

OIL CONSERVATION DIV.
STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION - 5 JUL 9:12

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

CASE NO. 12691

PROTEST OF APPLICATION

NOSECO Corporation ("NOSECO"), Johansen Energy Partnership, Neumann Family Trust ("Neumann"), and Gavilan Dome Properties ("Protestors") hereby protest the above-referenced Application of McElvain Oil & Gas Properties, Inc. ("Applicant") for the following reasons:

1. The property which is covered by the Application, the S/2 of Section 32, T26N, R2W ("the Property") and the Cougar Com 32 No. 2 Well ("Well") are the subject of a lawsuit now pending in Santa Fe District Court, T.H. McElvain Oil & Gas Limited Partnership ("McElvain") v. Peter C. Neumann, individually, Neumann Family Trust, and NOSECO Corporation; No. D-0101- CV-01-815. A true and correct copy of the Complaint is attached hereto as Attachment 1.

2. The Santa Fe District Court has asserted jurisdiction over the Property and the Well at the request of McElvain, the Plaintiff in that case. The Applicant is the sole general partner of McElvain. It is not Applicant, but rather McElvain, who is the purported working interest owner in the Property and Well, which are the subject of this Application. McElvain's and Applicant's interests in this Application and the pending lawsuit are one and the same.

3. The Protestors own substantial working interests in the Property and Well. McElvain alleges in its lawsuit that it has “exclusive” rights to drill the Well on the Property and, accordingly, that NOSECO and Neumann would have no legal right to drill and complete a well upon the Property. McElvain also alleges that NOSECO and Neumann have breached a contract by refusing to agree that McElvain should drill the well. McElvain seeks to have the District Court enforce its allegations and to, in effect, prevent NOSECO and Neumann, as working interest owners in the Property and Well, from exercising their statutory rights under N.M.S.A. 1978 § 70-2-17(C); while at the same time McElvain (through Applicant) is proceeding with this Application. NOSECO and Neumann should not have to risk adverse legal consequences with respect to McElvain’s claims in the lawsuit as the price for exercising exercise their rights under the rules and regulations of the Commission in this Application proceeding.

4. McElvain’s lawsuit seeks enforcement of an alleged farm-in agreement in which McElvain claims a right to acquire the working interests of NOSECO and Neumann by drilling and completing the Cougar Com 32 No. 2 Well. By proceeding with the drilling and completion of the Well, McElvain is attempting to change the status quo of the properties covered by the lawsuit during its pendency. In this regard, NOSECO and Neumann have filed an Application for Preliminary Injunction in the lawsuit, which the District Court has not yet heard or ruled upon. A true and correct copy of the Application for Preliminary Injunction and Request for Expedited Hearing are attached hereto as Attachment 2.

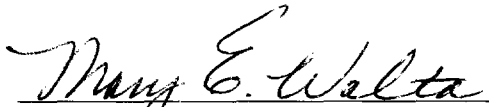
5. McElvain’s claims in the District Court lawsuit impair the rights of NOSECO and Neumann to fully participate in the proceedings related to this Application and their statutory rights as working interest owners.

6. It is not possible for the Hearing Officer to proceed with this Application without affecting the pending lawsuit. Decisions made by the Hearing Officer will alter the status quo of the properties and the parties covered by the lawsuit. Proceeding with the Application will preempt the District Court's ruling on the pending Application for Preliminary Injunction.

7. The Hearing Officer should delay any hearing on the Application until the District Court has decided the respective rights and obligations of McElvain, Neumann and NOSECO with respect to the Property and the Well.

Respectfully submitted,

WHITE, KOCH, KELLY & McCARTHY, P.A.

By: 

MARY E. WALTA

Attorneys for Protestors

Post Office Box 787

Santa Fe, New Mexico 87504-0787

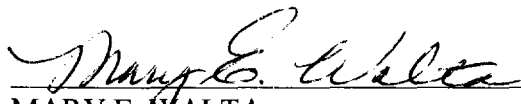
(505) 982-4374

Facsimile (505) 984-8631

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "*Protest to Application*" was mailed to the following counsel of record on this 5th day of July, 2001:

Michael H. Feldewert, Esq.
Holland & Hart, LLP and
Campbell & Carr
Post Office Box 2208
Santa Fe, NM 87504-2208


MARY E. WALTA

ad

FIRST JUDICIAL
DISTRICT COURT

01 APR -2 PM 3:00

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF RIO ARriba

T.H. McELVAIN OIL & GAS LIMITED
PARTNERSHIP,

Plaintiff,

v.

PETER C. NEUMANN, individually,
NEUMANN FAMILY TRUST, and
NOSECO CORPORATION,

Defendants.

Civil Action No. D-0107-CV2001-815.

James A. Hall

COMPLAINT FOR DECLARATORY RELIEF
AND DAMAGES

T.H McElvain Oil & Gas Limited Partnership ("McElvain"), for its complaint against defendants Peter C. Neumann, Neumann Family Trust and Noseco Corporation (collectively, the "Defendants"), states as follows:

THE PARTIES and VENUE

1. McElvain is a limited partnership, organized and existing under the laws of the State of New Mexico.
2. Peter C. Neumann is an attorney, and upon information and belief, resides in or near Reno, Nevada.
3. Neumann Family Trust is a trust. Upon information and belief, Peter C. Neumann is trustee of the trust.

4. Noseco Corporation is a corporation, organized and existing under the laws of the state of Nevada.

5. Venue is proper in this Court pursuant to NMSA 1978, Section 38-3-1, since this is an action affecting interests in real property in Rio Arriba County, New Mexico, the contract sued upon is to be performed in Rio Arriba County, New Mexico, and the Defendants have engaged in business in Rio Arriba County, New Mexico.

GENERAL ALLEGATIONS

6. In this action McElvain seeks to resolve conflicts between itself and the Defendants regarding the rights, obligations and conduct of the parties under a Farmout Agreement, dated December 5, 2000 (the "Agreement"). A copy of the Agreement is attached hereto as Exhibit 1. Pursuant to the Agreement, the Defendants granted the exclusive right to McElvain to perform Defendants' obligations under certain oil and gas leases of properties located in Rio Arriba County, New Mexico, as identified in Exhibit A, attached to the Agreement (the "Leases"). By performing these obligations, McElvain will acquire Defendants' rights under the Leases, subject to certain rights in favor of Defendants.

7. The Defendants executed the Agreement on February 15, 2001.

8. The Agreement is a valid contract and is binding against the Defendants.

9. Defendants have advised McElvain that they do not consider themselves bound by the Agreement and will not perform their obligations or allow McElvain to realize the benefits McElvain bargained for thereunder.

10. More specifically, the Defendants deny McElvain has, under the Agreement, the exclusive right to perform certain duties and thus acquire Defendants' rights in the Leases and have advised McElvain that Defendants will not permit McElvain to drill on portions of the lands which, under the Agreement, McElvain is legally entitled to drill upon.

11. The Defendants also contend that McElvain will be exposed to liability for allegedly interfering with Defendants attempts to sell rights in the Leases which conflict with McElvain's rights.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment)

12. McElvain incorporates by reference paragraphs 1 through 11 of this Complaint.

13. An actual and justiciable case or controversy exists between McElvain and the Defendants regarding the parties' respective rights and obligations under the Agreement and related rights in the Leases.

14. The issues presented by this Complaint are ripe for determination. Defendants' wrongful conduct is continuing to occur, and there is a substantial and imminent prospect of continuing litigation as a result.

15. The relief requested will settle the controversy between the parties and will result in a just and more expeditious and economical determination of the controversy between the parties.

16. McElvain is entitled to a declaration of the legal rights and obligations of McElvain and the Defendants under the Agreement and a determination that (i) the Agreement is a valid, binding contract and enforceable against the Defendants, (ii) Defendants have failed and

refused to perform their duties under the Agreement, (iii) the Defendants have no defenses for their breaches of the Agreement and (iv) McElvain has the exclusive right to perform obligations and acquire Defendants' rights in the Leases, as prescribed in the Agreement.

17. All conditions precedent to McElvain's right to bring and maintain this claim have occurred or otherwise been satisfied.

