

STATE OF NEW MEXICO **RECEIVED**
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION APR 6 2004

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

Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505
CASE NO. 13251

APPLICATION

McELVAIN OIL AND GAS PROPERTIES, INC. ("McElvain"), through its undersigned attorneys, hereby makes application pursuant to the provisions of N.M.Stat. Ann. 70-2-17, (1978), for an order pooling all uncommitted mineral interests in all formations from the surface to the base of the Pictured Cliffs formation underlying the NW/4 of Section 32, Township 30 North, Range 13 West, N.M.P.M., San Juan County, New Mexico to form a standard 160-acre gas spacing and proration unit for all formations and/or pools developed on 160-acre spacing within that vertical extent, which includes but is not limited to the Undesignated Fulcher Kurtz - Pictured Cliffs Gas Pool. In support of this application McElvain states:

1. McElvain is a working interest owner in the NW/4 of said Section 32 and has a right to drill thereon.
2. McElvain proposes to dedicate the above-referenced spacing or proration unit to its Picway Well No. 1 to be drilled at a standard gas well location in Unit D of the NW/4 of said Section 32, at a point 660 feet from the north line and 1160 feet from the west line to a depth sufficient to test any and all formations to the base of the Pictured Cliffs formation.
3. Applicant has sought and been unable to obtain either voluntary agreement for pooling or farmout from XTO Energy, Inc., 810 Houston Street, Fort Worth, TX 76102-6298.
4. Said pooling of interests will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.

5. In order to permit the Applicant to obtain its just and fair share of the oil and gas underlying the subject lands, all mineral interests should be pooled, and McElvain Oil & Gas Properties, Inc. should be designated the operator of the well to be drilled.

WHEREFORE, McElvain Oil & Gas Properties, Inc. requests that this application be set for hearing before an Examiner of the Oil Conservation Division on April 29, 2004, and, after notice and hearing as required by law, the Division enter its order:

- A. pooling all mineral interests in the subject spacing and proration unit,
- B. designating McElvain operator of the unit and the well to be drilled thereon,
- C. authorizing McElvain to recover its costs of drilling, equipping and completing the well,
- D. approving the actual operating charges and costs of supervision while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures, and
- E. imposing the 200% risk penalty provided by Division Rule 19.15.1.35 against any working interest owner who does not voluntarily participate in the drilling of these additional wells.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

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ATTORNEYS FOR McELVAIN OIL
& GAS PROPERTIES, INC.

CASE 13251:

Application of McElvain Oil & Gas Properties, Inc. for compulsory pooling, San Juan County, New Mexico. Applicant in the above-styled cause seeks an order pooling all uncommitted mineral interests in all formations from the surface to the base of the Pictured Cliffs formation in the NW/4 of Section 32, Township 30N, North, Range 13 West, N.M.P.M. to form a standard 160-acre gas spacing and proration unit for all formations and/or pools developed on 160-acres within that vertical, which includes but is not necessarily limited to the Fulcher Kutz-Pictured Cliffs Gas Pool. Said unit is to be dedicated to applicant's proposed Picway Well No. 1 to be drilled at a standard gas well location in Unit D of the NW/4 of said Section 32, at a point 660 feet from the north line and 1160 feet from the west line to a depth sufficient to test any and all formations to the base of the Pictured Cliffs formation. Also to be considered will be the cost of drilling and 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 of the well and a charge for risk involved in drilling said well. Said area is located approximately two miles north of Farmington, just west of Highway 170 and the La Plata River in San Juan County, New Mexico.