

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

APPLICATION OF HUDSON OIL COMPANY OF TEXAS, WILLIAM A. HUDSON, AND EDWARD R. HUDSON FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 13598

REPLY IN SUPPORT OF HUDSON'S MOTION TO QUASH SUBPOENAS

HUDSON OIL COMPANY OF TEXAS, WILLIAM A. HUDSON AND EDWARD R. HUDSON (collectively "Hudson"), replies to the Response in Opposition to Motion to Quash submitted by Ard Oil, Ltd. and Ard Energy, Ltd. (collectively "Ard"). In support, Hudson states:

1. This case involves an application for compulsory pooling. The application was filed pursuant to the provisions of N.M.S.A. §70-2-17(C)(2005), which directs the Oil Conservation Division to pool all interests in a spacing unit when it is established that a party (1) has the right to drill; (2) is prepared to drill; (3) has proposed a well and; (4) has not been able to reach voluntary agreement with the other interest owners in the spacing unit for the drilling of the well. These are the only issues before the Division.

2. Mrs. Ard is in contentious litigation with William A. Hudson, II and Edward R. Hudson, Jr., her brothers, in two suits involving their family estate in the probate court of Tarrant County of Texas (Consolidated Cause Numbers 02-1286-A1 and 02-1286-B1). In these cases Mrs. Ard is seeking injunctive relief to enjoin the Hudson's from drilling, leasing and engaging in other activity related to the

development of oil and gas properties in which they all own interests. As noted in the Hudson's Motion to Quash, Mrs. Ard has sent a subpoena to William A. Hudson, II in those cases and the Court in Texas has ordered the abatement of discovery pending a review by independent auditors of certain trust records.

3. In this case there can be no dispute the Hudson's have a right to drill the well at issue. They are prepared to drill. The Hudsons have proposed the well. Furthermore, there can be no dispute that they have not reached a voluntary agreement with Ms. Ard for the development of this property. Although her Response states "Ard does not seek to prevent or delay the drilling of the proposed well" -- in Texas, Ard seeks an order enjoining the very thing it now says it does not want to prevent.¹

4. On December 12, 2005, Ard obtained subpoenas from the Division ordering Edward R. Hudson, Jr. and William A. Hudson, II to appear and give testimony. The subpoenas do not identify why this testimony is needed or how it may be relevant to any issue before the Division. The subpoena does not require the production of any documents or records.

5. In its Response, Ard lists for the first time several items it is interested in knowing in order to determine whether it will join in the well. It attaches a copy of an October 22, 2005 letter to its Response to Hudson's Motion to Quash. Ard states that the information it seeks with the Hudson testimony was previously requested in this letter. See Response at ¶¶ 3 and 4. In that letter, Ard requested Hudson's drilling contract with Marbob Energy Corporation, their contract with the drilling contractor,

¹ This statement may be of interest to the Texas Court and if the Division does not strike this subpoena, Hudson will need to depose Mrs. Ard on this and other positions she is taking in New Mexico that are inconsistent with what she is saying in Texas.

the drilling prognosis for the well, Hudson's geological and geophysical data on the well, the specific pipe and casing program for the well and the cost per foot and copies of all information filed with the State. These items have little, if anything, to do with the compulsory pooling matter. None of this information is covered by the Subpoena issued by the Division. Ard did not ask for it. The reason is, the subpoena was only for the purpose of harassment -- nothing else. Furthermore, if Ard should seek this data through a subsequent subpoena, Hudson will oppose the production of this information for Ard seeks information that is privileged, proprietary and/or confidential. Ard cannot obtain this information through subpoena in Texas. The Division should not let it be used to circumvent the order of a Texas Probate Court and interfere in those proceedings by ordering the production of information not relevant to the limited issues presented to the Division by this application.

6. Ard has failed to show why it needs to have William A. Hudson, II and Edward R. Hudson, Jr. and E. Randall Hudson appear and testify at the compulsory pooling hearing on any relevant issue. While each is fully qualified to testify, the testimony is unnecessary to establish all pertinent issues before the Division. Hudson has designated a witness who can fully answer all relevant questions concerning the proposed well.

7. Ard asserts that the subpoenaed parties are "uniquely situated to answer Ard's questions" yet admits that the substance of their testimony "can only be determined at the hearing." *See* Response at ¶ 6. In other words, Ard does not know what the Hudsons will be able to testify to that could not be answered by the designated witness. This response is wholly inadequate to explain why the testimony of these

individuals is necessary to this compulsory pooling case. Requiring all of the Hudson's to travel to Santa Fe and attend the hearing imposes an undue burden on the Hudson's – especially since, as Ard admits, the substance of their testimony is still unknown. The subpoena's are brought only for the purpose of harassment.

8. These subpoenas are overly burdensome, they require the attendance of witnesses who are not needed in this case to testify on matters, the substance of which is not known, and appear to be directed at issues and information that is not pertinent to the issues in the compulsory pooling hearing.

FOR THE FOREGOING REASONS, Hudson respectfully requests that the Division quash the subpoenas issued to William R. Hudson, II, Edward R. Hudson, Jr. and E. Randall Hudson in the above-referenced matter.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

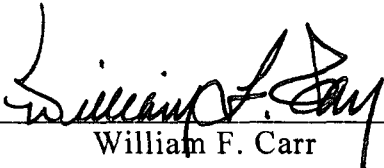
William F. Carr
Ocean Munds-Dry
P.O. Box 2208
Santa Fe, NM 87504-2208
505/988-4421 (telephone)

ATTORNEYS FOR HUDSON OIL COMPANY
OF TEXAS

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of January 2006, I have caused to be delivered by facsimile a copy of Hudson Oil Company of Texas' Reply in Support of Motion to Quash Subpoena in the above-captioned case to the following:

James Bruce, Esq. (BY FACSIMILE)
Post Office Box 1056
Santa Fe, New Mexico 87504
FAX NO. (505) 982-2151



William F. Carr