



**NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT**

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April 6, 1998

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**Re: Application of Gillespie-Crow, Inc. for Unit Expansion Case No. 11724 (*De Novo*)
Application of Hanley Petroleum, Inc. And Yates Petroleum Corp. for Unit Expansion
Case No. 11954**

Gentlemen:

In September of 1997, Yates and Hanley requested that a subpoena duces tecum be issued directed to Enserch Exploration, Inc. ("Enserch") and Gillespie-Crow, Inc. ("Gillespie"). Enserch and Gillespie moved to quash that subpoena, and the Director of the Oil Conservation Division issued a decision letter dated October 14, 1997. The hearing scheduled for October 16, 1997 for Case No. 11724 was continued, in part, on Yates and Hanley's motion stating that Gillespie and Enserch could not produce and Yates and Hanley could not review certain data in time for the hearing.

Case No. 11724 has been consolidated with Case No. 11954, and the consolidated case is set for hearing on April 9, 1998. On March 30, 1998, Yates Petroleum Company ("Yates") and Hanley Petroleum Inc. ("Hanley") filed a Motion and Memorandum *in Limine* regarding geological evidence in the above-referenced cases.

I have reviewed the record of decisions from the original unitization cases, Case Nos. 11194 and 11195, held on June 16, 1995. The record reveals that Gillespie used seismic data to develop evidence introduced at the hearing to support its application for unitization of the original unit, which unit Gillespie now seeks to expand in Case No. 11724. The horizontal boundaries of the original unit were based, in part, on seismic data or exhibits incorporating such data. Additionally, one of Gillespie's witnesses, William Crow, testified that Gillespie shared its data with the working interest owners of the original unit in advance of the 1995 hearing.

EXHIBIT

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NMSA 1978, § 70-7-6(A)(5) requires the division, and therefore the Commission, to find "...that the operator has made a good faith effort to secure voluntary unitization within the pool or portion thereof directly affected[.]" As Gillespie shared its data with the working interest owners in the proposed original unit, a good faith effort seems to require that the working interest owners of the area proposed to be combined with the original unit into an expanded unit be offered the same information made available to the owners of the various tracts comprising the original unit.

Consequently, I am withdrawing the letter decision dated October 14, 1997, and I am denying Gillespie's Motion to Quash the subpoena duces tecum to the extent of information requested that Gillespie shared with the interest owners of the original unit. Yates and Hanley's motion *in limine* is denied. I am vacating the April 9 setting for the consolidated case so that the parties can produce and review the data. The consolidated case will be heard at the Commission's meeting on June 18, 1998.

Sincerely,



LORI WROTENBERY
Director