SECOND CLAIM FOR RELIEF
(Breach of Contract)

18. McElvain incorporates by reference paragraphs 1 through 17 of this Complaint.

19. The Defendants have materially breached the Agreement by their conduct as described herein, by among other things, denying McElvain the benefits for which it bargained in entering into the Agreement, refusing to allow McElvain to drill upon properties to which it is entitled to drill and attempting to sell rights in the Leases free of McElvain's rights and interests under the agreement.

20. As a direct result of the Defendants' breaches, McElvain has been damaged in an amount to be proven at trial.

21. All conditions precedent to McElvain's right to bring and maintain this claim have occurred or otherwise been satisfied.

WHEREFORE, McElvain respectfully requests this Court to enter judgment for McElvain and against Defendants as follows:

A. Declaring that (i) the Agreement is a valid, binding contract and enforceable against the Defendants, (ii) Defendants have failed and refused to perform their duties under the Agreement, (iii) the Defendants have no defenses for their

breaches of the Agreement and (iv) McElvain has the exclusive right to perform certain obligations and acquire Defendants' rights in the Leases, as prescribed in the Agreement.

B. Awarding McElvain money damages, jointly and severally, against the Defendants, for Defendants' breaches of the Agreement, along with pre-judgment and post-judgment interest, costs and attorneys' fees, to the full extent permitted by law.

D. Grant such other and further relief as the Court deems proper.

Dated this 2 day of April, 2000.

HOLLAND & HART LLP

And

CAMPBELL & CARR

By: 

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Attorneys for T.H. McElvain Oil & Gas
Limited Partnership

T. H. McELVAIN OIL & GAS LIMITED PARTNERSHIP
McElvain Oil & Gas Properties, Inc., Sole General Partner

1060 17TH STREET, SUITE 1800
DENVER, COLORADO 80265

RONALD BROWN, CTE
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e-mail: ronb@mcelvainoilgas.com

TELEPHONE 303-893-0523 EXT. 304
FAX 303-893-0914
Cable 303-809-5058

December 5, 2000

Noseco Corporation
7400 Lakeside Drive
Reno, Nevada 89511

Peter C. Neumann, Trustee
Neumann Family Trust
One Elm Court Street
Reno, Nevada 89501

Re: Proposed Farmout Agreement
Linderoth Area
Rio Arriba County, New Mexico

Gentlemen:

The purpose of this letter is set forth the terms of an offer from T. H. McElvain Oil & Gas Limited Partnership ("McElvain") to farmout the oil and gas interests owned or controlled by Noseco Corporation, Neumann Family Trust, Gavilan Dome Properties, a California limited partnership and Johnson Energy Partnership, a Texas general partnership or their principals or affiliates (collectively referred to as "NOSECO") located within an area further described below. The general terms offered herein are described below in outline form as follows:

I. Definitions

"*Leasehold Interest*" shall mean any oil and gas leasehold working interest now owned or controlled by NOSECO or to which NOSECO is contractually entitled to in and under the lands committed to this Agreement, excluding any overriding royalty or mineral interest.

"*Spacing Unit*" shall mean the governmentally regulated spacing proration unit for a formation.

"*Existing Wells*" shall mean the wells described on Exhibit "A" as "Existing Wells" which are McElvain operated wells currently producing or are completed and capable of producing.

"*Test Wells*" shall mean the wells described on Exhibit "A" as "Test Wells" which are wells that have been drilled and are waiting on completion, are being drilled, or plan to be drilled in the near future by McElvain under which McElvain has previously obtained compulsory pooling approval from NMOCD.

"*Option Wells*" shall have the meaning ascribed to it in IV. below.

"Payout" shall have the meaning ascribed in II, below.

"Orders" shall mean the certain New Mexico Oil and Gas Conservation Division Compulsory Pooling Orders described in Exhibit "A" hereto.

"Reserved Override" shall be an overriding royalty interest reserved by NOSECO hereunder in an amount equal to the difference between lease burdens existing against the interest of NOSECO assigned to McElvain hereunder and twenty-three percent (23%), not to exceed a proportionate four and one-half percent (4.5%)

"Infill Wells" shall mean any well located within a Spacing Unit for an Existing Well drilled or completed subsequent to the effective date of this Agreement.

"Title Defect" shall be any defect in the chain of title to NOSECO Leasehold Interest, including, without limitation, a prior contractual arrangement or obligation, whether such arrangement is of public record or not, which may, in the reasonable opinion of a prudent operator, materially affect the right of a successor to such NOSECO Leasehold Interest to receive the revenue and benefits associated therewith.

"Title Opinion" shall mean an opinion of a licensed attorney qualified to provide legal advice to oil and gas industry in the State of New Mexico, which covers title to oil and gas Leasehold Interest of NOSECO underlying any of the lands committed to this Agreement. A Title Opinion (as used herein) may be limited to only specific portions or Leasehold Interests of NOSECO, or a well, or a Spacing Unit, or a tract of land, or a formation.

II. Existing Wells

- NOSECO Leasehold Interest under the Spacing Unit for the Existing Wells has been force pooled under the respective Orders represented on Exhibit "A"
- McElvain shall relinquish its right to recovery of revenue amounts described in the Orders as to production from the Existing Wells (300%) from the formations subject to said Orders in lieu of recovery of only one half of such amounts (150%) as "Payout"
- NOSECO shall deliver to McElvain an assignment of 100% of its Leasehold Interest in and under the Spacing Unit for each of the Existing Wells subject to a reservation by NOSECO of the Reserved Override
- Reserved Override shall be due and payable against production as follows:
 - Existing Wells
 - From formations subject to Orders - Reserved Override payable at Payout, on a well by well basis
 - From formations not subject to Orders - Reserved Override payable at date of first production
 - Infill Wells
 - Reserved Override shall be due and payable at date of first production

III. Test Wells

- NOSECO Leasehold Interest under the Spacing Unit for some or all of the Test Wells has been force pooled under the respective Orders represented on Exhibit "A"
- McElvain shall relinquish its right to recovery of revenue amounts described in the Orders as to production from the Test Wells (300%) from the formations subject to said Orders in lieu of receipt of assignment described next below
- Upon completion or plugging and abandonment of a Test Well (or at closing of this Agreement if Test Well(s) have been completed) NOSECO shall deliver to McElvain an assignment of 100% of its Leasehold Interest in and under the Spacing Unit for each of the Test Wells subject to a reservation by NOSECO of the Reserved Override
- Reserved Override shall be due and payable at date of first production from Test Well(s) as to all formations under which Reserved Override was retained

IV. Option Wells

- McElvain shall have the option, but not the obligation, to commence the drilling of additional test wells on Option Lands or on lands which would include a portion of the Option Lands within a Spacing Unit to earn NOSECO Leasehold Interest as described in this IV. herein ("Option Wells").
- McElvain shall notify NOSECO of each Option Well prior to commencement thereof
- McElvain shall drill each Option Well to a depth sufficient to test the Mesaverde formation, at minimum, but may, at its option drill same to a depth sufficient to test the Dakota formation
- McElvain shall drill no less than three Option Wells each year during the term of this Agreement (a year being a 365 day period beginning with effective date of this Agreement)
- Upon completion, or plugging and abandonment of an Option Well, NOSECO shall deliver to McElvain an assignment of 100% of its Leasehold Interest in and under the respective Section containing each Option Well drilled subject to a reservation by NOSECO of the Reserved Override
- Reserved Override shall be due and payable at date of first production from Option Well(s) as to all formations under which Reserved Override was retained
- Upon expiration or termination of this Agreement McElvain shall relinquish and reassign to NOSECO all Option Lands which had previously been earned by and assigned to McElvain hereunder which are then not included within a Spacing Unit for a well drilled hereunder which is capable of producing oil or gas hydrocarbons in commercial quantities.

V. Title

- McElvain shall have the right to suspend revenues attributable to any portion of the Reserved Override which burdens any Leasehold Interest of NOSECO (or portion thereof) affected by a Title Defect as described under a Title Opinion covering such Leasehold Interest (or portion thereof).
- McElvain shall notify NOSECO in writing of its intent to suspend revenues and allow NOSECO reasonable period of time in which to cure (or assist McElvain in curing) the applicable Title Defect.

