

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

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

CASE NO. 12635, *de novo*

**IN THE MATTER OF THE APPLICATION OF
D.J. SIMMONS, INC. FOR COMPULSORY POOLING,
RIO ARRIBA COUNTY, NEW MEXICO**

CASE NO. 12705

OIL CONSERVATION COMMISSION
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PRE-HEARING STATEMENT

This prehearing statement is submitted by D. J. Simmons, Inc. as required by the Oil Conservation Commission.

APPEARANCES OF PARTIES

APPLICANT

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ATTORNEY

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OPPOSITION OR OTHER PARTY

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ATTORNEY

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STATEMENT OF CASE

APPLICANT: D.J. Simmons, Inc.

The parties to this consolidated hearing present two conflicting applications that both seek the compulsory pooling of working interests in the **SE/4** of Section 25, T-25-N, R-3-W, NMPM, one for the creation of a **S/2** unit in Case No. 12635 (Application of McElvain Oil and Gas Properties, Inc.), and the other for the creation of an **E/2** unit in

Case No. 12705 (Application of D. J. Simmons, Inc.). On September 24, 2001, following the May 17, 2001 Examiner hearing, the Division entered Order No. R-11663 in Case No. 12635 granting McElvain's application. D.J. Simmons, Inc., ("Simmons"), promptly filed for a hearing *de novo*. The Application for Hearing *De Novo* in Case No. 12635 was subsequently consolidated with Case No. 12705 at the request of Simmons. In the interests of efficiency and economy, the hearing on the Application in Case No. 12705 is being heard in the first instance by the Commission, rather than by one of the Division's examiners, pursuant to NMSA 1978 Section 70-2-6 (B) and Division Rule 1216 (2).

For a number of years, the Applicant in Case No. 12635, McElvain Oil and Gas Properties, Inc., ("McElvain"), has owned 100% of the oil and gas leasehold working interests underlying the **W/2** of Section 25, T-25-N, R-3-W, NMPM, upon which its Naomi Com No. 1 well was long-ago drilled at a previously approved unorthodox well location 1650' FSL and 450' FWL. McElvain proposes to re-enter and re-complete its now P&A'd well in the Blanco-Mesaverde pool. However, rather than logically dedicate its pre-existing 320 acre **W/2** stand-up unit to the well, McElvain instead applied to the Division to force pool working interests in the **SE/4** of the section in order to create a new **S/2** lay-down unit. McElvain does not plan to develop the Gallup-Dakota reserves underlying the **SE/4**.

Simmons opposed McElvain's application for the reasons, among others, that given the availability of a pre-existing **W/2** unit, the compulsory pooling proceeding would result in the unnecessary expenditure of time, effort and legal expense and would impair Simmons's ability to develop the Gallup-Dakota reserves it owns in the **SE/4** of Section 25 in conjunction with a Blanco-Mesaverde production unit consisting of the **E/2** of the same section.

At the May 17, 2001 examiner hearing on its Application, McElvain's witnesses were asked to explain why it was necessary to force pool the interests of the other owners in the **SE/4** when the company already controlled 100% of the working interest in the **W/2** of the section. Significantly, McElvain's witnesses represented that they sought the pooling of the **SE/4** in order to force the other working interest owners there to bear a portion of the economic risk. At the hearing, McElvain's witnesses acknowledged that economic "risk mitigation" was the "primary" motivation behind their pooling application. By promoting the use of the Division's compulsory pooling powers for such a purpose, McElvain seeks to avoid having to assume one-hundred percent of the costs and risk of its re-completion were it to dedicate its more logical **W/2** unit to the well instead.

Simmons also opposed McElvain's application for the reasons that (1) the prevailing north-south fracture drainage patterns in the area supported the creation of a **W/2** unit, (2) the Naomi Com No. 1 well, at its unorthodox location encroaching on the southwestern corner of the Section is not situated to economically or efficiently drain any

of the Blanco-Mesaverde reserves from the **SE/4**, and (3) because McElvain failed to meet the applicable legal standards of “good faith” in negotiating for the voluntary participation of the non-joined working interests.

At the hearing on these consolidated applications, Simmons will present evidence on the following issues:

- The advantages of developing Section 25 with **E/2** and **W/2** stand-up units, as opposed to a **S/2** lay-down unit.
- The diligence of the parties.
- The effect of each application on the established ownership equities in the section.
- Waste.
- Risk.
- Well costs.

OPPOSITION OR OTHER PARTY

PROPOSED EVIDENCE

APPLICANT

D. J. Simmons, Inc.

Witness (Name and expertise)	Est. Time	Exhibits
Ed Dunn: Landman	25 Minutes	18
Lisa Gusek: Geologist	45 Minutes	6
Tom Mullins: Petroleum Engineer	45 Minutes	7

OPPOSITION

WITNESSES (Name and expertise)	EST. TIME	EXHIBITS
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PROCEDURAL MATTERS

None pursuant to any motion of D. J. Simmons.



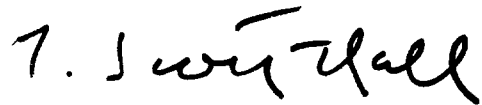
Signature

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was hand-delivered to counsel of record on the 2 day of November, 2001, as follows:

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