

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION FOR THE)
PURPOSE OF CONSIDERING:)
APPLICATION OF McELVAIN OIL AND GAS)
PROPERTIES, INC., FOR COMPULSORY)
POOLING, RIO ARRIBA COUNTY, NEW MEXICO)

CASE NO. 13,340

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

September 16th, 2004

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, September 16th, 2004, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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I N D E X

September 16th, 2004
Examiner Hearing
CASE NO. 13,340

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<u>DENISE GREER</u> (Landman)	
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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
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FOR THE APPLICANT:

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 P.O. Box 2208
 Santa Fe, New Mexico 87504-2208
 By: MICHAEL H. FELDEWERT

* * *

1 WHEREUPON, the following proceedings were had at
2 8:17 a.m.:

3 EXAMINER EZEANYIM: ...call Case Number 13,340,
4 which is the Application of McElvain Oil and Gas
5 Properties, Inc., for compulsory pooling, Rio Arriba
6 County, New Mexico.

7 Now I call for appearances.

8 MR. FELDEWERT: May it please the Examiner,
9 Michael Feldewert with the Santa Fe office of the law firm
10 of Holland and Hart, appearing on behalf of the Applicant,
11 McElvain Oil and Gas Properties, Inc., and I have one
12 witness today.

13 EXAMINER EZEANYIM: Any other appearances?

14 Okay, let the witness stand to be sworn, please.

15 (Thereupon, the witness was sworn.)

16 EXAMINER EZEANYIM: And Mr. Feldewert, you can
17 continue.

18 DENISE GREER,
19 the witness herein, after having been first duly sworn upon
20 her oath, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FELDEWERT:

23 Q. Would you please state your full name and where
24 you reside for the record?

25 A. Denise Greer, in Denver, Colorado.

1 Q. And by whom are you employed and in what
2 capacity?

3 A. I'm employed by McElvain Oil and Gas Properties
4 as a landman.

5 Q. And have you previously testified before this
6 Division?

7 A. No, I have not.

8 Q. How many years have you been employed as a
9 landman for McElvain?

10 A. For McElvain, for the last three and a half
11 years.

12 Q. And prior to that, how many -- How many years of
13 experience do you have as a landman?

14 A. Total experience, 29 years.

15 Q. And has your work focused on northwest New
16 Mexico?

17 A. Since I've been with McElvain I have focused on
18 northwest New Mexico, for three and a half years.

19 Q. Are you a member of any professional
20 organization?

21 A. The Denver Association of Petroleum Landmen, for
22 the last five years.

23 Q. And are you familiar with the Application that's
24 been filed by McElvain in this case?

25 A. Yes, I am.

1 Q. And are you familiar with the status of the lands
2 in the subject area?

3 A. Yes, I am.

4 MR. FELDEWERT: Mr. Examiner, I would tender Ms.
5 Greer as an expert witness in petroleum land matters.

6 EXAMINER EZEANYIM: Ms. Greer is so qualified.

7 Q. (By Mr. Feldewert) Why don't you turn to
8 McElvain Exhibit Number 1, identify it and explain to the
9 Examiner what McElvain seeks with this Application?

10 A. Exhibit Number 1 is a nine-section land map which
11 shows the location of the well that we're proposing to
12 drill in Section 14 of 25 North, 2 West.

13 Q. And you're requesting to pool what acreage?

14 A. The west half of Section 14.

15 Q. And is this from the surface down to the base of
16 the Mesaverde formation?

17 A. Yes, it is.

18 Q. And are you seeking to pool for all formations or
19 pools that are developed on 320-acre spacing?

20 A. Yes, we are.

21 Q. Now, does this exhibit show the well to which
22 this west-half 320-acre spacing unit is to be dedicated?

23 A. Yes, it does, it's the McElvain Badger 14 Number
24 1 well, up in the northwest quarter of Section 14.

25 Q. Is that well to be drilled at a standard

1 location?

2 A. Yes, it is.

3 Q. What's the footage location for this well?

4 A. 785 feet from the north line and 1290 feet from
5 the west line.

6 Q. Now, what is the status of the acreage in this
7 area?

8 A. The acreage in this area is fee acreage.

9 Q. Okay. Now why don't we turn to McElvain Exhibit
10 Number 2. Identify that and review that for the Examiner,
11 please.

12 A. Exhibit Number 2 is the initial letter that we
13 sent out to owners in the west half of this section,
14 proposing to drill the well. It outlines the ownership
15 that would be under that spacing unit, along with our AFE.

