

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.
LAWYERS

MICHAEL B. CAMPBELL
WILLIAM F. CARR
BRADFORD C. BERGE
MARK F. SHERIDAN
MICHAEL H. FELDEWERT
ANTHONY F. MEDEIROS
PAUL R. OWEN
KATHERINE M. MOSS

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
FACSIMILE: (505) 983-6043
E-MAIL: ccbspa@ix.netcom.com

October 8, 1998

HAND DELIVERED

Lori Wrotenbery, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: *Application of Yates Petroleum Corporation and Hanley Petroleum Inc. for
allowable reduction and the escrow of production proceeds, Lea County,
New Mexico*

*Motion of Yates Petroleum Corporation and Hanley Petroleum Inc. for
Reconsideration of Stay of Division Order No. R-10864*

Dear Ms. Wrotenbery:

Enclosed in triplicate are the following pleadings which address the dispute concerning the expansion of the West Lovington Strawn Unit that is now pending before the Oil Conservation Commission in Cases 11724 (*de novo*), Case 11954 and Case 11987:

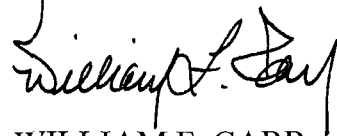
1. Application of Yates Petroleum Corporation and Hanley Petroleum Inc. for allowable reduction and the escrow of production proceeds, Lea County, New Mexico;
2. Motion of Hanley Petroleum Inc. and Yates Petroleum Corporation for Reconsideration of Stay; and
3. Memorandum of Hanley Petroleum Inc. and Yates Petroleum Corporation in Response to Snyder Ranches Motion to Dismiss and in Support of Application for Allowable Reduction and Motion for Reconsideration of Stay.

98 OCT - 9 AM 2:1
OIL CONSERVATION DIV.

Lori Wrotenbery, Director
Oil Conservation Division
October 8, 1998
Page 2

Yates and Hanley have enclosed a draft of a legal advertisement for this application and request that this application and argument on its Motion for Reconsideration of Stay be included on the Commission's November, 1998 hearing docket.

Very truly yours,

A handwritten signature in black ink, appearing to read "William F. Carr". The signature is fluid and cursive, with a long vertical stroke at the end.

WILLIAM F. CARR

Attorney for Yates Petroleum Corporation and Hanley Petroleum Inc.

cc: Marilyn Hebert, Esq.
Rand Carroll, Esq.
James Bruce, Esq.
W. Thomas Kellahin, Esq.
J. Scott Hall, Esq.

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

APPLICATION OF YATES PETROLEUM
CORPORATION AND HANLEY
PETROLEUM INC. FOR ALLOWABLE
REDUCTION, AND THE ESCROW OF
PRODUCTION PROCEEDS,
LEA COUNTY, NEW MEXICO.

CASE NO. 12086

OIL CONSERVATION DIV.
98 OCT -8 PM 3:03

APPLICATION

Yates Petroleum Corporation ("Yates") and Hanley Petroleum Inc. ("Hanley") through their undersigned attorneys, in an effort to break the impasse which has prevented the proper expansion of the West Lovington Strawn Unit ("the Unit") for more than two years, hereby make application for an order which:

- (1) reduces the depth bracket allowable for wells in the West Lovington Strawn Pool ("the Pool") to a level to be determined at the time of hearing which will only permit operators in the pool to avoid lease terminations for the failure of wells therein to produce in paying quantities;
- (2) provides for termination of the reduced depth bracket allowable for the Pool when the West Lovington Strawn Unit is expanded to protect the correlative rights of each owner in the Pool pursuant to a ratified statutory unitization order of the Oil Conservation Commission; and
- (3) requires Gillespie to escrow all payments received for production from the Unit, less payments made for royalty and taxes thereon, from the date of the

order resulting from this hearing until the Unit has been expanded pursuant to a ratified statutory unitization order of the Oil Conservation Commission to include all lands which are affected by the pressure maintenance project being conducted in the Pool.

