



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



BRUCE KING  
GOVERNOR  
  
ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

April 14, 1993

CAMBELL, CARR, BERGE  
& SHERIDAN  
Attorneys at Law  
P. O. Box 2208  
Santa Fe, New Mexico 87504

RE: CASE NO. 10668  
ORDER NO. R-9869

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

*Sally Leichtle*  
Sally E. Leichtle  
Administrative Secretary

cc: BLM Carlsbad Office  
Steve Keene  
Tom Kellahin

CAMPBELL, CARR, BERGE

& SHERIDAN, P.A.

LAWYERS

MICHAEL B. CAMPBELL  
WILLIAM F. CARR  
BRADFORD C. BERGE  
MARK F. SHERIDAN  
WILLIAM P. SLATTERY

PATRICIA A. MATTHEWS  
MICHAEL H. FELDEWERT

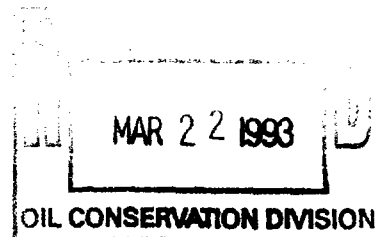
JACK M. CAMPBELL  
OF COUNSEL

JEFFERSON PLACE  
SUITE 1 - 110 NORTH GUADALUPE  
POST OFFICE BOX 2208  
SANTA FE, NEW MEXICO 87504-2208  
TELEPHONE: (505) 988-4421  
TELECOPIER: (505) 983-6043

March 22, 1993

**HAND-DELIVERED**

Michael E. Stogner  
Hearing Examiner  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
State Land Office Building  
Santa Fe, New Mexico 87503



Re: Oil Conservation Division Case No. 10668:  
Application of Yates Petroleum Corporation for Compulsory Pooling, Eddy  
County, New Mexico

Dear Mike:

At the February 18, 1993 hearing in the above-referenced case, you requested that Yates prepare a proposed Order which contained language for the drilling of additional wells on the pooled acreage consistent with the procedures developed for OCD Order R-9618. As you will recall, this language was developed in a case where Yates was proposing additional wells on property owned by Wilma Voight.

Enclosed for your consideration is a draft of Yates' proposed Order in this case. Please note Finding 14 and Order Paragraph 14 which contain language concerning the drilling of subsequent wells on the proposed unit. I have also enclosed for your easy reference a copy of Bob Stovall's July 20, 1992 letter which I believe outlines these procedures.

If you need anything further from Yates to proceed with your consideration of this case, please advise.

Very truly yours,

A handwritten signature in dark ink, appearing to read "WFC" or "William F. Carr", written in a cursive style.

WILLIAM F. CARR

WFC:mlh

Enclosure

cc w/enc.: Ms Janet Richardson



BRUCE KING  
GOVERNOR

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

RECEIVED

JUL 21 1992

CAMPBELL, CARR, et al.

July 20, 1992

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

William F. Carr, Esq.  
CAMPBELL & BLACK, P.A.  
P.O. Box 2208  
Santa Fe, NM 87504-2265

RE: Yates Petroleum Corp. Order R-9618

Dear Bill:

You had written previously requesting an interpretation of the above pooling order with respect to the drilling of a second well on the proration unit. I am sure that I drafted a response, and Mike Stogner is sure he reviewed it, but apparently it got lost.

I essentially agree with the interpretation of the order as stated in your April 27, 1992, letter. Although our forced pooling orders do not contain a subsequent operations provision, because this order pools the entire proration unit without reference to a specific well, I think its provisions apply to subsequent wells.

If Yates elects to drill another well, they should provide Wilma Voight with an AFE and offer her the opportunity to join within thirty days thereafter. If she elects not to join, the recovery of costs for that well would be subject to the 175% penalty. Any non-consent costs and penalties, whether or not Voights join the second well, are to be recovered from all production on the proration unit regardless of which well produces, since this is a single unit under the order.

I have spoken with Mr. Voight, and he tells me that Yates has not been forthcoming with information. He just received the actual cost statement, and Yates is not providing revenue information. Nor has he received payments on his royalty share. Under the provisions of the order Voights have thirty days from the date they received the costs to challenge the reasonableness of those costs. No costs or information are to be withheld from royalty.

