

BEFORE THE OIL CONSERVATION DIVISION
OF THE STATE OF NEW MEXICO

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In the Matter of the Application by
J. Cleo Thompson &
James Cleo Thompson, Jr., L.P.,
for approval of a non-standard gas
spacing and proration unit

Case No. 14127

NOTICE OF INTERVENTION

The New Mexico State Parks Division ("Intervenor"), Energy, Minerals and Natural Resources Department, State of New Mexico, by and through undersigned counsel, hereby submits this Notice of Intervention pursuant to Rule 19.15.14.1209 NMAC, regarding the Application filed by J. Cleo Thompson & James Cleo Thompson, Jr., L.P. ("Applicant"). The Application is currently set for hearing before the Oil Conservation Division ("OCD") on May 15, 2008.

In support of intervention, and in compliance with the referenced OCD administrative rule, the Intervenor states as follows:

1. **Intervenor's Name and Contact Information**

The Intervenor is a state agency and its contact information is as follows:

New Mexico State Parks Division
Energy, Minerals and Natural Resources Department
State of New Mexico
1220 S. St. Francis
Santa Fe, NM 87505

(505) 476-3355

The administrative head of the State Parks Division is Director David J Simon.

The contact information for undersigned counsel is as follows:

Mike Thomas (michaelj.thomas@state.nm.us)
(505) 476-3213

Ted Apodaca (ted.apodaca@state.nm.us)
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2. Nature of Intervenor's Interest in the Application

The Intervenor understands that the Applicant intends to drill two exploratory natural gas wells on 120 acres of private fee land in the SE1/4NW1/4 and S1/2NE1/4 of Section 27, Township 21 South, Range 26 East, N.M.P.M., Eddy County. The Intervenor operates a nearby state park known as the Living Desert Zoo and Gardens State Park ("Park"). The Park focuses on the Chihuahuan desert and contains a zoo housing various animals and a walking trail with botanical displays.

The Applicant cannot drill the two wells without approval of the non-standard spacing unit being sought from the OCD. The Intervenor is concerned about impacts which may occur at the Park if the OCD grants the Applicant the order it is seeking. The Intervenor is concerned about effects on the Park from increased oil and gas activities in the area. The Park surrounds the subject 120 acres of land, on the north, west and south sides. Therefore, the Intervenor will be affected as a neighboring property owner. See §70-2-12(B)(7).

Testimony at the hearing will show that the effects on the Park would include increased traffic in the immediate area, noise, dust, possible spread of noxious weeds and related issues concerning the environment. These effects will interfere with the Intervenor's plans for low-intensity uses in the affected part of the Park, including those areas closest to the subject private land and areas likely to be needed by Applicant for vehicle movement and shipment of product. Those plans call for maintaining as much of the remaining, undeveloped portions of the Park in the natural status in which they exist now, by allowing only limited activities such as hiking, bird-watching, educational programs, etc. Possible effects on the Park are legitimate areas of concern which the Intervenor should be allowed to present, under the principles expressed in Colonias Development Council v. Rhino Environmental Services, Inc., 2005-NMSC-024, 138 N.M. 133, which govern an administrative agency's duty to consider impacts to the community, quality of life, and general environmentally-related concerns.

Furthermore, the United States Department of the Interior, Bureau of Land Management ("BLM") would be forced to lease federal minerals in the area underlying the Park in order to protect the value of federal minerals. This is because, if granted, a non-standard spacing unit would result in drainage of federal minerals. And in order to protect the value of those minerals, the BLM would have to lease them or seek a compensatory royalty agreement with the Applicant. Leasing minerals under the Park would be in contravention of the

BLM's stated plans to avoid leasing of minerals underlying the Park, as stated in the BLM's Resource Management Plan Amendment (1997) for the Carlsbad Resource Area.

Therefore, the Intervenor has an interest in whether the non-standard spacing unit is approved, because of increased traffic in the immediate area, noise, dust, spread of noxious weeds and related issues concerning the environment, and the effect it may have on the BLM's decision to lease minerals underlying the Park, which has considerable potential for future effects on the Park and the use, management and protection of its lands.

3. Extent to which the Intervenor Opposes Issuance of the Order the Applicant Seeks.

The Intervenor opposes issuance of the order sought by the Applicant. Alternatively, if the application is granted, it should contain appropriate conditions to address the Intervenor's concerns, such as but not limited to, requirements that the Applicant use directional drilling from a satisfactory location farther to the east or northeast, and therefore farther from the Park, and that the Applicant enter into a satisfactory compensatory royalty agreement with the BLM, to ensure that the BLM's correlative rights concerns are satisfactorily addressed. The OCD is allowed to impose conditions on any permit approval. See Rule 19.15.3.102(D) NMAC.

Conclusion

The Intervenor's participation at the May 15, 2008 hearing scheduled in this matter will contribute substantially to an informed decision by the hearing officer, as well as to the protection of neighboring Park land, correlative rights, §70-2-11(A), and/or the protection of public health and the environment, §70-2-12(B)(21), (22). Therefore, the Intervenor respectfully requests that the OCD consider the Intervenor to be a party to this proceeding pursuant to this Notice.

Respectfully submitted,



Mike Thomas
Ted Apodaca
Assistants General Counsel

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Natural Resources Department
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Certificate of Service

I hereby certify that a copy of this notice was transmitted, on May 5, 2008, to Applicant's attorney (James Bruce) by facsimile to (505) 982-2151 and by email to jamesbruc@aol.com, in compliance with OCD Rule 19.15.14.1211(A).

Mike Thomas