

**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 T.H. MCELVAIN OIL
& GAS LIMITED PARTNERSHIP FOR
COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

Case No. 14,409

VERIFIED STATEMENT OF LINNEA C. HILL

Linnea C. Hill, being duly sworn upon her oath, deposes and states:

1. I am a landman for T.H. McElvain Oil & Gas Limited Partnership, and have personal knowledge of the matters stated herein.
2. Pursuant to Division Rule NMAC 19.15.4.12.A(1), the following information is submitted in support of the compulsory pooling application filed herein:
 - (a) No opposition is expected because the working interest owners being pooled have been contacted repeatedly regarding the proposed well and have simply not decided whether to join in the well or farm out their interests upon terms agreeable to all parties.
 - (b) A plat outlining the spacing unit being pooled is attached hereto as Exhibit A. Applicant seeks an order pooling all mineral interests from the surface to the base of the Bone Spring formation underlying the following acreage in Section 31, Township 18 South, Range 34 East, N.M.P.M., Lea County, New Mexico: (i) Lot 3 (the NW $\frac{1}{4}$ SW $\frac{1}{4}$) to form a 38.03 acre oil spacing and proration unit for any formations and/or pools developed on 40 acre spacing within that vertical extent, including the Undesignated EK Yates-Seven Rivers-Queen Pool and Undesignated EK-Delaware Pool; and (ii) Lots 3 and 4 the (W $\frac{1}{2}$ SW $\frac{1}{4}$) to form a 76.12 acre oil spacing and proration unit for any formations and/or pools developed on 80 acre spacing within that vertical extent, including the EK-Bone Spring Pool. The unit is to be dedicated to the proposed McElvain Well No. 10, to be drilled at a location 2240 feet from south line and 990 feet from the west line of Section 31. The well will be an oil well.
 - (c) The parties being pooled, their working interests in the well units, and their last known addresses, are as follows:

Oil Conservation Division
Case No. _____
Exhibit No. 1

AZL Resources, Inc. 6.250000%
c/o ConocoPhillips Company
P.O. Box 2197
Houston, Texas 77251-2197

BP America Production Company 9.677420%
WL-1,6-196
501 Westlake Park Boulevard
Houston, Texas 77079

The W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 31 is a single federal tract, covered by Lease LC 069457. Therefore, ownership is identical in the 40 acre and 80 acre well units.

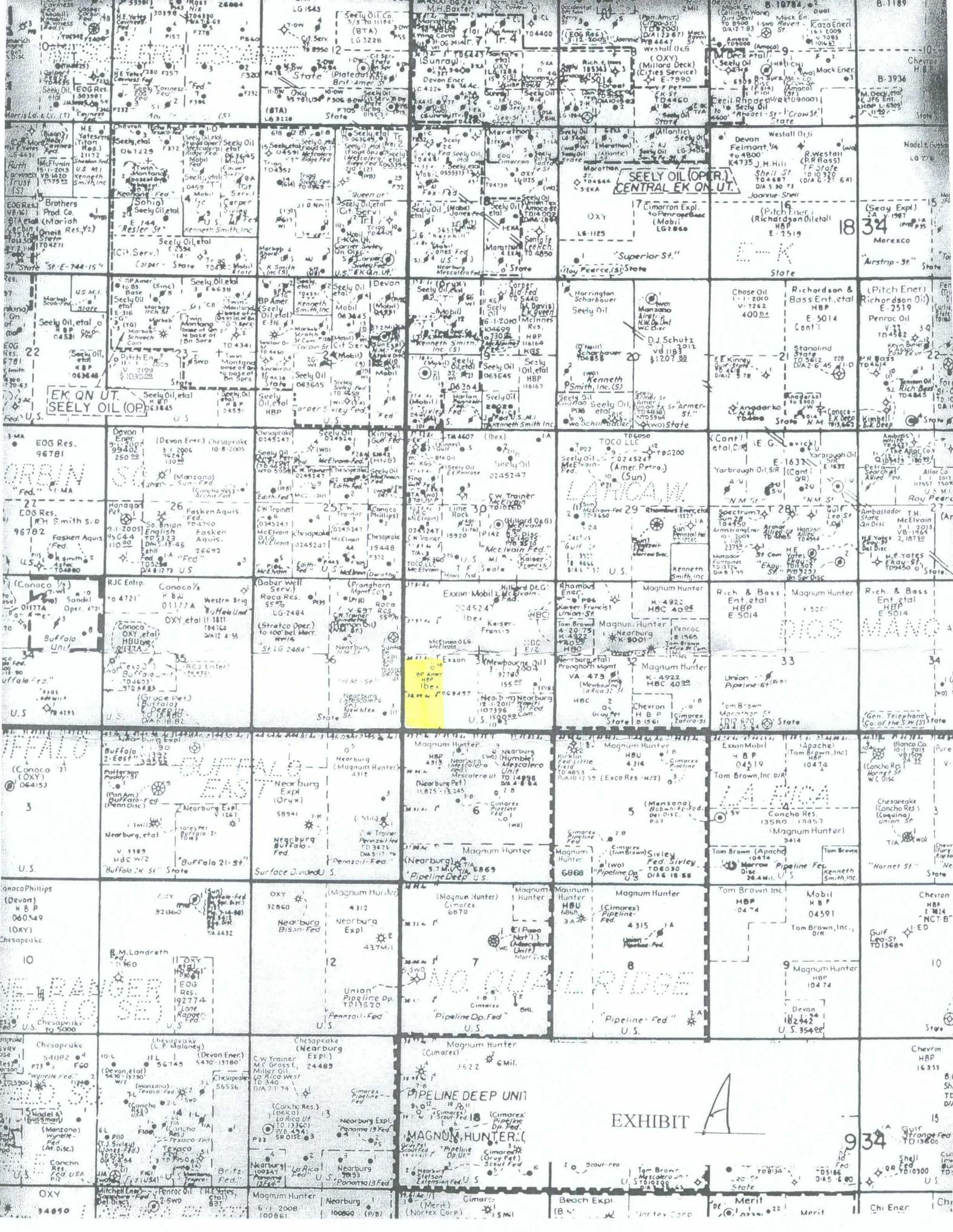
(d) A copy of the proposal letter sent to the uncommitted working interest owner is attached hereto as Exhibit B. In addition, numerous phone calls and e-mails have been sent to the interest owners, and evidence thereof is included within Exhibit B.

(e) Pursuant to Division rules, applicant requests that a 200% risk charge be assessed against a non-consenting working interest owner.

(f) A copy of the Authority for Expenditure for the proposed well is attached hereto as Exhibit C. The drilling and completion costs set forth therein are fair and reasonable, and are comparable to those of other wells of this depth drilled in this area of Lea County.

(g) Overhead charges of \$7800/month for a drilling well, and \$780/month for a producing well, are requested. These rates are fair and reasonable, and are in line with rates charged by other operators in this area for wells of this depth. Applicant also requests that the order contain a provision adjusting the rates pursuant to the COPAS accounting procedure.

(h) Applicant requests that McElvain Oil & Gas Properties, Inc. be designated operator of the well.



EXHIBIT

A

934

McElvain Oil & Gas Properties, Inc.

