

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

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

CASE NO. 10498
Order No. R-9690

APPLICATION OF CHARLES GILLESPIE
FOR COMPULSORY POOLING AND A NON-
STANDARD OIL SPACING AND PRORATION
UNIT, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 25, 1992, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 1st day of July, 1992, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Charles Gillespie, seeks an order pooling all mineral interests from the surface to the base of the Strawn formation underlying Lot 3 of Section 1, Township 16 South, Range 35 East, NMPM, Lea County, New Mexico, forming a non-standard 51.08-acre oil spacing and proration unit. Said unit is to be dedicated to a well to be drilled at a standard oil well location thereon.

(3) The applicant has the right to drill and proposes to drill its Speight Well No. 1 at a standard oil well location as described above.

(4) The proposed non-standard oil proration unit is necessitated by a variation in the legal subdivision of the United States Public Lands Survey.

(5) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(6) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive

without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(7) The applicant should be designated the operator of the subject well and unit.

(8) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(9) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(10) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(11) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(12) \$5000.00 per month while drilling and \$500.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(13) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(14) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before October 1, 1992, the order pooling said unit should become null and void and of no effect whatsoever.

(15) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(16) The operator of the well and unit shall notify the

Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the Strawn formation underlying Lot 3 of Section 1, Township 16 South, Range 35 East, NMPM, Lea County, New Mexico, are hereby pooled forming a non-standard 51.08-acre oil spacing and proration unit, also hereby approved. Said unit shall be dedicated to the applicant's proposed Speight Well No. 1 to be drilled at a standard oil well location thereon.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of October, 1992, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Strawn formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of October, 1992, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Ordering Paragraph No. (1) of this order should not be rescinded.

(2) Charles Gillespie is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within

said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$5000.00 per month while drilling and \$500.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in

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Order No. R-9690
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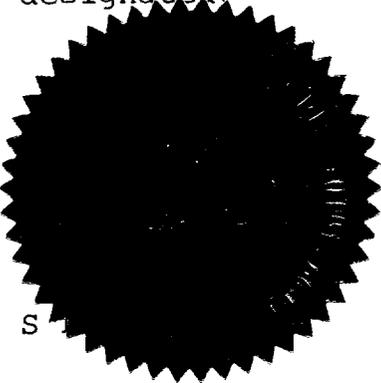
escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


WILLIAM J. LEMAY
Director

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

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

*REOPENED CASE NO. 10498
ORDER NO. R-9690-A*

**THE REOPENING OF DIVISION CASE NO. 10498 UPON APPLICATION OF
MONTY D. McLANE TO EXEMPT CERTAIN WORKING INTERESTS FROM THE
COMPULSORY POOLING PROVISIONS OF DIVISION ORDER NO. R-9690, LEA
COUNTY, NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on November 19, 1992, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 27th day of April, 1993 the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) Division Order No. R-9690, issued in Case No. 10498 and dated July 1, 1992, granted the application of Charles Gillespie to compulsorily pool all mineral interests from the surface to the base of the Strawn formation underlying Lot 3 (Unit C) of Section 1, Township 16 South, Range 35 East, NMPM, Lea County, New Mexico, forming a non-standard 51.08-acre oil spacing and proration unit to be dedicated to a well to be drilled at a standard oil well location thereon.

(3) According to the testimony presented by Charles Gillespie at the June 25, 1992 hearing in Case No. 10498, said Division Order No. R-9690 force-pooled the interests of the following persons in said Lot 3:

(a) Henry H. Lawton of Cattaraugus County, New York;

- (b) Amanda K. Parks of Olean, New York;
- (c) Edward O'Neil of Detroit, Michigan;
- (d) Violet O'Neil Stadwick of Wayne County, Michigan;
- (e) Leonardo S. Anderson, Jr. of Rancho Palos Verdes, California;
- (f) Geraldine Anderson Hill of Rancho Palos Verdes, California;
- (g) Berkeley N. Moynihan of Ft. Lauderdale, Florida;
- (h) Francis J. Moynihan, Jr. of Frewsburg, New York; and
- (i) Rio Pecos Corporation of Midland, Texas.

(4) Subsequent to the issuance of said Order No. R-9690, the following events occurred (listed chronologically):

- July 17, 1992: Speight Fee Well No. 1 located 660 feet from the North line and 2310 feet from the West line (Unit L) of Section 1 was spudded.
- August 16, 1992: Total depth of 11,800 feet reached, plug-back total depth at 11,751 feet.
- August 31, 1992: Monty D. McLane filed in the Lea County Clerk's Office instruments leasing from heirs of Henry H. Lawton and Amanda K. Parks the mineral interest in Lots 3, 4, 5 and 6 of said Section 1.
- September 8, 1992: Well completed and ready for production from the perforated interval 11,424 feet to 11,548 feet in the Strawn formation.
- September 23, 1992: Division Order No. R-9722 was issued in Case No. 10530, which created and designated the East Big Dog-Strawn Pool in the W/2 SE/4 of Section 33, Township 15 South, Range 35 East, NMPM, Lea County, New Mexico and included a provision for 80-acre spacing and proration units.

- October 6, 1992: The Division received an application from Monty D. McLane to reopen Case No. 10498.
- October 8, 1992: Division Administrative Order NSP-1652 was issued authorizing a non-standard 91.08-acre oil spacing and proration unit for the Speight Fee Well No. 1 comprising Lots 3 and 6 of said Section 1.

