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May 8, 1997

**HAND-DELIVERED**

William J. LeMay, Director  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

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MAY 8 1997

Oil Conservation Division

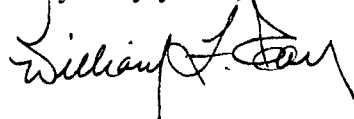
Re: Case 11724: Application of Gillespie-Crow, Inc. for Unit Expansion, Statutory Unitization, and Qualification of the Expanded Unit Area for the Recovered Oil Tax Rate and Certification of a Positive Production Response Pursuant to the "New Mexico Enhanced Oil Recovery Act," Lea County, New Mexico

Dear Mr. LeMay:

Enclosed for your consideration is the Response of Yates Petroleum Corporation and Hanley Petroleum, Inc. to Motion to Strike and Motion to Dismiss the application of Gillespie-Crow, Inc.

Your attention to this matter is appreciated.

Very truly yours,



WILLIAM F. CARR  
ATTORNEY FOR YATES PETROLEUM CORPORATION  
AND HANLEY PETROLEUM, INC.

WFC:mlh

cc: James Bruce, Esq. (Via Hand-Delivery)  
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**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
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.**

**RECEIVED**  
MAY 8 1997  
Oil Conservation Division

**CASE 11724**

**RESPONSE OF  
YATES PETROLEUM CORPORATION AND  
HANLEY PETROLEUM, INC.  
TO MOTION TO STRIKE  
AND  
MOTION TO DISMISS APPLICATION**

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Gillespie-Crow, Inc. ("Gillespie") operates the West Lovington Strawn Unit and, with Enserch Exploration, Inc. ("Enserch"), and Phillips Petroleum Company ("Phillips"), owns the oil and gas produced therefrom. This unit was formed pursuant to the Statutory Unitization Act. In seeking Division approval of this unit, and as required by statute, Gillespie testified that the proposed horizontal boundaries of this unit included the portion of the West Lovington Strawn Pool which had been reasonably defined by development. These boundaries coincide with acreage owned by Gillespie, Enserch and Phillips. Before the unit became effective, Gillespie drilled its State "S" Well No. 1 as an east offset to the unit. This well is in communication with the unit and establishes that acreage in this pool,

but outside the unit boundary, is productive of hydrocarbons which can be drained by unit wells.

With this well, Gillespie proved that its 1994 representations to the Division were untrue, that the unit is too small, and that unit wells are draining non-unit acreage which is owned by other West Lovington Strawn Pool operators.

After 15 months delay, Gillespie filed its application in this case to expand the unit, but limited this proposed expansion to two 80-acre tracts on which commercial wells have been drilled outside the unit but in this pool. With this expansion, Gillespie is not proposing to include in the unit the acreage in this reservoir which has been reasonably defined by development. Instead, it is proposing to include only tracts on which Gillespie, Phillips and Enserch agree there is a well capable of commercial production. This proposal violates the Statutory Unitization Act and impairs the correlative rights of other owners in this pool.

Interest owners outside the original unit boundary were excluded from the original unit negotiations. They were not provided with notice of the Division hearing which resulted in the formation of this statutory unit. Accordingly, at the time of the original proceedings, there was no challenge to the proposed horizontal boundaries of the unit and they were approved.

This hearing is the first time that the horizontal boundaries of this unit have been subject to challenge. Enserch, however, with its Motion to Stay, is attempting to prevent the

presentation of evidence which will establish the reservoir boundaries as defined by development--evidence that shows that Gillespie and Enserch again are drawing the boundaries to benefit themselves at the expense of their neighbors.

The case stands before the Division in a unique procedural position. This procedural morass is the result of Gillespie's initial unit proposal which excluded much of the productive reservoir and, now, Gillespie's proposed expansion which includes selected spacing units instead of the acreage within the boundaries of this reservoir as defined by development.

Enserch cannot prevent the presentation of relevant evidence by first limiting the area to be included in the expansion and then, through a Motion to Stay, preventing the presentation of relevant evidence on the central issue in this dispute -- the appropriate reservoir boundaries and the effect of those boundaries on the correlative rights of the interest owners in this unit.

Furthermore, by arbitrarily limiting the acreage within the proposed expansion, Gillespie, Enserch and Phillips may not limit the power of the Division do whatever is necessary to protect correlative rights.

