

**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. 13123
ORDER NO. R-12064**

**APPLICATION OF YATES PETROLEUM CORPORATION FOR
COMPULSORY POOLING AND AN UNORTHODOX OIL WELL LOCATION,
CHAVES COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on August 7, 2003 before Examiner William V. Jones.

NOW, on this 8th day of December, 2003, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

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

(2) Yates Petroleum Corporation ("Applicant") seeks an order pooling all uncommitted mineral interests from the surface into the Precambrian underlying the W/2 of Section 6, Township 10 South, Range 25 East, NMPM, Chaves County, New Mexico, in the following manner:

(a) the W/2, forming a standard 317.28-acre gas spacing and proration unit (the "320-Acre Unit" or "Unit") for any and all formations and/or pools developed on 320-acre spacing within that vertical extent;

(b) the NW/4, forming a standard 158.39-acre gas spacing and proration unit (the "160-Acre Unit" or "Unit") for any and all formations and/or pools developed on 160-acre spacing within that vertical extent, including but not limited to the Pecos Slope-Abo Gas Pool; and

(c) the NE/4 NW/4, forming a standard 40.07-acre oil spacing and proration unit (the "40-Acre Unit" or "Unit") for any and all formations and/or pools developed on 40-acre spacing within that vertical extent.

(3) Applicant proposes to dedicate these Units to its proposed Delhagen "BAJ" Com Well No. 1 ("the proposed well") to be drilled in the NE/4 NW/4 of Section 6 at a standard gas well and unorthodox oil well location 990 feet from the North line and 1330 feet from the West line (Unit C) of Section 6. The proposed well will be drilled vertically to a depth of approximately 4,955 feet, or 150 feet into the Precambrian.

(4) In support of its application, the Applicant presented the following land testimony.

(a) Interests uncommitted to these units can be categorized as unleased mineral interests.

(b) Applicant has made a good-faith effort to obtain the voluntary joinder of all interest owners in the W/2 of Section 6.

(c) Applicant has made a good-faith effort to notify all interest owners or their representatives of this Division hearing.

(d) Applicant is intending to pool all formations from the surface into the Precambrian.

(5) In support of its application, the Applicant presented the following geologic testimony.

(a) The well is being drilled into the basement rocks because of the relatively shallow depth to basement and the possibility that production could be encountered in many horizons. Most of these prospective horizons are risky in and of themselves.

(b) Both Wolfcamp and Abo sands generally trend from northwest to southeast. The Abo sands were originally deposited via meandering streams.

(c) The most likely pay zones to be encountered will be the Wolfcamp and Abo formations. The proposed well location was picked to maximize potential Wolfcamp and Abo sand thicknesses.

(6) In support of its application, the Applicant presented the following engineering testimony.

(a) Based on historical results in this area, the chances of encountering a commercial San Andres well are approximately 1 in 16.

(b) Based on historical results in this area, the chances of encountering some Abo sands are very high, but chances of finding a commercial Abo well are only approximately 8 in 18.

(c) There have not been enough wells drilled below the Abo in this area to form a statistical prediction of commerciality. Of the wells drilled to date, some have nothing to perforate, some are very small producers, and some are wet.

(7) No other parties made an appearance or otherwise opposed this application.

(8) The location of the proposed well is unorthodox as a 40-acre oil well location based on statewide rules since it is located closer than 330 feet to the west boundary of the NE/4 NW/4 of Section 6. It encroaches toward the NW/4 NW/4 (Unit D) of Section 6. This entire W/2 of Section 6 is the subject of this compulsory pooling proceeding.

(9) Applicant is an owner of an oil and gas working interest within these Units. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within these Units.

(10) There are interest owners in these Units that have not agreed to pool their interests.

(11) Applicant should be designated the operator of the proposed well and these Units, and the Units should be dedicated to the proposed well.

(12) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,000 per month while drilling and \$400 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*." The operator should be 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 each non-consenting working interest.

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

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Yates Petroleum Corporation ("Applicant"), all uncommitted mineral interests from the surface into the Precambrian underlying the W/2 of Section 6, Township 10 South, Range 25 East, NMPM, Chaves County, New Mexico, are hereby pooled in the following manner:

(a) the W/2, forming a standard 317.28-acre gas spacing and proration unit (the "320-Acre Unit" or "Unit") for any and all formations and/or pools developed on 320-acre spacing within that vertical extent;

(b) the NW/4, forming a standard 158.39-acre gas spacing and proration unit (the "160-Acre Unit" or "Unit") for any and all formations and/or pools developed on 160-acre spacing within that vertical extent including but not limited to the Pecos Slope-Abo Gas Pool; and

(c) the NE/4 NW/4, forming a standard 40.07-acre oil spacing and proration unit (the "40-Acre Unit" or "Unit") for any and all formations and/or pools developed on 40-acre spacing within that vertical extent.

The Units shall be dedicated to Applicants proposed Delhagen "BAJ" Com Well No. 1 ("the proposed well") to be drilled in the NE/4 NW/4 of Section 6 at a standard gas well and unorthodox oil well location 990 feet from the North line and 1330 feet from the West line (Unit C) of Section 6.

(2) The unorthodox location of the proposed well in all oil pools spaced on 40 acres is approved.

(3) The operator of the Units shall commence drilling the proposed well on or before March 31, 2004, and shall thereafter continue drilling the well with due diligence to test prospective formations including the Precambrian.

(4) In the event the operator does not commence drilling the proposed well on or before March 31, 2004, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the unit created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the well for good cause demonstrated by satisfactory evidence.

(6) Upon final plugging and abandonment of the subject well, the pooled unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(7) Applicant is hereby designated the operator of the proposed well and of the Units.

(8) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. ("Uncommitted working interest owners" are owners of working interests in the Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known non-consenting working interest owner in the Units 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 non-consenting 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 non-consenting working interest owner who has paid its share of estimated well 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 its share of the amount that estimated well costs exceed reasonable well costs.

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

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; 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) are hereby fixed at \$4,000 per month while drilling and \$400 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 above, all proceeds from production from the proposed well that are not disbursed for any reason shall be placed in escrow in Chaves County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

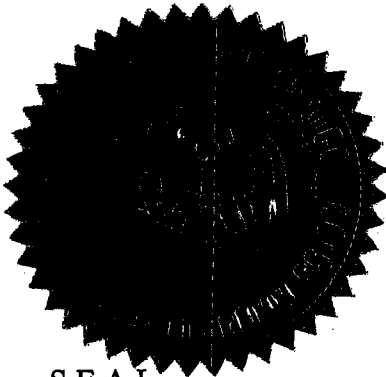
(16) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working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

(18) The operator of the well and Units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(19) 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

Lori Wrotenbery
LORI WROTENBERY
Director