In support of their application Yates and Hanley state:

1. The Oil Conservation Commission is required by the Oil and Gas Act to protect the correlative rights of the owner of each property in a pool. NMSA 1978, §§ 70-2-11 and 70-2-33.
2. The current status of the West Lovington Unit requires immediate action by the Commission to protect correlative rights.
3. The West Lovington Strawn Unit was originally intended to encompass the entire productive West Lovington Strawn reservoir.
4. Wells drilled since the original statutory unitization hearing prove the Unit boundaries do not encompass the entire reservoir.
5. There are interest owners in the Pool, including the State of New Mexico, which are affected by unit operations and who do not share in unit production, and will not share in unit production, until the Unit is expanded to include their acreage.
6. There are interest owners in the Unit which do not receive their fair share of unit production, and will not receive their fair share of unit production, until the Unit is expanded to include all land in the reservoir which is affected by the pressure maintenance

project conducted in the Pool.

7. Yates and Hanley are working interest owners in the West Lovington Strawn Pool.

8. Neither Yates nor Hanley voluntarily committed their interests to the Unit. Instead, each had their interests committed to the West Lovington Strawn Unit by Oil Conservation Division Order No. R-10864.

9. In its order committing the interests of Yates and Hanley to the Unit, and giving the operations thereof to Gillespie, the Division found the following:

- A. The inclusion of the Yates and Hanley interests under **the Unit plan is fair, reasonable and equitable** (Finding 28); and
- B. "The statutory unitization of the expanded West Lovington Strawn Unit, as proposed by Gillespie-Crow, Inc., ... will prevent waste and **will protect the correlative rights of all owners of interest within the proposed Unit Area....**" (Finding 35).

Data from the wells drilled since the original unitization hearing prove these findings to be wrong.

10. All parties agree there is additional acreage in this pool that is outside the current Unit boundary which is affected by the pressure maintenance project operated

therein.¹

11. Instead of sharing information, evaluating the technical data on this reservoir and recommending to the Commission a unit expansion based on the best information currently available, the working interest owners have refused to share with each other the data utilized to form the original unit and have been pursuing procedural games which are delaying a necessary and appropriate expansion of the Unit area.²

12. Pursuant to Division Order No. R-10864, on November 1, 1997 Gillespie assumed operations of the Hanley Chandler Well No. 1 located in Unit O of Section 28, Township 15 South, Range 35 East, NMPM, Lea County, New Mexico. Since that date, Gillespie has:

- A. Failed and refused to pay Yates and Hanley for their share of production from the Unit;

1

There are three applications pending before the Commission which seek expansion of the Unit boundaries. These applications are the application of Gillespie-Crow, Inc. in Case 11724 (*de novo*), the application of Hanley Petroleum Inc. and Yates Petroleum Corporation in Case 11954 and the application of EEX Corporation in Case 11987. None of these applications reflect the data currently available on the West Lovington Pool and none, if granted, would protect the correlative rights of the interest owners in this reservoir.

2

In an attempt to expand the Unit to include the entire reservoir, Yates and Hanley have filed an Application for Unit Expansion which has been docketed by the Division as Case No. 11954. To prepare for the hearing in this case, Yates and Hanley have sought by Subpoena from Gillespie and EEX Corporation certain seismic information. Although EEX sought to quash this Subpoena, the Commission, after an in camera review, found that this data is relevant and must be produced. EEX has appealed this ruling to the District Court of Lea County. As long as Gillespie and EEX can delay the production of seismic data either by imposing unreasonable conditions in a proposed Confidentiality Agreement or through an appeal to the District Court, they are able to continue to produce the Unit and keep the proceeds of Unit production for themselves.

B. Failed and refused to pay Hanley for the oil which was in the tanks at the Chandler Well on the date Gillespie assumed operations of this well and tract; and

C. Failed and refused to pay Hanley for the lease and well equipment on the Chandler lease.

13. The current status of the development of the West Lovington-Strawn Pool and the efforts of Gillespie-Crow, Inc. and EEX Corporation to form and subsequently expand the West Lovington Strawn Unit have created a situation where certain interest owners in this pool, including the State of New Mexico, are being denied the opportunity to produce their fair share of the reserves from the Pool.

14. As long as the Unit operator can delay the proper expansion of the Unit, and produce the reserves of other owners in the Pool, the correlative rights of these other interest owners are impaired.

15. The actions taken by Gillespie and EEX which delay the expansion of the West Lovington Strawn Unit do not relieve the Commission of its statutory duty to protect the correlative rights of each interest owner in this pool.

16. The Commission must carry out its statutory duty to protect the correlative rights of all interest owners in a pool even when the operators refuse to cooperate with each other or the Commission. *See, Santa Fe Exploration Co. v. Oil Conservation Comm'n*, 114 N.M. 103, 835 P.2d 819 (1992).

