

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

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

**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**

APR 1 1997

Oil Conservation Division

**No. 11724**

**SECOND MOTION FOR CONTINUANCE  
OF  
YATES PETROLEUM CORPORATION AND  
HANLEY PETROLEUM, INC.**

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COME NOW, YATES PETROLEUM CORPORATION ("Yates") and HANLEY PETROLEUM, INC. ("Hanley") through their attorneys, Campbell, Carr, Berge & Sheridan, P. A., and hereby move for a continuance of the hearing currently scheduled in the above referenced case on April 17, 1997, and in support of this Motion state:

**BACKGROUND FACTS:**

1. In November 1994, Gillespie-Crow, Inc. commenced negotiations for the unitization of the West Lovington-Strawn Pool ("the Unit") for the alleged purpose of

implementing a pressure maintenance project. Gillespie-Crow limited these negotiations to the owners of an interest in what it had predetermined to be the boundaries of the Unit. Although Yates and Hanley own a working interest in tracts immediately offsetting the proposed unit boundary, neither were included in these negotiations and neither participated in or were otherwise involved in the studies or discussions which resulted in the selection of the unit boundaries or participation formula.

2. These negotiations resulted in a hearing before the Oil Conservation Division ("Division") on June 15, 1995 for the formation of the West Lovington Strawn Unit pursuant to the Statutory Unitization Act. Neither Yates nor Hanley received notice of, nor participated in the hearing.

3. On August 29, 1995, the Division entered Order No. R-10449 which approved statutory unitization of the West Lovington Strawn Unit Area for pressure maintenance, and accepted the horizontal boundaries for the unit as proposed. The Unit became effective on October 1, 1995.

4. Unlike the proposed horizontal boundaries, there was opposition to the proposed vertical interval which Gillespie-Crow proposed to unitize. The Division rejected Gillespie-Crow's interpretation of the vertical interval and accepted the interpretation of Snyder-Ranches, Inc. And Larry Squires ("Snyder") as more accurately honoring subsurface well data. See Finding 26 , Order No. R-10449.

5. On October 26, 1995, Gillespie-Crow drilled the State "S" Well No. 1 ("State "S" Well") immediately offsetting the Unit and dedicated thereto the W/2 SE/4 of Section 34, Township 15 South, Range 35 East. This well was completed as a top allowable well with an initial potential of 505 BOPD and 750 MCF/D from the Strawn formation. Yates owns working interest in this tract.

6. On March 2, 1996, Hanley completed its Chandler Well No. 1 ("Chandler Well") in the S/2 SE/4 of Section 28, Township 15 South, Range 35 East. This well is a commercial well which is completed in the West Lovington Strawn Pool immediately offsetting the Unit.

7. Gillespie-Crow has also drilled their Snyder EC Com Well No. 4 immediately offsetting the Unit in Lot 2 of irregular Section 6, Township 16 South, Range 36 East. This is a marginal well.

8. As a working interest owner in the acreage dedicated to the State "S" Well, in early 1996 Yates requested that the Unit be expanded to include the acreage proven productive by the State "S" Well No. 1. Although in May 1996 Gillespie submitted a ballot to Yates and other working interest owners for expansion of the Unit boundaries to include the State "S" Well No. 1, the results of that ballot were never announced to the interest owners int the unit. Instead, Gillespie-Crow curtailed production from the State "S" Well and increased the production from the offsetting wells within the Unit.

9. By letter dated September 13, 1996, Gillespie-Crow proposed the expansion of the Unit to include the spacing units dedicated to the State "S" Well and the Hanley Chandler Well and called a meeting to discuss this proposal on September 19, 1996. For the first time, Hanley was invited to attend a meeting involving the Unit.

10. Hanley and Yates expressed objection to the proposed expansion of the unit. Whereupon Gillespie-Crow filed an application to restrict production in the West Loving Strawn Pool to the same withdrawal rates established by Gillespie-Crow for the Unit. By Order No. R-9722-C and R-10448-A the Division reduced oil allowables for this pool from 445 BOPD to 250 BOPD. This order is currently the subject of a *de novo* appeal.