16 Q. Okay. Now, does this list the parties that are
17 subject to the pooling application here today?

18 A. Yes, it does.

19 Q. Okay, and is it marked on this exhibit on the
20 first page at the bottom with dashes next to the names?

21 A. Yes, it does.

22 Q. And how many parties are subject to this pooling
23 Application?

24 A. There are three that are -- still need to be
25 subject to this agreement.

1 Q. Okay, why don't you identify them for the record?

2 A. Four Star Oil & Gas Company, San Juan Gas
3 Corporation, and Christopher Phillips.

4 Q. Of these three interest owners are there any
5 interest owners you have been unable to locate?

6 A. Christopher Phillips we've been unable to locate.

7 Q. Okay, and he's shown as having a 1.5-percent
8 interest in this 120-acre spacing unit?

9 A. Yes, he is.

10 Q. Why don't you outline for the Examiner your
11 efforts to locate this individual?

12 A. We have -- not only did we send this initial
13 letter by certified mail -- it was returned to us as
14 vacant, nobody lived there -- we've also searched down a
15 second address for him by contacting another company that's
16 active in this area that had previously done business with
17 him. That address also has not proven to be a correct
18 address; the people there have called us and said that he's
19 no longer there. We've done Internet search, looking for
20 him in Tulsa, Oklahoma. We've also talked to an attorney
21 that used to handle some of his affairs, and he only had
22 the addresses that we currently have for him.

23 Q. Now, why don't you then summarize your efforts to
24 obtain voluntary joinder of the two interest owners that
25 you have been able to locate?

1 A. That would be Four Star Oil & Gas Company and San
2 Juan Gas Corporation. We have sent them this May 11th
3 letter. We also then re-sent information to them July
4 27th, I believe it was. And I have talked to Four Star Oil
5 & Gas Company on several occasions, and they've just been
6 unable to make any decision. They're aware that we are
7 here before this hearing today.

8 San Juan Gas Corporation, we've made several
9 attempts to contact the primary owner of that corporation
10 and we have not had our phone calls returned.

11 Q. So have you left messages with the principal of
12 San Juan Gas?

13 A. Yes, we have.

14 Q. Who is the principal for San Juan Gas?

15 A. Alex Phillips.

16 Q. Okay.

17 A. And he also signed the certified slips and the
18 Federal Express packages when we sent --

19 Q. And the telephone number that you called and left
20 messages on, you're confident that that's a correct number
21 for Alex Phillips of San Juan Gas?

22 A. Yes, we are.

23 Q. And he has not returned your phone calls.

24 Q. And they've also received, I think you said, not
25 only your initial letter that's been marked as Exhibit

1 Number 2, but also a follow-up letter in July?

2 A. Yes.

3 Q. And they have not contacted you in response to
4 those letters?

5 A. No response.

6 Q. In your opinion, have you made a good faith
7 effort to locate and obtain voluntary joinder of the three
8 interest owners that are the subject of this pooling
9 Application today?

10 A. Yes, we have.

11 Q. Now, this exhibit -- this document that's been
12 marked as Exhibit Number 2, it contains an AFE, does it
13 not?

14 A. Yes, it does.

15 Q. Why don't you review the dryhole and completed
16 well costs, if you are successful, with the Examiner?

17 A. The dryhole cost would total \$389,220, the total
18 completed well would be \$713,980.

19 Q. Okay. Now, has McElvain drilled similar wells in
20 this area?

21 A. Yes, we have, up in Section 10 and Section 11,
22 we've drilled wells.

23 Q. Okay, and that's shown on McElvain Exhibit Number
24 1?

25 A. Yes, they are.

1 Q. All right. Are these costs in line with what
2 McElvain has incurred for drilling similar wells in this
3 area?

4 A. Yes, they are.

5 Q. Have you made an estimate of the overhead and
6 administrative cost while drilling this well, also while
7 producing this well, if you are successful?

8 A. Yes, for drilling overhead it would be \$5500 a
9 month, and for producing overhead \$550.

10 Q. Now, the interest owners that are shown on
11 McElvain Exhibit Number 2, have some or all of them signed
12 a joint operating agreement?

13 A. Yes, we've had some of them sign the joint
14 operating agreement; others, we've gone ahead and purchased
15 their interests or obtained a different agreement from
16 them.

17 Q. These overhead figures that you've set forth here
18 today, are these the rates that are included in the JOA for
19 this property?

20 A. Yes, they are.

21 Q. And do you recommend that these figures be
22 incorporated into any order that results from this hearing?

23 A. Yes, I do.

24 Q. And does McElvain request that these overhead
25 figures approved by the Division be subject to adjustment

1 in accordance with the applicable COPAS guidelines?

2 A. Yes, I do.

3 Q. What entity will be the designated operator of
4 the proposed well?

5 A. McElvain Oil and Gas Properties, Inc.

6 Q. And that is the Applicant named here today?

7 A. Yes.

8 Q. All right. And does McElvain request that the
9 Division impose the 200-percent risk penalty that is
10 authorized by statute and Division Rule 35 against those
11 interest owners that do not voluntarily participate in this
12 well?

