

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

APPLICATION OF GILLESPIE-CROW, INC.  
FOR UNIT EXPANSION, STATUTORY  
UNITIZATION, AND QUALIFICATION  
OF THE EXPANDED UNIT AREA FOR  
THE RECOVERED OIL TAX RATE AND  
CERTIFICATION OF A POSITIVE  
PRODUCTION RESPONSE PURSUANT  
TO THE "NEW MEXICO ENHANCED  
OIL RECOVERY ACT,"  
LEA COUNTY, NEW MEXICO.

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OIL CONSERVATION DIV.

CASE NO. 11724  
(DE NOVO)

**MOTION OF HANLEY PETROLEUM, INC.  
AND YATES PETROLEUM CORPORATION  
FOR RECONSIDERATION OF STAY**

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Hanley Petroleum, Inc. ("Hanley") and Yates Petroleum Corporation ("Yates") hereby move the Oil Conservation Commission to reconsider the Division Director's denial of their Motion for Stay of Division Order No. 10864 pending a hearing *de novo* before the Commission and in support of their motion state:

1. Oil Conservation Division Order No. R-10864, dated August 27, 1997, granted the application of Gillespie-Crow, Inc. ("Gillespie") to expand the West Lovington Strawn Unit to include two 80-acre tracts on which wells have been drilled since the formation of the unit in 1995. On one tract, Hanley owns the working interest and operated its Chandler Well No. 1 ("the Chandler Well") and on the other tract Yates owns a working interest.

2. On September 9, 1997, Hanley and Yates filed an Application for Hearing *de novo* in this case pursuant to NMSA 1978, Section 70-2-13 (Repl. Pamp. 1985).

3. Also on September 9, 1997, Hanley and Yates sought a Stay of Division Order No. R-10864 pending the Commission hearing on the *de novo* application. A copy of the Motion of Yates Petroleum Corporation and Hanley Petroleum, Inc. is attached to this motion as Exhibit A and incorporated herein by reference.

4. The Motion for Stay was denied by the Division Director on September 25, 1997. A copy of this ruling is attached hereto as Exhibit B.

5. The expansion of the West Lovington Strawn Unit became effective on November 1, 1997.

6. Since Gillespie assumed operations of the Chandler Well and the acreage dedicated thereto on November 1, 1997, and in disregard of the requests of Hanley, Gillespie has failed to confirm to Hanley that royalty is being paid to maintain the Chandler lease in good standing. *See* Affidavit of Michael LeMond attached hereto as Exhibit C.

7. Since Gillespie assumed operations of the Chandler Well and the acreage dedicated thereto on November 1, 1997, and in disregard of requests of Hanley, Gillespie has failed and refused to pay Hanley for the oil in the tanks at the time that Gillespie assumed operations of this property. *See* Affidavit of Michael LeMond attached hereto as Exhibit C.

8. Since Gillespie assumed operations of the Chandler Well and the property

dedicated thereto on November 1, 1997, and in disregard of the requests of Hanley, Gillespie has refused to pay Hanley for lease and well equipment on the Chandler lease. *See* Affidavit of Michael LeMond attached hereto as Exhibit C.

9. The *de novo* hearing before the Commission has been delayed for one year while Hanley and Yates have attempted to obtain the seismic data upon which the original unit was based. The Commission has ruled that this data is relevant and must be produced by Gillespie and EEX, a non-operating working interest owner in the original unit area.

10. Gillespie and EEX have been able to avoid the production of this data, and thereby delay the *de novo* hearing by (1) refusing to share this information, (2) proposing unreasonable terms in a proposed Confidentiality Agreement, and (3) appealing the Commission's ruling that this data be produced to the District Court of Lea County, New Mexico.

11. The refusal to account and pay for unit production and equipment combined with the refusal of Gillespie and EEX to share the data upon which this allocation of unit production depends and the delays that result therefrom have created a situation where the correlative rights of Hanley and Yates are being impaired and their right to their share of the reserves in this pool denied all as more fully set out in the memorandum filed herewith and incorporated herein by reference.