11. In late 1997, Hanley and Yates employed Williamson Petroleum Consultants, Inc. to prepare an oil in place study and otherwise assist in the determination of the true reservoir limits and the development of a proper unit allocation formula.

#### **YATES-HANLEY SUBPOENA**

12. On January 24, 1997, Gillespie-Crow Inc. filed the application in the above referenced case seeking the expansion of the West Lovington Strawn Unit pursuant to the Statutory Unitization Act to include tracts in which Hanley and Yates operate wells or own working interests.

13. On February 18, 1997 Yates and Hanley obtained a Subpoena Duces Tecum from the Division seeking the production of certain data from Gillespie-Crow, Inc. The

Subpoena was served on Gillespie-Crow on February 19, 1997.

14. Counsel for Yates and Hanley and Gillespie-Crow met to review the subpoena on February 28, 1997 and Gillespie-Crow agreed to produce the data sought by said subpoena except reservoir studies (Subpoena Paragraph 13), reserve reports (Subpoena Paragraph 14) and seismic data (Subpoena Paragraph 17). Yates and Hanley were advised that additional inquiry had to be made of Gillespie-Crow, Inc. to determine if they would be willing to produce reserve reports and reservoir studies.

15. On Friday, March 14, 1997 attorneys for the parties again conferred. Gillespie-Crow, Inc. was again asked about the reservoir studies and reserve reports and advised that a continuance of the March 20, 1997 hearing would be necessary until after the subpoenaed data was provided. If data could not be provided, Yates and Hanley advised they would have to seek the information through a Motion to Compel Production.

16. By letter dated Monday, March 17, 1997, three days before the scheduled Examiner hearing, Gillespie-Crow backed out of their agreement to produce subpoenaed documents. Although Yates and Hanley were advised that a reservoir study would be produced, contrary to their February 28, 1996 agreement, Gillespie-Crow now advised they would produce only a portion of the subpoenaed data that they had previously agreed to make available for review and copying. They refused to produce any information in public records or any data that might have been previously produced to other parties. Furthermore,

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they advised the data they were willing to produce would be produced at the offices of Gillespie-Crow, Inc. in Midland.

17. On March 17, 1997, Gillespie-Crow, Inc., also advised counsel for Yates and Hanley that it would oppose a continuance of this case from the March 20, 1997 Examiner Hearing docket unless the wells in which Hanley and Yates own interests were shut-in pending a hearing.

18. Yates and Hanley declined to shut-in the wells in which they own an interest for these wells are already producing at reduced allowable rates pursuant to Division Order Nos. R-9722-C and R-10448-A and to shut them in would permit drainage from these tracts to the West Lovington Strawn Unit.

19. By letter dated March 18, 1997 the Motion for Continuance of Yates and Hanley was granted, but the Division stated that "No further continuances of this case will be granted" and directed that "Counsel for Gillespie-Crow, Inc. Yates Petroleum Corporation and Hanley Petroleum, Inc. shall appear before the Division on April 3, 1997 and report any outstanding issues related to pending subpoenas and production of data, at which time these issues will be addressed."

20. On March 24, 1997, Counsel for Gillespie-Crow delivered the data that Gillespie-Crow was willing to produce to Counsel for Yates and Hanley. If additional data is needed to prepare, counsel for Gillespie-Crow agreed to contact his client to determine if

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it would voluntarily produce the data.

21. Since Gillespie-Crow have advised that certain data sought by the Subpoena is only available through Snyder's consultants from the 1995 hearing, Hanley and Yates have sought this information through a subpoena directed to Snyder.

22. Due to the April 3, 1997 time limitation to address any remaining issues related to subpoenas and production of data, Yates and Hanley have filed a Motion to Compel certain data necessary to prepare its case. This Motion to Compel addresses data which Gillespie-Crow admits it used "to set the proposed new unit boundaries" and recent production and pressure data that must be evaluated as part of the Williamson study.

23. Williamson advises that after receipt of the remaining subpoenaed data, its study can be completed and its trial testimony prepared in approximately four weeks.

#### **GILLESPIE-CROW, INC. SUBPOENA**

24. On March 5, 1997, Gillespie-Crow obtained a subpoena from the Division seeking the production of data in the possession of Hanley.

