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April 3, 2013

Richard Ezeanyim
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Case No. 14962/Marshall & Winston, Inc.

Dear Mr. Ezeanyim:

Marshall & Winston requests that you rescind the e-mail decision you sent out late yesterday.

In that decision, you continued the case for 4 weeks to "allow Endurance to file a competing action." Sorry, but Endurance has already had sufficient time, as noted below:

1. Marshall & Winston sent out its initial well proposal in August 2012. Endurance had 6 months to file a competing action. It did not do so.
2. This matter was heard on March 7th. Over Marshall & Winston's objection, the case was continued to March 21st, in part to allow Endurance to file a competing action. It did not do so.
3. Endurance requested, and Marshall & Winston voluntarily agreed to, a continuance to April 4th. Endurance again did not file a competing action.¹
4. Now the Division unilaterally gives weeks more time to file a case which Endurance apparently does not want to file. Its not the Division's job to manufacture litigation.

¹ If Endurance does indeed file a competing action, the case would have to be continued for 6 weeks, not 4, because yesterday was the filing deadline for the May 2nd hearing, and no case was filed.

Neither party has requested a continuance, and the deadline for doing so was yesterday morning. The case should not be continued again. If the Division wants to hear Endurance's witnesses, so be it. But, the time for Endurance to file its own case, or to request a continuance, has passed.

I hate to even bring this up, but if the case is continued *yet again*, it should be continued for 2 weeks only, rather than 6 weeks, to see if Endurance files an application. Better yet, the Division should have asked Endurance beforehand if it wanted to file a pooling application.

I also note that I just saw your e-mail early this morning. I have been unable to contact my witness because he is on his way to Santa Fe.

Again, Marshall & Winston asks that the decision be rescinded in the next hour.

Very truly yours,

A handwritten signature in dark ink, appearing to read "James Bruce", written over the typed name.

James Bruce

Attorney for Marshall & Winston, Inc.