1050 - 17TH STREET, SUITE 1800
DENVER, COLORADO 80265

TELEPHONE 303-893-0933 EXT.349
FAX 303-893-0914
e-mail: linneah@mcelvain.com

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

September 22, 2009

TO WORKING INTEREST OWNERS
Proposed McElvain #10 Well
Lea County, New Mexico

RE: AFE to Drill Proposed Well

Ladies and Gentlemen:

McElvain Oil & Gas Properties, Inc. proposes the drilling of the captioned Bone Spring well. The estimated cost to drill and complete this well, as proposed, is \$2,106,250 which is detailed on the enclosed McElvain Authority for Expenditure. The area designated as the "Spacing Unit" for this well is W1/2SW/4 (aka Lots 3, 4) of Section 31, Township 18 South, Range 34 East, containing 76.12 acres, more or less.

An Operating Agreement to govern operations across the designated Spacing Unit and other lands has been prepared and is enclosed for your execution along with an extra set of signature pages for the JOA and for Exhibit "E", which is the Gas Balancing Agreement. We would appreciate it if each party would execute as reflected in the paragraph below.

We request that you review all of the enclosed materials relative to this proposal and proceed as follows:

- Indicate your election regarding participation on the enclosed Election Page, execute both copies in the space provided and return one copy to the undersigned;
- If your election is to participate, also execute both copies of the enclosed Authorization for Expenditure and return one copy to the undersigned along with a summary of your well reporting requirements.
- Execute the Operating Agreement and the extra signature pages thereto for the JOA and the Gas Balancing Agreement and have your signature acknowledged, returning the extra fully executed signature pages to the undersigned

We respectfully request that you review and respond to this proposal at your earliest possible convenience as we hope to have a rig scheduled soon. If you have any questions concerning this

EXHIBIT

B

McElvain #10 Well
September 22, 2009
Page 2

proposal, please feel free to contact the undersigned. Thank you for your consideration to this proposal

Very truly yours,

McElvain Oil & Gas Properties, Inc.

Linnea C. Hill

Linnea C. Hill, CPL
Senior Landman

MC ELVAIN OIL AND GAS, PROPERTIES, INC.

**AUTHORITY FOR EXPENDITURE
SUMMARY FOR EXPENDITURES
EXPLORATION & DEVELOPMENT**

WELL INFORMATION

DATE:	September 22, 2009	AFE NO.:	DONM09000284
WELL NAME:	McElvain #10	McELVAIN WELL NO.:	NM0026-25
LOCATION:	T18S-R34E, Sec 31: NW/4SW/4		
COUNTY	Lea		
STATE	New Mexico		
PROPOSED DEPTH:			
PURPOSE OF AFE:	10,100' Bone Spring Test		

COST ESTIMATES

Intangible Drilling Costs:	\$1,059,500
Tangible Drilling Costs	\$176,500
SUB TOTAL TO CASING POINT	\$1,236,000
Plugging and Abandonment Costs	\$70,500
TOTAL DRY HOLE COSTS:	\$1,306,500
Intangible Completion Costs:	\$311,750
Tangible Completion Costs:	\$558,500
TOTAL COMPLETION COSTS:	\$870,250
TOTAL WELL COSTS:	\$2,106,250
Facilities Land, Geological, Geophysical, Prospect	
TOTAL THIS AFE:	\$2,106,250

APPROVALS

COMPANY:	T. H. McElvain Oil & Gas Ltd.	WORKING INTEREST:	45.362902%
BY:	By: McElvain Oil & Gas Properties Inc., General Partner By Steven W. Shefte, Vice-President-Operations	DATE:	
COMPANY:	McElvain Oil Company	WORKING INTEREST:	25.806452%
BY:		DATE:	
COMPANY:	Ralph C. McElvain, Jr.	WORKING INTEREST:	12.903226%
BY:		DATE:	
COMPANY:	B P America Production Company	WORKING INTEREST:	9.677420%
BY:		DATE:	
COMPANY:	AZL Resources, Inc., successor to Bethol Corporation	WORKING INTEREST:	6.250000%
BY:		DATE:	
COMPANY:		WORKING INTEREST:	
BY:		DATE:	
COMPANY:		WORKING INTEREST:	
BY:		DATE:	
COMPANY:		WORKING INTEREST:	
BY:		DATE:	
COMPANY:		WORKING INTEREST:	
BY:		DATE:	
TOTAL			100.00%

Linnea Hill

From: Linnea Hill
Sent: Wednesday, October 14, 2009 12:15 PM
To: 'Tom.Scarbrough@conocophillips.com'
Subject: Proposed McElvain #10 Well, Lea County, New Mexico

Dear Mr. Scarbrough:

I wanted to write to you concerning some of the reasons why we are trying to drill the captioned well soon and why we feel there is an urgency concerning this proposal

As you probably know, our EK Field acreage is located in lesser prairie chicken (LPC) and sand dune lizard (SDL) habitat according to the May 2008 Pecos District BLM Office's "Record of Decision" authorizing yet another amendment to the original 1988 Carlsbad Resource Management Plan which covers this area.

Since the latest amendment, McElvain has incurred substantial out-of-pocket cash costs and additional delay costs associated with our multiple "on-sites" with various wildlife specialists in order to stake wells, determine road, power line and pipe line ROWs, and conduct SDL surveys. We've also incurred large costs with the preparation of and repeated amendments to the various Plans of Development (PODs) which we have been required to prepare and submit to the BLM. Some of the obligations imposed upon us during the POD approval process resulted in non-surface use commitments on some of our undeveloped locations. In addition, we've experienced cumbersome and costly start-ups, shut-downs and delays associated with the timing stipulations restricting operations between 3:00 A.M. and 9:00 A.M. from March 1 through June 15th. This list goes on, and nothing on the list reduces our costs or opens up additional development opportunities.

Our feeling is that it is going to get worse. SDLs were "released for funding" in December of 2008 and their listing under the Endangered Species Act is imminent according to the Carlsbad BLM's wildlife specialist, Steve Bird. Mr. Bird has and is providing input to Department of Interior "higher-ups" on specific rules that will govern (or prevent) development within endangered species habitat areas and he has informed McElvain personnel that formal SDL listing is anticipated in June of 2010. *The rapidly approaching listing won't enlarge the number of currently perceived "development" locations.* The parties in this area are going to directly lose development rights to acreage caused by specific surface use restrictions and/or the parties will also indirectly lose current development rights due to the additional cost of complying. After repeated viewings of the W/2 of Section 31 with Mr. Bird and others, McElvain is not sure it can develop more than 50% of the W/2 of the section with vertical wells simply because of SDL restrictions. LPC's will likely be listed within the next two years and it's possible that even less acreage will be developed following the listing of a second species.

We need to get the McElvain 10 drilled ASAP. We've staked and are permitting a couple of vertical protection wells around the # 10 just in case we are successful with the #10 but we do run into LPC timing restrictions (see above 3:00 to 9:00 A.M. restrictions) in March' so time is of the essence on the #10. The bottom line is that we feel we need to get the McElvain #10 drilled before the stipulations concerning timing restrictions or the well may not get drilled for a very long time to come.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com



RECEIVED

OCT 22 2009

McELVAIN OIL & GAS
PROPERTIES INC.