**ENSERCH'S MOTION TO STAY IS AN ATTEMPT  
TO PREVENT THE PRESENTATION OF RELEVANT EVIDENCE.**

Units previously established under the Statutory Unitization Act "... may be amended by an order made by the division in the same manner and subject to the same conditions as

**RESPONSE OF YATES PETROLEUM CORPORATION AND HANLEY PETROLEUM, INC. TO  
MOTION TO STRIKE AND MOTION TO DISMISS APPLICATION,**

an original order providing for unit operations." NMSA 1978, § 70-7-9. Those conditions include "a statement that the reservoir or portion thereof involved in the application has been reasonably defined by development." NMSA 1978, § 70-7-5.

In this case, Gillespie and Enserch seek amendment of this statutory unit to include two additional 80-acre tracts. The evidence Hanley and Yates will present will show that the tracts that Gillespie proposes to include are only a small part of the reservoir that has been defined by development and that will be affected by unit operations. Evidence on these reservoir limits is relevant to the issues presented in this case.<sup>1</sup>

Enserch's argument that Hanley and Yates have filed a "de facto" application is merely an attempt to prevent the presentation of relevant evidence on the proper boundaries of this unit. Enserch contends that only Gillespie, as operator, can propose revisions to the unit boundaries.<sup>2</sup> Motion to Stay, Paragraph F. Even if this were true, it does not prevent other interest owners the pool from challenging a proposed expansion where the operator fails to

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"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. NMSA 1986, 11-401.

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Enserch takes inconsistent positions on the need for Yates and Hanley to file a separate application for statutory unitization. In paragraph D of its Motion to Stay, it attacks Hanley and Yates "for the failure...to timely file its own proper application to institute a proceeding" and in paragraph F it asserts that "the Statutory Unitization Act provides the exclusive procedure for the Unit Operator to apply for an order from the Division amending the plan of unitization." Certainly it is reasonable for affected owners and the Division to expect the operator of a unit to carry out its duties in a responsible manner. When the operator does not, other owners may seek relief from the division under its general statutory duty to protect correlative rights.

**RESPONSE OF YATES PETROLEUM CORPORATION AND HANLEY PETROLEUM, INC. TO MOTION TO STRIKE AND MOTION TO DISMISS APPLICATION,**

comply with statute, manipulates reservoir data, and is proposing a revision that will impair the correlative rights of interest owners in the pool.

It is clear that Gillespie is again trying to set the boundaries of this unit to benefit itself and its partners at the expense of others. What is not clear is why is so frightened of the Hanley and Yates evidence if Gillespie and Enserch have correctly interpreted the data on this reservoir and can defend their interpretation of the reservoir limits.

Evidence on the appropriate unit boundaries for the West Lovington Strawn Unit is relevant to the hearing on the Gillespie application and the Enserch Motion to Strike must be denied.

**THE DIVISION MUST DO WHATEVER IS  
NECESSARY TO PROTECT CORRELATIVE RIGHTS**

**Never** before had the Division been presented with an application for statutory unitization where the applicant/operator completely misrepresented the boundaries of a proposed unit. **Never** before has an operator proposed to expand a unit by including only tracts on which there are producing wells instead of attempting to define the portion of the reservoir affected by unit operations. **Never** before has an operator, after excluding affected owners from participating in the negotiations which resulted in the formation of a unit, attempted to expand the unit and again exclude affected owners from participating in the unitization process. The improprieties in the way this unit was formed and, now in the way the operator is proposing to expand it, have produced the dispute which is now before the

**RESPONSE OF YATES PETROLEUM CORPORATION AND HANLEY PETROLEUM, INC. TO  
MOTION TO STRIKE AND MOTION TO DISMISS APPLICATION,**

Division.

Enserch's selective reading of statute and willful mischaracterization of the facts do not justify the methods employed to form this unit. The arrogant attitude it takes regarding the exclusive authority of the operator to control expansions to this unit, and its attempts to limit the rights of others to challenge its actions, overlook the fact that its activities in this case are subject to regulation by the Oil Conservation Division. Enserch appears to forget that this Division is required by statute to protect correlative rights of all owners in a pool and that it is specifically authorized "to do whatever may be reasonably necessary" to protect those rights. NMSA 1978, § 70-2-11.

The Enserch Motion to Stay is nothing more than an attempt to prevent a full review of the evidence on the proper boundaries of the West Lovington Strawn Unit and the Motion must be denied.

**THE PROPOSED EXPANSION OF THE  
WEST LOVINGTON STRAWN UNIT  
VIOLATES THE STATUTORY UNITIZATION ACT  
AND MUST BE DISMISSED.**

In support of its Motion to Stay, Enserch correctly states that a case brought under the Statutory Unitization Act "is a special statutory proceeding and consequently, **its provisions must be strictly followed.**" Motion to Stay, Paragraph A. When this standard is applied to Gillespie's proposed expansion, it is clear that the Gillespie application does not follow the provisions of the Statutory Unitization Act.