WHEREFORE, Hanley Petroleum, Inc. and Yates Petroleum Corporation request that the Oil Conservation Commission

1. Reconsider the September 29, 1997 denial of their request for a Stay of Division Order No. R-10864; and
2. Enter an order staying this order effective November 1, 1997.

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 Motion of Hanley Petroleum, Inc. and Yates Petroleum Corporation for Reconsideration of Stay was hand-delivered this 8<sup>th</sup> day of October, 1998 to the following counsel of record:

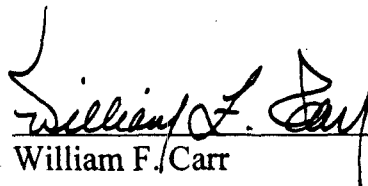
Lyn Hebert, Esq.  
Oil Conservation Division  
New Mexico Energy, Minerals  
& Natural Resources  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

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

**MOTION OF HANLEY PETROLEUM, INC. AND YATES PETROLEUM CORPORATION FOR RECONSIDERATION OF STAY**

7

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 11724  
ORDER NO. R-\_\_\_\_\_

APPLICATION OF GILLESPIE-CROW, INC.  
FOR UNIT EXPANSION, STATUTORY  
UNITIZATION, AND QUALIFICATION OF  
THE EXPANDED UNIT AREA FOR THE  
RECOVERED OIL TAX RATE AND  
CERTIFICATION OF A POSITIVE PRODUCTION  
RESPONSE PURSUANT TO THE "NEW MEXICO  
ENHANCED OIL RECOVERY ACT",  
LEA COUNTY, NEW MEXICO.

**MOTION OF  
YATES PETROLEUM CORPORATION  
AND  
HANLEY PETROLEUM, INC.  
FOR STAY  
OF DIVISION ORDER NO. R-10864**

---

Oil Conservation Division Order No. R-10864 dated August 27, 1997, granted the application of Gillespie-Crow, Inc. ("Gillespie") to expand the West Lovington-Strawn Unit ("WLSU") to include two 80-acre tracts on which wells have been drilled since formation of this unit in 1995. Hanley Petroleum, Inc. ("Hanley") and Yates Petroleum Corporation ("Yates") operate and/or own working interest in these spacing units. On September 9, 1997,

**EXHIBIT A**

Hanley and Yates filed their application for a hearing *de novo* in this case pursuant to statute. NMSA, 1978, § 70-2-13 (Repl. Pamp., 1985). Yates and Hanley have an absolute right under the Oil and Gas Act to a new hearing in this case. The *de novo* hearing is currently set before the Oil Conservation Commission on October 16 and 17, 1997.

Hanley and Yates hereby move the Division for a stay of Order No. R-10864 pending this Commission hearing. Failure of the Commission to stay this order will permanently change the way the West Lovington-Strawn Pool is operated and produced because it will: (1) expand the West Lovington-Strawn Unit ("WLSU"); (2) remove Hanley as operator of its Chandler No. 1 Well; and (3) negate the absolute statutory right of Hanley and Yates to have this matter heard *de novo*.

**DIVISION ORDER R-10864 VIOLATES THE LETTER AND  
INTENT OF THE STATUTORY UNITIZATION ACT**

The Statutory Unitization Act provides for the unitized management of reservoirs, or portions thereof, "to the end that greater ultimate recovery may be had therefrom, waste prevented, and correlative rights protected of all owners of mineral interests in each unitized area." NMSA, 1978, § 70-7-1. The WLSU fails to meet the requirements of this Act because it is unfair to interest owners in the West Lovington-Strawn Pool, violates their correlative rights, and causes waste.

The unit participation formula in the WLSU is unusual, and by its very nature dependent on subjective factors strongly influenced by reservoir definition which (in the case

**MOTION OF YATES PETROLEUM CORPORATION AND HANLEY PETROLEUM, INC. FOR  
STAY OF DIVISION ORDER NO, R-10864**

of the WLSU) has proven to be incorrectly defined by subsequent development and quite likely, future development. It allocates the produced and saved hydrocarbons on only one factor -- hydrocarbon pore volume. Under this formula, the size of the unit area and the geological interpretation of the acreage within the unit area determine the amount of production allocated to each tract. For this reason, the owners within the original unit boundary engaged in lengthy negotiations about the geological characteristics of the reservoir under their individual tracts before they reached agreement on the fairness of this single factor participation formula.

