

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. 12,635

OIL CONSERVATION DIV.  
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**MOTION FOR CONTINUANCE**

D.J. Simmons, Inc., through its counsel of record, Miller, Stratvert & Torgerson, P.A. (J. Scott Hall), moves that the Division continue the hearing on the application in this case now set for April 5, 2001, to the Examiner hearing docket scheduled for April 19, 2001. Alternatively, in view of the significant number of contested cases expected to be heard on April 19<sup>th</sup>, it is requested that hearing on the matter be rescheduled to May 3, 2001. In support, D. J. Simmons, Inc. states:

1. As reflected in the attached Affidavit of John Byrom, Vice-President and Operations Manager for D. J. Simmons, Inc., Simmons owns working interests in the SE/4 of Section 25, T-25-N, R-3-W, NMPM which McElvain seeks to have force-pooled into its proposed Mesa Verde formation re-entry. The S/2 spacing and proration unit McElvain proposes to dedicate to its well conflicts with the plans of D. J. Simmons to develop the E/2 of said Section 25 for two West Lindrith-Gallup-Dakota, Blanco-Mesa Verde dual completion wells to be located at standard locations in the NE/4 and the SE/4 of the section. D.J. Simmons owns working interests in both the NE/4 and the SE/4 of Section 25.

2. For among other reasons, D. J. Simmons also opposes the compulsory pooling of the S/2 of Section 25 for a Mesa Verde formation well on geologic and engineering grounds.
3. D. J. Simmons has retained the services of a reservoir engineer as well as a geologist to evaluate the McElvain proposal. Both the consulting petroleum engineer and the geologist will present substantive and material testimony and other evidence that will assist the Examiner's consideration of the Application. Those expert witnesses, however, are presently out of town or are otherwise unavailable to attend the hearing set for April 5<sup>th</sup>. (See Affidavit of John Byrom, attached.)
4. In addition, the consulting experts will not have had an adequate opportunity to prepare for a hearing on April 5<sup>th</sup> in any event. In this regard, it is noted that McElvain made only minimal compliance with the Division's procedural requirement for applications to be filed twenty-three days in advance of the hearing. Here, the application was only filed on March 13, late in the afternoon. The Application was subsequently mailed on March 15<sup>th</sup>, and not received by D. J. Simmons until March 19, 2001, just a few days ago.
5. It is our view that this case cannot be fully and properly evaluated by the Division without the testimony of the expert witnesses. It is also necessary that the witnesses be afforded an adequate opportunity to prepare.
6. No known prejudice will result to the Applicant from a continuance.
7. Concurrence for a continuance was requested of Applicant's counsel, but, as of this date, it is not known whether the Applicant is agreeable.

8. D.J. Simmons requests this matter be continued to the April 19<sup>th</sup> Examiner hearing docket. However, in view of the number of contested cases that are expected to be heard on that docket, D.J. Simmons alternatively requests that the matter be continued to the May 3, 2001 Examiner docket.

Respectfully submitted,

MILLER, STRATVERT & TORGERSON, P.A.

By



J. Scott Hall  
Attorneys for D. J. Simmons, Inc.  
Post Office Box 1986  
Santa Fe, New Mexico 87504-1986  
(505) 989-9614

**Certificate of Mailing**

I hereby certify that a true and correct copy of the foregoing was ~~mailed~~ <sup>faxed</sup> to counsel of record on the 29 day of March, 2001, as follows:

William F. Carr, Esq.  
P.O. Box 2208  
Santa Fe, New Mexico 87504



J. Scott Hall

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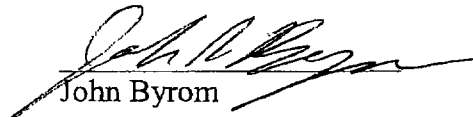
**AFFIDAVIT OF JOHN BYROM**

JOHN BYROM, being duly sworn, states:

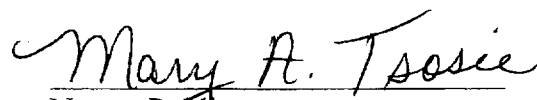
1. I am the age of majority and am otherwise qualified to testify to the matters set forth herein.
2. I am Vice-President and Operations Manager for D.J. Simmons, Inc. at its Farmington, New Mexico office. I am familiar with the subject matter of the Application for Compulsory Pooling filed by McElvain Oil and Gas Properties, Inc. in Case No. 12635 whereby McElvain seeks to force pool interests in the S/2 of Section 25, T-25-N, R-3-W, NMPM in Rio Arriba County, New Mexico.
3. D.J. Simmons, Inc. owns oil and gas leasehold working interests located in the NE/4 of Section 25 and in the SE/4 of said Section 25 sought to be force-pooled by McElvain.
4. D.J. Simmons, Inc. is opposed the McElvain compulsory pooling application for, among other reasons, the proposed S/2 spacing and proration unit for a Mesa Verde formation well overlaps and is in conflict with the plans of D.J. Simmons to develop the E/2 of said Section 25 for West Lindrith-Gallup-

Dakota, Blanco-Mesa Verde dual completion wells to be located at standard location in the NE/4 and the SE/4 in the same section.

5. D.J. Simmons, Inc. has retained the services of Tom Mullins, a consulting reservoir engineer and Jim Hornbeck, a consulting geologist, to evaluate the McElvain well proposal and to render testimony on the propriety thereof at the NMOCD hearing on the compulsory pooling application.
6. Mr. Hornbeck is presently out of town and will not have adequate time to prepare to render testimony at the scheduled hearing on April 5, 2001.
7. Mr. Mullins has a previously scheduled out-of-town obligation that prevents him from attending the hearing on April 5<sup>th</sup>.
8. It is my view that the testimony of both Mr. Hornbeck and Mr. Mullins will significantly and materially assist the Examiner's consideration of the McElvain application.

  
John Byrom

SUBSCRIBED AND SWORN to before me this 29 day of March, 2001.

  
Notary Public  
State of NM  
County of San Juan

My Commission Expires:

6/17/2003

