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August 7, 1995

**VIA FACSIMILE AND FIRST CLASS MAIL**

Mr. Michael Stogner, Chief Hearing Examiner  
New Mexico Oil Conservation Division  
2040 S. Pacheco  
P. O. Box 6429  
Santa Fe, New Mexico 87505-5472

- Re: NMOCD Case 11332  
Application of Yates Petroleum Corporation to  
Rescind Order R-10372 which authorized the  
unorthodox well location for the Aspden "AOH"  
Federal Com Well NO. 2 in Case 11235 Eddy  
County, New Mexico
- Re: NMOCD Case 11235 (Order R-10372)  
Application of Yates Petroleum Corporation  
for an Unorthodox Well Location, Eddy County,  
New Mexico
- Re: Administrative Application dated June 19,  
1995, of Yates Petroleum Corporation for  
approval to now drill the Aspden "AOH" Well  
No. 2 as a directionally drilled well, Eddy  
County, New Mexico

Dear Mr. Stogner:

I have just received a faxed copy of the hand-delivered August 7, 1995, letter of W. Thomas Kellahin to you concerning the referenced cases.

The major tenor of Mr. Kellahin's letter indicates that he feels that there has been some improper communication between me on behalf of Yates Petroleum Corporation and the Division and that Yates Petroleum Corporation has engaged in some sort of blackmail to improperly influence Conoco in this matter. The one fact that Mr. Kellahin has blatantly failed to advise the Division is that the technical people at Conoco were surprised to learn of the filing of the objection and has not approved such because they could not testify against an orthodox location. It appears that Mr. Kellahin, because he has not "gotten his way" with the Division, has chosen a juvenile and asinine way of dealing with the problem. Furthermore, Mr. Kellahin states that I have violated Division Rules 1208 and 1203 by engaging in several ex parte discussions with the Division Examiner and the

Michael Stogner  
August 7, 1995  
Page 2

Division Attorney. First of all, I would recommend the reading of Rules 1208 and 1203 to Mr. Kellahin. Rule 1203 deals with the method of initiating a hearing and Rule 1208 deals with the filing of pleadings and the delivery of copies to adverse parties. Those two rules do not deal with ex parte communications, and again, Mr. Kellahin is shooting his mouth off without any substantiation. There were no ex parte communications. There were communications between this counsel and the appropriate Division personnel concerning Division policy with respect to matters which concerned a decision that had already been made by the Examiner. Such communications were neither improper secretive, as evidenced by the fact that they were brought to the attention of all parties through my letter of July 11, 1995.

All statements made by this counsel in the July 11, 1995, communication were invited because of the assertions made by Mr. Kellahin in his July 6, 1995, communication to you, and are therefore justified. Furthermore, Mr. Kellahin's comments concerning the actions and business decisions of Yates Petroleum are nothing more than a true ex parte communication made in an attempt to prejudice any future appearances by Yates Petroleum Corporation before the Commission, and as such is not only improper but in fact the very same kind of act which Mr. Kellahin complains of. However, his comments are much worse because the comments made by this counsel and acts by its client were not done intentionally to harm Conoco before the eyes of the Division, where Mr. Kellahin's acts are obviously done for that sole purpose.

This counsel does not have any information to contradict the statement that Conoco does not engage in frivolous or unsupported protests, but we do have the knowledge of facts indicating that Conoco's counsel, Mr. Kellahin, does.

Very truly yours,

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



Ernest L. Carroll

ELC:kth

xc: Mr. W. Thomas Kellahin  
Mr. Randy Patterson