P.O. Box 2197
Houston, TX 77252-2197
Lower 48
Mid-Continent Business Unit

October 19, 2009

McElvain Oil & Gas Properties, Inc.
Attn: Linnea C. Hill
1050 - 17th St., Ste. 1800
Denver, CO 80265-1801

RE: McElvain No. 10
Lea, NM
Field: Bone Spring Test 10,100'
Partner AFE No: DONM09000284

Gentlemen:

ConocoPhillips Company (COPC) has evaluated your proposal and does not wish to participate in the project. Please contact Tom Scarbrough at 832.486.2338 to discuss other alternatives relative to COPC's interest.

Very truly yours,

CONOCOPHILLIPS COMPANY

Kelly L King
Mid-Continent Business Unit

Linnea Hill

From: Linnea Hill
Sent: Monday, November 02, 2009 11:08 AM
To: 'Scarborough, Thomas J.'
Subject: RE: McElvain #10 Well

I believe we may be able to do this type of deal with you; however, we would like to see a copy of your term assignment form. Could you please e-mail a blank form to me? It would be much appreciated.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Scarborough, Thomas J. [mailto:Tom.Scarborough@conocophillips.com]
Sent: Thursday, October 22, 2009 3:52 PM
To: Linnea Hill
Subject: RE: McElvain #10 Well

ConocoPhillips has it's form of Term Assignment that we use on these type deals. Generally, we deliver a 75% net revenue, retaining the difference between 25% and existing lease burdens. A one year term and 120 day continuous development clause are pretty standard in this area. In addition, we also receive a bonus consideration.

With this in mind, please send me your proposal and I will discuss with my asset team.

Regards,

Tom Scarborough, CPL
Staff Landman
ConocoPhillips Company
600 N. Dairy Ashford, 2WL-15058
Houston, Texas 77079
Phone: 832-486-2338
Cell: 832-594-8490
Fax: 832-486-2674
Tom.Scarborough@ConocoPhillips.Com

From: Linnea Hill [mailto:LinneaH@mcelvain.com]
Sent: Thursday, October 22, 2009 4:36 PM
To: Scarborough, Thomas J.
Subject: McElvain #10 Well

As I have contacted you by e-mail several times this week, I believe you have probably been out of the office or "covered up" by projects. As far as the captioned well on which you have indicated that AZL would perhaps enter into a farmout, would you like me to prepare an agreement proposal or do you have a type of agreement that Conoco/Phillips uses? Terms?

Linnea C. Hill, CPL
Senior Landman
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1050 17th Street, Suite 1800
Denver, Colorado 80265
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Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Wednesday, November 11, 2009 3:19 PM
To: 'Scarbrough, Thomas J.'
Subject: McElvain #10 Well Term Assignment

We are still reviewing the Term Assignment that you sent concerning the captioned well and lands; so I wanted to let you know that is still in progress. I need to also let you know that we are not willing to have a Call on Production. Is there any way that can be omitted? If not, we will have to move forward with compulsory pooling. Let me know.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Scarbrough, Thomas J. [Tom.Scarbrough@conocophillips.com]
Sent: Monday, November 16, 2009 4:28 PM
To: Linnea Hill
Subject: RE: McElvain #10 Well Term Assignment

Linnea,

I will check with our gas marketing group regarding the call on production. Please send me your formal terms for a TA as soon as practical.

Regards,

Tom Scarbrough, CPL
Staff Landman
ConocoPhillips Company
600 N. Dairy Ashford, 2WL-15058
Houston, Texas 77079
Phone: 832-486-2338
Cell: 832-594-8490
Fax: 832-486-2674
Tom.Scarbrough@ConocoPhillips.Com

From: Linnea Hill [mailto:LinneaH@mcelvain.com]
Sent: Wednesday, November 11, 2009 4:19 PM
To: Scarbrough, Thomas J.
Subject: McElvain #10 Well Term Assignment

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Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Monday, November 16, 2009 4:36 PM
To: 'Scarbrough, Thomas J.'
Subject: McElvain #10 Well

Mr. Scarbrough: Thanks for your e-mail about consulting your gas marketing department about the Call on Production. I will try to get back to you with our terms soon. I do want to give you a heads-up that we are applying for compulsory pooling. We started work on this compulsory pooling a week or so ago in case we can't reach an acceptable agreement (which I am hoping we still can). There is another party involved also where we may have to pool. As you know, it takes time to do this type of pooling; and we wanted to get the ball rolling in case we actually needed to do this. We have to get the well drilled in the very early months of 2010; so we needed to be on top of this.

I just wanted you to know this so it wouldn't be a surprise and so you would not think we are finished with ConocoPhillips on trying to make a deal. We do still hope to make a deal acceptable to both of us because that would be much better than having to deal with force-pooling.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Tuesday, November 17, 2009 7:33 AM
To: David Siple; Steve Shefte
Subject: ConocoPhillips-McElvain #10

I did hear back from Tom Scarbrough late in the afternoon yesterday. He is checking with his gas marketing about the Call on Production. He would like our final terms as soon as practical assuming they can delete the Call of Production. Basically, I think we were wanting to pay them \$100 per net acre; but they would have 10 net acres in the SW/4. I think they would probably go with a similar price that BP might entertain (I believe BP wanted \$500 per acre).

I told both BP and ConocoPhillips that we were going to go ahead and force-pool in case things did not work out. Both landman said they were really hoping not to have to go through that and they both feel we can come to some type of agreement.

Linnea C. Hill, CPL
Senior Landman
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Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

2 \$250
Conoco Phillips + BP
1 yr. term 11/1/2010
75 NRI
180 day continuous
\$500/ net min acre
force majeure language
including but
not limited to
regulatory
permitting
issues

11/16/09 Per Tom Scarbrough
Not far off on deal
will know on call of Prod soon but your
Subj to final mgmt approval
25% 1 yr. term bonus
120 cont drilling

Linnea Hill

From: Linnea Hill
Sent: Tuesday, November 17, 2009 2:31 PM
To: 'Scarborough, Thomas J.'
Subject: FW: McElvain #10-Formal Terms for Term Assignment

We would also like to strike Article XV-Preferential Right to Purchase in your Term Assignment.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Linnea Hill
Sent: Tuesday, November 17, 2009 12:43 PM
To: 'Scarborough, Thomas J.'
Subject: McElvain #10-Formal Terms for Term Assignment

Below are the terms we would like to propose for the Term Assignment from ConocoPhillips on behalf of AZL Resources, Inc.:

Term Assignment for a one year term starting 12/1/2009
Covering the SW/4 of Section 31, T18S, R34E
\$250.00 per net acre bonus consideration
180-day continuous drilling
75% NRI with AZL receiving an ORRI equal to the difference between 25% and existing lease burdens
No Call on Production
Force Majeure language including but not limited to regulatory permitting issues

Of course, the 180-day continuous drilling clause and the Force Majeure language is because of the stringent rules and regulations prohibiting drilling or causing delays in obtaining permits due to stips with the sand dune lizard and lesser prairie chicken habitats and due to such issues as sand dune lizard surveys, etc.