- Upon receipt of evidence a Title Defect is cured (to McElvain's satisfaction or as required under a Title Opinion) all revenues suspended as a result of such Title Defect shall be released and remitted to NOSECO
- NOSECO shall use its best effort to assist McElvain in its attempt to cure title to NOSECO Leasehold Interest committed hereto. NOSECO's best efforts shall include, without limitation, providing all materials in its possession which affirm or relate to the NOSECO rights committed to this Agreement and which are not restricted by contractual limitations.
- Cost to secure Title Opinions shall be borne by McElvain and, if applicable, shall be included in the cost to be recovered in reaching "Payout" as defined above

VI. Miscellaneous

- Existing NOSECO Wells/Production - This Agreement shall ~~exclude specifically~~ any well or oil and gas production to which NOSECO currently owns, controls or is entitled to all or a portion of as of the date of this Agreement. It is not the intent of this Agreement for McElvain to assume any interest of NOSECO under any oil and gas well (whether producing or not) which exists as of the date of this Agreement and which is not operated by McElvain Oil & Gas Properties, Inc., or any production obtained from any such oil and gas well(s).
- Depth Limitations. Assignments delivered hereunder shall be limited to cover only those depths from the surface to the total depth of the respective well which earns such assignment(s).
- Partner Approvals. Terms hereunder are offered by McElvain as it affects existing interests of NOSECO under Orders are subject to approval and acceptance of all parties who had joined McElvain in the assumption of the obligations and rights of NOSECO force pooled under such Orders. Such other parties represent an average of approximately 30%-33% of the NOSECO interests assumed. The portion of all affected interests owned or controlled by McElvain shall remain committed hereunder whether the terms are accepted or approved by all, some or none of such other parties.
- Term. This Agreement shall remain in force and effect for a term of four (4) years, or so long as the obligations of McElvain to drill Option Wells is met, as provided.
- NOSECO Partners. NOSECO agrees to use its best efforts to secure joinder by the joint leasehold owners under the oil and gas leases committed by NOSECO hereunder who received interests through arrangements with NOSECO or Mesa Grande Resources, Inc.
- Indemnification. NOSECO agrees to indemnify and hold McElvain, its successors and assigns harmless from any liability resulting from actions, operations, or conduct incurred for performed or entered into by NOSECO prior to the date of this Agreement which may affect the Leasehold Interests assumed or assigned to McElvain hereunder, including, without limitation contractual obligations not performed or not completed.
- Prior Agreements. It is understood that this Agreement supersedes and replace all prior agreements between the parties as to assumption of rights and duties for drilling, completing and producing wells and the earning of interests under the lands committed hereto.

If you are in agreement to the above terms and conditions as represented herein, please sign in the space provided below and return one copy of this letter to the undersigned at your earliest possible convenience. Negotiated terms of this offer is subject to final McElvain management approval and may be withdrawn at McElvain's option upon delivery of written notice to NOSECO prior to acceptance by NOSECO. This offer shall expire as of the close of business on December 20, 2000 if prior written acceptance hereof by NOSECO is not delivered to McElvain.

Please feel free to call to discuss these terms further, if necessary, or if you have any questions concerning the above or attached. We certainly look forward to final conclusion of a farmout arrangement with your firm in the very near future. Thank you for your consideration and support of this request.

Very truly yours,

T. H. McELVAIN OIL & GAS LIMITED PARTNERSHIP
By McElvain Oil & Gas Properties, Inc., Sole General Partner

Mona L. Binion
Mona L. Binion, CPL
Land Manager

MLB/adi

AGREED AND ACCEPTED THIS 15th DAY OF February, 2001

NOSECO CORPORATION
President

BY: *Harold H. Hansen*
(Title)

GAVILAN DOME PROPERTIES
a California limited partnership

BY: _____
(Title)

NEUMANN FAMILY TRUST

BY: *Pete C. Neumann*
Trustee (Title)

JOHANSEN ENERGY PARTNERSHIP
a Texas general partnership

BY: _____
(Title)

EXHIBIT "A"

Attached to and made a part of that certain Farnout Offer Letter dated December 5, 2000 from T. H. McElvain Oil & Gas Limited Partnership to NOSECO Corporation, et al.

Existing Wells

Cougar Com #4-1 Well	T25N-R2W, Section 4: NE/4 Mesaverde Test - Producing
Cougar Com #23-1 Well	T25N-R2W, Section 33: SE/4 Dakota / Mesaverde Test Completed in both - to be commingled
Elk Com #1	T25N-R2W, Section 3: SW/4 Mesaverde Test - Producing
Elk Com #1A	T25N-R2W, Section 3: NW/4 Mesaverde Test - Producing
Bear Com #29-1	T26N-R2W, Section 29: SE/4 Dakota / Mesaverde Test Completed in Dakota To be completed in Mesaverde and commingled
Cougar Com #4-2 Well	T25N-R2W, Section 4: NW/4 Dakota / Mesaverde Test Drilled and logged, waiting on completion

Test Wells

Cougar Com #4-1A Well	T25N-R2W, Section 4: SE/4 Mesaverde Test - re-entry Dakota to be tested later Moving on location
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Option Lands

Township 25 North, Range 2 West
Sections 1-36
Township 25 North, Range 3 West
Sections 1-36
Township 26 North, Range 2 West
Sections 12-36

**FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO**

No. D-0101-CV-01-815

**T.H. McELVAIN OIL & GAS LIMITED
PARTNERSHIP,**

Plaintiff,

vs.

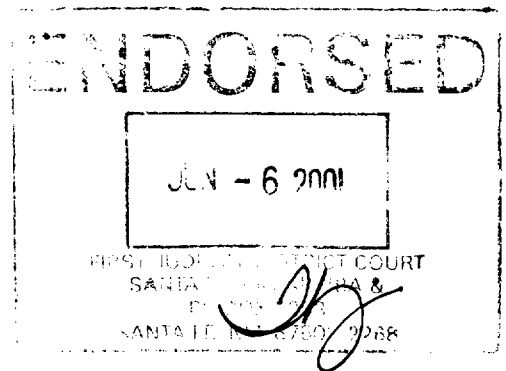
**PETER C. NEUMANN, individually,
NEUMANN FAMILY TRUST, and
NOSECO CORPORATION,**

Defendants.

APPLICATION FOR PRELIMINARY INJUNCTION

The Defendants/Counterclaimants, Peter C. Neumann, individually, Neumann Family Trust and NOSECO Corporation ("Neumann Group"), pursuant to SCRA 1-0-66.A hereby make application to the Court for an order preliminarily enjoining the Plaintiff T.H. McElvain Oil & Gas Limited Partnership ("McElvain") from entering upon the property of the Defendants and drilling and completing oil and gas wells thereon and as grounds therefore states as follows:

1. Plaintiff McElvain commenced this suit against the Neumann Group on April 2, 2001. McElvain asserts that the Neumann Group has entered into a written agreement with McElvain by which McElvain has an option to acquire certain rights in oil and gas properties now owned by them. To its Complaint, McElvain has attached a written document allegedly evidencing its claim of an existing agreement (hereinafter "the Alleged Farmin"). On its face the Alleged Farmin contains an



offer which expired by its terms prior to the date of its purported execution.

2. On May 1, 2001 the Neumann Group filed its Answer and Counterclaim to the Complaint. To further demonstrate the lack of any valid agreement between McElvain and the Neumann Group regarding the matters alleged in the Complaint, the Neumann Group attached an entirely different written agreement executed by them prior to the date of the Alleged Farmin (hereinafter "the Other Farmin"). Furthermore, in their Answer and Counterclaim, the Neumann Group described the circumstances under which McElvain fraudulently obtained their signatures on the Alleged Farmin attached to the Complaint. Finally, the Counterclaim alleges that McElvain has been and is engaged in a course of conduct aimed at interfering with the Neumann Group's sale of its oil and gas interests to a third party.

3. Notwithstanding the pendency of this litigation, on or about April 12, 2001 the Neumann Group received notification from McElvain that it proposed to drill a well designated as the Cougar Com #5-2 Well on Sec. 5, SE/4, T25NR2W in Rio Arriba County, New Mexico and requesting that the working interest owners make an election as whether to participate by payment of their pro rata share of the drilling and completion expenses and to execute an Operating Agreement designating McElvain as the operator of the property. McElvain stated that the estimated amount of these expenses is \$807,335. McElvain further stated that its working interest included those owned by the Neumann Group. Subsequently, on or about May 9, 2001, the Neumann Group received a revised notification as to this same property from McElvain relating to the same proposed well, but "revising" the interests of the parties in the property. True and correct copies of the April 12, 2001 and May 9, 2001 letters are attached hereto as Exhibit A.