Hanley and Yates were not included in these negotiations because the unit boundaries excluded acreage in which they own interests. Unlike other interest owners in the unit, they could not negotiate to assure that the share of production allocated to their tracts is fair -- that their correlative rights are protected. The result is that the application of the unit participation formula to the Hanley and Yates interests in the expanded unit will **decrease Yates' interest by 59%**, from a current production rate of 34 BOPD to 14 BOPD, and **decrease Hanley's share by 96%**, from a current production rate of 194 BOPD to 8 BOPD. (See Yates Hearing Exhibit No. 5).

If Hanley and Yates' share of unit production is to be determined only on the hydrocarbon pore volume under their tracts, it is essential that the boundaries of the unit include the entire reservoir affected by pressure maintenance operations, as reasonably



defined by development. Furthermore, the geological interpretation of the unit must accurately determine the hydrocarbon pore volume under each tract.

The evidence presented to the Division in May clearly establishes that the unit boundaries do not include the entire reservoir. Furthermore, Gillespie failed to present evidence to show that the hydrocarbon pore volume was accurately assigned to the tracts within the original unit boundaries. Without correct boundaries and data which shows that the hydrocarbon pore volume has been accurately allocated to the separately owned tracts within the unit, the Division cannot determine that participation formula is fair, reasonable and equitable and the expanded unit does not meet the requirements of the Statutory Unitization Act.

### **THE UNIT BOUNDARIES ARE WRONG**

The WLSU boundaries were incorrect in 1995. To obtain Division approval of a proposed statutory unit, Gillespie was required to show that the reservoir has reasonably been defined by development. NMSA, 1978, § 70-7-5. However in 1995 Gillespie set the boundaries of the proposed WLSU so as to include acreage owned by Gillespie and its partners and to exclude the acreage owned by Hanley and Yates. Because the boundaries were drawn too small, soon after the unit was formed, they were proven wrong by the drilling of: (1) the State "S" Well No. 1 in Section 34, Township 15 South, Range 35 East in which Yates owns working interest; (2) the Hanley Chandler Well No. 1 in Section 28, Township

15 South, Range 36 East; and (3) the Snyder "EC" Com Well No. 1 located in Section 6, Township 16 South, Range 36 East.

The boundaries of the WLSU as expanded by Order No. R-10864 are still incorrect because Gillespie has not proposed unit expansion based on the data acquired from these new wells. This new data and geological interpretations show the reservoir extending beyond the expanded unit boundary. Instead of honoring this new data, Gillespie proposed to expand the unit to add only tracts on which there were commercial wells. Gillespie determined that the State "S" Well and the Chandler Well are commercial and should be brought into the unit and that the Gillespie-owned Snyder "EC" Well is not commercial and should not be included.

The evidence showed substantial similarities in the Chandler Well and the Snyder "EC" Well. Both are in the Strawn reservoir in the West Lovington-Strawn Pool and both demonstrate little pressure support if any from the Gillespie pressure maintenance project. Accordingly both wells should be in the unit or both should be left out. However, Gillespie kept its well out of the unit and retains all production proceeds from that well and included the Chandler Well so Hanley will receive only its unit share of production. Only a stay of Order No. R-10864 can prevent this type of gerrymandering of the boundaries of the WLSU.

The method employed by Gillespie for unit expansion is inconsistent with statute, and, if approved will set a precedent whereby the Statutory Unitization Act can be utilized by the

**MOTION OF YATES PETROLEUM CORPORATION AND HANLEY PETROLEUM, INC. FOR  
STAY OF DIVISION ORDER NO, R-10864**

unit operator in a predatory fashion against other offsetting owners so as to prevent drilling of additional wells in the reservoir. If an operator like Hanley drills a well offsetting a unit, it assumes all risk associated with the drilling of the well. If the well is commercial, the unit operator will expand the unit and the party who drilled the well will receive only its unit share of production. If, however, the well is not commercial, the drilling party has to keep it. Under these circumstances, no operator will drill a well offsetting a statutory unit. If these wells are not drilled, either the unit will be able to drain production from non-unitized tracts or necessary wells will not be drilled and waste will result. If Gillespie gets its way this precedent is established.

