

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:

ORIGINAL

APPLICATION OF McELVAIN ENERGY, INC.  
FOR A NONSTANDARD SPACING AND  
PRORATION UNIT AND COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO.

CASE NO. 15743

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 3, 2017

Santa Fe, New Mexico

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BEFORE: PHILLIP GOETZE, CHIEF EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, Phillip Goetze,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, August 3, 2017, at the New Mexico Energy,  
Minerals and Natural Resources Department, Wendell Chino  
Building, 1220 South St. Francis Drive, Porter Hall,  
Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

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APPEARANCES

FOR APPLICANT McELVAIN ENERGY, INC.:

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EXHIBITS OFFERED AND ADMITTED

McElvain Energy, Inc. Exhibit Numbers 1 through 5	10
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1 (10:38 a.m.)

2 EXAMINER GOETZE: We will proceed to Case  
3 15743, application of McElvain Energy, Inc. for a  
4 nonstandard spacing and proration unit and pooling, Lea  
5 County, New Mexico.

6 Call for appearances.

7 MS. KESSLER: Jordan Kessler, from the  
8 Santa Fe office of Holland & Hart, on behalf of the  
9 Applicant. Same two witnesses today.

10 EXAMINER GOETZE: Same two witnesses.

11 MS. KESSLER: I'll call my first witness.

12 EXAMINER GOETZE: Please.

13 DAVID W. SIPLE,

14 after having been previously sworn under oath, was  
15 questioned and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. KESSLER:

18 Q. Please state your full name for the record and  
19 tell the Examiner by whom you are employed and in what  
20 capacity.

21 A. My name is David Siple. I'm employed by  
22 McElvain Energy, Incorporated, and I'm vice president of  
23 land.

24 Q. Were your credentials as a petroleum -- in  
25 petroleum land matters accepted and made a matter of

1 record in a previous case today?

2 A. Yes.

3 MS. KESSLER: Mr. Examiner, I'd tender that  
4 Mr. Siple's credentials be --

5 EXAMINER GOETZE: Mr. Siple is so  
6 qualified.

7 Q. (BY MS. KESSLER) Let's look at Exhibit 1. And  
8 does McElvain, in this case, seek a proration and a  
9 nonstandard spacing unit comprised of the west half-east  
10 half of Section 30, Township 18 South, 34 East?

11 A. Yes, we do.

12 Q. And do you also seek to pool uncommitted  
13 interest owners in the Bone Spring Formation?

14 A. We do.

15 Q. Is Exhibit 1 the filed C-102 for the EK 30 BS2  
16 Federal Com #2H well? \* Case No. 15943 is for #1H

17 A. That's correct. It is.

18 Q. And is there an API number for this well?

19 A. Yes, 30-025-43883. \* 30-025-43884

20 Q. Has the Division designated a pool for this  
21 acreage?

22 A. They have. It's EK; Bone Spring Pool, and the  
23 pool code is 21650.

24 Q. This pool, as we mentioned earlier, has special  
25 rules associated with it, correct?

1 A. That's correct.

2 Q. That would be governed by Division Order  
3 R-4981?

4 A. Yes.

5 Q. And that requires 80-acre spacing units and the  
6 completed interval to be 150 feet from the  
7 quarter-quarter section?

8 A. Yes. Those are the rules.

9 Q. So, once again, this well will also be  
10 unorthodox under the pool rules even though it's more  
11 than 330 feet from the outer boundary of the spacing  
12 unit, correct?

13 A. That's correct. Yes.

14 Q. Was an order issuing an unorthodox location  
15 approved for this well?

16 A. Yes.

17 Q. What was that order? Was that NSL 7503?

18 A. Yes.

19 Q. Pursuant to Rule 3 of the special rules, is  
20 McElvain also requesting an exception to the 80-acre  
21 spacing for this well?

22 A. Yes, we are.

23 Q. And that would be well dedicated to 160 acres?

24 A. Correct.

25 Q. And that's so the well can be developed on 160

1        acres like all other wells in this area?

2            A.    Yes.

3            Q.    What's the character of these lands?

4            A.    These are federal leases, federal lands.

5            Q.    And are there any depth severances in the pool?

6            A.    There are none.

7            Q.    Is there also an existing vertical well in  
8        this?

9            A.    There is.

10           Q.    Who is the operator of that well?

11           A.    The operator of that well is Kaiser-Francis Oil  
12        Company.

13           Q.    And are they also a working interest owner in  
14        this well?

15           A.    Yes, they are.

16           Q.    Is the working interest ownership in the focal  
17        well identical to the proposed spacing unit?

