

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

IN THE MATTER OF THE APPLICATION OF
GRUY PETROLEUM MANAGEMENT CO.
FOR AN UNORTHODOX WELL LOCATION,
AND SIMULTANEOUS DEDICATION,
LEA COUNTY, NEW MEXICO

CASE NO. 12015

IN THE MATTER OF THE APPLICATION OF
GRUY PETROLEUM MANAGEMENT CO.
FOR AN UNORTHODOX WELL LOCATION
AND SIMULTANEOUS DEDICATION,
LEA COUNTY, NEW MEXICO

CASE NO. 12017

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OIL CONSERVATION DIV

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**GRUY PETROLEUM MANAGEMENT CO.'S
MOTION TO QUASH IN PART SUBPOENAS DUCES TECUM**

Gruy Petroleum Management Co. ("Gruy") moves the New Mexico Oil Conservation Division to quash in part the subpoenas issued on behalf of Doyle Hartman, Oil Operator ("Hartman") on July 20, 1998. The Division should not require Gruy to produce irrelevant data pertaining to wells that are not at issue in these cases, or data pertaining to an internet posting which has no bearing on these cases. In support of this Motion, Gruy states:

1. On June 30, 1998, Gruy filed its applications in the above-referenced cases. In case No. 12015, Gruy seeks approval of an unorthodox well location and simultaneous dedication of three wells located in Section 4, Township 26 South, Range 37 East, Lea County, New Mexico. In case No. 12017, Gruy seeks similar relief for three wells located in Section 16, Township 26 South, Range 37 East. Both subject areas are within the Rhodes-Yates-Seven Rivers Gas Pool.

2. Gruy also operates a well located on an irregular spacing unit which is not at issue in either of the above-referenced cases. In Section 15, Township 26 South, Range 37 East, Lea County, New Mexico, Gruy operates the Gregory "B" Well No. 2. That well, and the irregular spacing unit on which it is located, are not the subject of, or related to, the instant proceedings.

3. Hartman claims an interest in acreage offsetting the irregular spacing unit on which the Gregory "B" Well No. 2 is located. Gruy is not aware of any claim by Hartman of any interest in any acreage offsetting the two spacing units which are the subject of the pending applications.

4. On July 20, 1998, Hartman caused the NMOCD to issue subpoenas in both Case No. 12015 and Case No. 12017. In each subpoena, he seeks identical information. While Gruy will produce some of the information requested in the subpoenas, most of the information requested is simply irrelevant to the proceedings at hand, or is available from the public records of either the NMOCD, the Bureau of Land Management, or other public agencies. Because the Division's subpoena power should not be used to sanction fishing expeditions which are irrelevant to the issues before it, the subpoenas issued on behalf of Hartman should be quashed in part.

5. In each subpoena, Hartman seeks four categories of information. First, in item numbered 2 of each subpoena, Hartman seeks well files and other records pertaining to a list

of wells.

6. This list includes wells which are not the subject of the instant proceeding—the Rhodes Federal Unit Well No. 159, the Rhodes Federal Unit Well No. 103, the Gregory "B" Well No. 2, and the Rhodes State Com Well No. 6. Any information regarding those wells is irrelevant to the issues presented in these cases. Hartman has made no allegation or showing that the information sought by the subpoena is relevant. Accordingly, the Division should quash its subpoena to the extent that it seeks such irrelevant information. "The United States Supreme Court has set three requirements an agency must meet in issuing subpoenas: (a) the inquiry must be within the authority of the agency; (b) the demand must not be too indefinite; and (c) *the information must be reasonably relevant to the purpose of the investigation.*" *In re Investigation No. 2 of the Governor's Organized Crime Prevention Commission*, 91 N.M. 516, 517, 577 P.2d 414, 415 (1978) (citing *United States v. Morton Salt Co.*, 338 U.S. 632, 652, 70 S.Ct. 357, 94 L.Ed 401 (1950)).

7. As to the remaining information requested in item No. 2 of the subject subpoenas, Gruy requests that the Division limit the scope of its subpoena to require the production of data which is not available from public records. Specifically, the subpoenas' directives (as numbered by Hartman), and the limitations which Gruy seeks, are as follows:¹

¹ As detailed above, Gruy requests that the Division limit the scope of its subpoena to exclude any requirement of production relating to the three wells which are not even in the spacing units which are the subject of Gruy's applications. All references to Gruy's willingness to produce documents should be

A. The complete well file.

Gruy is willing to produce records in its well files, to the extent that such information is not available from the public records of the State of New Mexico or the Bureau of Land Management, or any other public agency. To the extent that such records are available through public records, those records are accessible to Hartman. Gruy therefore requests that the Division quash its subpoena in part to reflect that Gruy is only required to produce data which is not available from the public records.