4. On April 30, 2001, the Neumann Group received notification from McElvain that it proposed to drill a well designated as the Cougar Com #32-2 Well on Sec. 32, SE/4, T26NR2W in Rio Arriba County, New Mexico and requesting that the working interest owners make an election as to whether to participate by payment of their pro rata share of the drilling and completion expenses and to execute an Operating Agreement designating McElvain as the operator of the property. McElvain stated that the estimated amount of these expenses is \$996,640. McElvain further stated that its working interest included that owned by the Neumann Group. A true and correct copy of the April 30, 2001 letter is attached hereto as Exhibit B.

5. With respect to the wells which McElvain has now proposed to drill, McElvain is proceeding with operations under the Alleged Farmin, even though the validity of such agreement and McElvain's rights to drill are in dispute. Based upon the information contained in the April 12, 2001 letter, McElvain will commence its operations "mid year 2001".

6. By McElvain's proposed actions, McElvain will irrevocably impair the property rights of the Neumann Group in the wells and units covered by the April 12th, April 30th and May 9th letters. If McElvain proceeds with the drilling and completion of these wells, the following will occur:

- a. Despite the litigation, McElvain will have decided the location and drilling operations plan for all of the affected acreage, which covers 160 acres for each well. Regardless of the outcome of McElvain's operations, no other working interest owner will be permitted by New Mexico state agency regulations governing oil and gas and existing spacing requirements to drill another well on this acreage.
- b. Despite the litigation, McElvain will have expended in excess of \$1.5 million in

drilling and completing the two wells. McElvain will claim it is entitled in equity to recover these funds if ousted by the Court from this property. The Neumann Group or their successors in interest would be seriously injured if compelled to compensate McElvain in some equitable manner.

c. Despite this litigation, McElvain is committing the Neumann Group to participate in these proposed drilling projects. Even if the Neumann Group prevails in this case and the Court determines that McElvain is not entitled to the Neumann Group's interests, they may nonetheless find themselves as participants in the drilling projects. Consequently, the Neumann Group may be obligated to pay some proportionate share of the drilling expenses or suffer some substantial reduction in the proceeds payable to them for not "opting" to participate. In either event, to burden the Neumann Group's property interests created by such financial obligations will substantially impair future sale of their interests to a third party.

d. Despite this litigation, McElvain will have entered into an operating agreement cover the wells in which McElvain would be the designated operator of the property. Once designated, McElvain may not be subject to removal, creating substantial prejudice to the Neumann Group's pending sale of their interests to a third party.

7. McElvain's efforts to move aggressively forward to claim the fruits of its alleged agreement, while this dispute is pending before the Court is clearly a calculated attempt by McElvain to change the *status quo* of the properties involved and thereby effectively force the results hoped for by filing this lawsuit and asserting title to the Neumann Group's property interests. These are to cloud the

Neumann Group's title to their property, to preclude the sale of those interests to a third party and to compel the Neumann Group to transfer their property interests to McElvain for consideration far less than fair market value.

8. In determining whether to grant injunctive relief, the Court must consider a number of factors and balance the equities and hardships to the parties. Insure New Mexico LLC v. McGonigle, 995 P.2d 1053 (N.M. App. 2000). Among those factors are: 1) the character of the interest to be protected; 2) the relative adequacy of the injunction when compared to other remedies; 3) the interests of third parties; 4) the practicability of granting and enforcing the order; and 5) the relative hardship to result if the petition is either granted or denied. *Id.*

9. The character of the interests which the Neumann Group seeks to protect by this Petition are real property interests. Fullerton v. Kaune, 382 P.2d 529 (N.M. 1963). The Neumann Group is at present in title and possession of these interests. Given the consequences of McElvain proceeding with its drilling projects, injunction is the only adequate remedy. The interests of third party buyers are also affected by McElvain's threatened actions. There are no practical problems to granting and enforcing preliminary injunction. Balancing the relative hardships to the parties, denying injunctive relief would cause undue hardship to the Neumann Group, while granting the injunction would cause minor inconvenience to McElvain.

10. For the reasons set forth above, McElvain should be required to maintain the *status quo* of the disputed properties or the parties' interests in this action during the pendency of the litigation.


11. Additionally, the Neumann Group is entitled to have the Court issue an order

preliminarily enjoining McElvain from causing any change of the *status quo* in the properties or the parties' property interest because a) there is a substantial likelihood of the Neumann Group's success in establishing that there is no farmin agreement because the parties failed to reach any agreement on the material provisions of the farmin agreement, and b) the Neumann Group will be irrevocably and substantially harmed if the status quo is not maintained.

WHEREFORE, for the reasons set forth above, the Neumann Group respectfully requests that the Court issue a preliminary injunction against McElvain to maintain the *status quo* of the properties and the ownership interests of the parties pending judgment in this case and such other and further relief as the Court deems appropriate.

Respectfully submitted,

WHITE, KOCH, KELLY & McCARTHY, P.A.

By: 
MARY E. WALTA

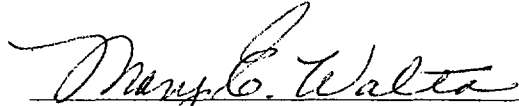
Attorneys for Defendants and
Counterclaimants Peter C. Neumann, Neumann
Family Trust and NOSECO Corporation
Post Office Box 787
Santa Fe, New Mexico 87504-0787
(505) 982-4374
Facsimile (505) 984-8631

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "*Application for Preliminary Injunction*" was mailed to the following counsel of record on this 6th day of June, 2001:

Michael H. Feldewert, Esq.
Holland & Hart, LLP and
Campbell & Carr
Post Office Box 2208
Santa Fe, NM 87504-2208

Thomas C. Bell, Esq.
Davis, Graham & Stubbs, LLP
1550 Seventeenth Street, Suite 500
Denver, CO 80202



Mary E. Walta

\\Wkkmc_server\mary\MW public\Gavilan\MATTER 001 (McElvain v. Neumann & NOSECO)\Pleadings\Application for Preliminary Injunction.doc

NO. 332 P. 2/8

T. H. McElvain Oil & Gas Limited Partnership
McElvain Oil & Gas Properties, Inc., sole General Partner
1050 17th STREET, SUITE 1200
DENVER, COLORADO 80265

MONA L. EDISON, CTE
LAND MANAGER
email: mona@mcelvainoilandgas.com

TELEPHONE 303-893-0933 EXT. 306
FAX 303-893-0914
Cellular 303-809-2088

April 12, 2001

TO WORKING INTEREST OWNERS
(See Attached Addressee List)

Re: Cougar Corn #5-2 Well Proposal
Township 25 North, Range 2 West
Section 5: SE/4
Rio Arriba County, New Mexico

Gentlemen:

McElvain Oil & Gas Properties, Inc., as sole general partner and Operator in behalf of T. H. McElvain Oil & Gas Limited Partnership ("McElvain") hereby proposes the drilling of 6,200' Mesaverde test well to be at a legal location in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico.

The estimated cost to drill and complete the well, as proposed, is \$807,335 which is detailed on the enclosed McElvain Authority for Expenditure dated March 8, 2001. Pursuant to McElvain's review of the records reflects the ownership of the E/2 of Section 5 (Lots 1, 2, S/2NE/4, SE/4) as the dedicated operation unit to be as follows:

T.H. McElvain Oil & GAS Limited Partnership	36.201120% (*)
Mesa Grande Resources, Inc.	22.226185%
Mesa Grande Ltd.	11.863500%
Gavilan Dome Properties	4.690313%
Arriba Company Ltd.	0.624500%
Hooper, Kimball & Williams	8.329999%
Cherokee Operating Co.	7.634567%
Ibex Partnership	3.900622%
Petco Limited	3.900622%
Carolyn Clark Oatman	0.218620%
Warren Clark Trust	0.203369%
Testamentary Trust u/w/o Warren Clark	0.106767%
Premier Operating Co.	0.097816%

* Pending title transfer to T. H. McElvain Oil & Gas Limited Partnership pursuant to individual arrangements with Novaco Corporation 2.691656%, Neumann Family Trust 4.69125%, and M&O Operating Company 16.312599%.

