

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

RECEIVED

IN THE MATTER OF THE APPLICATION
OF GILLESPIE-CROW, INC. FOR AN
ALLOWABLE REDUCTION, LEA COUNTY,
NEW MEXICO.

AUG 26 1996

Oil Conservation Division
Case No. 11599

MOTION TO DISMISS

COME NOW Yates Petroleum Corporation, Yates Drilling Company, Abo Petroleum Corporation, Myco Industries, Inc., Rio Pecos Corporation, Pathfinder Exploration Company, Cannon Exploration Company, Hollyhock Corporation, Tara-Jon Corporation, Lario Oil and Gas Company, Viersen and Cochran, Hanley Petroleum Inc. and David Petroleum Corp. (hereinafter referred to as "Movants") and hereby move the Oil Conservation Division ("Division") for an order dismissing the application of Gillespie-Crow, Inc. in the above-referenced case, and in support of their motion state:

BACKGROUND

1. Movants operate wells and/or own working or royalty interests in the West Lovington-Strawn Oil Pool located in Lea County, New Mexico that are affected by the above referenced application of Gillespie-Crow, Inc. ("Gillespie").

2. In November 1994, Gillespie initiated negotiations with various working interest owners concerning the unitization of a portion of the West Lovington-Strawn Pool.

These negotiations resulted in a proposed unit which comprised lands in a portion of this pool. The proposed unit excluded acreage in which Movants own interests and from which Gillespie now seeks to restrict production. Because the acreage which is now affected by this application was outside the proposed unit boundary, the concurrence of the owners of these lands was not required in the determination of either the unit boundary or the unit participation formula.

3. A hearing was held before a Division Examiner on the application of Gillespie for approval of this unit for statutory unitization on June 15, 1995.

4. At the Examiner hearing, Gillespie called expert witnesses who testified in support of the proposed unit boundaries. Gillespie presented a geological interpretation of the reservoir based on 2-D and 3-D seismic information as well as well control. However, it did not present any of its 3-D seismic data.

5. Snyder Ranches, Inc. appeared at the hearing in opposition to the participation formula in the unit agreement and presented its own geological interpretation of this reservoir.

6. The Division entered Order R-10449 on August 29, 1995 approving for statutory unitization the West Lovington-Strawn Unit pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA, (1978) and named Gillespie-Crow, Inc. operator of the unit. However, the Division found that the geologic interpretation of Snyder Ranches more accurately honored sub-surface well data and utilized this interpretation to

revise tract participations within the unit area.

7. Since unitization, Gillespie has curtailed production within the unit area and has also arbitrarily curtailed the production from wells it operates outside the unit area.

8. Recently Gillespie contacted some but not all of the interest owners in the West Lovington-Strawn Pool about the expansion of the Unit. These discussions have been unsuccessful and other operators have advised Gillespie that they oppose the inclusion of certain additional tracts in the unit. There is no agreement between these interest owners and Gillespie for expansion of this unit area. Furthermore, some interest owners have not yet been contacted by Gillespie about a proposed unit expansion.

9. Gillespie now seeks an order restricting the production from all non-unit properties in this pool "to rates equal to the average producing rate for wells in the WLSU." (Application, Paragraph 14) because it "is in the process of expanding the WLSU to include certain adjoining acreage" (Application, Paragraph 13).

ARGUMENT

10. Having encountered opposition from other operators in the West Lovington-Strawn Pool to its proposed expansion of the West Lovington-Strawn Unit Area, Gillespie now ignores the Division's procedures for expansion of a statutory unit and, instead, asks the Division to abandon its regulatory role and turn over control of this entire reservoir to Gillespie's unfettered whim. If the Oil Conservation Division is to continue to regulate this reservoir, the application of Gillespie in this case must be dismissed.