18           A.    Yes, although it's been proportionately reduced  
19        here because it's a 160-acre spacing unit instead of 80.

20           Q.    Were the operators and all interest owners  
21        provided notice of the overlap?

22           A.    Yes.

23           Q.    And did any of them object?

24           A.    No.

25           Q.    Do you understand that the allowable for this

1 well will be curtailed by production from the existing  
2 vertical well?

3 A. We do.

4 Q. Is Exhibit 2 an ownership outline showing  
5 ownership by tract in the proposed spacing unit?

6 A. Yes. We have two tracts, Tract 1, which is the  
7 west half-northeast quarter, and Tract 2, the west  
8 half-southeast quarter of Section 30.

9 Q. And it shows the existing vertical well in  
10 Tract 2?

11 A. Yes, in the northwest-southeast.

12 Q. Is the second page of this exhibit an ownership  
13 breakdown showing also the parties that you seek to  
14 pool?

15 A. It is. And the parties we're seeking to pool  
16 are highlighted in yellow.

17 Q. Are these all working interest owners?

18 A. They are.

19 Q. And are you also in the process of finalizing  
20 an agreement with several of those interest owners?

21 A. Yes, we are. Several of them have elected to  
22 participate, and we're continuing to work with others to  
23 hopefully acquire their interests.

24 Q. Is Exhibit 3 a copy of the well-proposal letter  
25 that you sent to the parties that you're seeking to

1 pool?

2 A. Yes, it is.

3 Q. Was this letter also sent on April 18th of  
4 2017?

5 A. April 18th, 2017. All of the letters were sent  
6 on that same day.

7 Q. And it included an AFE?

8 A. It did.

9 Q. Are the costs on the AFE consistent with what  
10 other operators in the area charge for similar wells?

11 A. Yes, they are.

12 Q. And what efforts, besides sending this  
13 well-proposal letter, did you undertake to reach  
14 agreement with the parties you seek to pool?

15 A. So we've offered them, obviously, the  
16 opportunity to participate, or we offered to acquire  
17 their interests or farm in, if they're willing to do  
18 that.

19 Q. Were you able to locate all of the interest  
20 owners?

21 A. Yes.

22 Q. Did you have conversations with all of them?

23 A. We've spoken with every one of them.

24 Q. And you offered each of them a variety of deal  
25 structures?

1 A. We have.

2 Q. In your opinion, have you made a good-faith  
3 effort to reach agreement with the parties that you seek  
4 to pool?

5 A. Yes.

6 Q. Have you estimated overhead and administrative  
7 costs for drilling and producing this well?

8 A. Yes, we have.

9 Q. What are those costs?

10 A. Those are \$7,000 per month for a drilling well  
11 rate and \$700 per month for a producing well rate.

12 Q. And that's in line with what McElvain and other  
13 operators in the area charge for similar wells?

14 A. Yes.

15 Q. Do you request that those costs be incorporated  
16 into any orders resulting from this hearing?

17 A. We do.

18 Q. And that they be adjusted according to the  
19 COPAS accounting procedures?

20 A. Yes.

21 Q. For uncommitted working interest owners, are  
22 you requesting the Division impose a 200 percent risk  
23 penalty?

24 A. We are, yes.

25 Q. And did McElvain provide notice of this hearing

1 to the affected parties in the 80-acre tract surrounding  
2 the nonstandard spacing unit for formation of the  
3 nonstandard spacing unit?

4 A. Yes.

5 Q. And is Exhibit 4 an Affidavit of Publication in  
6 Lea County?

7 A. Yes, it is.

8 Q. And Exhibit 5 is an affidavit prepared by my  
9 office with letters providing notice to the parties that  
10 you seek to pool, as well as the affected parties for  
11 the formation of the nonstandard unit?

12 A. That's correct.

13 Q. And the 80-acre tracts were identified based on  
14 both the stand-up and lay-down of the proposed  
15 formations; is that correct?

