

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

**APPLICATION OF LEONARD RESOURCES  
INVESTMENT CORPORATION FOR  
COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO**

**CASE NO. 12730**

**MOTION TO DISMISS AND PRE-HEARING STATEMENT**

This Pre-Hearing Statement and Motion to Dismiss is submitted in behalf of The Coates Energy Trust, Jenny Roberts Schimpff Trust, Catherine G. Roberts Trust, Barry Coates Roberts Trust, Lisa Stieren Hardeman Trust, George L. Stieren Trust, Wendy Stieren Wirth Trust, Kelly Stieren Daniell Trust and the Amy E. Stieren Trust (collectively, "Coates") in opposition to this Application which is set for hearing the Examiner Docket of September 20, 2001.

**APPEARANCES OF PARTIES**

**Applicant**

Leonard Resources Investment Corporation

**Attorney**

James Bruce  
Post Office Box 1056  
Santa Fe, NM 87504

**Opposing Party**

Coates

J.E. Gallegos  
Michael J. Condon  
Gallegos Law Firm, P.C.  
460 St. Michael's Drive  
Building 300  
Santa Fe, NM 87505

### **MOTION TO DISMISS**

The applicant seeks to pool the unleased minerals in the SE4 NW4 Section 2, T20S, R30E, to establish a 40 acre spacing unit for an oil well in the House Yates, Seven Rivers Pool and other undesignated pools. Coates own one-fourth of the minerals in the NW4 of Section 2.

Compulsory pooling is unavailable to the applicant for the interests in the subject proration unit owned by Coates. In January 2000, the applicant and Coates came to agreement on basic terms for a lease of Coates' minerals in the 160 acres of the NW4 of the subject Section 2. The principle terms of the lease were agreed upon: the primary term, the royalty, the bonus, the subsurface depth, and the acreage. See Exhibit "A" attached hereto.

Coates has a fiduciary responsibility in the management of the various oil and gas properties under its control to require lease conditions and royalty terms which appropriately protect the mineral owners and provide for payment of royalties in a manner truly reflective of the value of the severed hydrocarbons. Coates has developed an oil and gas lease that accomplishes this and sought its execution by the applicant.

After having reached such agreement on fundamental terms and being provided with Coates' form of Oil and Gas Lease (which is widely accepted by operators in the industry) applicant did nothing. Then on June 26, 2000, Dan M. Leonard, president of the applicant, wrote Coates retracting its prior acceptance of the lease terms and the Coates lease, and offering new and less favorable terms and an outmoded Producer's 88 form of lease. After silence for six months the applicant has reneged on its prior

acceptance citing that the “trade involves too much money and royalty burden” and that the Coates lease form “would require an immense amount of administration to ensure compliance. . .”. See Exhibit “B” attached. The form of lease proposed by applicant has not been revised for twenty years and fails to clearly and fairly address the manner and method of royalty calculation, an issue which is currently the source of numerous disputes and lawsuits largely because of the ambiguity and lessee bias of the old forms.

Compulsory pooling is unavailable to applicant for the acreage in question. Contrary to established Division practice and to the requirements of Section 70-2-17C. NMSA 1978 the applicant has instituted this proceeding without acting in good faith and reasonably to reach voluntary agreement with Coates for the development of the subject tract. When an owner such as Coates is willing to lease its mineral interest for the drilling of a well and seeks to do so on basic terms that are reasonable and customary for the subject acreage in the industry (and in fact accepted by the party seeking to develop) it is not within the authority of the Division to impose a specific lease form and language upon the lessor at the insistence of the lessee.

### **STATEMENT OF THE CASE**

Leonard Resources Investment Corporation has filed an application seeking to force pool the mineral interests of Coates in a 40-acre proration unit to be dedicated to its White Owl No. 1 oil well in undesignated pools. The applicant and Coates exchanged proposals beginning in August 1991 and on January 14, 2000 agreed to the basic terms for a lease by Coates to the applicant of Coates' mineral interest. After a delay of some six months, the applicant reneged on the terms of the transaction and rejected the Coates lease form. After **another delay of over one year** the applicant

has brought this application without making any effort whatsoever to accomplish a lease of the Coates minerals. A lessor of a mineral interest is entitled to reasonable terms at market rates and to a lease with provisions and conditions that are mutually fair and reasonable and which address current issues and conditions in the industry. The operator has totally failed to act in good faith is attempting to use the police powers of the state as delegated to the Division to cram down lease terms and a lease form unacceptable to the lessor and which are unreasonable in today's industry environment. Coates will present at hearing all the documentation concerning the negotiations and lease forms.

**WITNESS**

Sherrie Green  
Land Manager

**ESTIMATED TIME**

30 minutes

**EXHIBITS**

Ten

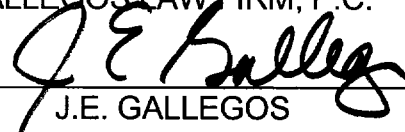
**PROCEDURAL MATTERS**

Motion to Dismiss

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By




J.E. GALLEGOS  
MICHAEL J. CONDON

460 St. Michael's Drive, Bldg. 300  
Santa Fe, New Mexico 87505  
(505) 983-6686

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the foregoing to be faxed and mailed on this 10th day of September, 2001 to the following:

James Bruce  
Post Office Box 1056  
Santa Fe, NM 87504

  
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J. E. Gallegos