A breakdown of tract ownerships and recap of spacing unit totals is enclosed for your review and information. An Operating Agreement prepared on AAPL Model form 610-1982 to govern operations

EXHIBIT

A

To Working Interest Owners
 Cougar Com #5-2 Well
 April 12, 2001
 Page 2

across the designated spacing unit (E/2 of Section 5) at depths from the base of the Pictured Cliffs formation to the base of the Mesaverde formation has been prepared and is also enclosed herewith for your review and execution.

We request that you review all of the enclosed materials relative to this proposal and proceed as follows:

- Indicate your election regarding participation on the enclosed Election Page, execute both copies in the space provided and return one to the undersigned;
- If your election is to participate, also execute both copies of the enclosed Authorization for Expenditure and return one copy to the undersigned along with a summary of your well reporting requirements (blank form is enclosed for your convenience, if needed);
- Execute the enclosed Operating Agreement and extra signature page thereto, returning the extra signature page fully executed to the undersigned

Telefax copies of the executed documents will be accepted at:

McElvain Oil & Gas Properties, Inc.
 (303) 893-0914
 Attention: Mona L. Binion

provided that original copies are delivered promptly thereafter.

McElvain is an active operator in this currently drilling and completing new wells and re-entering re-completing existing wells as an effort to explore and develop the Mesaverde formation. At this point we have under contract rig(s) and equipment which are adequate to perform the proposed operation, however, this equipment must be kept active in order to maintain contract rights for their use. The proposed test well described herein is scheduled in this program to commence mid year 2001 and in light of the circumstances and in order to avoid additional delays which could arise from weather conditions or sensitive surface restrictions, we respectfully request that you review and respond to this proposal at your earliest possible convenience. If you have any questions concerning this proposal, please feel free to contact the undersigned.

Very truly yours,

T. H. McElvain Oil & Gas Limited Partnership
 By McElvain Oil & Gas Properties, Inc., sole General Partner

Mona L. Binion, CPL
 Land Manager

MLB/idi

Encs.

WORKING INTEREST OWNERS

T.H. McElvain Oil & Gas Limited Partnership
1500 17th Street, Suite 1800
Denver, CO 80265

Mesa Grande Resources, Inc.
1018 Philtower Bldg
Tulsa, OK 74103

Mesa Grande Ltd.
605 S. #2000
Tulsa, OK 74103

Civilian Downe Properties
1420 Cedarwood Drive
Moraga, CA 94556

Amika Company Ltd.
P.O. Box 35304
Tulsa, OK

Hopper, Kimball & Williams
5500 S. Lewis, Suite 301
Tulsa, OK 74103

Chester Operating Co.
1828 Century Park #370
Los Angeles, CA 90067

Ibex Partnership
Box 911
Breckenridge, TX 76424-0911

Peco Limited
Box 911
Breckenridge, TX 76424-0911

Carliya Clark Osman
Drawer 310
Barton, TX 78602

Warren Clark Trust
Box 73
Austin, TX 78767

Testamentary Trust u/w/o Warren Clark
Box 1846
Austin, TX 78700

Premier Operating Co.
P.O. Box 34984
Tulsa, OK 74153-0984

ELECTION PAGE

Cougar Com #5-2 Well
March 29, 2001

YES, I/We do hereby elect to participate in the drilling of the Cougar Com #5-2 Well as a Mesaverde test to be located in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico.

- *execute and return the Operating Agreement signature page*
- *execute and return the Authority for Expenditure*
- *complete and return the well reporting summary or submit your firm's summary*

NO, I/We do hereby elect NOT to participate in the drilling of the Cougar Com #5-2 Well as a Mesaverde test to be located in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico.

As an alternative to participation, I/We hereby offer support to McElvain and the participating parties hereunder the following:

(Please select one of the following if your election is NOT to participate)

_____ I/We hereby offer to farmout my/our working interest in the proposed well on mutually acceptable terms to be negotiated among the parties and, therefore, request a proposal of terms from McElvain; OR,

_____ I/We hereby offer to sell my/our interest in the proposed well as an alternative to participation and hereby request a proposal of sale terms from McElvain; OR,

_____ I/We hereby offer to execute a mutually acceptable Operating Agreement which shall reflect an election against my/our working interest as a non-participating, non-drilling party subject to the penalty provisions contained therein.

Telefax executed documents to

Mona Binion
(303) 893-0914

Mail original executed documents to

Mona Binion
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, CO 80265

—

OT 7000-01

1.11.16 1.11.16

SHAFER NTM

716088E

NO. 332 P. 6/8

WELL NUMBER:
DATE: 4/12/2001
WELL NAME: Cougar Com 3 #2
LOCATION: T25N-R2W SEC. 5 S2/4
COUNTY: RIO ARriba COUNTY
STATE: NEW MEXICO
PROPOSED DEPTH: 6200'
PURPOSE OF AFE: Drill Mesaverde test well

Intangible Drilling Costs: \$310,160
 Tangible Drilling Costs: \$38,430
 Plugging and abandonment cost: \$10,000.00
 Intangible Completion Costs: \$364,360
 Tangible Completion Costs: \$94,406

Facilities
 Land, Geological, Geophysical, Prospect

COMPANY:	T. H. Moehman Oil & Gas Ltd.	WORKING INTEREST:	38.201120%
BY:	By: Moehman Oil & Gas Properties Inc., General Partner	DATE:	
COMPANY:	Mesa Grande Resources	WORKING INTEREST:	22.228165%
BY:		DATE:	
COMPANY:	Gavilan Dome Properties	WORKING INTEREST:	4.890313%
BY:		DATE:	
COMPANY:	Mesa Grande LTD	WORKING INTEREST:	11.868500%
BY:		DATE:	
COMPANY:	Amica Company Ltd.	WORKING INTEREST:	0.024500%
BY:		DATE:	
COMPANY:	Hooper, Kimball & Williams	WORKING INTEREST:	8.329838%
BY:		DATE:	
COMPANY:	Cherokee Operating Co.	WORKING INTEREST:	7.634587%
BY:		DATE:	
COMPANY:	Ibox Partnership	WORKING INTEREST:	3.900822%
BY:		DATE:	
COMPANY:	Palco Limited	WORKING INTEREST:	3.800822%
BY:		DATE:	
COMPANY:	Carolyn Clark Oatman	WORKING INTEREST:	0.218620%
BY:		DATE:	
COMPANY:	Warren Clark Trust	WORKING INTEREST:	0.203369%
BY:		DATE:	
COMPANY:	Testamentary Trust w/w Warren Clark	WORKING INTEREST:	0.108767%
BY:		DATE:	
COMPANY:	Premier Operating Co.	WORKING INTEREST:	0.087816%
BY:		DATE:	
COMPANY:		WORKING INTEREST:	
BY:		DATE:	

100.0000000%

McELVAIN OIL & GAS PROPERTIES
AUTHORITY for EXPENDITURE
 March 8, 2001

Cougar Com 5 #2
 SE/4 Sec. 5 T25N R2W

	DRY HOLE	COMPLETED WELL
Drilling Intangibles		
Title Work & Survey	3,500	3,500
Location, Road, Damages	30,000	30,000
Footage 8200' @ \$23.00/ft	142,800	142,800
Daywork 2 1/2 days @ \$8500/day	21,250	21,250
Air Compressors 5 days @ \$3200/day	16,000	16,000
Water Hauling	7,500	7,500
Rental Equipment	1,800	1,800
Well Logging	20,000	20,000
Drilling Mud	5,500	5,500
Cement & Services..Surface, Intermediate	25,000	25,000
Cement & Services..Plugging	10,000	
Trucking & Labor	10,000	10,000
Overhead & Supervision	15,000	15,000
Misc Costs	12,000	12,000
Contingency		
Total Drilling	320,150	310,150

Completion Intangibles		
Cement & Services..Production Casing		12,500
Completion Unit 20 days @ \$2,500/day		50,000
Logging & Perforating		15,000
Stimulation		180,000
Tool & Tank Rental		27,000
Supervision 20 days @ \$650/day		13,000
Water		25,000
Trucking		5,000
Roustabouts/Labor 7 days @ \$2000/day		14,000
Specialized Tools		4,500
5% Contingency		17,350
Total Completion	0	364,350

Total Intangibles 320,150 674,500

Tangibles		
Casing..Surface 500' 9 5/8" @ \$12.80/ft.	7,880	7,880
Casing..Production 3750' 7" @ \$7.40/ft.	27,750	27,750
Casing..Liner 2450' 4 1/2" @ 3.70/ft		9,055
Liner Hanger		9,500
Float Equipment	1,500	2,500
Tubing..6200' 2 3/8" @ \$2.20/ft.		13,640
Wellhead	1,500	8,500
Artificial Lift		5,500
Tanks & Pits		22,200
Separator		17,500
Line Pipe & Fittings		8,000
Total Tangibles	38,430	132,835

Total Well Cost \$358,580 \$807,335

APPROVALS:

McElvain Oil & Gas Properties, Inc.