16 A. Yes, they were.

17 Q. Were Exhibits 1 through 3 prepared by you or  
18 compiled under your direction and supervision?

19 A. Yes, they were.

20 MS. KESSLER: Mr. Examiner, I move  
21 admission of Exhibits 1 through 5.

22 EXAMINER GOETZE: Exhibits 1 through 5 are  
23 so entered.

24 MS. KESSLER: Thank you.

25 (McElvain Energy, Inc. Exhibit Numbers 1

1 through 5 are offered and admitted into  
2 evidence.)

3 EXAMINER GOETZE: Mr. Brooks?

4 CROSS-EXAMINATION

5 BY EXAMINER BROOKS:

6 Q. Is it Sipes?

7 A. Siple.

8 Q. Okay. Thank you.

9 A. No problem.

10 Q. I apologize for mispronouncing your name.

11 Among the people who were notified were all  
12 the owners of interest in the unit, correct?

13 A. Yes.

14 Q. And were there any that you were unable to find  
15 addresses for?

16 A. No. We were able to locate all of them.

17 Q. So you do not have a publication in this case?

18 MS. KESSLER: We do, Mr. Examiner.

19 EXAMINER BROOKS: Oh, you do have a  
20 publication?

21 MS. KESSLER: Exhibit 4.

22 EXAMINER BROOKS: Exhibit 4?

23 THE WITNESS: Yes.

24 MS. KESSLER: Yes.

25 Q. (BY EXAMINER BROOKS) Okay. Now, whom did you

1 list under publication? Was that -- does that list the  
2 owners of interest in the unit or just owners of the  
3 notice because of proximity?

4 A. This is the proximity notice, the affidavit.

5 Q. Okay. Because you had identified and located  
6 all the owners, you did not publish as to the owners?

7 A. That's correct.

8 Q. And did you get green cards served to all --

9 A. Yes, on all of these.

10 Q. Okay. Thank you.

11 EXAMINER GOETZE: I have no questions for  
12 this witness. Thank you.

13 THE WITNESS: Thank you.

14 KYLE SHEFTE,

15 after having been previously sworn under oath, was  
16 questioned and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. KESSLER:

19 Q. Please state your name for the record and tell  
20 the Examiners by whom you're employed and in what  
21 capacity.

22 A. Kyle Shefte. I'm employed by McElvain Energy  
23 as a geologist.

24 Q. Were your credentials as a petroleum geologist  
25 previously accepted and made a matter of record in an

1 **earlier case today?**

2 A. Yes, they were.

3 MS. KESSLER: Mr. Examiner, I would ask  
4 that Mr. Shefte's credentials as a petroleum geologist  
5 be accepted.

6 EXAMINER GOETZE: He's so qualified. And  
7 he's still very young, so --

8 Q. (BY MS. KESSLER) **Let's look at Exhibit 6,**  
9 **please, and tell the Examiners what this is.**

10 A. This is a structure map using the top of the  
11 2nd Bone Spring. It shows a strike of generally east to  
12 west and a dip of north to south at, roughly, 2 degrees.  
13 The green line shows our well, which we drilled from  
14 south to north, and the blue line shows our  
15 cross-section line from A to A prime.

16 Q. **The red line is the proposed spacing unit?**

17 A. Yes, it is.

18 Q. **Do you see the structure as being fairly**  
19 **uniform in this spacing unit?**

20 A. Yes, I do.

21 Q. **Do you identify any hazards, faulting,**  
22 **pinch-outs, anything like that?**

23 A. No, we do not.

24 Q. **Again, you use three wells for your**  
25 **cross-section exhibits, correct?**

1 A. Yes.

2 Q. Do you consider those wells representative of  
3 wells in the Bone Spring in this area?

4 A. Yes, I do.

5 Q. Is Exhibit 7 the corresponding cross section?

6 A. Yes, it is.

7 Q. And, again, you've shown the top of the 2nd  
8 Bone Spring in green and the base of the 2nd Bone Spring  
9 in blue?

10 A. Yes.

11 Q. What is the red line?

12 A. The red line is our horizontal target.

13 Q. Can you please review these logs?

14 A. These logs each have a gamma ray log. The one  
15 in the middle has bulk density, and the one on the side  
16 has neutron porosity and density porosity. The logs  
17 demonstrate that our target interval has uniform  
18 thickness, as well as uniform porosity.