Linnea C. Hill, CPL
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Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Tuesday, December 01, 2009 1:19 PM
To: David Siple; Steve Shefte; Reed Fischer; John Steuble
Subject: McElvain #10

Tom Scarbrough called today from ConocoPhillips on behalf of AZL Resources concerning a Term Assignment on the captioned. They are willing to do the following which we had requested:

Term Assignment for a one year term starting 12/1/2009
Covering the SW/4 (aka Lots 3,4,E/2SW/4) of Section 31, T18S, R34E
\$250.00 per net acre bonus consideration
180-day continuous drilling
75% NRI with AZL receiving an ORRI equal to the difference between 25% and existing lease burdens
No Call on Production
Force Majeure language including but not limited to regulatory permitting issues

The only issue they were not willing to do was strike the Preferential Rights Clause from the Term Assignment.

I told him we would send some Force Majeure language which I will find in our Term Assignment with the Regan Trust (Dave and I, Reed and John worked on this at the time we did the Regan Trust Term Assignment) and send through Dave Siple before we send to them.

Can we live with the Pref. Rights clause not being stricken?

Linnea C. Hill, CPL
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Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Wednesday, December 02, 2009 9:16 AM
To: Steve Shefte; David Siple; 'jamesbruc@aol.com'
Subject: FW: McElvain #10 Well -Term Assignment

Here is ConocoPhillips response today about the Pref. Right. It appears we are going to be looking at compulsory pooling. I am sending a copy of this to James Bruce so he can start on the Affidavit.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Scarbrough, Thomas J. [<mailto:Tom.Scarbrough@conocophillips.com>]
Sent: Wednesday, December 02, 2009 9:10 AM
To: Linnea Hill; Eisterhold, Ben
Subject: RE: McElvain #10 Well -Term Assignment

Linnea,

ConocoPhillips Company appreciates McElvain's concern over the Term Assignment provisions as set forth in our previous communications. Since ConocoPhillips can not delete the preferential right clause, we will make our election under the compulsory pooling order.

Best Regards,

Tom Scarbrough, CPL
Staff Landman
ConocoPhillips Company
600 N. Dairy Ashford, 2WL-15058
Houston, Texas 77079
Phone: 832-486-2338
Cell: 832-594-8490
Fax: 832-486-2674
Tom.Scarbrough@ConocoPhillips.Com

From: Linnea Hill [<mailto:LinneaH@mcelvain.com>]
Sent: Wednesday, December 02, 2009 8:49 AM
To: Scarbrough, Thomas J.; Eisterhold, Ben
Subject: McElvain #10 Well -Term Assignment

Thank you both for your timely response yesterday concerning the captioned and for letting me know the terms acceptable to ConocoPhillips. Management has informed me that we are not agreeable to a pref. right for a 6.25% leasehold interest and that we will proceed with compulsory pooling if necessary.

Linnea C. Hill, CPL
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Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Ferguson, Craig [Craig.Ferguson@bp.com]
Sent: Wednesday, October 14, 2009 12:40 PM
To: Linnea Hill
Subject: RE: McElvain #10 Well Proposal

Linnea,

Thanks for your note and update. I have already submitted the AFE to be reviewed. I have not had a chance to complete my research or review OA due to the overwhelming transition from my last assignment. I will make an effort to review and send update of our election.

Thanks.

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
501 Westlake Park Blvd., WL-1, 6.196
Houston, TX 77079
(off) 281 366 1988
(fax) 281 366 7067

Nothing contained in this communication, or in any other written or oral communications with BP America Production Company or its affiliates (collectively "BP") concerning the matters addressed above, shall create an obligation on BP to conclude a transaction covering such matters. Unless and until a written agreement covering the matters addressed above is executed by BP's authorized representative having express authority to bind BP to a transaction of such size and nature, BP has no obligation (legal or otherwise) concerning such matters. You should not rely on this communication or any other written or oral communications with BP as the basis for taking any action, foregoing any opportunity or incurring any costs, in anticipation of concluding a transaction with BP.

From: Linnea Hill [mailto:LinneaH@McElvain.com]
Sent: Wednesday, October 14, 2009 12:49 PM
To: Ferguson, Craig
Subject: McElvain #10 Well Proposal

Dear Craig:

I wanted to write to you concerning some of the reasons why we are trying to drill the captioned well soon and why we feel there is an urgency concerning this proposal

As you probably know, our EK Field acreage is located in lesser prairie chicken (LPC) and sand dune lizard (SDL) habitat according to the May 2008 Pecos District BLM Office's "Record of Decision" authorizing yet another amendment to the original 1988 Carlsbad Resource Management Plan which covers this area.

Since the latest amendment, McElvain has incurred substantial out-of-pocket cash costs and additional delay costs associated with our multiple "on-sites" with various wildlife specialists in order to stake wells, determine road, power line and pipe line ROWs, and conduct SDL surveys. We've also incurred large costs with the preparation of and repeated amendments to the various Plans of Development (PODs) which we have been required to prepare and submit to the BLM. Some of the obligations imposed upon us during the POD approval process resulted in non-surface use commitments on some of our undeveloped locations. In addition, we've experienced cumbersome and costly start-ups, shut-downs and delays associated with the timing stipulations restricting operations between 3:00 A.M. and 9:00 A.M. from March 1 through June 15th. This list goes on, and nothing on the list reduces our costs or opens up additional development opportunities.

Our feeling is that it is going to get worse. SDLs were "released for funding" in December of 2008 and their listing under the Endangered Species Act is imminent according to the Carlsbad BLM's wildlife specialist, Steve Bird. Mr. Bird has and is providing input to Department of Interior "higher-ups" on specific rules that will govern (or prevent) development within endangered species habitat areas and he has informed McElvain personnel that formal SDL listing is anticipated in June of 2010. The rapidly approaching listing won't enlarge the number of currently perceived "development" locations.

11/11/09

Re: McElvain #10

Talked by telephone with Craig Ferguson, Landman, on the McElvain #10 AFE. They had to pull it today off of one engineer's desk since he got put on a special project and give it to someone else to review. Craig is looking at JOA. Craig says there is a lot to do concerning interest of parties since that is such a mess (he indicated McElvain would need to do the work). He said one of his staff called BHM to see what could be done on their records. He also said on Monday (11/9/09) he mailed me the 1997 Title Opinion that had requirements with what needs done on the interest mess.

Linnea Hill

From: Linnea Hill
Sent: Monday, November 16, 2009 3:40 PM
To: 'Ferguson, Craig'
Subject: RE: Proposed McElvain #10 Well

Craig: I do want to give you a heads-up that we are applying for compulsory pooling even though you responded today about the proposed McElvain #10 Well. We started work on this a week or so ago in case we can't reach an acceptable agreement (which I am hoping we can based on your e-mail of this morning). There is another party involved also where we may have to pool. As you know, it takes time to do this type of pooling; and we wanted to get the ball rolling in case we actually needed to do this. We have to get the well drilled in the very early months of 2010; so we needed to be on top of this.