13 A. Yes, we do.

14 Q. Is McElvain Exhibit Number 3 an affidavit with
15 attached letters giving notice of this hearing?

16 A. Yes.

17 Q. And you have received return cards from the
18 parties except for Mr. Phillips; is that correct?

19 A. Yes, it is.

20 Q. And in fact, this has two of the addresses that
21 you attempted to contact Mr. Phillips at?

22 A. That's correct.

23 Q. All right. And this is the same Mr. Phillips
24 that you testified about previously?

25 A. Yes, it is.

1 Q. And is McElvain Exhibit Number 4 an affidavit of
2 publication in the *Rio Grande Sun*, which is a weekly
3 newspaper of general circulation in Rio Arriba County?

4 A. Yes.

5 Q. Were McElvain Exhibits 1 through 4 prepared by
6 you or compiled under your direction and supervision?

7 A. Yes, they were.

8 MR. FELDEWERT: Mr. Examiner, at this time I
9 would move the admission into evidence of McElvain Exhibits
10 1 through 4.

11 EXAMINER EZEANYIM: All right, help me out in
12 finding Exhibit Number 4 here.

13 MR. FELDEWERT: Exhibit Number 4 should be last
14 in your packet. It's an affidavit of publication.

15 EXAMINER EZEANYIM: Okay, yeah. Exhibits 1
16 through 4 will be admitted into evidence.

17 MR. FELDEWERT: Mr. Examiner, that concludes my
18 examination of this witness.

19 EXAMINER EZEANYIM: Do you have any questions?

20 MS. MacQUESTEN: No questions, thank you.

21 EXAMINATION

22 BY EXAMINER EZEANYIM:

23 Q. Okay. Ms. Greer, in looking at the notice
24 requirements -- and I know you have an affidavit about
25 notice requirements, the newspaper advertisement -- do you

1 have it or -- I don't have it in my file. I need to look
2 at that newspaper advertisement.

3 MR. FELDEWERT: That would be Exhibit Number 4.

4 EXAMINER EZEANYIM: Oh, okay, it's attached,
5 yeah.

6 MR. FELDEWERT: It's for the *Rio Grande Sun*,
7 which is a weekly newspaper of general circulation in Rio
8 Arriba County.

9 Q. (By Examiner Ezeanyim) Okay. Oh, yeah, that's
10 the newspaper, okay.

11 You talked about making a good faith effort in
12 getting all the interest owners to participate --

13 A. Yes.

14 Q. -- phone calls -- Do you have something to show
15 me that you did all those that you stated in your
16 testimony? You know, you said that you sent a letter and
17 it came back, or you made a call. Is there any way you can
18 show me that you did all those?

19 A. Yes, I have it in my files that are sitting back
20 at the chair there.

21 Q. Okay, I would like to have those.

22 A. Okay.

23 MR. FELDEWERT: Mr. Examiner, we can certainly
24 supplement the record.

25 Q. (By Examiner Ezeanyim) And as you said, these

1 three interest owners have refused to join in the drilling
2 of this well, right?

3 A. Correct.

4 Q. Have you obtained an APD for this well?

5 A. Yes, we have.

6 Q. And do you have an API number?

7 A. I don't have it with me, but we do have one, yes.

8 Q. Okay. Maybe you can give us that, you know.

9 Do you have an idea when you wish to spud this
10 well?

11 A. As quickly as we can.

12 Q. What does that mean?

13 A. They're trying to get a rig right now out there
14 to start drilling this well. We've had problems getting
15 rigs, but I think -- hopefully, we would like to try and
16 drill it in about a week.

17 Q. In a week?

18 A. To drill -- yes.

19 Q. Well, are you saying that you have some lease
20 issues, leases expiring or something, or just you have the
21 rig?

22 A. We have the rig. We've been trying for a year to
23 get a rig, so now that we have it we can't let it disappear
24 or it could be another year.

25 Q. And as I understand, you want McElvain to be

1 definitely the operator of the well?

2 A. Yes.

3 Q. And when I look at this, what is the primary
4 objective of this well? Do you know?

5 A. Blanco-Mesaverde.

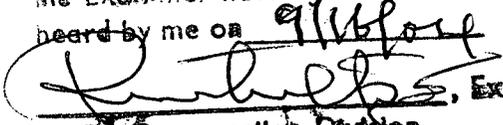
6 EXAMINER EZEANYIM: All right, that's all I have
7 for this witness.

8 MR. FELDEWERT: That concludes our presentation.
9 Thank you, Mr. Examiner, and I will supplement the record
10 with the other --

11 EXAMINER EZEANYIM: So then Case Number 13,340
12 will be taken under advisement.

13 (Thereupon, these proceedings were concluded at
14 8:35 a.m.)

15 * * *

16
17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. 13340
21 heard by me on 9/16/64
22  Examiner
23 Oil Conservation Division
24
25

CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) SS.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL September 17th, 2004.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006