

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

**IN THE MATTER OF THE APPLICATION
OF BP AMERICA PRODUCTION COMPANY
FOR SURFACE COMMINGLING, EDDY
COUNTY, NEW MEXICO**

CASE NO. 12967

**IN THE MATTER OF THE APPLICATION
OF BP AMERICA PRODUCTION COMPANY
FOR SURFACE COMMINGLING, EDDY
COUNTY, NEW MEXICO**

CASE NO. 12968

FILED
10/11/07
10:00 AM
EDDY COUNTY
NEW MEXICO

APPLICANT'S PRE-HEARING STATEMENT

Applicant hereby submits this Pre-Hearing Statement.

APPEARANCES

APPLICANT

BP America Production Company
Permian Business Unit
P.O. Box 1089
Eunice, NM 88231

ATTORNEY

Michael H. Feldewert, Esq.
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P. O. Box 2208
Santa Fe, NM 87504-2208
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OPPONENT

Trilogy Operating, Inc.
P. O. Box 7606
Midland, TX 79708
Attn: Jerry Weant
(925) 686-2027

OPPONENT'S ATTORNEY

James Bruce
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APPLICANT'S STATEMENT OF CASE

The above style causes arise out of objections filed by Trilogy Operating Inc. ("Trilogy") and Avalon Oil Company ("Avalon") to two administrative applications filed by the applicant seeking to cancel surface commingling permit Nos. PLC-184 and CTB-527, reconfigure the surface commingling of production from the 14 previously approved wells, and to add the production of two additional wells to the previously approved surface commingling. Applicant's administrative applications were filed with the Division on September 24, 2002, and objections were filed by Trilogy and Avalon on October 8, 2002.

Case No. 12967 addresses applicant's request to add the B&C 25 Federal #3 to the following seven (7) wells previously approved by the Division for surface commingling:

- Crooked Canyon 35 Federal #1 – Little Box Canyon (Morrow) Pool
- Leggett Federal #1 – Indian Loafer Draw (Upper Penn) Pool
- Little Box State #3 – Little Box Canyon (Morrow) Pool
- B&C Federal #1 – Little Box Canyon (Morrow) Pool
- Jaguar 26 Federal #1 – Strychnine Draw (Atoka/Strawn) Pools
- B&C 25 Federal #2A – Little Box Canyon (Morrow) Pool
- Little Box

Avalon filed an objection to this application.

Case No. 12968 addresses applicant's request to add the Little Box State #6 to the following seven (7) wells previously approved by the Division for surface commingling:

- Sweet Thing Federal #2 – Little Box Canyon (Morrow) Pool
- Sweet Thing Federal #1 – Little Box Canyon (Morrow) Pool
- Nasser Federal #1 – Little Box Canyon (Morrow) Pool
- Nasser Federal #1 – Indian Loafer Draw-Upper Pennsylvanian Pool
- Hilltop Federal #1 - Indian Loafer Draw-Upper Pennsylvanian Pool
- Sweet Thing 36 State #2 - - Indian Loafer Draw-Upper Penn. Pool
- Little Box State #4 - Indian Loafer Draw-Upper Penn. Pool

Trilogy filed an objection to this application.

APPLICANT'S PROPOSED EVIDENCE

| WITNESS (Name and Expertise) | ESTIMATED TIME | EXHIBITS |
|---------------------------------|--------------------|------------|
| Robert Manthei | Approx. 30 minutes | Approx. 10 |

PROCEDURAL MATTERS

Attorney Tom Kellahin filed Trilogy and Avalon's October 8th objections to applicant's administrative applications and the matter was initially set by the Division for the November 14th docket. By letter to the Division dated November 12th, attorney James Bruce requested a continuance of these matters to the December 5th Examiner hearing on behalf of Trilogy alone. In the December 5th letter, Trilogy agreed to provide an early pre-hearing statement to applicant's counsel in order to outline the basis for its objections. On November 20th, Trilogy filed its pre-hearing statement with the Division and attached an audit report that purports to set out the basis for Trilogy's objections.

On or about December 2nd, Trilogy filed an Entry of Appearance And Substitution of Counsel in both matters. By letter dated December 2nd from attorney Paul Owen, Trilogy requests another continuance of both matters. Applicant objects to this request.

Trilogy is not a party to and did not file an objection to Case No. 12967. Therefore it is not clear why Trilogy has entered an appearance and seeks to continue this case. With respect to Case No. 12968, Trilogy is a proper party, but applicant objects to its request for yet another continuance. Over two months has passed since

applicant sought approval of its application. Trilogy has already received one continuance from the Division and has provided the Division with the basis for its objection. Applicant is prepared to address those objections at the December 5th hearing date. There is no just cause to delay this matter further.

Applicant intends to consolidate these cases for the purpose of presenting testimony to the Division.

Respectfully submitted,

HOLLAND & HART, LLP

By:



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Attorneys for McElvain Oil & Gas Properties, Inc.

CERTIFICATE OF SERVICE

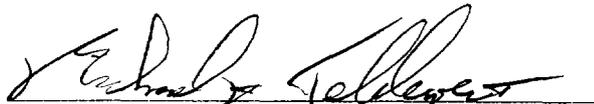
I certify that on December 3, 2002 I served a copy of the foregoing document to the following by

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| <input type="checkbox"/> | U.S. Mail, postage prepaid |
| <input type="checkbox"/> | Hand Delivery |
| <input checked="" type="checkbox"/> | Fax |

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