploring it. I needed to get an  
25 engineering determination made before I felt comfortable

1 talking dollar terms, but I've been trying to get the Ards  
2 -- to have a conversation with the Ards. I've been  
3 rebuffed since February by that group.

4 Q. Are you waiting for some proposal from them  
5 before you make an offer?

6 A. I haven't decided what to do. I would like to  
7 have a conversation to know what they want. If they would  
8 be receptive to an offer to sell, I'm ready to make that  
9 offer.

10 Q. But you haven't ever made an offer to buy, right?

11 A. I have not made a written offer, because I don't  
12 know that that's what they want. I don't know what they  
13 want.

14 Q. Why was the Strawn excluded to begin with from  
15 the joint operating agreement?

16 A. I did not participate in the initial negotiation  
17 of the operating agreement so my belief is, because you  
18 have the nonstandard spacing unit in the Strawn in the  
19 southeast quarter already, that that group of owners did  
20 not -- they were receiving full benefit and the owners of  
21 the southwest had not received any benefit from the Strawn  
22 formation, so that was the reason to exclude the Strawn  
23 formation.

24 Q. Is that the only reason that you know of that --

25 A. That's to my knowledge, but I did not participate

1 in the initial negotiations.

2 Q. You'd agree with me that the operating agreement  
3 excludes the Strawn, and use of the well under the  
4 operating agreement for production from the Strawn is not  
5 allowed under the operating agreement, right?

6 A. I don't know that I agree with what you've just  
7 said.

8 Q. You don't know?

9 A. No, I just -- I'm not agreeing with what you're  
10 saying.

11 Q. What's the basis of your disagreement, if you  
12 have one?

13 A. We have been -- We have reviewed the operating  
14 agreement, and we believe we have the right to dually  
15 complete the well.

16 Q. I have a copy of the operating agreement here.  
17 Would you show me where it says that?

18 MR. CARR: Well, Mr. Examiner, we're really  
19 getting into a question of interpreting a contract. I  
20 would object to the line of questions. I think if there is  
21 a -- there's obviously a dispute on the meaning of a  
22 contract, and that's a matter not for the jurisdiction of  
23 the OCD. And if that becomes an issue, it needs to be  
24 resolved elsewhere.

25 EXAMINER BROOKS: Well, your observation about

1 jurisdiction is noted, but I will overrule the objection in  
2 the interest of determining what the issues really are.

3 Q. (By Mr. Padilla) If you look at Article V, it  
4 states who Yates -- who the operator of the well is, states  
5 his responsibilities and duties as operator.

6 Q. What page are you looking at, Mr. Moran?

7 A. It is page 3 of the operating agreement.

8 Q. Okay.

9 A. And then in conjunction with that, paragraph VI  
10 tells you what you can do.

11 Q. What can you do under this operating agreement?

12 A. We have the right to be a reasonable and prudent  
13 operator. And being that it is prudent to develop the well  
14 and develop the reserves in an orderly manner we are acting  
15 as a prudent operator.

16 Q. But the agreement only covers the Morrow and  
17 Atoka formations, right?

18 A. No, it covers more formations than that. It also  
19 covers below the Strawn to the top of -- below the base of  
20 the Delaware to the top of the Strawn.

21 Q. But it didn't cover the Strawn?

22 A. And the Strawn is excluded from the operating  
23 agreement.

24 Q. So --

25 A. And that sets forth the contractual rights on

1 responsibilities of who pays for those operations in those  
2 zones.

3 Q. As far as the zones that are covered, right?

4 A. Yes.

5 Q. So if you don't have the right -- assuming that  
6 you don't have the right to operate the Strawn formation  
7 under the operating agreement, how can you realistically  
8 use the well for completing in the Strawn?

9 A. You are causing waste if you fail to use this  
10 wellbore for the development of the reserves.

11 Q. And why have you waited all this time from  
12 November till now, if that's a concern, to ask for a  
13 nonstandard proration unit in the Strawn?

14 A. I'll take part of the blame. I've been real  
15 busy, and we were ready to go, and I was reviewing the  
16 rules, reviewing the land situation, and determined before  
17 we could go ahead we needed to obtain the nonstandard  
18 spacing unit. And thus we filed as soon as I realized  
19 that, and we're moving as quickly as possible to get it  
20 done.

21 Q. Don't you need to compulsory pool or do something  
22 to gain regulatory permission to operate the Strawn, as far  
23 as the Ard Energy Group is concerned?

