

**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.**

**RESPONSE TO MOTION TO CONSOLIDATE POOLING CASES
AND
MOTION FOR CONTINUANCE**

Burlington Resources Oil & Gas Company ("Burlington") filed its application seeking the compulsory pooling of all mineral interests in the NW/4 SE/4 of Section 24, Township 22 South, Range 23 North, NMPM, on August 26, 1996. The hearing on this application is now scheduled for September 26, 1996. The Burlington application is a companion case to Case 11622 which is the Application of Penwell Energy, Inc. for an order pooling the identical acreage. Penwell's case is scheduled for hearing on October 3, 1996.

On September 19, 1996, Burlington filed a Motion to Consolidate these cases for hearing on September 26. Penwell agrees that these cases should be consolidated for purposes of hearing but opposes scheduling these hearings on September 26th. Penwell

therefore moves the Division for a continuance of the hearing on the Burlington application until October 3, 1996, and in support of its motion states:

1. There is no dispute between the parties as to most of the issues in these cases. The only thing the Division will be asked to do is designate either Burlington or Penwell operator of this spacing unit and well.

2. Burlington owns or represents only 13.401% of the working interest in the subject spacing unit whereas Penwell owns or represents 81.575% of the working interest.

3. The owners of the remaining working interest are in negotiations with Penwell but no agreement has been finalized as of this date.

4. Notice of the Penwell application has been provided to all affected owners in this spacing or proration unit--not just Burlington--advising them that the Penwell application will be heard by a Division Examiner on October 3, 1996.

5. Hearing the Penwell application before that time will be prior to the running of the Division's notice period. Therefore, the hearing on these applications, if consolidated, cannot be completed on September 26, 1996 even if Penwell and Burlington were in agreement on this hearing date--which they are not.

6. Neither Penwell's witnesses nor its counsel will be able to be present at the September 26 Examiner Hearing.

7. Both parties are anxious to have the proposed well drilled at an early date.

8. If the hearing on the Burlington application is not continued to October 3, 1996, Penwell will have to request a continuance on September 26 at the conclusion of Burlington's evidence so both cases may be presented and concluded on October 3rd.


9. If the Burlington case is not continued to October 3, 1996, the only opportunity to have these cases heard at the same time will be a de novo hearing before the full Commission some time several months from now thereby delaying the drilling of the proposed well.

10. Penwell has sought Burlington's concurrence in this request for a continuance but Burlington has refused.

WHEREFORE, Penwell Energy, Inc. moves the Division for a continuance of the hearing in Case 11613 to October 3, 1996.

Respectfully submitted,

CAMPBELL, CARR, BERGE
& SHERIDAN, P. A.

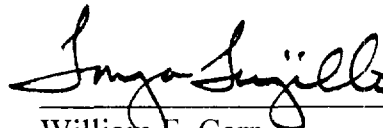
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ATTORNEYS FOR PENWELL
ENERGY, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 1996, I have caused to be hand-delivered a copy of our Response to Motion to Consolidate Pooling Cases and Motion for Continuance in the above-captioned case to:

W. Thomas Kellahin, Esq.
Kellahin & Kellahin
117 North Guadalupe Street
Santa Fe, New Mexico 87501



William F. Carr