

**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. 12802

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OPPONENT'S PRE-HEARING STATEMENT

This Pre-hearing Statement is submitted pursuant to Division Rules by Holland & Hart,
LLP, attorneys for McELVAIN OIL & GAS PROPERTIES, INC.

APPEARANCES OF PARTIES

APPLICANT

D.J. Simmons, Inc.
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Farmington, New Mexico 87401
505.326.3753

ATTORNEY

J. Scott Hall
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OPPONENT

McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
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303.893.0933

OPPONENT'S ATTORNEY

Michael H. Feldewert, Esq.
Holland & Hart LLP
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OPPONENT'S STATEMENT OF ITS CASE

D.J. Simmons seeks an order pooling all mineral interests from the surface to the base of the Gallup-Dakota formation in the SE/4 of Section 25, Township 25 North, Range 3 West, NMPM, to form a standard 160-acre spacing unit for its Bishop Federal 25-2 well for all formations developed on 160-acre spacing. McElvain owns an interest in the SE/4 of Section 25. D.J. Simmons' pooling request is premature because, among other reasons, D.J. Simmons has not properly proposed a Gallup-Dakota well to the interest owners in the SE/4 of Section 25, D.J. Simmons owns 100% of the working interest in the NE/4 of Section 25, and D.J. Simmons does not plan to drill a well in the SE/4 of Section 25 until after it has completed a Gallup-Dakota well on its acreage in the NE/4 of Section 25. McElvain may also offer testimony on the risk penalty, drilling costs, election period, and operating charges proposed by D.J. Simmons.

OPPONENT'S PROPOSED EVIDENCE

WITNESSES (Name and expertise)	EST. TIME	EXHIBITS
Mona Binion, Landman	10 Minutes	Approximately 3
John Steuble, Engineer	10 Minutes	None

PROCEDURAL MATTERS

None at this time.

HOLLAND & HART, LLP

By: 

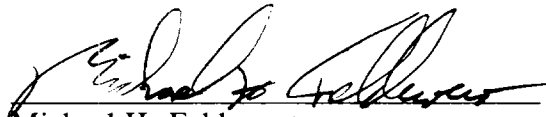
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Attorney for McELVAIN OIL & GAS
PROPERTIES, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of January, 2002, a true copy of the foregoing **Opponent's Pre-hearing Statement** was faxed to the following party:

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