**NO EVIDENCE WAS PRESENTED FROM WHICH IT CAN  
BE DETERMINED THAT THE UNIT PARTICIPATION FORMULA  
ALLOCATES PRODUCTION ON A FAIR, REASONABLE  
AND EQUITABLE BASIS**

Gillespie attempts to stand behind the 1995 unitization order which approved the WLSU and contends that the geological interpretation of the original unit area has been established by the Division in that order. Accordingly, Gillespie did not present evidence from which Hanley or Yates could evaluate the allocation of hydrocarbon pore volume to the original unit area.

The 1995 Statutory Unitization Order approved a geological interpretation of the unit, and the parties to that unitization hearing are bound by that determination. However, Yates and Hanley were not parties to that proceeding and cannot be bound by that determination.

**MOTION OF YATES PETROLEUM CORPORATION AND HANLEY PETROLEUM, INC. FOR  
STAY OF DIVISION ORDER NO, R-10864**

If the 1995 geological interpretation allocates too much hydrocarbon pore volume to the original unit area will decrease the share of production allocated to the tracts in which Hanley and Yates own interests. Therefore, Gillespie must produce data on which the allocation of hydrocarbon pore volume to the original unit area is based and Hanley and Yates have a constitutional right to examine this data and to cross examine witnesses on the fairness of the allocation of production to all tracts within the expanded unit area. To be able to evaluate the allocation of hydrocarbon pore volume to the original unit area, the data utilized to make this allocation must be presented and Yates and Hanley must be allowed to highlight its deficiencies in a hearing. If not, as it relates to Yates and Hanley, neither the parties nor the Division can determine whether or not the allocation formula is fair. Without this data, Order No. R-10864 is not supported by the evidence. It is arbitrary and capricious. Furthermore, removal of Hanley as operator of the Chandler Well and reduction of its share of pool production by 96% without data to show that the share of the total hydrocarbon pore volume allocated to the Hanley tract is proper, is nothing more than the taking of constitutionally protected property rights without due process of law. The Commission can only prevent this egregious violation of Yates' and Hanley's rights by an immediate stay of Division Order No. R-10864.

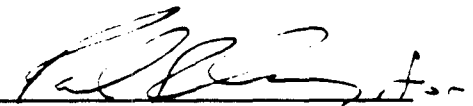
**MOTION OF YATES PETROLEUM CORPORATION AND HANLEY PETROLEUM, INC. FOR  
STAY OF DIVISION ORDER NO, R-10864**

## CONCLUSION

Division Order No. R-10864 approves unit boundaries which are arbitrarily drawn and fail to include the portions of this reservoir affected by the Gillespie pressure maintenance project. This order approved a unit participation formula which Gillespie failed to show allocate production to the expansion area on a fair, reasonable and equitable basis. Furthermore, the technical presentation of Gillespie failed to include adequate data to support its reservoir interpretation and thereby made it impossible for Hanley and Yates to adequately cross-examine the Gillespie interpretation. The order must be stayed pending *de novo* hearing before the Commission.

Respectfully submitted,

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

By:   
WILLIAM F. CARR  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208

ATTORNEYS FOR HANLEY  
PETROLEUM INC. AND  
YATES PETROLEUM CORPORATION

**CERTIFICATE OF SERVICE**

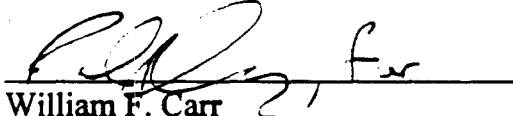
I hereby certify that a copy of the foregoing Motion of Yates Petroleum Corporation and Hanley Petroleum, Inc. for Stay of Division Order No. R-10864 was hand-delivered this \_\_\_\_\_ day of September, 1997 to the following counsel of record:

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

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



NEW MEXICO ENERGY, MINERALS  
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505  
(505) 827-7131