A statutory unit may be expanded "subject to the same conditions as an original order providing for unit operation." NMSA 1978, § 70-7-9. These conditions include "a statement that the reservoir or portion involved in the application has been reasonably defined by development." NMSA 1978, § 70-7-5. In this case, however, Gillespie attempts to expand the unit to include only spacing units on which a commercial well has been drilled. Application at Paragraph 11. This proposal excludes non-unit acreage in the West Lovington Strawn Pool which the Division has recognized is affected by unit operations. See Oil Conservation Division Case 11599, Order No. R-9722-C and R-10448-A, in which the Division reduced allowables in the West Lovington Strawn Pool and recognized that there was communication between the portions of the pool that were unitized and the portions that were not.<sup>3</sup>

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Finding 15 of Order No. R-9722-C and R-10448-A provides in part as follows:

**“According to the geological and technical evidence presented, it appears that the larger porous algal reef mound that contains the reservoir that comprises the WLSU extends beyond the horizontal limits set forth in said Order No. 10449 (which approved the West Lovington Strawn Unit). With the onset of gas reinjection operations into the reservoir gas cap of the West Lovington Strawn Unit Pressure Maintenance Project two additional wells that lay outside of the WLSU...are both in pressure communication with the WLSU wells and are also capable of top unit allowable production .... to assure fairness for all operators of wells within this reservoir a single depth bracket allowable of 250 barrels of oil per day for a standard 80-acre oil spacing and proration unit should be adopted for the West Lovington Strawn Pool. ... Furthermore ... all producing wells whether inside or outside the WLSU should be treated the same ....”**



Gillespie's current expansion proposal does not include the additional portions of the reservoir which have been defined by development. Instead, this expansion is based on an agreement between Gillespie, Enserch and Phillips to expand the unit to include only tracts on which there are commercial wells. *See* Testimony of Kevin Widner, Oil Conservation Division Case 11599, October 3, 1996 at 44-49. Furthermore, Gillespie is continuing to drill wells of outside the unit but inside the pool.<sup>4</sup>

To invoke the police power of the State of New Mexico to statutorily unitize more of the West Lovington Strawn Pool, Gillespie must include in the expanded unit the portions of this reservoir which will be drained by and otherwise affected by unit operations. Accordingly, all affected acreage must be included in the proposed expansion. Having failed to include all affected acreage that has been defined by development in this expansion, Gillespie has failed to **strictly follow the provisions of the Statutory Unitization Act** and its application must be dismissed.

## CONCLUSION

Enserch's Motion to Stay is nothing more than an attempt to prevent Yates and Hanley from presenting evidence which will show the technical deficiencies of the Gillespie

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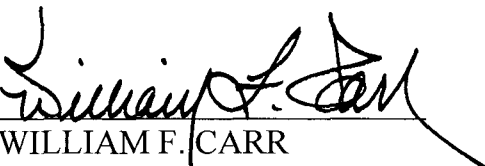
On May 2, 1997, Gillespie sent a new well proposal to Yates for a Strawn test to be located 2310 feet from the North and east lines of section 34, Township 15 South, Range 36 East NMPM (330 feet from the acreage dedicated to the State "S" No. 1). Pursuant to Gillespie's agreement with Enserch and Phillips, if this well is a commercial success, there will be another unit expansion. Is it not time to correctly define the unit boundary and stop playing games with the Statutory Unitization Act?

proposed unit expansion of the West Lovington Strawn Unit. The liberties Enserch is taking with Division rules and procedures is consistent with the liberties it took in the formation of the unit and is indicative of the disregard it has had for other owners in this pool. The Enserch Motion for Stay must be denied.

The application of Gillespie for unit expansion fails to meet the requirements of the Statutory Unitization Act and must be dismissed.

Respectfully submitted,

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

By:   
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ATTORNEYS FOR HANLEY PETROLEUM,  
INC. AND YATES PETROLEUM  
CORPORATION

## CERTIFICATE OF SERVICE

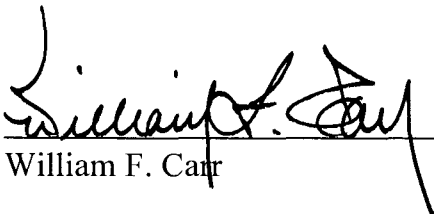
I hereby certify that I have caused to be hand-delivered a true and correct copy of the foregoing pleading to the following counsel of record on this 8<sup>th</sup> day of May, 1997:

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