

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285

TELEFAX (505) 982-2047

September 19, 1996

**VIA FACSIMILE**

(505) 827-8177

*DO  
CASE FILE  
11613*

Mr. David R. Catanach  
Hearing Examiner  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

Re: Prehearing Statement  
**MOTION TO CONSOLIDATE POOLING CASES**  
*NMOCD Case 11613*  
*Application of Burlington Resources Oil & Gas*  
*Company for Compulsory Pooling, Lea County, New Mexico*


*NMOCD Case 11622*  
*Application of Penwell Energy, Inc. for*  
*Compulsory Pooling, Lea County, New Mexico*

Dear Mr. Catanach:

On behalf of Burlington Resources Oil & Gas Company, please find enclosed our Prehearing Statement including our MOTION TO CONSOLIDATE the referenced cases and to advance the hearing of the Penwell case from the October 3, 1996 docket so that it can be heard on September 26, 1996 with the Burlington case.

Today, I have advised Mr. Carr, attorney for Penwell, that I was filing this request today and that I would be in Seattle until Tuesday evening, September 24th. If you desire I will be in your office on Wednesday morning to argue this motion in advance of the hearing.

Very truly yours,

  
W. Thomas Kellahin

cfx: William F. Carr, Esq.  
Burlington Resources Oil & Gas Company  
Attn: Leslyn Swierc

**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. 11613**

**APPLICATION OF BURLINGTON RESOURCES OIL & GAS COMPANY  
FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.**

**CASE NO. 11622**

**APPLICATION OF BURLINGTON RESOURCES OIL & GAS COMPANY  
FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.**

**MOTION FOR CONSOLIDATION  
AND  
PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by BURLINGTON RESOURCES  
OIL & GAS COMPANY, as required by the Oil Conservation Division.

**APPEARANCE OF PARTIES**

**APPLICANT IN CASE 11613**

Burlington Resources  
P. O. Box 51810  
Midland, Texas 79710-1810  
Attn: Leslyn Swierc

**ATTORNEY**

W. Thomas Kellahin  
KELLAHIN AND KELLAHIN  
P.O. Box 2265  
Santa Fe, NM 87504  
(505) 982-4285

**APPLICANT IN CASE 11622**

Penwell Energy, Inc.  
800 N. Marienfeld  
Midland, Texas 79701  
Attn: Mark Wheeler

**ATTORNEY**

William F. Carr, Esq.  
P. O. Box 2208  
Santa Fe, New Mexico 87501  
(505) 988-4422

**STATEMENT OF CASE**

1. Burlington is a working interest owner in the NW/4SE/4 of Section 24, T22S, R32E, NMPM, Lea County, New Mexico.

2. In April 1995, Burlington's predecessor, Meridian, formally proposed to the other working interest owners the voluntary formation of a 40-acre oil spacing unit consisting of the NW/4SE/4 of said Section 24 to be dedicated to the Checkmate 24 Federal Well No. 1 to be drilled and operated by Meridian at a standard oil well location to test for potential production from the surface to the base of the Bone Spring formation.

3. The working interest owners are:

Frederick Prince	50.251 %
C. W. Trainer	31.324 %
Burlington	13.401 %
Ann Losee	2.512 %
Elizabeth Losee	2.521 %

4. From April, 1995 to August 14, 1996, Burlington had numerous discussions with these working interest owners concerning the subject well.

5. On August 14, 1996, Burlington again proposed the subject well to these same interest owners and requested their voluntary joinder in this well within 30-day of their receipt of this proposal.

6. However, as of August 23, 1996, Burlington had been advised by C. W. Trainer that he would not voluntarily agree to Burlington's proposal.

7. On August 26, 1996, Burlington filed its pooling case and requested that this matter be set for a hearing before the Division on the next available Examiner's docket then scheduled for September 19, 1996.

8. However, because of a conflict with the Commission schedule, the Division postponed its September 19 docket until September 26th.

9. On September 10, 1996, C. W. Trainer and Federick Prince, in order to avoid being pooled by Burlington at the hearing now set for September 26, 1996, entered into an agreement with Penwell Energy, Inc. to sell their interests to Penwell if Penwell could obtain the right to operate the well originally proposed by Burlington.

10. On September 10, 1996, Penwell Energy Inc. filed a competing pooling case against Burlington seeking to operate this well and requested its case be set for hearing on the October 3, 1996 docket.

11. Also on September 10, 1996, Penwell sent its proposal to Burlington.

12. For more than 17 months, Burlington has sought to drill and operate this well only to be frustrated by the "last minute" efforts of Trainer and Prince to avoid being pooled and to delay this matter.

13. In order to advance the Penwell case to the September 26th docket, Burlington hereby waives any objection concerning notice of the Penwell pooling case.

14. In order to expedite a resolution of whether Burlington will be allowed to operate the well it proposed more than 17 months ago, Burlington requests that its case not be continued to October 3, 1996 **but rather** the Penwell case be moved up to the September 26, 1996 docket.

WHEREFORE Burlington Resources Oil & Gas Company requests  
that the Division Hearing Examiner grant this motion.

**PROPOSED EVIDENCE**

OPPOSITION PARTY:

WITNESSES	EST. TIME	EXHIBITS
Leslyn Swierc	30-45 Min	@ 8
Doug Seams petroleum engineer	30 Min	@ 5
Marcus Phomerson	30 Min.	@ 3

**PROCEDURAL MATTERS**

Motion to advance the Penwell case from the October 3, 1996 docket to  
be consolidated with the Burlington case now set for hearing on September 26,  
1996.

KELLAHIN AND KELLAHIN

By: 

W. Thomas Kellahin  
P.O. Box 2265  
Santa Fe, New Mexico 87504  
(505) 982-4285