Date: 3/9/01

T. H. McElvain Oil & Gas Limited Partnership
McElvain Oil & Gas Properties, Inc., sole General Partner

1050 17th STREET, SUITE 1800
DENVER, COLORADO 80265

RONALD L. BINION, CPL
ATTORNEY
GENERAL MANAGER
Email: monab@mcelvainoilandgas.com

TELEPHONE 303-893-0933

FAX 303-893-0914
Cellular 303-809-2058

May 9, 2001

WORKING INTEREST OWNERS
(See Attached Addressee List)

Re: Revised Division of Interest
Cougar Com #5-2 Well Proposal
Township 25 North, Range 2 West
Section 5: SE/4
Rio Arriba County, New Mexico

Gentlemen:

By letter dated April 13, 2001, McElvain Oil & Gas Properties, Inc., as sole general partner and Operator on behalf of T. H. McElvain Oil & Gas Limited Partnership ("McElvain") proposed the drilling of 6,200' Mesaverde test well to be at a legal location in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico, known as the Cougar Com #5-2 Well. Represented in that proposal was a breakdown of interests of the parties in the E/2 anticipated spacing unit, which was prepared by McElvain from a preliminary check of the records. We have since obtained additional title information which resulted in a change in the resulting combined interest of the parties from what was represented previously. The revised interest are set forth as follows:

T.H. McElvain Oil & Gas Limited Partnership	7.639471% (*)
NM&O Operating Company	12.490000%
Noseco Corporation (or T. H. McElvain Ltd by Farmout)	2.691118% (**)
Neumann Family Trust (or T. H. McElvain Ltd by Farmout)	17.197813% (**)
Premier Operating Co.	3.915101%
Cherokee Operating Co.	0.000000%
Williams Production Company	0.000000% (***)
Mesa Grande Resources, Inc.	27.226185%
Mesa Grande Ltd.	11.865500%
Gavilan Dome Properties	4.690313%
Arriba Company Ltd.	.6245000%
Hooper, Kimball & Williams	8.329999%
Ibex Partnership	3.900622%
Petco Limited	3.900622%
Carolyn Clark Oatman	.218620%
Warren Clark Trust	.203369%
Testamentary Trust u/w/o Warren Clark	.106767%

To Working Interest Owners
Cougar Com #5-2 Well
May 9, 2001
Page 2

* Pending title transfer to T. H. McElvain Oil & Gas Limited Partnership pursuant to individual arrangement with NM&O Operating Company.
* Interest shown subject to title dispute affecting proposed operation which is pending resolution under case filed in District Court of Rio Arriba County, New Mexico.
* *) Uncertainty as to status of entitlement to reversionary rights in favor of Williams Production Company reflected in title chain to one of the subject leases.

A revised breakdown of tract ownerships and recap of spacing unit totals across the designated spacing unit (E/2 of Section 5) at depths from the base of the Pictured Cliffs formation to the base of the Mesaverde formation is enclosed for your review and information. A revised **Operating Agreement** (those parties who previously received the complete Operating are only receiving a revised Exhibit "A" hereto enclosed herewith) and **Authorization for Expenditure** submitted with the original April 13 proposal is also enclosed herewith for those parties who have previously received same.

If you have not previously returned an election regarding participation in the proposed operation, we request that you review all of the enclosed materials relative to this proposal and proceed as follows:

- Indicate your election regarding participation on the enclosed Election Page, execute both copies in the space provided and return one to the undersigned;
- If your election is to participate, also execute both copies of the enclosed Authorization for Expenditure and return one copy to the undersigned along with a summary of your well reporting requirements (blank form is enclosed for your convenience, if needed);
- Execute the enclosed Operating Agreement and extra signature page thereto, returning the extra signature page fully executed to the undersigned

Telefax copies of the executed documents will be accepted at:

McElvain Oil & Gas Properties, Inc.
(303) 893-0914
Attention: Mona L. Binion

provided that original copies are delivered promptly thereafter.

We respectfully request that you review and respond to this proposal at your earliest possible convenience. If you have any question, please feel free to contact the undersigned.

Very truly yours,

T. H. McElvain Oil & Gas Limited Partnership
By McElvain Oil & Gas Properties, Inc., sole General Partner

Mona L. Binion
Mona L. Binion, CPL
Land Manager

MLB/idi
Encls.

WORKING INTEREST OWNERS

Cougar Com #5-2 Well

May 9, 2001

T.H. McElvain Oil & Gas Limited Partnership
1050 17th Street, Suite 1800
Denver, CO 80265

Noseco Corporation
7400 East Murray Drive
Reno, Nevada 89511

Mesa Grande Resources, Inc.
131 Philtower Bldg
Tulsa, OK 74103

Neumann Family Trust
c/o Peter C. Neumann
P. O. Box 1170
Reno, Nevada 89504

Mesa Grande Ltd.
6 East 1st Street, Suite 200
Tulsa, OK 74103

Ibex Partnership
P. O. Box 911
Breckenridge, TX 76424-0911

Gavilan Dome Properties
1800 Cedarwood Drive
Moraga, CA 94556

Petco Limited
P. O. Box 911
Breckenridge, TX 76424-0911

Arrington Company Ltd.
P. O. Box 35304
Tulsa, OK 74153

Carolyn Clark Oatman
Drawer 310
Bastrop, TX 78602

Hodder, Kimball & Williams, Inc.
555 South Lewis, Suite 301
Tulsa, OK 74105

Warren Clark Trust
Box 73
Austin, TX 78767

Williams Production Company
P. O. Box 3102
Tulsa, OK 74101

Testamentary Trust u/w/o Warren Clark
Box 1846
Austin, TX 78767

NMCO Operating Company
6 East 1st Street, Suite 200
Tulsa, OK 74103

Premier Operating Co.
P. O. Box 35984
Tulsa, OK 74153-0984

ELECTION PAGE

Cougar Com #5-2 Well

REVISED May 9, 2001

YES, I/We do hereby elect to participate in the drilling of the Cougar Com #5-2 Well as a Mesaverde test to be located in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico.

- *execute and return the Operating Agreement signature page*
- *execute and return the Authority for Expenditure*
- *complete and return the well reporting summary or submit your firm's summary*

NO, I/We do hereby elect NOT to participate in the drilling of the Cougar Com #5-2 Well as a Mesaverde test to be located in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico.

As an alternative to participation, I/We hereby offer support to McElvain and the participating parties hereunder the following:

(Please select one of the following if your election is NOT to participate)

_____ I/We hereby offer to farmout my/our working interest in the proposed well on mutually acceptable terms to be negotiated among the parties and, therefore, request a proposal of terms from McElvain; OR,

_____ I/We hereby offer to sell my/our interest in the proposed well as an alternative to participation and hereby request a proposal of sale terms from McElvain; OR,

_____ I/We hereby offer to execute a mutually acceptable Operating Agreement which shall reflect an election against my/our working interest as a non-participating, non-drilling party subject to the penalty provisions contained therein.

Telefax executed documents to

Mona Binion

(303) 893-0914

Mail original executed documents to

Mona Binion

McElvain Oil & Gas Properties, Inc.

