STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION

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

APPLICATION OF GILLESPIE-CROW, INC. TO AMEND ORDER R-10448-A AND TO AMEND THE SPECIAL POOL RULES FOR THE WEST LOVINGTON-STRAWN POOL, LEA COUNTY, NEW MEXICO.

CASE NO. 11827

ENSERCH EXPLORATION, INC.'S RESPONSE TO MOTION TO DISMISS, OR IN THE ALTERNATIVE, TO CONTINUE HEARING

AND

MOTION TO STRIKE

Enserch Exploration, Inc. ("Enserch") by and through its counsel of record Miller, Stratvert & Torgerson, P.A. and hereby responds to the motion of Yates Petroleum Corporation and Hanley Petroleum, Inc. ("Yates/Hanley") to dismiss or alternatively, to continue the August 7, 1997 hearing on the application in this matter. Enserch objects to and opposes the Yates/Hanley motion and moves pursuant to Section 70-2-13, N.M. Stat. Ann. (1978 Comp.) that the Division enter its Order striking their motion with prejudice to the refiling of the same.

1. Yates/Hanley seek to delay the Division's consideration of this application for the singular reason that no decision has been entered in NMOCD Case No. 11724 pursuant to the unit operator's application to expand the unit to include three additional tracts. The reference to the pendency of the order in Case No. 11724 does not constitute a legitimate basis for the Yates/Hanley motion.

2. Throughout the several West Lovington Strawn Unit (WLSU) related proceedings, the strategy of Yates/Hanley has been to manipulate the pre-hearing procedures of both the Division and the Commission to interpose obstruction and delay. According to Yates/Hanley, the WLSU related proceedings are all headed to de novo hearing before the Commission and therefore, the dismissal of any other pending application is justified. It is a rather transparent rationalization. From unrefuted testimony in NMOCD Case No. 11724, it was established that Yates/Hanley are directly reaping[1] the benefits of the unit's pressure maintenance operations for their soon to be joined offset acreage. Yates/Hanley understandably seek to perpetuate their advantage under the status quo, but to do so, they would seek to prevent the Division's consideration of evidence of an ongoing increase in gas:oil ratios, the dissipation of energy and a deterioration in the reservoir's ability to produce oil.

3. At the May 15 and 16, 1997 hearing in Case No. 11724, it was determined that Yates/Hanley did not contest the inclusion of the 160 acres proposed to be brought into the unit by the unit operator. Within the context of the application in that case, the only issue in contention, as established by the testimony of the Yates witnesses, was a difference of .55 percent in the unit participation formula proposed by Gillespie-Crow, Inc. on the one hand and Yates/Hanley on the other during pre-hearing negotiations. Yates/Hanley offer no meaningful explanation how the consideration of evidence in this application will have any bearing on the issuance of the order in Case No. 11724 or vice versa. Yates/Hanley have filed no separate

[1]Cost free to date.

application of their own addressing the expansion of the unit boundaries for the West Lovington Strawn Unit or otherwise proposing a new participation formula. Accordingly, the suggestions by Yates/Hanley that evidence of the unit boundaries and participation formula have not been fully presented to the Division should be rejected out of hand. The Yates/Hanley arguments might have some applicability were the initial approval of an exploratory unit involved in the application presently before the Division. It is not. Rather, these proceedings involve the ongoing operations of an enhanced oil recovery unit and as a consequence, the matters set forth in the Yates/Hanley motion are not relevant here.

4. As in this case, Yates/Hanley also sought the repeated delay of the Division's consideration of evidence in Case No. 11724. Accordingly, pursuant to the repeated objections of Gillespie-Crow, Inc. and Enserch to the Yates/Hanley delay tactics, Yates and Hanley were admonished at a May 1, 1997 case status conference that no further delays would be allowed and that the case should proceed to hearing. To the extent that the two cases are related then, the Yates/Hanley motion here is in direct disregard for the Examiner's earlier admonition in case No. 11724.

5. The Yates/Hanley motion is contrary to the Division's present administrative policy disfavoring continuances.[2]

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[2]See, the Division's recent denial of motions for continuance filed in NMOCD Case Nos. 11808 and 11809, Application of Burlington Resources Oil and Gas Co. for Compulsory Pooling, San Juan County, New Mexico.

Where, in a case such as this, the correlative rights of interest owners are adversely affected, the Division has an affirmative, mandatory duty to reject the inappropriate effort to delay the consideration of the Unit Operator's application.

MOTION TO STRIKE

The Yates/Hanley motion should be stricken for their failure to comply with the procedural rules of the Division.

19 N.M.A.C. 15.N.1208 obliges interested parties to formally enter their appearance before making any pleading, plea or motion of any character. As of the date of the Yates/Hanley motion, no entry of appearance has been filed on their behalf, and consequently, they are without standing under the Division's rules to request such relief. Accordingly, the Division should enter its order striking the Yates/Hanley motion and otherwise denying the relief sought with prejudice to the refiling of the same during the pendency of this case.

Respectfully submitted,

MILLER, STRATVERT & TORGERSON, P.A.

By _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading has been mailed to all counsel of record this 28 day July, 1997 as follows:

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