

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

IN THE MATTER OF THE APPLICATION
OF McELVAIN OIL & GAS PROPERTIES, INC.
FOR COMPULSORY POOLING
RIO ARRIBA COUNTY, NEW MEXICO

CASE NO. 12635

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OIL CONSERVATION DIV.

RESPONSE TO MOTION FOR CONTINUANCE

McELVAIN OIL & GAS PROPERTIES, INC., the applicant in this matter ("McElvain"), hereby files this response to the request by D.J. Simmons, Inc. for a continuance of this matter until April 19th or May 3rd.

1. McElvain has filed an application with the Division to form a S/2 spacing unit in Section 25, T-25-N, R-3-W for its proposed Naomi Well No. 1 in the SW/4 of said Section 25. Said well is a proposed re-entry in the existing Wynona Well No. 1 for purposes of producing gas from the Mesaverde formation, Blanco-Mesaverde Pool.

2. McElvain first proposed this well to D.J. Simmons and the other interest owners on November 10, 2000. Since that time, McElvain has had numerous telephone conversations with D.J. Simmons about this proposed re-entry but has yet to receive a definitive answer from D.J. Simmons, forcing McElvain to file this application.

3. D.J. Simmons now requests a continuance of the hearing until April 19th or May 3rd because of witness unavailability and an alleged need for more time to evaluate McElvain's proposal.¹ D.J. Simmons has identified two geologists (Lisa Gusek and Jim Hornbeck) and two engineers (John Byrom and Tom Mullins) who apparently are unavailable for the April 5th hearing.

4. McElvain has as a rig scheduled for this project beginning the week of May 7th and will therefore be prejudiced by any unreasonable delay in this matter.

5. However, to accommodate the unavailability of D.J. Simmon's witnesses, McElvain does not oppose a continuance so long as the matter is scheduled for hearing no later than May 3rd and no further continuances are sought by D.J. Simmons.

¹ In this respect, D.J. Simmons appears to take the position that the Division's 20-day notice period set forth in Rule 1207.B. has not provided D.J. Simmons sufficient time to prepare for hearing. That allegation rings hollow since D.J. Simmons has had notice of McElvain's proposed re-entry since December of 2000 and therefore over 4 months to evaluate that proposal and prepare for this hearing.

6. In addition, because D.J. Simmons requests a continuance in this matter, McElvain will need to request an expedited order once this matter is heard.

Respectfully submitted,

HOLLAND & HART and
CAMPBELL & CARR

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Certificate of Mailing

I hereby certify that a true and correct copy of the foregoing was served by facsimile and mailed to counsel of record on the 2nd day of April, 2001, as follows:

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