1050 17th Street, Suite 1800

Denver, CO 80265

ELECTION PAGE

Cougar Com #5-2 Well

REVISED May 9, 2001

YES, I/We do hereby elect to participate in the drilling of the Cougar Com #5-2 Well as a Mesaverde test to be located in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico.

- *execute and return the Operating Agreement signature page*
- *execute and return the Authority for Expenditure*
- *complete and return the well reporting summary or submit your firm's summary*

NO, I/We do hereby elect NOT to participate in the drilling of the Cougar Com #5-2 Well as a Mesaverde test to be located in the SE/4 of Section 5, Township 25 North, Range 2 West, Rio Arriba County, New Mexico.

As an alternative to participation, I/We hereby offer support to McElvain and the participating parties hereunder the following:

(Please select one of the following if your election is NOT to participate)

_____ I/We hereby offer to farmout my/our working interest in the proposed well on mutually acceptable terms to be negotiated among the parties and, therefore, request a proposal of terms from McElvain; OR,

_____ I/We hereby offer to sell my/our interest in the proposed well as an alternative to participation and hereby request a proposal of sale terms from McElvain; OR,

_____ I/We hereby offer to execute a mutually acceptable Operating Agreement which shall reflect an election against my/our working interest as a non-participating, non-drilling party subject to the penalty provisions contained therein.

Telefax executed documents to

Mona Binion

(303) 893-0914

Mail original executed documents to

Mona Binion

McElvain Oil & Gas Properties, Inc.

1050 17th Street, Suite 1800

Denver, CO 80265

MC ELVAIN OIL AND GAS, PROPERTIES, INC.

AUTHORITY FOR EXPENDITURE SUMMARY FOR EXPENDITURES EXPLORATION & DEVELOPMENT

REVISED MAY 9, 2001

WELL INFORMATION

DATE:	4/12/2001
WELL NAME:	Cougar Corn #5-2 Well
LOCATION:	T25N-R2W SEC. 5: E/2
COUNTY:	RIO ARRIBA COUNTY
STATE:	NEW MEXICO
PROPOSED DEPTH:	TD 6200'
PURPOSE OF AFE:	Drill Mesaverde Test Well

COST ESTIMATES

Intangible Drilling Costs:	\$310,150
Tangible Drilling Costs	\$38,430
SUB-TOTAL TO CASING POINT	\$348,580
Plugging and Abandonment Costs	\$10,000
TOTAL DRY HOLE COSTS	\$358,580
Intangible Completion Costs:	\$364,350
Tangible Completion Costs:	\$94,405
TOTAL COMPLETION COSTS	\$458,755
TOTAL COMPLETED WELL COSTS	\$807,335
Facilities Land, Geological, Geophysical, Prospect	
TOTAL THIS AFE	\$807,335

APPROVALS

COMPANY:	T. H. McElvain Oil & Gas Ltd.	WORKING INTEREST:	7.639471%
BY:	By: McElvain Oil & Gas Properties Inc., General Partner	DATE:	
COMPANY:	NM&O Operating Company	WORKING INTEREST:	12.490000%
BY:		DATE:	
COMPANY:	Mesa Grande Resources, Inc.	WORKING INTEREST:	22.226185%
BY:		DATE:	
COMPANY:	Mesa Grande, LTD.	WORKING INTEREST:	11.865500%
BY:		DATE:	
COMPANY:	Gavilan Dome Properties	WORKING INTEREST:	4.690313%
BY:		DATE:	
COMPANY:	Noseco Corporation	WORKING INTEREST:	2.691118%
BY:		DATE:	
	or		
COMPANY:	T. H. McElvain LTD (by Farmout)	DATE:	
BY:			
COMPANY:	Neumann Family Trust	WORKING INTEREST:	17.197813%
BY:		DATE:	
	or		
COMPANY:	T. H. McElvain LTD (by Farmout)	DATE:	
BY:			

APPROVALS

COMPANY:		Premier Operating Co.	WORKING INTEREST:	3.915101%
BY:			DATE:	
COMPANY:		Arriba Company, LTD	WORKING INTEREST:	0.624500%
BY:			DATE:	
COMPANY:		Hooper, Kimball & Williams, Inc.	WORKING INTEREST:	8.329999%
BY:			DATE:	
COMPANY:		Ibex Partnership	WORKING INTEREST:	3.900622%
BY:			DATE:	
COMPANY:		Petco Limited	WORKING INTEREST:	3.900622%
BY:			DATE:	
COMPANY:		Carolyn Clark Oatman	WORKING INTEREST:	0.218620%
BY:			DATE:	
COMPANY:		Warren Clark Trust	WORKING INTEREST:	0.203369%
BY:			DATE:	
COMPANY:		Testamentary Trust u/w/o W. Clark	WORKING INTEREST:	0.106787%
BY:			DATE:	
COMPANY:			WORKING INTEREST:	
BY:			DATE:	
COMPANY:			WORKING INTEREST:	
BY:			DATE:	
COMPANY:			WORKING INTEREST:	
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BY:			DATE:	
COMPANY:			WORKING INTEREST:	
BY:			DATE:	
TOTAL				100.000000%

T. H. McElvain Oil & Gas Limited Partnership
McElvain Oil & Gas Properties, Inc., sole General Partner
1050 17th STREET, SUITE 1800
DENVER, COLORADO 80265

MONA L. BINION, CPL
LAND MANAGER.
e-mail monabi@mcelvainoilandgas.com

TELEPHONE 303-893-0933 EXT.306
FAX 303-893-0914
Cellular 303-809-2058

April 30, 2001

TO WORKING INTEREST OWNERS
(See Attached Addressee List)

Re: Cougar Com #32-2 Well Proposal
Township 26 North, Range 2 West
Section 32: SE/4
Rio Arriba County, New Mexico

Gentlemen:

McElvain Oil & Gas Properties, Inc., as sole general partner and Operator in behalf of T. H. McElvain Oil & Gas Limited Partnership ("McElvain") hereby proposes the drilling of a Dakota/Mesaverde test well to be at a legal location in the SE/4 of Section 32, Township 26 North, Range 2 West, Rio Arriba County, New Mexico.

The estimated cost to drill and complete the well, as proposed, is \$996,640 which is detailed on the enclosed McElvain Authority for Expenditure. Pursuant to McElvain's review of the records reflects the ownership of the S/2 of Section 32 as the dedicated proration unit to be as follows:

T.H. McElvain Oil & Gas Limited Partnership	34.213877% (*)
T.H. McElvain Oil & Gas Limited Partnership / Noseco Corporation	12.688938% (**)
T.H. McElvain Oil & Gas Limited Partnership / Neumann Family Trust	10.047855% (**)
Cougar Capital LLC	6.842776%
James Raymond	5.263674%
Pena Blanca Corp.	2.631836%
Big Snowy Exploration Ltd	2.631836%
Joe Elledge	1.052735%
Mesa Grande Resources, Inc.	3.426522%
Gavilan Dome Properties	8.114013%
Johansen Energy Partnership	.585938%
Dugan Production Corporation	12.500000%
Williams Production Company	0.000000% (***)

(*)Interests shown includes direct leasehold of party plus proportionate share of 2.636734% interest of NM&O Operating Company assumed under individual farmout arrangement to McElvain, et al.

(**)Interest shown subject to title dispute affecting proposed operation which is pending resolution under case filed in District Court of Rio Arriba County, New Mexico.

(***)Uncertainty as to status of entitlement to reversionary rights in favor of Williams Production Company reflected in title chain to one of the subject leases.

EXHIBIT

B

To Working Interest Owners
Cougar Com #32-2 Well
April 30, 2001
Page 2

A breakdown of tract ownerships and recap of spacing unit totals is enclosed for your review and information. An Operating Agreement prepared on AAPL Model form 610-1982 to govern operations across the designated spacing unit at depths from the base of the Pictured Cliffs formation to the base of the Dakota formation has been prepared and is also enclosed herewith for your review and execution.

We request that you review all of the enclosed materials relative to this proposal and proceed as follows:

- Indicate your election regarding participation on the enclosed Election Page, execute both copies in the space provided and return one to the undersigned;
- If your election is to participate, also execute both copies of the enclosed Authorization for Expenditure and return one copy to the undersigned along with a summary of your well reporting requirements (blank form is enclosed for your convenience, if needed);
- Execute the enclosed Operating Agreement and extra signature page thereto, returning the extra signature page fully executed to the undersigned

Telefax copies of the executed documents will be accepted at:


McElvain Oil & Gas Properties, Inc.
(303) 893-0914
Attention: Mona L. Binion

provided that original copies are delivered promptly thereafter.