When the second well is drilled, whether or not Voights participate, they must be provided with a statement of costs and be given the opportunity to challenge them, including the propriety of drilling the well if they think it is inappropriate.

If you have any further questions, do not hesitate to call me.

Sincerely,

Robert G. Stovall,  
General Counsel

cc: Wilma Voight, case file

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. 10668  
Order No. R-\_\_\_\_\_

APPLICATION OF YATES PETROLEUM  
CORPORATION FOR COMPULSORY POOLING  
EDDY COUNTY, NEW MEXICO.

**YATES PETROLEUM CORPORATION'S  
PROPOSED ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on February 18, 1993, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this \_\_\_\_\_ day of March, 1993, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

**FINDS THAT:**

- (1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) The applicant, Yates Petroleum Corporation ("Yates") seeks an order pooling all mineral interests to the base of the Canyon formation underlying the NE/4 of Section 29, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, and in the following manner:

the NW/4 NE/4 forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre oil spacing within such vertical extent; and

the NE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within such vertical extent, which presently includes but is not necessarily limited to the Undesignated Dagger Draw-Upper Pennsylvanian Pool.

(3) The applicant has the right to drill and proposes to drill a well at a standard location in the NW/4 NE/4 of said Section 29.

(4) There are interest owners in the proposed proration unit(s) who have not agreed to pool their interests.

(5) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit(s) the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit(s).

(6) The applicant should be designated the operator of the subject well and unit(s).

(7) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(11) The operator should be authorized to withhold from production \$5,400 per month while drilling and \$540 per month while producing as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) Upon the failure of the operator of said pooled unit(s) to commence the drilling of the well to which said unit(s) are dedicated on or before July 1, 1993, the order pooling said unit(s) should become null and void and of no effect whatsoever.

(14) If subsequent wells are drilled on the pooled unit(s), the operator shall provide each non-consenting working interest owner an AFE for the well and such non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator within 30 days from the date the schedule of estimated well costs is furnished to him in lieu of paying his share of reasonable well costs out of production. Any such owner who pays his share of estimated well costs shall remain liable for development and operating costs but shall not be liable for risk charges. If a non-consenting working interest owner elects not to join in a subsequent well, all provisions of this order shall apply to that well including the risk penalty set herein. All development costs, operating costs and risk penalties shall be recovered from all production from the pooled unit(s).

(15) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, from the surface to the base of the Canyon formation underlying the following described area in Section 29, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico are hereby pooled in the following manner:

the NW/4 NE/4 forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre oil spacing within such vertical extent; and

the NE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within such vertical extent, which presently includes but is not necessarily limited to the Undesignated Dagger Draw-Upper Pennsylvanian Pool.

**PROVIDED HOWEVER THAT**, the operator of said unit(s) shall commence the drilling of said well on or before the 1st day of July, 1993, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Canyon formation.

**PROVIDED FURTHER THAT**, in the event said operator does not commence the drilling of said well on or before the 1st day of July, 1993, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division Director for good cause shown.

**PROVIDED FURTHER THAT**, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Order Paragraph No. (1) of this order should not be rescinded.

(2) Yates Petroleum Corporation is hereby designated the operator of the subject well and unit(s).

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit(s) an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the 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 said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

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

- (a) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.
- (b) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$5,400 per month while drilling and \$540 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) 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 the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Eddy 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 said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) If subsequent wells are drilled on the pooled unit(s), the operator shall provide each non-consenting working interest owner an AFE for the well and such non-consenting



working interest owner shall have the right to pay his share of estimated well costs to the operator within 30 days from the date the schedule of estimated well costs is furnished to him in lieu of paying his share of reasonable well costs out of production. Any such owner who pays his share of estimated well costs shall remain liable for development and operating costs but shall not be liable for risk charges. If a non-consenting working interest owner elects not to join in a subsequent well, all provisions of this order shall apply to that well including the risk penalty set herein. All development costs, operating costs and risk penalties shall be recovered from all production from the pooled unit(s).

(14) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

(16) Jurisdiction is hereby 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

WILLIAM J. LeMAY  
Director

S E A L