

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR AN ORDER AGAINST McELVAIN OIL & GAS PROPERTIES, INC. [OGRID 22044], FINDING THAT OPERATOR KNOWINGLY AND WILLFULLY VIOLATED RULE 50.F(1) [19.15.2.50(F)(1) NMAC] AS TO TWO WELLS AND ASSESSING MONETARY PENALTIES FOR THOSE VIOLATIONS PURSUANT TO NMSA § 70-2-14(B), AND FURTHER ORDERING THAT IN THE EVENT McELVAIN FAILS TO COMPLY WITH THE DIVISION'S ORDER, ASSESSING ADDITIONAL PENALTIES, SAN JUAN COUNTY.

CASE NO.: 14186

SUBPOENA DUCES TECUM

TO: New Mexico Oil Conservation Division
c/o Mikal Altomare
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Pursuant to NMSA 1978, § 70-2-8 and Rule 1214 of the New Mexico Oil Conservation Divisions Rules of Procedure, you are hereby ORDERED to appear at 8:15 a.m., on October 6, 2008, at the offices of the Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87504, and to produce the documents and items specified in attached Exhibit A and to make available to McElvain Oil & Gas Properties, Inc. and its attorneys, Holland & Hart, LLP, for copying, all of said documents.

This subpoena is issued on application of McElvain Oil & Gas Properties, Inc., through their attorneys, Holland & Hart LLP, Post Office Box 2208, Santa Fe, New Mexico 87504.

Dated this 2d day of ^{October}~~September~~, 2008

NEW MEXICO OIL CONSERVATION DIVISION

By David K. Brooks
By: Legal Examiner
Mark E. Fesmire, P.E., Director

EXHIBIT A

TO SUBPOENA DUCES TECUM TO NEW MEXICO OIL CONSERVATION DIVISION CASE NO. 14186

Produce the following documents and identify the paragraphs to which each document is responsive:

1. All notices, guidelines or other documents demonstrating, or purporting to demonstrate, that the Division interprets the "cessation of use" language in Rule 19.15.2.50.F(1) to mean the date that the casing string is set and cemented.
2. All documents demonstrating, or purporting to demonstrate, that McElvain was aware that the Division considered the "cessation of use" language in Rule 19.15.2.50.F(1) to mean the date that the casing string is set and cemented.
3. All files relating to any matter in which the Division issued a Notice of Violation, attempted to impose fines, or did impose fines for failing to close a pit "within six months after cessation of use" as required by Rule 19.15.2.50.F(1).
4. Copies of all exhibits you intend to use at the hearing.

INSTRUCTIONS

This Subpoena Duces Tecum seeks all information available to you, or in your possession, custody or control from any source, wherever situated, including but not limited to information from any files, records, computer documents, employees, former employees, consultants, counsel and former counsel. It is directed to each person to whom such information is a matter of personal knowledge.

When used herein, "you" or "your" refers to the persons and entity to whom this Subpoena Duces Tecum is addressed to including all of his or its attorneys, officers, agents, consultants, employees, directors, representatives, officials, departments, divisions, subdivisions, subsidiaries, or predecessors in interest (including IMC Potash).

The term "document" as used herein means every writing and record of every type and description in the possession, your custody or control, whether prepared by you or otherwise, which is in your possession or control or known by you to exist, including but not limited to all drafts, papers, books, writings, records, letters, photographs, computer disks, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations or of interviews, conferences, or meetings. It also includes diary entries, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, jottings, agenda, bulletins, notices, announcements, plans, specifications, sketches, instructions charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, lists, tabulations sound recordings, computer printouts, books of

accounts, checks, accounting records, vouchers, and invoices reflecting business operations, financial statements, and any notice or drafts relating to the foregoing, without regard to whether marked confidential or proprietary. It also includes duplicate copies if the original is unavailable or if the duplicate is different in any way, including marginal notations, from the original.