

**BEFORE THE  
NEW MEXICO ENERGY, MINERALS AND  
NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION**

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SEP 11 2003

Oil Conservation Division

**APPLICATION OF PRIDE ENERGY COMPANY  
FOR CANCELLATION OF A DRILLING  
PERMIT AND RE-INSTATEMENT OF  
A DRILLING PERMIT, AN EMERGENCY  
ORDER HAULTING OPERATIONS, AND  
COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.**

CASE NO. 13153

**RESPONSE OF YATES PETROLEUM CORPORATION  
TO MOTION OF PRIDE ENERGY COMPANY AND MOTION TO DISMISS  
PRIDE'S APPLICATION FOR COMPULSORY POOLING**

Yates Petroleum Corporation, Yates Drilling Company, ABO Petroleum Corporation and MYCO Industries, Inc. (hereinafter collectively referred to as "Yates"), hereby responds to the motion of Pride Energy Company ("Pride") for cancellation of a drilling permit, re-instatement of a drilling permit and an emergency order halting operations and Yates also moves the Oil Conservation Division for an order dismissing Pride's application for compulsory pooling of the W/2 of Section 12, Township 12 South, Range 34 East, NMPM, Lea County, New Mexico.

**FACTS:**

1. Yates owns the working interest in State of New Mexico Oil and Gas Lease No. V-5855 that covers the N/2 and SE/4 of Section 12, Township 12 South, Range 34 East, NMPM, Lea County, New Mexico.
2. Yates also owns the State "X" Well No. 1 located 1980 feet from the North line and 660 feet from the West line in the NW/4 of Section 12.
3. Pride owns the working interest in the SW/4 of Section 12. It does not own an interest in the State "X" Well No. 1 nor in any acreage in the N/2 of Section 12 that is dedicated to the well.
4. Without notice to Yates, Pride obtained an APD from the Oil Conservation Division to re-enter the Yates State "X" Well No. 1 and dedicated thereto a W/2 spacing unit.

5. In August 2003, Yates filed its APD for the re-entering of the State "X" Well No. 1 on a N/2 spacing unit.

6. On September 5, 2003, pursuant to an approved APD from the Oil Conservation Division, Yates moved a rig onto the State "X" Well No. 1 location and commenced re-working activities.

7. The well is at a standard location and a standard 320-acre spacing unit comprised of the N/2 of Section 12 is dedicated to the well. Yates owns 100% of the working interest in the spacing unit and the well. If Yates' re-working operations are stopped by the Division, substantial harm will occur to Yates.

8. Pride asserts that on receipt of the Yates APD, the Division cancelled the Pride APD.

9. Pride contends that the cancellation of its APD somehow impairs its property rights without due process of law and seeks an order from the Division that would prevent Yates from developing its own property with its own well.

### **ARGUMENT**

#### **REQUEST FOR CANCELLATION OF APD AND CESSATION OF OPERATIONS**

Pride is proposing to re-enter a well owned by Yates and on which Yates is now conducting re-entry operations. Because it is proposing operations on the property of another, it asserts that "It is immaterial that the N/2 is leased to another operator" and states "An operator whether under voluntary agreement or under a compulsory pooling order, has the right to drill on another person's lease." The problem with Pride's argument is that there is no voluntary agreement and there is no compulsory pooling order.

Pride contends that cancellation of its APD covering the W/2 of Section 12 and approval of the Yates APD covering the N/2 of this section violates its due process rights. For Pride's due process rights to be violated, it must first have rights in the subject acreage. It does not gain a property right in the Yates well or an interest in the NW/4 of this section just by obtaining an APD for an APD can not create an interest in the property of another. If it did, the due process rights of Yates would have been violated unless it had received notice of the APD and had an opportunity to object to it.

If Pride's understanding of an APD is correct -- if their APD either confers on Pride some interest in the Yates property in the NW/4 of the Section 12 or denies Yates the right to develop its constitutionally protected interests in this acreage -- the Division could never issue an APD unless:

1. 100% of the working interest in the proposed spacing unit is owned by the applicant,
2. there is a voluntary agreement combining the interests in the spacing unit,
3. a compulsory pooling order covering the proposed spacing unit has been entered, or
4. notice and an opportunity for hearing on the APD is provided to all affected parties before it is approved.

Pride's due process are not violated because it has no property interest in Yates well or the acreage on which that well is located. If the Pride desires to develop its acreage, it may drill a well on its acreage and form a spacing unit comprised of the S/2 of Section 12. Its motion to cancel Yates drilling permit and to order Yates to halt operations should be denied.

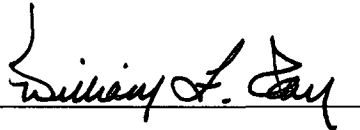
#### **APPLICATION FOR COMPULSORY POOLING**

Unless the Division decides that Yates should be denied the opportunity to develop a standard 320-acre spacing unit in which 100% of the working interest with a well at a standard location owned by Yates pursuant to a Division issued APD, there is no interest available to Pride to pool in the NW/4 of Section 12 and Pride's compulsory pooling application must be dismissed.

#### **CONCLUSION**

Yates has the right to do each and every thing it is doing on its acreage in the N/2 of Section 12 and each and every thing it is doing is in full compliance with all applicable Division Rules. In this case, Pride simply is attempting to prevent Yates from developing its interests in this section. Pride's motions for cancellation and re-instatement of drilling permits, cessation of operations and its application for compulsory pooling should be denied and dismissed.

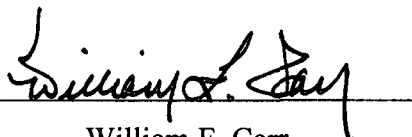
Respectfully submitted,  
HOLLAND & HART, LLP

By:   
William F. Carr

ATTORNEYS FOR YATES PETROLEUM  
CORPORATION

**CERTIFICATE OF SERVICE**

I certify that I have caused a copy of the foregoing pleading to be delivered to James Bruce, Esq., attorney for Pride Energy Company, by Facsimile [FAX NO. (505) 982-2151] on this 10th day of September, 2003.

  
William F. Carr