I just wanted you to know this so it wouldn't be a surprise and so you would not think we are finished with BP on trying to make a deal. We do still hope to make a deal acceptable to both BP and McElvain.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Ferguson, Craig [mailto:Craig.Ferguson@bp.com]
Sent: Monday, November 16, 2009 1:13 PM
To: Linnea Hill
Subject: Proposed McElvain #10 Well

Hi Linnea,
Thank you for your letter dated 9/22/2009 requesting BP join your proposed new well in the W/2SW/4 (aka Lots 3,4) of Sec. 31, T18S, R34E, Lea County, NM. Please be advised that BP is not interested at this time in participating in the said well. However, we would be willing to term assign our interest with the following terms;

- 1.) \$500.00 per net mineral acre
- 2.) 6 month term, commencing 1/1/2010 or a mutually acceptable date.
- 3.) 90 day continuous development provision
- 4.) deliver a 75% NRI

or 180 days
1 yr. Checks with Res of lizard or prairie chicken - yes it is
cover entire SW/4

Please review and let me know if terms are acceptable. I will commence preparation of Term Assignment and will forward upon your request.

Thanks for your time and patience.
Look forward to hearing from you soon.

$156.12 \times 9.6774 = 15.109 \text{ net acres}$

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
501 Westlake Park Blvd., WL-1, 6.196
Houston, TX 77079
(off) 281 366 1988
(fax) 281 366 7067

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Linnea Hill

From: Linnea Hill
Sent: Monday, November 16, 2009 4:29 PM
To: 'Ferguson, Craig'
Subject: RE: Proposed McElvain #10 Well

Thanks for letting me know.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Ferguson, Craig [mailto:Craig.Ferguson@bp.com]
Sent: Monday, November 16, 2009 3:49 PM
To: Linnea Hill
Subject: RE: Proposed McElvain #10 Well

Linnea,
Bp is prepared to finalize a term assignment this week. Ball is in your court. Hopefully we can save everyone the trouble of dealing with force-pooling.
I will be here through Thursday but will be out all next week.
Thanks for your correspondence.

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
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From: Linnea Hill [mailto:LinneaH@McElvain.com]
Sent: Monday, November 16, 2009 4:40 PM
To: Ferguson, Craig
Subject: RE: Proposed McElvain #10 Well

Craig: I do want to give you a heads-up that we are applying for compulsory pooling even though you responded today about the proposed McElvain #10 Well. We started work on this a week or so ago in case we can't reach an acceptable agreement (which I am hoping we can based on your e-mail of this morning). There is another party involved also where we may have to pool. As you know, it takes time to do this type of pooling; and we wanted to get the ball rolling in case we actually needed to do this. We have to get the well drilled in the very early months of 2010; so we needed to be on top of this.

I just wanted you to know this so it wouldn't be a surprise and so you would not think we are finished with BP on trying to make a deal. We do still hope to make a deal acceptable to both BP and McElvain.

Linnea C. Hill, CPL
Senior Landman
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Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Ferguson, Craig [mailto:Craig.Ferguson@bp.com]
Sent: Monday, November 16, 2009 1:13 PM
To: Linnea Hill
Subject: Proposed McElvain #10 Well

Hi Linnea,
Thank you for your letter dated 9/22/2009 requesting BP join your proposed new well in the W/2SW/4 (aka Lots 3,4) of Sec. 31, T18S, R34E, Lea County, NM. Please be advised that BP is not interested at this time in participating in the said well. However, we would be willing to term assign our interest with the following terms;

- 1.) \$500.00 per net mineral acre
- 2.) 6 month term, commencing 1/1/2010 or a mutually acceptable date.
- 3.) 90 day continuous development provision
- 4.) deliver a 75% NRI

Please review and let me know if terms are acceptable. I will commence preparation of Term Assignment and will forward upon your request.

Thanks for your time and patience.

Look forward to hearing from you soon.

Craig T. Ferguson
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Linnea Hill

From: Linnea Hill
Sent: Tuesday, November 17, 2009 12:56 PM
To: 'Ferguson, Craig'
Subject: McElvain #10 Well-Terms for Term Assignment from BP

Below are the terms we would like to propose for the Term Assignment from BP America Production Co.:

Term Assignment for a one year term starting 12/1/2009
Covering the SW/4 of Section 31, T18S, R34E
\$500.00 per net acre bonus consideration (we believe you have approx 15.11 net acres)
180-day continuous drilling
75% NRI with BP receiving an ORRI equal to the difference between 25% and existing lease burdens
No Call on Production
Force Majeure language including but not limited to regulatory permitting issues

Of course, the 180-day continuous drilling clause and the Force Majeure language is because of the stringent rules and regulations prohibiting drilling or causing delays in obtaining permits due to stips with the sand dune lizard and lesser prairie chicken habitats and due to such issues as sand dune lizard surveys, etc.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Ferguson, Craig [Craig.Ferguson@bp.com]
Sent: Wednesday, December 02, 2009 3:44 PM
To: Linnea Hill
Subject: RE: McElvain #10 Well-Terms for Term Assignment from BP

Linnea,

It was nice visiting with you today. I am glad you had a good Thanksgiving break.

Please note below our response to your counter. As we discussed I have also forwarded both title opinions to our legal department and requested their advice as to our current interest in subject area. I will call you next week with their decision.

Thanks.

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
501 Westlake Park Blvd., WL-1, 6.196
Houston, TX 77079
(off) 281 366 1988
(fax) 281 366 7067

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From: Linnea Hill [mailto:LinneaH@McElvain.com]
Sent: Tuesday, November 17, 2009 1:56 PM
To: Ferguson, Craig
Subject: McElvain #10 Well-Terms for Term Assignment from BP

Below are the terms we would like to propose for the Term Assignment from BP America Production Co.:

Term Assignment for a one year term starting 12/1/2009 -- 9 Months

Covering the SW/4 of Section 31, T18S, R34E -- limited to surface to base of Bone Spring

\$500.00 per net acre bonus consideration (we believe you have approx 15.11 net acres) - OK

180-day continuous drilling - 120 day

75% NRI with BP receiving an ORRI equal to the difference between 25% and existing lease burdens - OK

No Call on Production - OK

Force Majeure language including but not limited to regulatory permitting issues - No, we believe with proper planning the 9 month term and 120 day continuous drilling will be sufficient

Of course, the 180-day continuous drilling clause and the Force Majeure language is because of the stringent rules and regulations prohibiting drilling or causing delays in obtaining permits due to stips with the sand dune lizard and lesser prairie chicken habitats and due to such issues as sand dune lizard surveys, etc.

Linnea C. Hill, CPL

Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Thursday, December 03, 2009 1:57 PM
To: 'Ferguson, Craig'
Subject: RE: McElvain #10, Regs and Stips for Sand Dune Lizard and Prairie Chicken

Great!!!! This will work for us also. We will call you at 8:00 Denver time which is 9:00 a.m. your time. The engineer from our side is Reed Fischer. Thanks.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Ferguson, Craig [<mailto:Craig.Ferguson@bp.com>]
Sent: Thursday, December 03, 2009 1:41 PM
To: Linnea Hill
Cc: Lowe, Margaret J
Subject: RE: McElvain #10, Regs and Stips for Sand Dune Lizard and Prairie Chicken

Linnea,
We are all set for 8:00am Monday 12/7.

Please call: 1-866-685-4852. The telecon code is: 6927451109
If you have problems call my office phone.
Thanks.