17. The Commission is given by statute a broad grant of power to prevent waste and protect correlative rights which allow it **"to require wells to be drilled, operated and produced in such a manner as to prevent injury to neighboring leases or properties."** NMSA 1978, § 70-2-12 (B) (7).

18. The Commission is "empowered by statute to make and enforce rules, regulations and orders, and do whatever may be necessary to carry out the purpose of the Oil and Gas Act whether or not indicated or specified in any section hereof.'" NMSA 1978, § 70-2-11. *See also, Santa Fe Exploration*, 114 N.M. at 113, 835 P.2d at 829.

19. If the Commission does not exercise the powers conferred on it by statute and take immediate action to protect the correlative rights of interest owners in the West Lovington Strawn Pool, it will be in violation of the Oil and Gas Act.

WHEREFORE, Yates Petroleum Corporation and Hanley Petroleum Inc. request that this application be set for hearing before the full Oil Conservation Commission on November 12, 1998, and that after notice and hearing as required by law, the Commission enter its order:

- (1) reducing the depth bracket allowable for wells in the West Lovington Strawn Pool to a level, to be determined at the time of hearing, which will only permit operators in the pool to avoid lease terminations for the failure of wells thereon to produce in paying quantities;
- (2) providing for termination of the reduced depth bracket allowable established

- by this order when the West Lovington Strawn Unit ("the Unit") is expanded, pursuant to a ratified statutory unitization order of the Oil Conservation Commission Case 11724 (*de novo*), to include all lands which are affected by the pressure maintenance project being conducted in this pool; and
- (3) requiring Gillespie-Crow, Inc. to escrow all payments received for production from the Unit, less payments made for royalty and taxes thereon, from the date of the order resulting from this hearing until the Unit has been expanded pursuant to a ratified statutory unitization order of the Oil Conservation Commission in Case 11724 (*de novo*) to include all lands which are affected by the pressure maintenance project being conducted in this pool.

Respectfully submitted,

CAMPBELL, CARR, BERGE
& SHERIDAN, P.A.

By:


WILLIAM F. CARR

Post Office Box 2208

Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR YATES
PETROLEUM CORPORATION AND
HANLEY PETROLEUM INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application was hand-delivered this 8th day of October, 1998 to the following counsel of record:

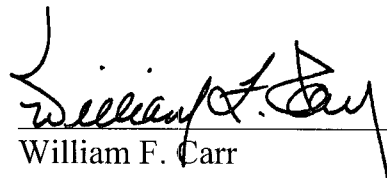
Lyn Hebert, Esq.
Oil Conservation Division
New Mexico Energy, Minerals
& Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Rand Carroll, Esq.
Oil Conservation Division
New Mexico Energy, Minerals
& Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

James Bruce, Esq.
612 Old Santa Fe Trail
Suite B
Santa Fe, New Mexico 87501

W. Thomas Kellahin, Esq.
Kellahin & Kellahin
117 North Guadalupe Street
Santa Fe, New Mexico 87501

J. Scott Hall, Esq.
Miller, Stratvert & Torgerson, P.A.
150 Washington Avenue, Suite 300
Santa Fe, New Mexico 87501



William F. Carr

Case 12086

Application of Yates Petroleum Corporation and Hanley Petroleum Inc. for allowable reduction and the escrow of production proceeds, Lea County, New Mexico. Applicants in the above-styled case seek an order reducing the depth bracket allowable for wells in the West Lovington-Strawn Pool to a level, to be determined at hearing, which will only permit operators of wells in this pool to avoid lease terminations for the failure of wells therein to produce in paying quantities. Applicants seek reduced depth bracket allowables for this pool until the West Lovington Strawn Unit is expanded pursuant to a ratified statutory unitization Order of the Oil Conservation Commission in Case 11724 (*de novo*) to include all lands which are affected by the pressure maintenance project being conducted in this reservoir. Applicant further seeks an order requiring all payments for production from the West Lovington Strawn Unit, less payments made for royalty and taxes thereon, from the date of the order entered in this case, be placed in escrow until the West Lovington Unit has been expanded. Said unit is located approximately 4.5 miles west-northwest of Lovington, New Mexico.

OIL CONSERVATION DIV.
98 OCT - 8 PM 3:02