24 A. I don't know why I would need their approval.  
25 They don't own anything in the Strawn.



1 Q. Well, then how can you dedicate this well to the  
2 Strawn if there's an outstanding interest?

3 A. If I have a nonstandard spacing unit, I don't  
4 believe there would be an outstanding interest. Yates  
5 Petroleum Corporation is an owner of the wellbore too.

6 Q. I understand that, but so is Ard --

7 A. I agree.

8 Q. -- and you need to get their consent to --

9 A. I've been attempting to.

10 Q. -- use the well, right?

11 A. I've been attempting to. The have basically  
12 refused to talk to me. They have, you know, taken a  
13 position to put me off. I've made numerous telephone  
14 calls, not been able to get them to talk to me. I've, you  
15 know, written letters asking them to explain themselves in  
16 an attempt. I can't get them to talk to me.

17 Q. In the letter that you wrote to them some time  
18 back, you said that it seemed to you that they were -- you  
19 were interpreting their voice mail as being negative; is  
20 that right?

21 A. Yes, it was.

22 Q. How would you gain that information or reach that  
23 perception?

24 A. I would reach that perception based upon, they  
25 called and left a voice mail on my phone, and in that

1 message they led me to believe that they didn't trust me,  
2 they called me a liar. I'm, you know, having a real hard  
3 time dealing with them. But that's how I base my  
4 statements that they are not -- you know, they're  
5 uncomfortable dealing with me. I take their words as  
6 distrusting me.

7 Q. But you've never made a proposal in any of your  
8 conversations to purchase their interest?

9 A. I've had a hard time having a conversation with  
10 them. It's been a little bit of phone tag and a lot of me  
11 leaving messages asking them to call me back.

12 Q. Well, it seems to me from what I see that there  
13 has been a lot of phone tag.

14 MR. CARR: Well, I object to that. I mean, Mr.  
15 Padilla now is testifying.

16 EXAMINER BROOKS: Sustained.

17 MR. PADILLA: Mr. Examiner, I don't have anything  
18 further?

19 EXAMINER BROOKS: Mr. Carr?

20 MR. CARR: I have several on redirect.

21 EXAMINER BROOKS: Go ahead.

22 REDIRECT EXAMINATION

23 BY MR. CARR:

24 Q. Mr. Moran, is it correct that Yates owns a  
25 hundred percent of the reserves under the -- working

1 interest under the southwest quarter; is that right?

2 A. The four entities are Yates Petroleum  
3 Corporation; Yates Drilling Company; Myco Industries, Inc.;  
4 and Abo Petroleum Corporation.

5 Q. And they all agree to the plan to develop the  
6 Strawn and the Hedgerow well?

7 A. Yes, they do.

8 Q. There's no interest that is -- could be subject  
9 to pooling?

10 A. There is no interest subject to pooling.

11 Q. Is there anything in this agreement that you  
12 believe would prevent you from going forward and using a  
13 wellbore on their --

14 A. We do not believe there is.

15 Q. You know, a lot of the cross goes to whether or  
16 not there have been good-faith negotiations and how you  
17 could believe they've been hostile, and you referenced a  
18 telephone call. Did that occur in February?

19 A. That telephone call was February 27th or 28th of  
20 this year.

21 Q. And at the end of that telephone call, did it  
22 appear that they may or may not have actually hung up and  
23 terminated the call?

24 A. They left an eight-minute voice mail on my voice  
25 mail.

1 Q. And in that voice mail did Mr. Ard and Mr. Grappe  
2 say that they considered you a liar?

3 A. They did.

4 Q. Did they say you were not trustworthy?

5 A. They did.

6 Q. Did they say they could drag this thing out?

7 A. That was part of the conversation.

8 Q. And you have kept that tape, have you not?

9 A. I have kept that tape.

10 MR. CARR: Thank you very much.

11 EXAMINER BROOKS: Thank you.

12 EXAMINATION

13 BY EXAMINER BROOKS:

14 Q. Let me be sure I understand how this title is put  
15 together. You said Yates and related entities own 100  
16 percent of the working interest in the Strawn formation  
17 under the southwest quarter, correct?

18 A. Yes.

19 Q. Now Mr. Carr referred to two state leases. Do  
20 those two state leases cover the entire south half?

21 A. One state lease is in the southeast quarter, the  
22 second state lease is in the southwest quarter.

23 Q. Okay. And you have a communitization agreement  
24 signed by everyone -- by all the owners in the southwest  
25 quarter and all the owners in the Burton Deep Flat Unit

1 except Mr. Padilla's clients; is that correct?

