

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE APPLICATION OF
NEARBURG EXPLORATION COMPANY FOR
COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO

IN THE MATTER OF THE APPLICATION OF
YATES PETROLEUM CORPORATION FOR
COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO

CASE NO. 11233
CASE NO. 11234
Order No. R-10358

APPLICATION OF
YATES PETROLEUM CORPORATION FOR HEARING DE NOVO

COMES NOW YATES PETROLEUM CORPORATION ("Yates") by its attorneys, Losee, Carson, Haas & Carroll, P. A., and hereby applies for a hearing de novo before the New Mexico State Oil Conservation Commission ("OCC") pursuant to Rule 1220 of the Oil Conservation Division's ("OCD") Rules and Regulations (adopted by the OCC on March 1, 1991) on all issues raised by Yates' Application and Nearburg's Application each seeking an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SW/4 of Section 13, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing 160-acre oil/gas spacing and proration unit for the North Dagger Draw-Upper Pennsylvanian Pool. Division Case Nos. 11223 and 11234 were consolidated at the time of the hearing for the purpose of testimony, and inasmuch as approval of one application necessarily required denial of the other, one order, Order No. R-10358, was entered. In support of its application for hearing de novo, Yates shows the following:

1. On May 2, 1995, the OCD entered its Order No. R-10358 denying the application of Yates and granting the application of Nearburg Exploration Company to pool all mineral interests from the surface to the base of the Canyon formation underlying the SW/4 of Section 13, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes but is not limited to the Undesignated North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to the Fairchild "13" Well No. 2 to be drilled at a standard oil well location 660 feet from the south line and 1980 feet from the west line (Unit N) of Section 13.

2. The OCD found that, based upon interest ownership, geologic interpretation, and location of operations and surface facilities, Nearburg should be designated the operator of the Fairchild "13" Well No. 2 and spacing unit.

3. Yates challenges the granting of Nearburg's application and the denial of its application because the findings made by the OCD indicate that the OCD placed undue emphasis upon seismic data and the existence of some surface facilities without a determination that such seismic data was valid, in the face of cross examination which severely questioned the conclusions drawn therefrom and further evidence which severely questioned the suggestion that Nearburg having facilities in the area equates with their ability to better or more economically conduct sound operations in the Dagger Draw area.

4. The OCD order does not protect the correlative rights of the interested parties and if allowed to stand will promote economic waste, thus adversely affecting the rights of Yates.

WHEREFORE, Yates respectfully requests that this matter be set for hearing before the OCC and upon such hearing an order be entered granting Yates' Application for Compulsory Pooling and denying Nearburg's Application for Compulsory Pooling, and for such other relief as may be just in the premises.

Respectfully submitted,

LOSEE, CARSON, HAAS & CARROLL, P.A.

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I hereby certify that I caused to be mailed a true and correct copy of the foregoing to all counsel of record this May 17, 1995.

Ernest L. Carroll
Ernest L. Carroll