B. All notices provided to the New Mexico Oil Conservation Division or the United States Bureau of Land Management.

The information requested by this item in the subpoenas is by definition available from the public records of the referenced agencies. Hartman already has access to this information, and Gruy should not be compelled to make available to Hartman that to which he already has access. Accordingly, Gruy requests that this portion of the subpoenas be quashed.

C. Documents describing the drilling program for the subject wells, including

understood as a willingness to produce documents pertaining to the wells other than the Rhodes Federal Unit Well No. 159, the Rhodes Federal Unit Well No. 103, the Gregory "B" Well No. 2, and the Rhodes State Com Well No. 6. The first three of these wells are not located on or adjacent to acreage which is the subject of the pending applications, and any information pertaining to those wells is simply irrelevant to the instant proceedings. Similarly, the Rhodes State Com Well No. 6 is an oil well, and is not relevant to these cases.

approvals, schedules, timetables, contracts for drilling, correspondence, etc.

Gruy is willing to produce the data requested by this item in the subpoena, which production should be limited to the wells which are relevant to the pending proceedings before the NMOCD.

- D. Documents describing how the subject wells were staked.

To the extent that this information exists, it is available from the public records of the Bureau of Land Management. Hartman already has access to this information, and Gruy should not be compelled to make available to Hartman that to which he already has access. Accordingly, Gruy requests that this portion of the subpoenas be quashed.

- E. Documents evidencing Gruy's efforts to comply with NMOCD rules and regulations in connection with the subject wells.

An initial review of Gruy's records indicates that such documents do not exist. Moreover, to the extent that this information exists, it is most likely available from the public records of the NMOCD. Hartman already has access to this information, and Gruy should not be compelled to make available to Hartman that to which he already has access. Accordingly, Gruy requests that this portion of the subpoenas be quashed.

8. Items numbered 3 and 4 of the subpoenas request information pertaining to a

site on the world wide web, which site is maintained by Gruy's corporate parent. That information has no relevance to the proceedings before the NMOCD. Gruy's current applications request approval of unorthodox well locations and simultaneous dedication. The issues to be decided by the Division in these cases are defined by statute, NMSA 1978, Sections 70-2-11, 70-2-18, and NMOCD Rule 104(c)(2)(a) (19 NMAC 15.C.104(c)(2)(a)). The content and background of the website referenced in the subpoenas are irrelevant to the Division's inquiry. Therefore, Gruy requests that the Division limit the scope of its subpoena to remove any obligation of Gruy to produce any documents requested under items numbered 3 and 4 in the subpoenas.

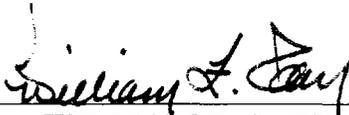
9. Finally, item numbered 5 in the subpoenas seeks information such as reserve projections, corresponding pressure data, and production data, which Gruy contends supports its requests for simultaneous dedication. Again, subject to the limitation that all data from three of the wells referenced in the subpoena is irrelevant to the instant proceedings, [and cannot be compelled by the Division], Gruy will produce the documents requested by this item, to the extent that such documents exist. Similarly, not all such data has yet been developed or compiled. To the extent that Gruy needs to supplement its production under this subpoena item, it will do so in a timely manner under the NMOCD rules.

Therefore, because portions of the subpoena issued by the Division on behalf of Hartman on June 20, 1998, are beyond the power of the Division, in that they seek irrelevant

data and information which is available from the public records, Gruy respectfully requests that the subpoena be quashed in part, and that Gruy not be required to produce data pertaining to the Rhodes Federal Unit Well No. 159, the Rhodes Federal Unit Well No. 103, the Gregory "B" Well No. 2, data which is available to Hartman from public records, and the data requested in items numbered 3 and 4 in the subpoenas.

Respectfully submitted,

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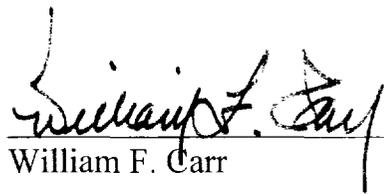
ATTORNEYS FOR GRUY
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was hand-delivered this 29th day of July, 1998 to the following counsel of record:

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