(5) Upon application to reopen Case No. 10498, Monty D. McLane seeks an order from the Division declaring that the interests owned by Henry H. Lawton and Amanda K. Parks and now subject to oil and gas lease to Monty D. McLane, are not subject to the pooling provisions of said Order No. R-9690 because such persons were not given adequate notice of the hearing and therefore were not subject to the jurisdiction of the Division for the purpose of pooling their interest, and for such other relief as the Division may deem appropriate.

(6) This case only affects the interests underlying Lot 3 and not the current 91.08-acre non-standard oil spacing and proration unit comprising Lots 3 and 6 of said Section 1. The remaining 40 acres underlying Lot 6 are presently subject to all applicable provisions contained in Section 70-2-18, NMSA, 1978 where forced pooling has not occurred.

(7) In order for this Division to have jurisdiction over the property interest of a person owning minerals in this State for the purpose of entering an order pooling those interests, the persons owning that interest must receive actual notice if they can be located. Notice by publication is sufficient only if the owners of the interest cannot be located. The New Mexico Supreme Court declared in *Uhden v. Oil Conservation Commission*, 112 N.M. 528, 817 P.2d 721 (1991), that actual notice is required in a spacing rules change case where the whereabouts of an interest owner is known or can be ascertained with due diligence. The diligence required in attempting to locate the owner of an interest which an applicant requests the Division pool by order under its compulsory pooling authority is at least as great if not greater than that required in a spacing change case.

(8) *Chris Hubbard, contract landman for Charles Gillespie, testified at the original hearing and at the reopened hearing that he had conducted a record search in Lea County, New Mexico, and found the names of the various record owners of the minerals. He further testified that he had contacted the Probate Clerk in Cattaraugus County, New*

York, the last known location of several of the interest owners, and had checked with directory assistance and published directories for that county in an effort to locate the owners of the property, all without success. This uncontroverted evidence indicates that Mr. Hubbard made a professionally competent attempt to locate these parties.

(9) *The applicant in this reopened case, Monty D. McLane, is an independent landman working for his own account. Knowing that there was drilling in this area and that Gillespie was drilling this well, McLane made a search of the records of Lea County and made inquiries in Cattaraugus County. Although he searched essentially the same record base, McLane's approach was different and he was able to locate the heirs of Henry H. Lawton and the heirs of Amanda Parks, and subsequently acquired a lease on their interests.*

FINDING: The heirs of Henry H. Lawton and Amanda K. Parks, owners of interests sought to be pooled, were able to be located with due diligence.

(10) The heirs of Henry H. Lawton and Amanda Parks were not served with personal notice of the application in this case and their interests should not be subject to the compulsory pooling of Order No. R-9096.

(11) All other provisions of said order, including the designation of operator, administrative overhead charges and risk penalty should remain in full force and effect.

(12) Should the operator and Monty McLane as working interest owner of the Lawton and Parks interest be unable to reach an agreement for the consolidation of those interests into the 91.08-acre proration unit, any order entered by the Division pooling the working interest of Monty McLane should require the payment of interest at the judgment rate in New Mexico on those costs which have been paid by Gillespie, should McLane choose not to go under the non-consent provisions of such order.

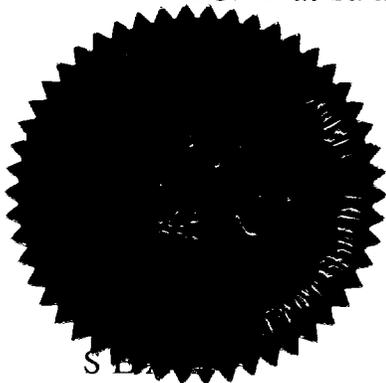
IT IS THEREFORE ORDERED THAT:

(1) The interests of Henry H. Lawton of Cattaraugus County, New York and Amanda K. Parks of Olean, New York underlying Lot 3 (Unit C) of Section 1, Township 16 South, Range 35 East, NMPM, Lea County, New Mexico, are not subject to the provisions of Order No. R-9690 entered by the Division on July 1, 1992, insofar as that order pools mineral interests underlying said Lot 3 (Unit C).

(2) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

Reopened Case No. 10498
Order No. R-9690-A
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DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY
Director

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 10498 (DE NOVO)
Order No. R-9690-B

IN THE MATTER OF CASE NO. 10498
BEING REOPENED UPON APPLICATION
OF MONTY D. MCLANE TO EXEMPT
CERTAIN WORKING INTERESTS FROM
THE COMPULSORY POOLING PROVISIONS
OF DIVISION ORDER NO. R-9690, LEA
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on October 14, 1993, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 28th day of October, 1993, the Commission, a quorum being present, having considered the record and being fully advised in the premises,

FINDS THAT:

Monty D. McLane has requested dismissal of this case and Charles B. Gillespie, Jr., as applicant for hearing De Novo in this case, has concurred; therefore, such request should be granted.

IT IS THEREFORE ORDERED THAT:

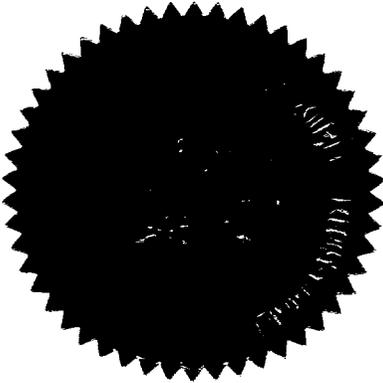
Case 10498 De Novo is hereby dismissed and Division Order No. R-9690-A is hereby continued in full force and effect until further notice.

Case No. 10498 (De Novo)

Order No. R-9690-B

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DONE at Santa Fe, New Mexico, on the day and year
hereinabove designated.



S E A L

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JAMI BAILEY, Member

WILLIAM W. WEISS, Member

WILLIAM J. LEMAY, Chairman

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