

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:

CASE NO. 12251  
ORDER NO. R-11182-A

**APPLICATION OF McELVAIN OIL & GAS PROPERTIES, INC. FOR  
COMPULSORY POOLING, RIO ARRIBA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on October 7, 1999 at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 14th day of October, 1999, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given and the Division has jurisdiction of this case and its subject matter.

(2) The applicant, McElvain Oil & Gas Properties, Inc. ("McElvain"), seeks an order pooling all mineral interests from the base of the Pictured Cliffs formation to the base of the Mesaverde formation underlying Lots 1 and 2, the S/2 NE/4, and the SE/4 (E/2 equivalent) of Section 4, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, thereby forming a standard 320.73-acre gas spacing and proration unit for any pool spaced on 320-acre spacing within this vertical extent, which presently includes only the Blanco-Mesaverde Pool.

(3) This unit is to be dedicated to the applicant's proposed Cougar Com. "4" Well No. 1 (API No. 30-039-26204), previously named the Elk Com Well No. 4-7, to be drilled within the SW/4 NE/4 (Unit G) of Section 4 at a location considered standard for the Blanco-Mesaverde Pool.

(4) On April 29, 1999, a Division Examiner heard Case No. 12172 and on May 13, 1999, the Division entered Order No. R-11182, which granted the application of

McElvain and compulsory pooled the above-described 320.73 acres in Section 4. Ordering Paragraph No. (1) of Order No. R-11182 further required McElvain, as operator of the subject unit, to commence drilling its proposed Elk Com. Well No. 4-7 at a standard gas well location 1825 feet from the North line and 1330 feet from the East line (Unit G) of Section 4 before August 15, 1999 and to continue drilling with due diligence to a depth sufficient to test the Mesaverde formation. This order further provided the operator the opportunity to obtain a time extension for good cause shown.

(5) At the October 7, 1999 hearing McElvain testified to the following:

- (a) delays were encountered in reaching an agreement with the owner of the surface of the lands on which the well was to be drilled, thereby preventing McElvain from commencing its drilling of this well before August 15, 1999;
- (b) McElvain however failed to seek a time extension of Division Order No. R-11182 before the August 15, 1999 deadline; therefore, Order No. R-11182 expired on its own terms;
- (c) McElvain has now entered into agreement with those parties necessary to permit it to proceed with this well and proposes to do so before the end of 1999;
- (d) McElvain has redesignated the well to be dedicated to this unit the Cougar Com. "4" Well No. 1; and
- (e) the evidence and exhibits, which were offered in Case No. 12172 on April 29, 1999, remain valid.

(6) NM & O Operating Company ("NM&O"), a working interest owner within this unit, appeared at the hearing through legal counsel. Although McElvain was questioned concerning a farmout agreement covering NM&O's interest, NM&O did not present evidence or testimony in support of or in opposition to this application.

(7) This application should be approved and Division Order No. R-11182 should be amended accordingly.

IT IS THEREFORE ORDERED THAT:

(1) Division Order No. R-11182, issued in Case No. 12172 and dated May 13, 1999, is hereby reinstated.

(2) Ordering Paragraph No. (1) on page 3 of Division Order No. R-11182 is hereby amended to read in its entirety as follows:

" (1) Pursuant to the application of McElvain Oil & Gas Properties, Inc. ("McElvain"), all mineral interests, whatever they may be, from the base of the Pictured Cliffs formation to the base of the Mesaverde formation underlying Lots 1 and 2, the S/2 NE/4, and the SE/4 (E/2 equivalent) of Section 4, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled in order to form a standard 320.73-acre gas spacing and proration unit for any for any pool spaced on 320-acre spacing within this vertical extent, which presently includes only the Blanco-Mesaverde Pool. This unit is to be dedicated to McElvain's proposed Cougar Com. "4" Well No. 1 (**API No. 30-039-26204**), to be drilled within the SW/4 NE/4 (Unit G) of Section 4 at a location that is considered standard for the Blanco-Mesaverde Pool.

PROVIDED HOWEVER THAT, the operator of the unit shall commence drilling this well on or before January 1, 2000, and shall thereafter continue drilling this well with due diligence to a depth sufficient to test the Mesaverde formation.

PROVIDED FURTHER THAT, in the event the operator does not commence drilling this well on or before January 1, 2000, Ordering Paragraph No. (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should the well not be drilled to completion or abandoned within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph

Case No. 12251  
Order No. R-11182-A  
Page 4

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No. (1) of this order should not be rescinded."