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
501 Westlake Park Blvd., WL-1, 6.196
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From: Linnea Hill [<mailto:LinneaH@McElvain.com>]
Sent: Thursday, December 03, 2009 12:04 PM
To: Ferguson, Craig
Subject: McElvain #10

The engineer for this well and I would like to call you this afternoon to talk about the force majeure. I know you said you had a meeting with legal also. What would be a better time for us to call after 1:00 p.m. (MST) today?

Linnea C. Hill, CPL
Senior Landman
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Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Monday, December 07, 2009 3:21 PM
To: 'Ferguson, Craig'
Subject: Force Majeure Language
Attachments: ForceMajeureLanguage.docx

Dear Craig Ferguson: Attached is the Force Majeure Language that we spoke about this morning for your review and consideration. Thank you for your time this morning; and I will hope to hear from you soon.

Sorry it took so long to send out today. I got hung up on another brush fire.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

If Assignee is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, other than the obligation to make money payments, that Assignee shall give to Assignor prompt written notice of the force majeure with reasonably full particulars concerning it; thereupon, the obligations of the Assignee, so far as it is affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The Assignee shall use all reasonable diligence to remove the force majeure situation as quickly as practicable.

The requirement that any force majeure shall be remedied with all reasonable diligence shall not require the settlement of strikes, lockouts, or other labor difficulty by the Assignee, contrary to its wishes. How all such difficulties shall be handled shall be entirely within the discretion of the Assignee.

The term "force majeure", as here employed, shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, storm, flood, explosion, governmental action, governmental delay, including permitting delays, governmental restraint or inaction, wildlife survey stipulations, endangered species designation, unavailability of equipment, including drilling rigs, and any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of the Assignee.

Linnea Hill

From: Ferguson, Craig [Craig.Ferguson@bp.com]
Sent: Tuesday, December 08, 2009 3:13 PM
To: Linnea Hill
Subject: RE: McElvain #10 Well-Terms for Term Assignment from BP
Attachments: BP_McElvain_TermAssignment_12_1_2009.doc

Hi Linnea,

Please note below our current response to your terms for term assignment covering SW/4 Section 31, T18S, R34E. We still have the issue concerning our interest in SW/4. Our legal department has requested more docs and is still under review. What is McElvain plans for curing problem to determine correct BP and McElvain interest?

Thanks. Hope we can come to a decision soon.

Craig T. Ferguson
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From: Linnea Hill [mailto:LinneaH@McElvain.com]
Sent: Tuesday, November 17, 2009 1:56 PM
To: Ferguson, Craig
Subject: McElvain #10 Well-Terms for Term Assignment from BP

Below are the terms we would like to propose for the Term Assignment from BP America Production Co.:

Term Assignment for a one year term starting 12/1/2009 - OK
Covering the SW/4 of Section 31, T18S, R34E, limited from surface to base of Bone Spring Formation
\$500.00 per net acre bonus consideration (we believe you have approx 15.11 net acres) – OK, net acres to be determined
180-day continuous drilling - 120 continuous drilling
75% NRI with BP receiving an ORRI equal to the difference between 25% and existing lease burdens
No Call on Production - OK
Force Majeure language including but not limited to regulatory permitting issues – will use BP Force Majeure language as shown on attached term assignment

Of course, the 180-day continuous drilling clause and the Force Majeure language is because of the stringent rules and regulations prohibiting drilling or causing delays in obtaining permits due to stips with the sand dune lizard and lesser prairie chicken habitats and due to such issues as sand dune lizard surveys, etc.

Linnea C. Hill, CPL

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1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Tuesday, December 08, 2009 3:25 PM
To: 'Ferguson, Craig'
Subject: RE: McElvain #10 Well-Terms for Term Assignment from BP

Craig: We intend to do a stipulation or similar type of instrument correcting the title.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Ferguson, Craig [<mailto:Craig.Ferguson@bp.com>]
Sent: Tuesday, December 08, 2009 3:13 PM
To: Linnea Hill
Subject: RE: McElvain #10 Well-Terms for Term Assignment from BP

Hi Linnea,
Please note below our current response to your terms for term assignment covering SW/4 Section 31, T18S, R34E. We still have the issue concerning our interest in SW/4. Our legal department has requested more docs and is still under review. What is McElvain plans for curing problem to determine correct BP and McElvain interest?
Thanks. Hope we can come to a decision soon.

Craig T. Ferguson
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From: Linnea Hill [<mailto:LinneaH@McElvain.com>]
Sent: Tuesday, November 17, 2009 1:56 PM
To: Ferguson, Craig
Subject: McElvain #10 Well-Terms for Term Assignment from BP

Below are the terms we would like to propose for the Term Assignment from BP America Production Co.:

Term Assignment for a one year term starting 12/1/2009 - OK
Covering the SW/4 of Section 31, T18S, R34E, limited from surface to base of Bone Spring Formation
\$500.00 per net acre bonus consideration (we believe you have approx 15.11 net acres) – OK, net acres to be determined

180-day continuous drilling - 120 continuous drilling

75% NRI with BP receiving an ORRI equal to the difference between 25% and existing lease burdens

No Call on Production - OK

Force Majeure language including but not limited to regulatory permitting issues -- will use BP Force Majeure language as shown on attached term assignment

Of course, the 180-day continuous drilling clause and the Force Majeure language is because of the stringent rules and regulations prohibiting drilling or causing delays in obtaining permits due to stipulations with the sand dune lizard and lesser prairie chicken habitats and due to such issues as sand dune lizard surveys, etc.

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Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Ferguson, Craig [Craig.Ferguson@bp.com]
Sent: Thursday, December 10, 2009 6:51 AM
To: Linnea Hill
Subject: McElvain #10 - BP title issues

Hi Linnea,

Do you have a copy of the "Contract and Operating Agreement" in favor of C. W. Trainer as noted in DTO dated 7/11/1997, and the partial release of operating rights, dated 4/11/1977, filed on 10/5/1978. If so, do you mind sending me an electronic copy? I have a meeting with legal today and they are requesting copies.

Thanks.

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
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Houston, TX 77079
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Linnea Hill

From: Linnea Hill
Sent: Thursday, December 10, 2009 8:44 AM
To: 'Ferguson, Craig'
Attachments: _1210080417_001.pdf; _1210083023_001.pdf; _1210083441_001.pdf

Craig: Here is the information you requested this morning. I have given you attached a Contract and Operating Agreement with 3 amendments that was done with Edith McElvain; one of the family members. Basically all of the Contract and Operating Agreements with members of the McElvain family and Regan Trust looked the same through the 3rd amendment. As the second attachment hereto, I did find a fourth and fifth amendment with different parties other than Edith McElvain; and I don't know whether all of the family members signed these last two amendments (I have not found anything in the files except these two). I have also attached a partially signed copy of the Partial Release of Operating Rights dated April 11, 1977 which is not a recorded copy; but your legal department may want to see this instrument.

As far as Contract and Operating Agreements with Marvin Gross, Hilliard Oil, Jake L. Hamon, Don O. Chapell and Miller Oil Company, I have not found anything in our files because those parties are not associated with McElvain.

Linnea C. Hill, CPL
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Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Thursday, December 10, 2009 11:03 AM
To: 'Vazquez, Laney'
Subject: RE: McElvain #10 - BP interest review

At this point, I need to focus on the Term Assignment from BP rather than the title issues so that I can get this signed between McElvain and BP and get the compulsory pooling dismissed (if McElvain agrees with the Term Assignment). That is the major issue right now; so I am going to have to wait until later to get more involved in the title issue.