19 Q. Is one of these logs the existing vertical well  
20 in this spacing unit?

21 A. Yes, it is.

22 Q. Which log is that?

23 A. The middle log, Kaiser-Francis Oil Company  
24 McElvain Federal 1, with an API number of  
25 30-025-247570000.

1 Q. Based on your review of this area, have you  
2 identified any geologic impediments to developing this  
3 acreage using a one-mile horizontal well?

4 A. No.

5 Q. Do you believe that the area can be efficiently  
6 and economically developed by a horizontal well?

7 A. Yes.

8 Q. Do you believe that each tract in the  
9 nonstandard unit will contribute more or less equally to  
10 production from the well?

11 A. Yes.

12 Q. In your opinion, will granting the application  
13 be in the interest of conservation, for the prevention  
14 of waste and the protection of correlative rights?

15 A. Yes.

16 Q. Were Exhibits 6 and 7 prepared by you or  
17 compiled under your direction and supervision?

18 A. Yes, they were.

19 MS. KESSLER: Mr. Examiners, I move  
20 admission of Exhibits 6 and 7 into the record.

21 EXAMINER GOETZE: Exhibits 6 and 7 are so  
22 entered.

23 (McElvain Energy, Inc. Exhibit Numbers 6  
24 and 7 are offered and admitted into  
25 evidence.)

1 EXAMINER GOETZE: Any questions?

2 EXAMINER BROOKS: Not now.

3 CROSS-EXAMINATION

4 BY EXAMINER GOETZE:

5 Q. Since we're in the same general area as the  
6 previous case, the geology is pretty much taken care of.

7 We have the vertical well in there. Is any  
8 consideration given to -- I notice that the proposed  
9 borehole path is fairly close to the location of the  
10 existing well.

11 A. Yes.

12 Q. So how are we going to handle that?

13 A. Our target zone is 400 feet below where their  
14 perms are, and most likely -- we will work with them to  
15 do best practices, most likely plug it when we're  
16 completing the well and put pressure sensors.

17 Q. So, I mean, it's still a producer?

18 A. Yes, it is.

19 Q. Okay. And let's see. The other question I had  
20 is you don't see any other interference from it?

21 A. No.

22 Q. Very good.

23 EXAMINER GOETZE: I have no questions for  
24 this witness anymore, but I do have a concern. I  
25 noticed that in our docket I've got 15742 as being the

1 Fed Com #2H, and I have the 15743 being the 1H. But  
2 I've got this (indicating) being --

3 MS. KESSLER: Yeah. So can I -- that must  
4 have been the confusion earlier. Can I correct the case  
5 numbers on the exhibits and give them back -- get them  
6 back to you?

7 EXAMINER BROOKS: Is there an error in the  
8 notification documents? The notification documents get  
9 the case number and the well identification crossed  
10 or --

11 MS. KESSLER: No. They're correct,  
12 Mr. Examiner. I think the problem was just on the cover  
13 sheet of the exhibits.

14 EXAMINER BROOKS: Well, I don't think we  
15 have to continue it.

16 EXAMINER GOETZE: It does appear that on  
17 the notice list the well is referenced properly. So  
18 it's just a matter of whoever prepared your exhibits  
19 will probably be working into the evening and given no  
20 vacation.

21 MS. KESSLER: I'll let them know with  
22 pleasure.

23 EXAMINER BROOKS: Well, if the error had  
24 happened up here (indicating), we would -- if it was  
25 only on the docket sheet, we would have said it's

1 because Florene is out.

2 EXAMINER GOETZE: Then there are five  
3 people to blame then (laughter).

4 Case Number 15743 is taken under  
5 advisement.

6 EXAMINER BROOKS: Strange things will  
7 happen with Florene out. I'm sorry.

8 (Case Number 15743 concludes, 10:53 a.m.)

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I do hereby certify that the foregoing is  
a correct and true copy of the proceedings as  
the same were heard at Case No. 15743.  
Heard by me on August 3, 2017.  
*Shelly A. Dodge*  
Shelly A. Dodge, Examiner  
Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

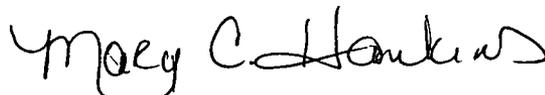
5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

13 I FURTHER CERTIFY that the Reporter's  
14 Record of the proceedings truly and accurately reflects  
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.

20

21



22

MARY C. HANKINS, CCR, RPR  
Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2017  
Paul Baca Professional Court Reporters

23

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