

OIL CONSERVATION DIV.  
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**BEFORE THE OIL CONSERVATION DIVISION**  
**NEW MEXICO DEPARTMENT OF ENERGY AND MINERALS**

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

**APPLICATION OF GILLESPIE OIL, INC. FOR  
UNIT EXPANSION, STATUTORY UNITIZATION,  
AND 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.**

**Case No. 12171**

**AFFIDAVIT OF BARNEY KAHN**

BARNEY KAHN, being duly sworn, states:

1. I am a resident of Birmingham, Alabama. I am employed by Energen Resources Corporation as a reservoir engineer. I am familiar with the West Lovington Strawn Unit and the Application filed in this proceeding by the Unit Operator, Gillespie Oil, Inc. I am the age of majority and am otherwise competent to testify to the matters set forth herein.

2. I appeared and rendered expert witness testimony at the hearing convened in this matter before the New Mexico Oil Conservation Division's Examiner on May 27, 1999, where my qualifications as an expert witness were accepted as a matter of record. I was present throughout the entire hearing and heard the testimony of all other witnesses and parties. In addition to that presented by Energen, testimony and evidence was

presented on behalf of the Applicant and Unit Operator, Gillespie Oil, Inc. and separately on behalf of Charles B. Gillespie, Jr.

3. The evidence and testimony presented by Gillespie Oil, Inc. generally supported the expanded unit boundaries, tract allocations and amendments to the participation formula provisions of the Unit Agreement agreed to and recommended by the West Lovington Strawn Technical Committee. Energen supported the Technical Committee's recommendations. However, certain aspects of the Unit Operator's Application, testimony and evidence with respect to the participation for Tracts 14 and 15 did not correspond with the Technical Committee's recommendation. I presented testimony and exhibits on behalf of Energen which, in my opinion, more correctly reflected the agreement and recommendations of the Technical Committee members. I also testified about the efforts of Energen to facilitate and expedite the unit expansion process.

4. Testimony was presented on behalf of Gillespie Oil, Inc. with respect to the Unit Operator's proposal to allow certain wells drilled by it in the expansion area to be brought into the unit in excess of the one hundred percent payout specified under the existing provisions of the Unit Operating Agreement. Specifically, Gillespie Oil, Inc. sought payment for the Snyder "EC" Com No. 1 well and the Snyder "C" No. 4 well at 116% and 200% of payout costs, respectively.

5. Additional testimony and exhibits were presented on behalf of Charles B. Gillespie, Jr., individually, rather than in his capacity as Unit Operator. Such testimony and exhibits generally proposed an expansion of the unit with boundaries and allocations of hydrocarbon pore volume that differed substantially from the West Lovington Strawn Unit Technical Committee's recommendations. Mr. Gillespie also proposed an amendment to the existing terms of the Unit Operating Agreement that would provide for wells drilled outside the existing boundaries of the Unit to be brought into the Unit at 250 % of payout costs as of the effective date of the unit expansion.

6. According to the testimony of the same witness testifying for both Gillespie Oil, Inc. and Charles B. Gillespie, Jr., it was not certain whether Gillespie's ratification of the expansion of the unit would be prevented by the absence of a provision allowing the owner of a well being brought into the unit to recoup more than 100% of payout costs.

7. In order to resolve the well payout issue, I devised a method which would allow the owner of a well located on expansion acreage which had not reached payout to either (1) receive immediate reimbursement from the Unit for 100% of payout costs, or (2) to recoup an amount in excess of 100% of payout costs under a formula establishing a "Payout Multiple" according to the well's ability to produce for six consecutive months against the top allowable for the pool of 250 BOPD. This method was drafted in the form of an amendment to Article 10.4 of the Unit Operating Agreement. The amendment also specifies that the Payout Multiple would not exceed 200% in any event, and further

provides that the Payout Multiple for the Snyder "EC" Com well and the Snyder "C" No. 4 well would be 116% and 200%, respectively. A true and exact copy of the amendment to the Unit Operating Agreement, labeled "Draft V", is attached hereto as Exhibit "A".

8. On May 28, 1999, the day after the hearing in this matter, I and a number of other representatives for Energen met with representatives for Gillespie Oil, Inc. and Charles B. Gillespie, Jr. in Santa Fe. The proposed "Draft V" amendment to the Unit Operating Agreement (Exhibit A) was presented to and discussed with the Gillespie representatives. Another copy of the "Draft V" amendment was subsequently provided to Gillespie Oil, Inc. on June 3, 1999, along with other materials.

9. On behalf of Energen Resources Corporation, it is my opinion that the proposed amendment of Article 10.4 of the Unit Operating Agreement reflected in Exhibit A resolves the well payout issue on terms that are fair, reasonable and equitable. Energen seeks the inclusion of the proposed amendment of the Unit Operating Agreement in the terms of the order to be issued by the Division in this proceeding.

FURTHER AFFIANT SAYETH NOT

  
BARNEY KAHN

STATE OF ALABAMA                    )  
  ) ss.  
COUNTY OF JEFFERSON            )

Subscribed and sworn to before me on this 21<sup>st</sup> day of June, 1999, by Barney Kahn.

  
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Notary Public

My commission expires: 07/13/2001  
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