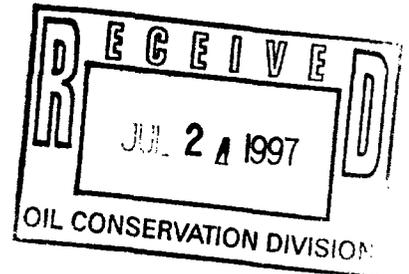


STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION

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



**MOTION TO DISMISS, OR IN THE ALTERNATIVE,
TO CONTINUE HEARING**

COMES NOW, Yates Petroleum Corporation ("Yates") and Hanley Petroleum Inc. ("Hanley") and hereby moves the Commission for an order dismissing the above referenced application, or in the alternative, continuing the hearing on this application until a decision has been entered in Case 11724 which is currently pending before a Division Examiner and in support of its motion states:

1. By Order No. R-10449, dated August 29, 1995, the application of Gillespie-Crow, Inc. ("Gillespie") was granted approval of the West Lovington Strawn Unit ("WLSU") for unitization under the Statutory Unitization Act.
2. Although Gillespie intended for the WLSU to include all acreage in the West Lovington-Strawn Pool, it was soon discovered that the reservoir extended beyond the acreage included within the unit and that additional acreage was affected by unit operations.

3. Yates and Hanley own working interest outside the WLSU but within the West Lovington-Strawn Pool on which wells have been drilled that are in communication with and are affected by unit operations.

Pool Allowables (Case 11599):

4. Yates asked Gillespie to expand the WLSU to include the now known productive reservoir. Instead of filing an application to expand the unit, Gillespie sought an order restricting the allowables for wells in this pool but outside the unit from 445 BOPD to the level at which Gillespie decided to produce the wells within the WLSU. (Case 11599).

5. This application was heard by a Division Examiner on August 22, 1996 and October 3, 1996. Yates, Hanley and others appeared at the hearing in opposition to the Gillespie proposal. On February 26, 1997, the Division entered Order Nos. R-9722-C and R-10448-A which found, among other things:

- A. That the reservoir that comprises the WLSU extends beyond the horizontal limits set forth in the statutory unitization order,
- B. That the two wells in which Yates and Hanley own interests are in pressure communication with the WLSU,
- C. That the adoption of the Gillespie recommended allowable restrictions "sets a double standard for a single pool,"
- D. That **"to assure fairness for all operators of wells in this reservoir** a single depth bracket allowable of 250 barrels of oil per day for a standard 80-acre oil

spacing and proration unit should be adopted for the West Lovington-Strawn Pool. Furthermore, **the concept of a project allowable being assigned to the West Lovington-Strawn Pressure Maintenance Project Area should cease...and all wells whether inside or outside the WLSU should be treated the same. No gas injection well(s) or units containing a gas injection well will be assigned or credited an allowable.**" (Order Nos. R-9722-C and R-10448-A, Finding 15, pages 5 and 6).

The Division then ordered the reduced allowable of 250 barrels of oil per day for each well in the pool. (Order Nos. R-9722-C and R-10448-A, Order Paragraph 5).

6. Yates and Hanley timely filed an application for hearing de novo before the Commission of Order Nos. R- 9722-C and R-10448-A.

7. The Commission hearing on the application of Yates and Hanley for de novo review of Order Nos. R-9722-C and R-10448-A was set for July 14, 1997.

8. On July 8, 1997, Yates and Hanley withdrew their application for hearing de novo and requested the July 14, 1997 hearing be dismissed. Gillespie opposed the withdrawal of the Yates and Hanley application so it could seek an increase in allowables at the July 14, 1997 Commission hearing. The request of Gillespie was denied and the appeal of this order was dismissed.

Unit Expansion (Case 11724):

9. On January 24, 1997 Gillespie filed an application for expansion of the WLSU

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under the Statutory Unitization Act to include only the two tracts dedicated to the wells in which Yates and Hanley own interests. This application was docketed as Case 11724.

10. Case 11724 came on for hearing before a Division Examiner on May 15 and 16, 1997. Yates and Hanley opposed the application and proposed that the unit be expanded to include the entire productive reservoir in the West Lovington-Strawn Pool and further requested that the unit participation formula be amended to allocate production therefrom on a fair, reasonable and equitable basis.