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THE APPLICATION IGNORES NEW MEXICO STATUTE

11. At present, the West Lovington-Strawn Pool is being operated under two sets of rules: the Division's rules and those of Gillespie. As operator the West Lovington-Strawn Unit, Gillespie has authority to control the rates of withdrawal for the unit area. It sought and received authorization from the Division to operate these properties after appearing at a hearing and assuring the Examiner that the limits of the area to be unitized had been reasonably defined by development and that this portion of the reservoir could be effectively operated under a unit plan. However, as soon as the unit was formed, and over the objection of other owners, Gillespie started restricting production from non- unit properties it operates to rates comparable with what it decided to be the appropriate withdrawal rates form the unit. Now Gillespie wants to control how all properties in this pool are produced.

12. In this case, Gillespie is asking the Division for permission to control decisions of others -- decisions that are reserved to the operator of a tract. If restriction of production from non-unit wells is necessary to efficiently produce the unit, as Gillespie contends, there is a statutory procedure which could enable it to become the operator of this property. That procedure is Statutory Unitization.

13. The Statutory Unitization Act ("the Act") was adopted because the legislature recognized there were circumstances where effective secondary recovery operations required that there be one operator of all properties in a project area. Formation of units under this statute requires the State to exercise its police power and take ownership rights from one

interest owner and vest them in another. Accordingly, the legislature adopted very specific procedures that must be followed before this authority can be exercised. Furthermore, because actions under this statute involve a taking of property, these procedures go far beyond the mere requirement that correlative rights be protected.

14. The Act sets specific requisites for a unitization application (Section 70-7-7, NMSA 1978), identifies the matters to be found by the Division precedent to the issuance of a unitization order (Section 70-7-8, NMSA 1978), and identifies the specific matters that a unitization order must contain (Section 70-7-9, NMSA 1978). In addition to these enumerated requirements, the Act directs the Division to include in its orders "such additional provisions as are found to be appropriate for carrying on the unit operations and for the protection of correlative rights and the prevention of waste" (Section 70-7- 7 J., NMSA 1978).

15. What Gillespie is attempting to do with the current application is to circumvent the Act and operate this reservoir under rules and produce at rates established by Gillespie instead of the rules and allowables set by the Division. If Gillespie 's concerns are legitimate, its remedy is not the arbitrary curtailment of non-unit production in this pool but in the expansion of the unit pursuant to the Statutory Unitization Act. Being "... in the process of expanding the WLSU to include adjoining acreage..." is not enough. Only expansion of the unit under the Act will suffice. Only then will Gillespie be required to go to the affected owners and attempt to reach a voluntary agreement for the development of this acreage.

Only with this procedure can the operating rights of others in this pool be lawfully taken and vested in Gillespie. Only in the context of a statutory unitization hearing can those whose rights are at risk be assured that before their rights are transferred to Gillespie the Division will determine that their interests will be operated under a plan that is fair, reasonable and equitable to them. Only in a statutory unitization hearing will all interest owners be assured that before their rights are restricted, Gillespie will have to present geologic data which establishes that their properties are in communication with the unit and that the operation thereof must be transferred to Gillespie for efficient conduct unit operations.

16. Clearly it is unreasonable for the Division to permit the curtailment of non-unit allowables in this pool without first requiring Gillespie to make a full geological presentation of its new interpretation of this reservoir. Gillespie must explain why the maps it presented to the Division in 1995 -- with contours that closely followed the geographic section lines surrounding the acreage it owned in this pool -- are no longer accurate. If it has seismic data upon which its determinations rest, this must be presented.

17. The Division, in its original statutory unitization order (Order No. R-10449, Finding 26), found that the geological presentation of Snyder Ranches more accurately honored the sub-surface well data on this pool than the interpretation of Gillespie. In the original hearing it accepted the Snyder Ranches interpretation of the vertical limits of this pool. Now the Gillespie interpretation of the horizontal limits of the reservoir must be examined. Having been once fooled, is it not time to require a full presentation of Gillespie's

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geological data that supports this unit?