25. In compliance with this subpoena, Hanley produced the subpoenaed data on March 20, 1997 at the Oil Conservation Division's Santa Fe Office.

## **ARGUMENT**

### **I.**

#### **A FURTHER CONTINUANCE IS NECESSARY FOR YATES AND HANLEY TO PREPARE THEIR CASE.**

For years Gillespie-Crow and others have been studying the West Lovington Strawn Pool. During this time, it has shared information on this reservoir with certain other interest owners in the pool, conducted reservoir studies, participated in meetings and been engaged in negotiations concerning the development of this reservoir under a unit plan. The results of this effort are the West Lovington-Strawn Unit and Pressure Maintenance Project.

The Gillespie-Crow interpretation of the data on this reservoir has already been rejected by the Division. The interpretation of the vertical interval was challenged by Snyder at the original hearing on this unit and the Division found that the Snyder interpretation more accurately honored the data on this reservoir. The Division rejected the Gillespie-Crow interpretation.

The horizontal limits of the unitized area was not challenged at the original hearing for the owners of interests outside the proposed unit area were not included in the development of the unit plan. Although, Gillespie-Crow testified that the unit area had reasonably been defined by development, as is required by the Statutory Unitization Act, within one month of the unit's effective date, Gillespie-Crow proved the horizontal boundaries were wrong by drilling the State "S" Well.

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They now propose to correct this error. Their correction is not based on the now known boundaries of the reservoir as required by the Statutory Unitization Act. Instead, they propose to expand the Unit to include only tracts on which commercial wells have been drilled. This is the result of an agreement between the owners of interest within the unit--not on the provisions of the Statutory Unitization Act. See Testimony of Kevin Widner Case 11599, October 3, 1997. Accordingly, they propose to include the acreage dedicated to the Chandler Well and the State "S" Well and not the acreage dedicated to their recently drilled Snyder EC No. 4.

Having been excluded from prior efforts to form this unit prior to September 1996, Yates and Hanley had not seen the data on this reservoir which other owners had been sharing and studying. Accordingly, Since late 1996, Yates and Hanley's review of this reservoir has proceeded with only the limited data available to them. However, preliminary conclusions suggest as follows:

1. That this may not be a valid pressure maintenance project which could be formed pursuant to the Statutory Unitization Act;
2. The current boundaries include acreage which is not productive in the Strawn formation and the proposed expansion of the unit boundaries excludes acreage that should be included for it has been reasonably defined by development as productive of hydrocarbons from the Strawn

formation;

3. The unit allocation formula cannot protect the correlative rights of the owners of hydrocarbons in the acreage that Gillespie-Crow now seeks to include within the Unit.

All of these matters are the subject of the study that Yates and Hanley are conducting with the assistance of Williamson Petroleum Consulting, Inc. Although this study has been in progress since early January 1997, Yates and Hanley are unable to conclude their work without data that still has not been produced by Gillespie-Crow--data which was the subject of the February 28 Subpoena Duces Tecum. This is information necessary for the Yates-Hanley study and is data that could not be reached by Subpoena until Gillespie-Crow filed their application in this case.

Because of the need to promptly proceed to hearing, and because Yates and Hanley have concluded that they cannot rely on the representations of Gillespie-Crow concerning their willingness to produce data, they have on this date have filed a Motion to Compel production of data. Yates and Hanley have also subpoenaed information from Snyder Ranches which Gillespie-Crow contends it does not have.

## II.

### **GILLESPIE-CROW HAVE CAUSED THE DELAY IN GETTING THIS CASE TO HEARING**

On March 24, Gillespie-Crow opposed a continuance of the hearing on their

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application for unit expansion. They complain about the effect of delays in this proceeding and the impact of these delays on their correlative rights. However, the delay they now complain about is the result of their own creation. They have delayed in producing the data subpoenaed by Yates and Hanley and now want to proceed to hearing before those who oppose their application can prepare their case.

Yates and Hanley need the data sought by the Subpoena Duces Tecum issued by the Division on February 18, 1997 to prepare. This data has not yet been produced. Williamson has advised that it will take approximately 5 weeks to complete their study and be prepared to present testimony after they have the data they need to conclude their study. For this reason, Yates and Hanley request that the Division order that all data covered by the February 28, 1997 Subpoena be produced by April 10, 1997 and reconsider its ruling of March 18 and continue the hearing on the merits of this case until after May 15, 1997.