Linnea C. Hill, CPL
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Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Vazquez, Laney [mailto:Laney.Vazquez@bp.com]
Sent: Thursday, December 10, 2009 10:56 AM
To: Linnea Hill
Cc: Ferguson, Craig
Subject: RE: McElvain #10 - BP interest review

Thanks for your response. Do you have anything which supports McElvain's position regarding the effect of the Partial Release?

Thanks,
Laney

Laney M. Vazquez
Attorney
BP America Inc.
501 Westlake Park Blvd.
WL1 - 16.134
Houston, Texas 77079
Phone: 281-366-5868
Fax: 281-366-4505
E-mail: Laney.Vazquez@bp.com
www.bp.com

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From: Linnea Hill [mailto:LinneaH@McElvain.com]
Sent: Thursday, December 10, 2009 11:53 AM
To: Vazquez, Laney
Subject: RE: McElvain #10 - BP interest review

Unfortunately, I don't think I have a lot of the Hilliard stuff. If that changes, I will let you know; but my memory is that we don't have a lot of information about the Hilliard stuff.

Linnea C. Hill, CPL
Senior Landman
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Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Vazquez, Laney [mailto:Laney.Vazquez@bp.com]
Sent: Thursday, December 10, 2009 10:48 AM
To: Linnea Hill
Cc: Ferguson, Craig
Subject: FW: McElvain #10 - BP interest review

Hi, Linnea:

I hope you don't mind me contacting you directly. I'm reviewing title and would like to see a copy of the April 11, 1977 Hilliard letter which is referenced in the two letters you sent. Do you have a copy of that letter which you could provide?

Thank you,

Laney

Laney M. Vazquez
Attorney
BP America inc.
501 Westlake Park Blvd.
WL-1 - 16.134
Houston, Texas 77079
Phone: 281-366-5868
Fax: 281-366-4505
E-mail: Laney.Vazquez@bp.com
www.bp.com

NOTICE: This message is intended only for the addressee(s) and may contain privileged and confidential information. If you received this message in error, please so advise the sender and then delete this message. Thank you.

From: Ferguson, Craig
Sent: Thursday, December 10, 2009 9:52 AM
To: Vazquez, Laney
Subject: McElvain #10 - BP interest review

Here is what I received from McElvain

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
501 Westlake Park Blvd., WL-1, 6.196
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(fax) 281 366 7067

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From: Linnea Hill [mailto:LinneaH@McElvain.com]
Sent: Thursday, December 10, 2009 9:44 AM
To: Ferguson, Craig
Subject:

Craig: Here is the information you requested this morning. I have given you attached a Contract and Operating Agreement with 3 amendments that was done with Edith McElvain; one of the family members. Basically all of the Contract and Operating Agreements with members of the McElvain family and Regan Trust looked the same through the 3rd amendment. As the second attachment hereto, I did find a fourth and fifth amendment with different parties other than Edith McElvain; and I don't know whether all of the family members signed these last two amendments (I have not found anything in the files except these two). I have also attached a partially signed copy of the Partial Release of Operating Rights dated April 11, 1977 which is not a recorded copy; but your legal department may want to see this instrument.

As far as Contract and Operating Agreements with Marvin Gross, Hilliard Oil, Jake L. Hamon, Don O. Chapell and Miller Oil Company, I have not found anything in our files because those parties are not associated with McElvain.

Linnea C. Hill, CPL
Senior Landman
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265
Telephone No. (303) 893-0933, Extension 349
Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

Linnea Hill

From: Linnea Hill
Sent: Friday, December 11, 2009 9:00 AM
To: 'Ferguson, Craig'
Subject: McElvain #10-BP proposed Term Assignment

Dear Craig: I wanted to let you know that our departments have all now reviewed the Term Assignment you proposed and sent to us on Tuesday, December 8, 2009. Please be advised that it is the consensus at McElvain that the terms and conditions are too onerous. Consequently, we intend to proceed with the compulsory pooling of BP's 9.67442% interest.

We do appreciate all the work and attention that you personally gave this matter; and we also appreciate other personnel at BP for dealing with this matter. Working with you has been very nice; and I do wish there would have been a different outcome.

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From: Linnea Hill <LinneaH@McElvain.com>

To: 'jamesbruc@aol.com' <jamesbruc@aol.com>

Subject: FW: McElvain #10-BP proposed Term Assignment

Date: Tue, Dec 15, 2009 8:45 am

Attachments: _1215082705_001.pdf (499K)

Here is another communication this morning with BP for your records.

Linnea C. Hill, CPL
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Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Linnea Hill

Sent: Tuesday, December 15, 2009 8:39 AM

To: 'Ferguson, Craig'

Subject: RE: McElvain #10-BP proposed Term Assignment

Dear Craig, per your request this morning, the attached and the information below reflects that there were lots of problems with the Term Assignment as far as McElvain is concerned.

Attached is the Term Assignment with comments from our attorneys.

Also, the following is from our gas marketing department:

- 2.03 If the produced volumes are deemed to be processed through a Gas Processing Plant, the ORRI will be reduced by whatever costs are associated with the processing and treating of the production. The assignor will receive revenues based on what the assignee receives from marketing the production. They will not receive a "better deal" than what the assignee receives.
- 2.04 They will be NO option to Take in Kind an ORRI especially on the oil production. On only two occasions do I see this happening; either the assignee defaults on payments or declares bankruptcy; then, the assignor would be able to Take their production in kind. At no other time would they be able to Take in Kind.

Exhibit D: The gas balancing statement.

III. A The quantities mentioned in the first paragraph are usually 300% (instead of 150%) on other GBA's.

III. B Any underproduced party shall give 30 (thirty) days written notice to the operator requesting make-up.

The month of March will move from the summer term (April – October) to the winter term (November – March). These are the months that marketing companies use to buy and sell gas.

Comments from Engineering:

I have no problem with Exhibit 'B'. I'm going to assume in part 5 of Exhibit B that we just have to provide them access to cuttings, water samples and cores. We don't typically save the cuttings and water samples following analysis. If we were to take side wall cores we would probably retain this manageable amount of rock for an extended period at our core analysis company. I don't know how you want to handle this other than to put a time limit on the amount of time we would have to retain drill cuttings.

On Exhibit C a few comments:

In Exhibit C 1 we don't prepare MSDS sheets; we just ask for them from our vendors, and only rarely have I asked for these but they are readily available from our mud companies and fuel haulers.

In Exhibit C 3 we don't have nor do we ask our service companies to recycle used fluids; we ask them to properly dispose of them.

In Exhibit C 6, WTF is a "restrictor nozzle"? All water is purchased and we watch its use like we would anything

that is not free.