The proposed test well described herein is scheduled in this program to commence mid year 2001 and in light of the circumstances and in order to avoid additional delays which could arise from weather conditions or sensitive surface restrictions, we respectfully request that you review and respond to this proposal at your earliest possible convenience. If you have any questions concerning this proposal, please feel free to contact the undersigned.

Very truly yours,

T. H. McElvain Oil & Gas Limited Partnership
By McElvain Oil & Gas Properties, Inc., sole General Partner


Mona L. Binion, CPL
Land Manager

MLB/idi

Encls.

WORKING INTEREST OWNERS
Cougar Com #32-2 Well

T.H. McElvain Oil & Gas Limited Partnership
1050 17th Street, Suite 1800
Denver, CO 80265

Gavilan Dome Properties
1800 Cedarwood Drive
Moraga, CA 94556

Cougar Capital, LLC
200 East Sunset, Suite E
El Paso, Texas 79922

Johansen Energy Partnership
P. O. Box 1773
Witefish, MT 59937

James M. Raymond
P. O. Box 291445
Kerville, TX 78029-1445

Dugan Production Corporation
709 East Murray Drive
Farmington, NM 87499

Pena Blanca Corportion
1050 17th Street, Suite 1800
Denver, CO 80265

Noseco Corporation
7400 Lakeside Drive
Reno, Nevada 89511

Big Snowy Exploration Limited Partnership
1050 17th Street, Suite 1800
Denver, CO 80265

Peter C. Neumann, Trustee
Neumann Family Trust
One Elm Court Street
Reno, Nevada 89501

Joe Elledge
P. O. Box 111
Farmington, NM 87401

Williams Production Company
P. O. Box 3102
Tulsa, OK 74101

Mesa Grande Resources, Inc.
1318 Philtower Bldg
Tulsa, OK 74103

ELECTION PAGE

Cougar Com #32-2 Well

April 30, 2001

YES, I/We do hereby elect to participate in the drilling of the Cougar Com #32-2 Well as a Dakota / Mesaverde test to be located in the SE/4 of Section 32, Township 26 North, Range 2 West, Rio Arriba County, New Mexico.

- *execute and return the Operating Agreement signature page*
- *execute and return the Authority for Expenditure*
- *complete and return the well reporting summary or submit your firm's summary*

NO, I/We do hereby elect NOT to participate in the drilling of the Cougar Com #32-2 Well as a Dakota / Mesaverde test to be located in the SE/4 of Section 32, Township 26 North, Range 2 West, Rio Arriba County, New Mexico.

As an alternative to participation, I/We hereby offer support to McElvain and the participating parties hereunder the following:

(Please select one of the following if your election is NOT to participate)

I/We hereby offer to farmout my/our working interest in the proposed well on mutually acceptable terms to be negotiated among the parties and, therefore, request a proposal of terms from McElvain; OR,

I/We hereby offer to sell my/our interest in the proposed well as an alternative to participation and hereby request a proposal of sale terms from McElvain; OR,

I/We hereby offer to execute a mutually acceptable Operating Agreement which shall reflect an election against my/our working interest as a non-participating, non-drilling party subject to the penalty provisions contained therein.

Telefax executed documents to

Mona Binion

(303) 893-0914

Mail original executed documents to

Mona Binion

McElvain Oil & Gas Properties, Inc.

1050 17th Street, Suite 1800

Denver, CO 80265

ELECTION PAGE

Cougar Com #32-2 Well

April 30, 2001

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Denver, CO 80265

Cougar #32-2
SE/4 of Section 32
Township 26 North, Range 2 West
S/2 of Section 32

Tract 1
SW Section 32
NM-97827
160 acres / 320 acres (50%)

Tract 2
SE Section 32
NM-01806
160 acres / 320 acres (50%)

Owner	Interest Source	Tract 1		Tract 2		Totals	
		WI	TPF WI	WI	TPF WI	Interest	Company
T. H. McElvain Oil & Gas Limited Pship	Direct	65.000000%	32.5000000%			32.5000000%	
	(NM&O Farmout)			3.427754%	1.713877%	1.713877%	34.213877%
T. H. McElvain Oil & Gas / Noseco Corp.	Direct			25.377878%	12.688938%	12.688938%	12.688938%
T. H. McElvain Oil & Gas / Neumann Family Tr.	Direct			20.095710%	10.047855%	10.047855%	10.047855%
Cougar Capital, LLC	Direct	13.000000%	6.5000000%			6.5000000%	
	(NM&O Farmout)			0.685551%	0.342776%	0.342776%	6.842776%
James Raymond	Direct	10.000000%	5.0000000%			5.0000000%	
	(NM&O Farmout)			0.527347%	0.263674%	0.263674%	5.263674%
Pena Blanca	Direct	5.000000%	2.5000000%			2.5000000%	
	(NM&O Farmout)			0.263673%	0.131836%	0.131836%	2.631836%
Big Snowy Exp	Direct	5.000000%	2.5000000%			2.5000000%	
	(NM&O Farmout)			0.263673%	0.131836%	0.131836%	2.631836%
Joe Elledge	Direct	2.000000%	1.0000000%			1.0000000%	
	(NM&O Farmout)			0.105469%	0.052735%	0.052735%	1.052735%
Gavilan Dome	Direct			16.228027%	8.114013%	8.114013%	8.114013%
Mesa Grande Resources, Inc.	Direct			6.853043%	3.426522%	3.426522%	3.426522%
Johansen Energy	Direct			1.171875%	0.585938%	0.585938%	0.585938%
Cugan Production	Direct			25.000000%	12.5000000%	12.5000000%	12.5000000%
Totals		100.0000000%	50.0000000%	100.0000000%	50.0000000%	100.0000000%	100.0000000%

**FIRST JUDICIAL DISTRICT COURT
COUNTY OF RIO ARriba
STATE OF NEW MEXICO**

No. D-0101-CV-01-815

**T.H. McELVAIN OIL & GAS LIMITED
PARTNERSHIP,**

Plaintiff,

vs.

**PETER C. NEUMANN, individually,
NEUMANN FAMILY TRUST, and
NOSECO CORPORATION,**

Defendants.

REQUEST FOR EXPEDITED HEARING

1. **Jury** ☒ **Non-Jury** _____
2. Judge to whom assigned: The Honorable James A. Hall
3. Disqualified Judges: N/A.
4. Specific matter(s) to be heard: Application for Preliminary Injunction
5. Estimated time for hearing all parties and witnesses: One (1) Hour.
6. Date pretrial order was filed or date of pretrial conference: N/A.
7. There are not any hearings presently set; if so, when: N/A.
8. Names, addresses and telephone numbers of all counsel or parties pro se, entitled to notice.

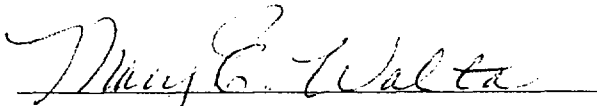
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Mary E. Walta, Esq.
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Santa Fe, NM 87504-0787
(505) 982-4374

Thomas C. Bell, Esq.
Davis, Graham & Stubbs, LLP
1550 Seventeenth Street, Suite 500
Denver, CO 80202
(303) 892-9400

Respectfully submitted,

WHITE, KOCH, KELLY & McCARTHY, P.A.


By: 
MARY E. WALTA
Attorneys for Defendants and Counterclaimants
Peter C. Neumann, Neumann Family Trust
and NOSECO Corporation
Post Office Box 787
Santa Fe, New Mexico 87504-0787
(505) 982-4374
Facsimile (505) 984-8631

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "*Request for Expedited Hearing*" was mailed to the following counsel of record on this 29th day of June, 2001:

Michael H. Feldewert, Esq.
Holland & Hart, LLP and
Campbell & Carr
Post Office Box 2208
Santa Fe, NM 87504-2208

Thomas C. Bell, Esq.
Davis, Graham & Stubbs, LLP
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Denver, CO 80202


MARY E. WALTA