2 A. Correct.

3 Q. Okay. Now what does that communitization  
4 agreement do with regard to the working interest? Does it,  
5 in effect, pool the working interest? Will the unit --

6 A. The communitization agreement has the effect to  
7 communitize the leases so that they can be developed in  
8 accordance with the state spacing rules --

9 Q. Okay.

10 A. -- on a 320-acre spacing unit.

11 Q. But the rights of the parties to production would  
12 be governed by whatever their operating agreement --

13 A. The operating agreement, yes.

14 Q. And you have not amended the operating agreement,  
15 you have simply obtained waivers of any rights from the  
16 other parties to the agreement?

17 A. The November 3rd letter -- or -- I don't remember  
18 if it's -- I don't remember what date it is, November, that  
19 the proposal was written to authorize the reduction under  
20 the operating agreement, the overhead, from the full amount  
21 to half the amount, charge half the overhead to the owners  
22 of the Strawn formation and half the overhead to the owners  
23 -- At that time it was currently still producing out of the  
24 Morrow, and so it was going to be the Morrow and the Atoka.

25 And that letter referenced the operating

1 agreement and said this would modify the operating  
2 agreement -- or it would have the effect of modifying the  
3 operating agreement as to the overhead and permitting the  
4 use of the dual completion of the well.

5 Q. Okay. But when you mention the Morrow and the  
6 Atoka, that confuses me a little bit because the Atoka is  
7 under the operating agreement, right?

8 A. Back up just a little bit. That well was  
9 originally drilled to the Morrow formation --

10 Q. Right.

11 A. -- and in November it was still producing out of  
12 the Morrow formation, November, '06. It was very quickly  
13 depleted.

14 And what prompted the November letter was  
15 recompletion plans, because the Morrow was depleting very  
16 quickly. Ard Energy Group and every other owner agreed to  
17 a recompletion attempt in the Morrow, and if that was not  
18 successful a recompletion attempt in the Atoka.

19 So that is the -- what has been going on since  
20 November. We acted on the -- We were trying to continue  
21 the production from the Morrow. That was not -- and then  
22 when Mack terminated on or -- mid-January, we did the work  
23 in the Atoka and established the production in the Atoka.

24 Q. Okay, so -- but the Atoka is covered by the  
25 operating agreement, right?

1           A.    The Atoka is, and the Morrow. The operating  
2 agreement was -- originally covered below the base of the  
3 Delaware down to the top of the stratigraphic -- of the  
4 Strawn, and it excluded the Strawn and -- to a hundred feet  
5 below the depth drilled in the initial well, that well  
6 being the Hedgerow well.

7           Q.    Okay.

8           A.    So it would have covered the Morrow, because it  
9 was originally drilled into the Morrow.

10          Q.    The consents you obtained to the dual completion,  
11 though, did they express -- have express reference to the  
12 Strawn, or were they just dealing with a dual completion  
13 drilling the Morrow and the Atoka?

14          A.    It referenced completion in the Strawn.

15          Q.    Okay. But you haven't offered any writings in  
16 evidence from any of the other operators -- owners, though?  
17 There's nothing in these exhibits that shows --

18          A.    There is not. I can produce it, I have no  
19 problem with it. My understanding of this hearing was for  
20 the nonstandard spacing unit.

21          Q.    Yeah. Did everybody sign the same --

22          A.    Same letter, yes.

23          Q.    Yeah, okay. Well, it's probably not necessary.  
24 I would like, since it's being continued anyway, if you'd  
25 produce the communitization agreement at the next -- at the

1 next hearing.

2 Now up in the north half, you said there was a  
3 well at one time in the Strawn in the north half, and I  
4 don't believe that was identified in your Application. Do  
5 you have the name of that well or the --

6 A. If you look at the map -- I don't remember the  
7 name of the well, but if you look in the northwest quarter  
8 in Section 28, you will see a gas well indication that has  
9 been plugged. I think it's in the northeast northwest. I  
10 believe that was the well that produced from the Strawn at  
11 the time.

12 The current producing well is the COG Blue Ridge  
13 28 in the northeast northeast of the section.

14 Q. Yeah, but that one is not completed in the  
15 Strawn, correct?

16 A. Not currently, to my knowledge.

17 Q. And it never has been completed in the Strawn?

18 A. I don't believe. I think they're being prudent  
19 in moving up the hole in their development --

20 Q. Yeah --

21 A. -- from the depth drilled.

22 Q. -- so while you anticipate that it may be, it is  
23 not now and has not been in the past?

24 A. Right.

25 Q. But this well -- in the northeast, northwest, did



1 you say?

