

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. 9629  
CASE NO. 9630  
CASE NO. 9631  
Order No. R-8914

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

APPLICATION OF YATES PETROLEUM  
CORPORATION FOR AN UNORTHODOX GAS  
WELL LOCATION, CHAVES COUNTY, NEW  
MEXICO

APPLICATION OF BHP PETROLEUM COMPANY  
INC. FOR COMPULSORY POOLING AND AN  
UNORTHODOX GAS WELL LOCATION, CHAVES  
COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on March 29, 1989, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 13th day of April, 1989, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

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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) Division Case Nos. 9629, 9630, and 9631 were consolidated at the time of the hearing for the purpose of testimony, and inasmuch as all three cases concern the same acreage in Section 36, Township 10 South, Range 26 East, NMPM, Chaves County, New Mexico, one order should be entered covering all three subject cases.

(3) The applicant in Case No. 9629, Yates Petroleum Corporation (Yates), seeks an order pooling all mineral interests from the surface to the base of the Ordovician formation underlying the E/2 of Section 36, Township 10 South, Range 26 East, NMPM, Chaves County, New Mexico, forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools within said vertical extent developed on 320-acre spacing. Said unit is to be dedicated to a well to be drilled at a standard gas well location 1980 feet from the North and East lines (Unit G) of said Section 36.

(4) The applicant in Case No. 9630, Yates Petroleum Corporation (Yates), seeks approval for an unorthodox gas well location 1650 feet from the North line and 2310 feet from the East line (Unit G) of Section 36, Township 10 South, Range 26 East, NMPM, Chaves County, New Mexico. Said well location is now being proposed by Yates as the preferable location to the standard well location described in Finding No. (3) above.

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(5) The applicant in Case No. 9631, BHP Petroleum Company Inc. (BHP), seeks an order pooling all mineral interests from the top of the Wolfcamp to the base of the Montoya formation underlying the E/2 of Section 36, Township 10 South, Range 26 East, NMPM, Chaves County, New Mexico, forming a standard 320-acre gas spacing and proration unit for all formations and/or pools within said vertical extent developed on 320-acre spacing. Said unit is to be dedicated to a well to be drilled at an unorthodox gas well location 1650 feet from the North line and 2310 feet from the East line (Unit G) of said Section 36.

(6) Both Yates and BHP seek authority in the subject cases to drill and operate the subject well.

(7) The evidence presented in these cases indicates that Yates controls 50 percent of the acreage (being the SE/4 of said Section 36) in the proposed proration unit, and that BHP (in partnership with Samedan Oil Company), by virtue of a farmout agreement with Valley Oil and Gas Company, also controls 50 percent of the acreage (being the NE/4 of said Section 36) in the proposed proration unit.

(8) Both Yates and BHP have drilled and currently operate numerous Ordovician wells in the area.

(9) There is no significant difference in the drilling costs, overhead rates, and risk penalties proposed by both Yates and BHP at the hearing.

(10) Both Yates and BHP are in complete agreement that the subject well should be located at the proposed unorthodox location 1650 feet from the North line and 2310 feet from the East line (Unit G) of said Section 36.

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(11) The evidence presented indicates that BHP contacted Yates on January 20, 1989 with the initial proposal to develop the E/2 of said Section 36.

(12) In the absence of other compelling factors in these cases, the rights to drill and operate the well in the E/2 of said Section 36 should be awarded to the operator who initially proposed the development of the subject acreage.

(13) The application of BHP Petroleum Company Inc. for compulsory pooling in Case No. 9631 should be approved.

(14) The applications of Yates Petroleum Corporation for compulsory pooling in Case No. 9629 and for an unorthodox gas well location in Case No. 9630 should be denied.

(15) 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 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 application of BHP Petroleum Company Inc. in Case No. 9631 should be approved by pooling all mineral interests, whatever they may be, within said unit.

(16) BHP Petroleum Company Inc. should be designated the operator of the subject well and unit.

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(17) The geologic evidence presented by both Yates and BHP indicates that a well at the proposed unorthodox location will penetrate the Ordovician formation at a more structurally advantageous position above the gas-water contact than a well drilled at a standard location thereon, thereby increasing the likelihood of obtaining commercial production.

(18) All of the affected offset acreage is controlled by those parties who will own an interest in the subject well.

(19) No other offset operator appeared at the hearing and objected to the proposed unorthodox location.

(20) Approval of the proposed unorthodox location will afford the applicant the opportunity to produce its just and equitable share of the gas in the subject pool, will prevent the economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells, and will otherwise prevent waste and protect correlative rights.

(21) 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.

(22) 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.

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(23) Any non-consenting 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.

(24) 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.

(25) \$4100.00 per month while drilling and \$410.00 per month while producing should be fixed 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.

(26) 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.

(27) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before July 15, 1989, the order pooling said unit should become null and void and of no effect whatsoever.

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

(29) The operator of the well and unit 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 top of the Wolfcamp to the base of the Montoya formation underlying the E/2 of Section 36, Township 10 South, Range 26 East, NMPM, Chaves County, New Mexico, are hereby pooled forming a standard 320-acre gas spacing and proration unit for all formations and/or pools within said vertical extent developed on 320-acre spacing. Said unit shall be dedicated to a well to be drilled at an unorthodox gas well location, also hereby approved, 1650 feet from the North line and 2310 feet from the East line (Unit G) of said Section 36.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of July, 1989, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Montoya formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of July, 1989, 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 for good cause shown.

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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 Ordering Paragraph No. (1) of this order should not be rescinded.

(2) BHP Petroleum Company Inc. is hereby designated the operator of the subject well and unit.

(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 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.



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(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, and
- (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.

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(9) \$4100.00 per month while drilling and \$410.00 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 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 said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all parties to this forced 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.

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(14) The operator of the well and unit 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.

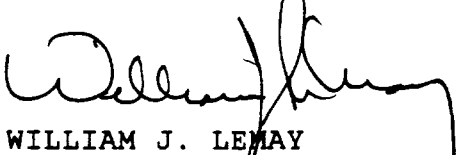
(15) The application of Yates Petroleum Corporation for compulsory pooling in Case No. 9629 is hereby denied.

(16) The application of Yates Petroleum Corporation for an unorthodox gas well location in Case No. 9630 is hereby denied.

(17) Jurisdiction of this cause 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

  
WILLIAM J. LEMAY  
Director

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