

HOLLAND & HART<sup>LLP</sup>



**Michael H. Feldewert**  
Recognized Specialist in the Area of  
Natural Resources -oil and gas law -  
New Mexico Board of Legal  
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October 2, 2008

**VIA HAND DELIVERY**

Mark E. Fesmire, P.E., Director  
Oil Conservation Division  
N.M. Department of Energy,  
Minerals and Natural Resources  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

**Re: Second Document Subpoena  
McElvain Oil & Gas Properties, Inc. - OGRID 22044  
Case No. 14186  
San Juan County, New Mexico**

503 OCT 9 PM 3:00

Dear Mr. Fesimire:

Enclosed is a Second Document Subpoena for the above mentioned cause for issuance. Please contact my office and Ms. Altomare once it has been issued.

Sincerely,



Michael H. Feldewert

MHF  
Enclosure

cc: Mikal Altomare

Holland & Hart<sup>LLP</sup>

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**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**

**SECOND DOCUMENT SUBPOENA**

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 15, 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 \_\_\_\_ day of October, 2008

**NEW MEXICO OIL CONSERVATION DIVISION**

By: \_\_\_\_\_  
Mark E. Fesmire, P.E., Director

**EXHIBIT A**

**TO SECOND DOCUMENT SUBPOENA  
TO NEW MEXICO OIL CONSERVATION DIVISION  
CASE NO. 14186**

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

1. Any file created as a result of Kelly Robert's inspection of Wiedemer #7 and the Wiedemer #6 wells on September 11, 2007, including any photos, statements, notes, reports or other documents generated as a result of that inspection.
2. The District III file containing NOV 3-08-02 for the Wiedemer wells.
3. The District III file containing NOV 3-07-15 for the Amacker well.
4. The District III file containing any notes or other documents generated as a result of the May 30, 2007 administrative conference on the Amacker well referenced in the Division's Pre-Hearing Statement.

**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.