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September 29, 1997

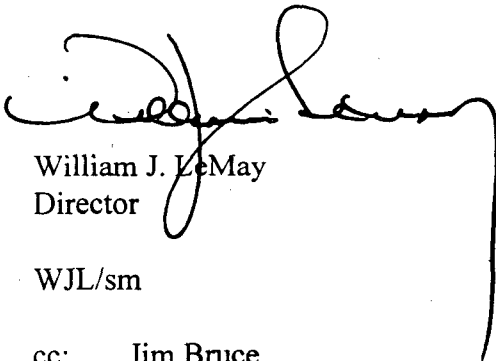
William F. Carr  
Campbell, Carr, Berge & Sheridan  
Attorneys At Law  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208

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

Dear Mr. Carr:

The Oil Conservation Division hereby denies your application for a stay of Division Order No. R-10864. This denial is based on the fact that the arguments you presented in your application for a stay are the arguments that should be presented at the hearing where they could be subject to cross examination.

Very truly yours,



William J. LeMay  
Director

WJL/sm

cc: Jim Bruce  
Tom Kellahin  
Scott Hall

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

IN THE MATTER OF THE APPLICATION  
OF GILLESPIE-CROW, INC. FOR UNIT  
EXPANSION, STATUTORY UNITIZATION,  
AND QUALIFICATION OF THE EXPANDED  
UNIT AREA FOR THE RECOVERED OIL  
TAX RATE AND CERTIFICATION OF A  
POSITIVE PRODUCTION RESPONSE PURSUANT  
TO THE "NEW MEXICO ENHANCED OIL  
RECOVERY ACT," LEA COUNTY,  
NEW MEXICO.

CASE NO. 11724  
(DE NOVO)

**AFFIDAVIT OF R. MICHAEL LEMOND**

STATE OF TEXAS            )  
                                  ) ss.  
COUNTY OF MIDLAND    )

R. Michael LeMond, being first duly sworn on oath, states as follows:

1. My name is R. Michael LeMond. I reside in Midland, Texas. I am VP Finance & Secretary/Treasurer employed by Hanley Petroleum Inc. ("Hanley"). My responsibilities with Hanley include supervision of accounting and financial matters for Hanley.

2. I am responsible for assuring that Hanley is properly accounted to and paid for all non-Hanley operated oil and gas producing properties including Hanley's acreage in the S/2 SE/4 of Section 28, Township 15 South, Range 36 East, NMPM, Lea County, New Mexico on which Hanley, drilled completed and produced its Chandler Well No. 1 located 330 feet from the South line and 1650 feet from the East line of said Section 28 ("the Chandler Well") which is completed in the West Lovington-Strawn Pool.

3. On November 1, 1997, at the direction of our attorneys, Hanley turned over operations of the Chandler Well to Gillespie-Crow, Inc. At the time Gillespie assumed operations of the well there was a substantial volume of oil in the tanks, and lease and well equipment on this lease.

**EXHIBIT C**



4. Since Gillespie assumed operations of the Chandler Well and the acreage dedicated thereto on November 1, 1997, and in disregard of the requests of Hanley, Gillespie has failed to confirm to Hanley that royalty is being paid to maintain the Chandler lease in good standing.

5. Since Gillespie assumed operations of the Chandler Well and the acreage dedicated thereto on November 1, 1997, and in disregard of requests of Hanley, Gillespie has failed and refused to pay Hanley for the oil in the tanks at the time that Gillespie assumed operations of this property. This payment should be an amount not less than the price Hanley was receiving for its crude oil therefrom based on the average paid for the month of October, 1997.

6. Since Gillespie assumed operations of the Chandler Well and the property dedicated thereto on November 1, 1997, and in disregard of the requests of Hanley, Gillespie has refused to pay Hanley for lease and well equipment on the Chandler lease.

FURTHER AFFIANT SAYETH NOT.

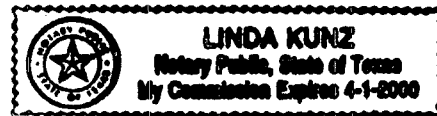
R Michael LeMond

SUBSCRIBED AND SWORN before me on this 1<sup>st</sup> day of October, 1998 by Linda Kunz.

\_\_\_\_\_  
Notary Public

My Commission Expires:

4-1-2000



**AFFIDAVIT OF R. MICHAEL LeMOND,**  
Page 2