Yates and Hanley cannot be prepared to present their case on April 17, 1997. If the hearing proceeds on that date, Yates and Hanley will argue their Motion to Dismiss, cross examine witnesses and present as much of its case as can be prepared. At the conclusion of the hearing, Yates and Hanley will have to request a continuance until they can conclude their study.

Gillespie-Crow have argued that the delay in expanding the Unit is causing harm to interest owners in the unit. If this argument is true, why did it wait for more than 14 months

after completing the State "S" Well before filing an application to expand the Unit? The history of this proceeding shows that Gillespie-Crow waited over 14 months to seek expansion of the unit but now oppose a continuance for an additional few weeks to permit Yates and Hanley to be prepared when this matter comes to hearing.

### **III.**

#### **A CONTINUANCE WILL AVOID UNNECESSARY HEARINGS.**

Proceeding to hearing in April will not expedite a final Division decision in this matter. In 1995, the Gillespie-Crow interpretation of the vertical extent of the unitized Strawn interval. This interpretation was inaccurate and was rejected by the Division in Order No. R- 10449. Then within four weeks of the Unit becoming effective, Gillespie proved that its interpretation of the horizontal boundaries was incorrect. Now Gillespie-Crow proposes a limited expansion of the Unit based on an agreement with its partners--not on the requirements of the Statutory Unitization Act. Is it not time to do things right? Is it not time to permit the affected parties to complete their study of the reservoir so all parties can present their conclusions at one Examiner hearing. With all data before it, the Division can then determine (1) if this is a valid pressure maintenance project, and (2) if the Unit boundaries have been properly defined. Only then can the Division determine if the allocation formula that will protect the correlative rights of all interest owners in the Unit.

Yates and Hanley are preparing a Motion to Dismiss the application of Gillespie-

Crow for failing to comply with the Statutory Unitization Act. They are also preparing an Application to Rescind Division Order No. R-10449 on the grounds that it was improperly entered for a project which does not qualify under the Act. This motion will be filed if the results of the technical study are consistent with preliminary conclusions. There will be multiple hearings unless the case is continued until all parties can be prepared and all motions argued at one time.

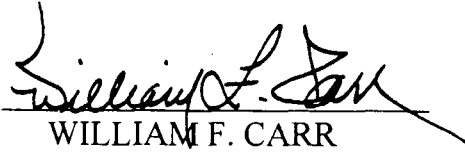
Had Gillespie-Crow been willing to produce the data covered by the Yates/Hanley Subpoena as they originally agreed, the review of this information would have greatly simplified and expedited. Now that they have refused to produce much of the data available, the time required for Yates and Hanley to be prepared to go to hearing has been substantially increased. To be able to respond to this application, the subpoenaed data will not only have to be produced but it will also have to be analyzed in conjunction with data that may have to be retrieved from public sources. Accordingly, this case will have to be continued at least for four weeks and perhaps longer to enable the parties to prepare.

**WHEREFORE,** Yates Petroleum Corporation and Hanley Petroleum Inc. request that the hearing in this case be continued from the Examiner Hearing Docket scheduled for April 17, 1997 to a date approximately five weeks after subpoenaed data has been produced.

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Respectfully Submitted,

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

By:   
WILLIAM F. CARR

ATTORNEYS FOR YATES PETROLEUM  
CORPORATION AND  
HANLEY PETROLEUM INC.

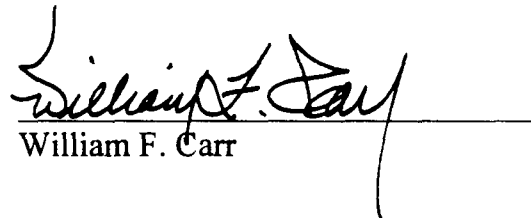
### CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of April, 1997, I have caused to be hand-delivered a copy of our Second Motion for Continuance of Yates Petroleum Corporation and Hanley Petroleum, Inc. in the above-captioned case to the following named counsel:

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