

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

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

CASE NO. 12705

McELVAIN'S REVISED PRE-HEARING STATEMENT

This Revised Prehearing Statement is submitted by Holland & Hart LLP and Campbell & Carr, attorneys for McElvain Oil & Gas Properties, Inc., as required by the Oil Conservation Division.

APPEARANCES OF PARTIES

APPLICANT

D. J. Simmons, Inc.
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(505) 326-3753

ATTORNEY

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OPPONENT

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OPPONENT'S ATTORNEY

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OTHER PARTY

None to Date/ Unknown

OTHER PARTY'S ATTORNEY

STATEMENT OF CASE

APPLICANT

Applicant seeks an order pooling all mineral interests from the surface to the base of the Mesaverde formation in the E/2 of Section 25, Township 25 North, Range 3 West, NMPM, for all formations and/or pools developed on 320-acre spacing, including, but not necessarily limited to, the Mesaverde formation, Blanco-Mesaverde Gas Pool. Said units are to be dedicated to the Applicant's Bishop Federal 25--1 well to be drilled as a standard location in the NE/4 of said Section 25 to a depth sufficient to test all formations in the pooled intervals, as well as the Chacra formation and the Gallup-Dakota formation, West Lindrith Gallup-Dakota Oil pool. Also to be considered will be the cost of drilling completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of Applicant as operator and a charge for the risk involved in drilling said well. The units are located approximately 5 miles southwest of Lindrith, New Mexico.

OPPOSITION OR OTHER PARTY

McElvain Oil and Gas Properties, Inc. ("McElvain") has filed a Motion to Dismiss that portion of Applicant's compulsory pooling application that seeks to pool interests from the base of the Pictured Cliffs formation to the base of the Mesaverde formation in the E/2 of Section 25, Township 25 North, Range 3 West. The base of the Pictured Cliffs formation to the base of the Mesaverde formation in the SE/4 of Section 25 is already subject to (a) Administrative Order NSL-4538 (entered by the Division on December 29, 2000) approving an unorthodox gas well location for McElvain's "proposed 320-acre standard lay-down gas spacing and proration unit comprising the S/2

of Section 25” and (b) Division Order No. R-11663 (entered on September 24, 2001) that dedicated the S/2 of Section 25 to McElvain’s Naomi Well No. 1 to be completed in the Undesignated Blanco-Mesaverde Gas Pool. As a result, the SE/4 of Section 25 is not available for pooling within this vertical extent.

PROPOSED EVIDENCE

APPLICANT

WITNESSES (Name and expertise)	EST. TIME	EXHIBITS
Lisa Gusek, Geologist	25 Minutes	5
Ed Dunn, Landman	25 Minutes	6
Tom Mullins, Reservoir Engineer	25 minutes	5

OPPOSITION

If McElvain’s motion to dismiss is not granted, McElvain may call Mona Binion (Landman) and/or John Steuble (Petroleum Engineer).

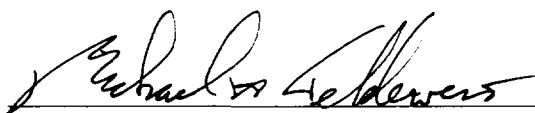
PROCEDURAL MATTERS

McElvain has filed a Motion to Dismiss this application since the SE/4 of Section 25 is not available for pooling from the base of the Pictured Cliffs formation to the base of the Mesaverde formation.

Applicant has filed a “Motion For Temporary Stay And To Consolidate” seeking to consolidate this matter with Case No. 12635 in which Division Order No. R-11663 has been entered and is now on *de novo* appeal to the Commission. In addition, by letter dated October 3, 2001,

Applicant requested that this matter "be continued indefinitely pending the completion of the *de novo* proceedings in Case No. 12635" alleging that there are "two competing compulsory pooling cases" properly before the Division.

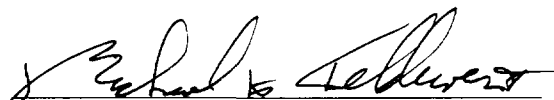
By letter dated October 5, 2001, McElvain informed the Division that it opposes Applicant's motion to consolidate and applicant's letter request to "continue indefinitely" this matter. McElvain has filed a motion to dismiss D. J. Simmons' application because it is untimely. D. J. Simmons appeared in Case No. 12635 and advocated what it now seeks again with its untimely pooling application - an E/2 spacing unit in Section 25. Order No. R-11663 specifically rejected D. J. Simmons' request. It was not until two months after Case No. 12635 was taken under advisement (and eight months after McElvain's re-completion was proposed to D. J. Simmons) that D. J. Simmons filed its application in this case seeking an E/2 spacing unit. As a result, McElvain requests that this matter be dismissed - rather than "continued indefinitely" - for the reasons set forth in McElvain's Motion to Dismiss Pooling Application.



Michael H. Feldewert
Attorney for McElvain Oil & Gas Properties, Inc.

Certificate of Service

The undersigned hereby certifies that on October 16, 2001 a true copy of the foregoing was faxed to J. Scott Hall, Esq., Fax No. 505 989-9857.



Michael H. Feldewert