2 A. I believe that is the well.

3 Q. And that would be Unit C?

4 A. Unit letter C, yes.

5 Q. Makes it easier to find on the computer. That  
6 well was completed in the Strawn?

7 A. It is my belief that it was.

8 Q. And it produced for some period of time?

9 A. I don't remember the actual production, but it's  
10 been plugged for a while. That's what allowed COG to come  
11 in and buy the lease and drill their well.

12 Q. Okay. Now in the notice -- the parties that were  
13 noticed, you noticed all of the Burton Flat Deep Unit only,  
14 correct?

15 A. The Burton Flat Deep owners in the Morrow  
16 formation is a fully developed participating area in the --  
17 as to the Morrow formation.

18 Q. Right.

19 A. And so those being all the owners in the unit, I  
20 covered all those owners.

21 Q. All what owners? All owners in the unit or --

22 A. Yeah, all the owners in the unit.

23 Q. Okay. So all the owners in the unit, in the  
24 Burton Flat Deep Unit --

25 A. Yes.

1 Q. Wherever their ownership is --

2 A. Right.

3 Q. -- were noticed --

4 A. Yes.

5 Q. -- as reflected in Exhibit 4?

6 A. Yes.

7 Q. Now was -- were the --

8 A. And the operator in the north half, being COG,  
9 was noticed.

10 Q. That was going to be my next question. You're a  
11 step ahead of me.

12 A. And the operator did send me an e-mail stating  
13 that they had no objection to my nonstandard spacing unit.

14 Q. Okay, would you furnish us a copy of that e-mail  
15 at the --

16 A. I can do that.

17 EXAMINER BROOKS: -- next hearing?

18 I believe that's all my questions, so -- unless  
19 there's any follow-up from the --

20 MR. CARR: Do you want to make a statement,  
21 Ernie?

22 EXAMINER BROOKS: You may step down.

23 MR. PADILLA: No, I don't. I think it's  
24 sufficiently clear what we're saying here, is that they  
25 can't dedicate their well to this nonstandard proration

1 unit. Ard has no objection to the nonstandard proration  
2 unit, obviously, but -- can't use the well for free.

3 EXAMINER BROOKS: Well, would you have a response  
4 to Mr. Carr's point that that's a judicial issue rather  
5 than an OCD issue?

6 MR. PADILLA: Mr. Carr may be right about that,  
7 but I think the OCD has authority to decide whether or not  
8 the well can be dedicated to that acreage or not.

9 EXAMINER BROOKS: Very good, thank you.

10 MR. CARR: Mr. Examiner, just to wrap up --

11 EXAMINER BROOKS: Okay, sure.

12 MR. CARR: -- since Mr. Padilla didn't give a  
13 closing.

14 EXAMINER BROOKS: Well, I guess I kind of prodded  
15 him, but...

16 MR. CARR: You know, Yates' position simply is,  
17 we gave a waiver so they could have a nonstandard unit. We  
18 entered a JOA and carved out the Strawn, because the Strawn  
19 was developed in part of a nonstandard unit. We own all of  
20 the mineral interest in the southwest, and we think we  
21 should likewise be entitled to have a nonstandard unit  
22 comprising the southeast quarter of the section.

23 If it is denied under Rule 104 we can't develop  
24 the reserves in the southwest quarter. They'll be left in  
25 the ground. That's waste. If denied, we do not have the

1 opportunity to develop the southwest quarter, and again  
2 correlative rights are impaired.

3 So if you look at your basic jurisdictional basis  
4 the only thing you can do, we submit, is approve the  
5 Application. And if there is a contract issue then that  
6 issue needs to be resolved elsewhere.

7 EXAMINER BROOKS: Thank you.

8 If there's nothing further, then, Case Number  
9 13,927 will be taken under advisement -- I'm sorry, not  
10 taken under advisement --

11 MR. CARR: Continued to --

12 EXAMINER BROOKS: -- withdraw that. Case Number  
13 13,927 will be continued to the June 21st docket in order  
14 to enable the parties to supplement the record.

15 (Thereupon, these proceedings were concluded at  
16 8:57 a.m.)

17 \* \* \*

18  
19 I do hereby certify that the foregoing is  
20 a complete record of the proceedings in  
21 the Examiner hearing of Case No. 13927.  
22 heard by me on June 7 2007  
23 David K. Bump Examiner  
24 Oil Conservation Division  
25

## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                  ) ss.  
COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL June 7th, 2007.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2010