11. No order has been entered in this case and, accordingly, the boundaries of the unit remain at issue as well as the formula by which unit production will be allocated to the owners in the expanded unit. In Case 11724, Yates and Hanley have requested that the current allowable restrictions (including the elimination of the project allowable) remain in effect until all issues concerning further development of this pool under a unit plan are resolved.

12. Instead of waiting until the Examiner rules and an order is entered in Case 11724, Gillespie now seeks to increase the allowables for this pool by increasing the gas/oil ratio to 5000:1 (Application paragraph 3) and reinstating the project allowable for the WLSU (Application paragraph 5).

13. Gillespie's application is premature since the allowable issues for this pool cannot be resolved until the unit boundaries are established for the WLSU and the participation formula adopted which will govern the allocation of unit production among the

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interest owners therein.

14. Proceeding to hearing before the issues in Case 11724 are resolved impairs correlative rights. The New Mexico Supreme Court stated in *Continental Oil Co. v. Oil Conservation Com.*, 70 N.M. 310, 373 P.2d 809 (1962), that the Division must, as far as it is reasonably practicable to do so, determine the extent and limitations of correlative rights before it can act to protect them. In this case, it is not possible for the Division to protect Yates and Hanley's rights to produce their share of the reserves in this pool or to even determine the extent of their correlative rights until it is known if the Yates and Hanley interests will be within the WLSU or outside the unit and subject to drainage therefrom. Furthermore, Yates and Hanley cannot prepare a case or present evidence in support of Division protection of their correlative rights until the issues before the Examiner are decided.

15. Regardless of the outcome of Case 11724, the Division's Order will be appealed to the Oil Conservation Commission.

16. Instead of proceeding with the piecemeal handling of this case, as proposed by Gillespie, which will result in unnecessary hearings and will delay the final resolution of the issues surrounding the future development of this unit and reservoir, Gillespie's application should be **dismissed** as premature. In the alternative, this application should be continued and consolidated for hearing before the Commission at the de novo hearing which will follow the entry of an order in Case 11724 because:

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- A. The cases are so intertwined that any decision in one affects the decision in the other;
- B. The issues covered by the de novo application of Yates and Hanley are now issues in Case 11724;
- C. It is impossible to evaluate the impact of an order changing the allowable for the WLSU on the correlative rights of other owners in the pool until the boundaries of this unit are established and the unit participation formula determined;
- D. Only by setting these issues for hearing at one time, after the unit boundaries are known and the participation formula established can the owners in the unit be prepared to present their cases;
- E. Continuing and consolidating all cases concerning the development of the WLSU will avoid very lengthy and unnecessary hearings; and
- F. By continuing the hearing on Gillespie's application, all issues concerning the development of this reservoir will be considered in one hearing.

17. That the delays in resolving the issues concerning the WLSU are the result of Gillespie delaying 15 months in bringing an application to address these issues. This does not justify ignoring the rights of other owners in the pool.

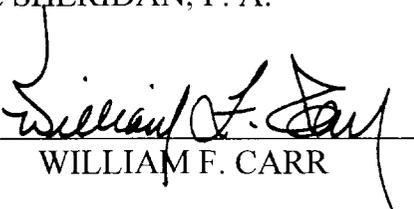
WHEREFORE, Yates Petroleum corporation and Hanley Petroleum, Inc. hereby move the Division for an Order dismissing the application of Gillespie for the amendment

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of Order R-10448 and the Special Pool Rules for the West Lovington Strawn Pool to increase the gas/oil ratio and establish a project allowable for the WLSU. In the alternative, Yates and Hanley request that the hearing on this application be continued indefinitely until an order has been entered in Case 11724 establishing the boundaries of the WLSU and approving a participation formula for the unit which is fair reasonable and equitable thereby permitting all issues concerning the development of the West Lovington-Strawn Pool to be considered in one hearing.

Respectfully submitted,

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

By: 
WILLIAM F. CARR

ATTORNEYS FOR YATES PETROLEUM
CORPORATION AND HANLEY
PETROLEUM, INC.

CERTIFICATE OF SERVICE

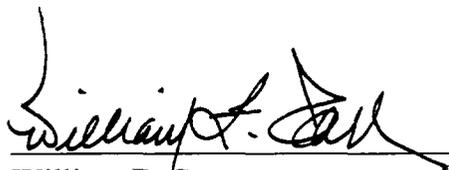
I hereby certify that I have caused to be hand-delivered a true and correct copy of the foregoing pleading to the following counsel of record on this 24th day of July, 1997:

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