18. The Statutory Unitization Act specifically provides for the expansion of units originally formed under the Act. Section 70-7-10 provides that in the case of previously established units, the Division order expanding the unit shall provide for the allocation of unit production to the acreage added thereto. In this situation the previously established unit is treated as a single tract and the tracts to be added to the unit are evaluated on an individual tract basis. Therefore, to add tracts adjacent to the current unit boundary, Gillespie must show that there will be as much production attributed to these after inclusion in the unit as they would produce without unit operations. They must receive their fair share and the unit plan must be shown to be fair, reasonable and equitable to the owners of all tracts in the unit after expansion.

THE APPLICATION IS VAGUE

19. What acreage is affected? In its application, Gillespie states that it "... is in the process of expanding the WLSU to include **certain adjoining acreage.**" (Application, Paragraph 13). However, the actual acreage that Gillespie hopes to include in an enlarged unit is not identified. If the application covers less than the entire reservoir, the application must define the affected acreage. If it is directed at the entire pool, Gillespie should declare so. In this case, Gillespie is seeking control of his neighbors properties. For the offsetting operators to be able to properly respond to this application, the affected property must be specifically identified.

20. What production is Gillespie attempting to restrict? In its application, Gillespie seeks "... an order restricting the production of wells completed in the same reservoir as the WLSU, but outside the boundaries of the WLSU, to rates equal to the average producing rate for wells in the WLSU." Is Gillespie seeking the restriction of oil production or the restriction of all liquids from this pool? This is an essential matter that Gillespie must clarify before other owners in the pool can respond to this application.

21. How will other operators know the rate at which they can produce? Gillespie proposes to restrict other operators to withdrawal rates equal to its own. How will other operators know what rate Gillespie has set for them? How will other operators know if they can economically engage in additional development in this pool? The Gillespie scheme may work for Gillespie but it cannot work for other owners in this pool and it cannot prevent waste nor protect correlative rights.

CONCLUSION

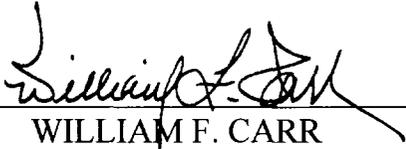
Opposition to its initial effort to expand the West Lovington-Strawn Unit under the statutory unitization act does not exempt Gillespie from the established statutory procedures for expansion of this unit. With this application, Gillespie seeks authority to establish production limits for all other owners in this pool -- whether or not their acreage is actually included in the proposed unit expansion.

The Division must tell Gillespie to follow the Statutory Unitization Act. The Division must dismiss Gillespie's application.

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Respectfully submitted,

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By:  _____

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AND COCHRAN, HANLEY PETROLEUM
INC. AND DAVID PETROLEUM CORP.

CERTIFICATE OF SERVICE

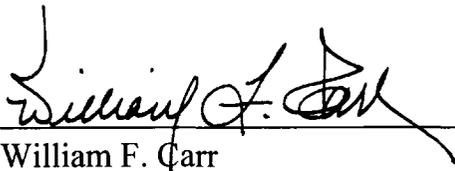
I hereby certify that I have caused to be hand-delivered a true and correct copy of the foregoing pleading to the following counsel of record on this 20th day of August, 1996:

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August 19, 1996

Via Hand Delivery

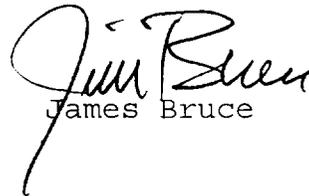
Florene Davidson
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Dear Florene:

Enclosed are an original and two copies of a Pre-Hearing Statement in Case 11599, filed on behalf of Gillespie-Crow, Inc.

Very truly yours,

HINKLE, COX, EATON, COFFIELD
& HENSLEY, L.L.P.


James Bruce

ocd.phs

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Oil Conservation Division