In Exhibit C 7, we don't require nor have I ever seen water and fuel tanks be bermed on a drilling location. This would be costly and increase the size of our location which will already be downsized due to our encirclement by sand dunes. The 300' x 325' location our rig wanted has already been cut down to 270' x 300'. I had to submit a sundry notice and receive prior approval before we could build this size pad. We have a Spill Prevention plan for our producing locations, and by law we are required to construct berms capable of retaining 1.5 times the maximum size of storage tanks. We'll have up to 2,500 bbls of storage on this rig for our closed loop system, fresh water, septic and brine tanks plus the rig's fuel tanks and steel rig pits. We'll have between 7-10 tanks and roll-off bins on location. In addition, since we change out the roll-off bins daily, berming is impractical.

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Fax. No. (303) 893-0914
e-mail: linneah@mcelvain.com

From: Ferguson, Craig [<mailto:Craig.Ferguson@bp.com>]
Sent: Tuesday, December 15, 2009 6:23 AM
To: Linnea Hill
Cc: Vazquez, Laney
Subject: RE: McElvain #10-BP proposed Term Assignment

Linnea,
In an effort to secure a deal prior to pooling please send me a McElvain approved term assignment and let's have our legal department review. Except for the discrepancy of interest is this the only issue holding us back from closing a deal?

Craig T. Ferguson
Land Negotiator
SENM, Permian Asset
BP America Production Company
501 Westlake Park Blvd., WL-1, 6.196
Houston, TX 77079
(off) 281 366 1988
(fax) 281 366 7067

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From: Linnea Hill [<mailto:LinneaH@McElvain.com>]
Sent: Friday, December 11, 2009 10:00 AM
To: Ferguson, Craig
Subject: McElvain #10-BP proposed Term Assignment

Dear Craig: I wanted to let you know that our departments have all now reviewed the Term Assignment you proposed and sent to us on Tuesday, December 8, 2009. Please be advised that it is the consensus at McElvain that the terms and conditions are too onerous. Consequently, we intend to proceed with the compulsory pooling of BP's 9.67442% interest.

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personnel at BP for dealing with this matter. Working with you has been very nice; and I do wish there would have been a different outcome.

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McELVAIN OIL & GAS PROPERTIES, INC.

AUTHORITY FOR EXPENDITURE

September 4, 2009

McElvain # 10 (10,100' Bone Springs Test)		DRY HOLE	COMPLETED WELL
CATEGORY	NWSW Sec. 31, T18S-R34E		
NUMBER	Lea County, New Mexico		
Drilling Intangibles			
4004	Staking, Permit & Legal Fees	10,000	10,000
4015	Location (50K R&L, 18K 80' C,R&M, 30K Reclaim)	98,000	68,000
4111	Drilling Daywork (28 Days @ \$11,00/Day + \$40K RURD)	348,000	348,000
4116	Rig MOB & DEMOB	55,000	55,000
4118	Rig Fuel (30 Days - 1000 gal/day)	60,000	60,000
4119	Drill Pipe, Drill Collar & Sub Inspection	8,000	8,000
4120	Drilling Water (Brine & Well Water)	50,000	50,000
4125	Drilling Mud & Additives	32,500	32,500
4126	Fluid Disposal (Haul-off & Disposal @ \$1.2k/day-28 days)	34,000	34,000
4135	Bits (1 RT surf, 1 RB Inter, 3 Insert Prod)	42,500	42,500
4204	Mud Logs (2 man 16 days w/RU & RD + exp @ \$1200/day)	20,000	20,000
4220	Open Hole Logs (Platform Exp w/HiRes Lat Log)	20,000	20,000
4225	Cement (\$25K-Surface, \$20K-Int, \$30K P&A w/tag)	75,000	45,000
4250	Rental Equip (\$1.2K/day-32days+\$15K BHA jewelry)	53,500	53,500
4408	Casing Crew for Surf \$5.5K+Interm \$7.5K & LDDP for P&A	20,000	13,000
4409	Casing & Tubing Inspection (Clean, Drift, Strap Surf & Interm Csg)	4,500	4,500
4480	Transportation	8,500	8,500
4515	Roust & Contract Labor (NU&test BOP, weld, trench, camp set)	25,000	25,000
4580	Misc. Materials & Supplies (Trailer materials, etc)	1,000	1,000
4611	Closed Loop System (28 days @ \$2K/day)	58,000	56,000
4615	Field Supv - 34 days co man+16 days Geo @ \$1,000+\$900/day	48,500	48,500
4620	Drilling Overhead - 28 days @ \$200/day	6,000	6,000
4715	Other Drilling Costs - 5% Contingency	54,000	50,500
Total Intangible Drilling		1,130,000	1,059,500
Completion Intangibles			
5015	Roads & Location (Pul&fill cellar, Interim Recl, Anchors)		15,000
5112	Pulling Unit-Completion Unit 14 days @ \$3500/day		49,000
5121	Completion Water		20,000
5126	Fluid Disposal		5,000
5135	Bits		750
5220	Cased Hole Logs & Perforating (CBL & Select fire 1 frac zone)		15,000
5225	Cement & Cementing tools for two stage cement job		42,500
5250	Tool & Equip Rental (BOPE, Frac Valve, Tnks, Pkr, Bailer, John)		22,500
5408	Casing Crew		8,500
5480	Trucking & Transportation		7,500
5515	Roustabouts & Contract Labor (Fencing, flowbacks)		6,500
5520	Stimulation (1850 gal 7.5% Acid \$5K & 17K# Lite Prop frac-\$75K)		80,000
5550	Slickline Services (BHP Survey)		3,500
5560	Hotoil Service (Press. Test, heat water, clean-up flowback oil)		2,500
5580	Misc. Materials & Supplies		1,000
5615	Field Supervision (16 days @ \$900/day)		14,500
5620	Completion Overhead (14 days @ \$200/day)		3,000
5715	Other Completion Costs (5% Cont)		15,000
Total Completion Intangibles		0	311,750
Total Intangibles		1,130,000	1,371,250
Tangibles			
8005	Surface Casing (1,700' Thds Off 13.375", 48&54# @ \$35 & 40/ft)	67,000	67,000
8010	Intermediate Casing (3550' Thds Off 8.625", 32# J55 @ \$25/ft)	93,500	93,500
8015	Production Casing (10,100' 5.5", 17" 180 @ \$15/ft incl 5% tax)		151,500
8025	Tubing (10,000' 2.875", 6.5# L80 @ \$6.5/ft incl 5% tax)		65,000
8205	Wellhead (13.625"3M, 11"5M spool, 7-1/16"5M tbghd, B1 Adpt)	16,000	25,000
8220	Separation Equipment (125# separator, 50# treater & fittings)		16,500
8230	Tanks (3-400 bbl w/stairway & platform, 1-fiberglass H2O)		42,500
8250	Line Pipe & Fittings		22,500
8270	Surface Pumps (Recycle & Methanol Pumps)		2,500
8302	Electric Motors		6,000
8305	Pumping Unit (456)		120,000
8310	Rods & Pump (\$24K rods, \$4.5K Pmp & \$2K Misc)		30,500
8405	Flowlines		2,500
8505	Labor for Equipment Install (Includes 1.5 mi. Electric Install)		80,000
8506	Trucking for Surface Equipment		5,000
8705	Non Controllable Equipment		5,000
Total Tangibles		176,500	735,000
Total Well Cost		\$1,306,500	\$2,106,250

APPROVALS:

McElvain Oil & Gas Properties, Inc.

John D. Stenke

Date: 9-21-09

EXHIBIT