(3) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
LORI WROTENBERY  
Director

S E A L

NEW MEXICO OIL CONSERVATION DIVISION

Examiner Hearing  
 Santa Fe, New Mexico  
 October 7, 1999 -- 8:15 A.M.

Name	Representing	Location
A.R. Kneidel	Schalk Dev Co	Arizona NM
Steve Jordan	McElvain	SF, NM
Tim Wilson	KCS Medallion	TULSA, OK
N. Vellalini	Kellahin + Kellahin	Santa Fe
John Pulls	Chi Energy	Midland TX
Richard Gill	Marco LLC	Midland TX
J. Harete	Everquest	MIDLAND TX
B. Kahn	"	Birmingham AL
RICHARD WYMER	BLM	SANTA FE, NM
SCOTT HALL	MILLER LAW FIRM	SF
Ben Melon	BROSA	Fort
Bob Smith	KCS Med	Midland
Colles Bruce	-	SF
Aron Alexander	Burlington Resources	Farmington
MARK MASONKA	Gilispie	Midland TX

Lynn Sr. Charuk Charles Gillexie Jr. Midland TX.

CHARLES GIBSON  
William A. Gibson

BURK ROYALTY CO. WICHITA FALLS, TX  
Langford, Dan, Tony Gordon Santa Fe

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

99 NOV -2 PM 3:59

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. 12,251

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

October 7th, 1999

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, October 7th, 1999, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

I N D E X

October 7th, 1999  
Examiner Hearing  
CASE NO. 12,251

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APPLICANT'S WITNESSES:	
<u>STEVEN R. JORDAN</u> (Landman)	
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Examination by Examiner Stogner	12
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\* \* \*

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	7	10
Exhibit 2	9	10

\* \* \*

NM&O	Identified	Admitted
Exhibit 1	10	12

\* \* \*

## A P P E A R A N C E S

## FOR THE DIVISION:

RAND L. CARROLL  
Attorney at Law  
Legal Counsel to the Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.  
Suite 1 - 110 N. Guadalupe  
P.O. Box 2208  
Santa Fe, New Mexico 87504-2208  
By: WILLIAM F. CARR

## FOR NM&amp;O OPERATING COMPANY:

JAMES G. BRUCE, Attorney at Law  
3304 Camino Lisa  
Santa Fe, New Mexico 87501  
P.O. Box 1056  
Santa Fe, New Mexico 87504

\* \* \*

1                   WHEREUPON, the following proceedings were had at  
2 8:30 a.m.:

3  
4                   EXAMINER STOGNER: Call this hearing to order for  
5 Docket Number 30-99. Please note today's date, Thursday,  
6 October 7th, 1999. I'm Michael Stogner, appointed Hearing  
7 Examiner for today's cases.

8                   At this time I will call first case, 12,251.

9                   MR. CARROLL: Application of McElvain Oil and Gas  
10 Properties, Inc., for Compulsory Pooling, Rio Arriba  
11 County, New Mexico.

12                   EXAMINER STOGNER: At this time I'll call for  
13 appearances.

14                   MR. CARR: May it please the Examiner, my name is  
15 William F. Carr with the Santa Fe law firm Campbell, Carr,  
16 Berge and Sheridan.

17                   We represent McElvain Oil and Gas Properties in  
18 this matter, and I have one witness.

19                   EXAMINER STOGNER: Any other appearances?

20                   MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
21 representing NM&O Operating Company. I have no witnesses.

22                   EXAMINER STOGNER: Any others?

23                   Okay, you have one witness, Mr. Carr?

24                   MR. CARR: Yes, sir, I do.

25                   EXAMINER STOGNER: Let's have him sworn in at

1 this time.

2 (Thereupon, the witness was sworn.)

3 EXAMINER STOGNER: Mr. Carr?

4 STEVEN R. JORDAN,

5 the witness herein, after having been first duly sworn upon  
6 his oath, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. CARR:

9 Q. Would you state your name for the record, please?

10 A. Steve Jordan.

11 Q. Where do you reside?

12 A. Santa Fe, New Mexico.

13 Q. By whom are you employed?

14 A. McElvain Oil and Gas Properties.

15 Q. And what is your current position with McElvain?

16 A. Land manager.

17 Q. Mr. Jordan, have you previously testified before  
18 this Division?

19 A. Yes.

20 Q. At the time of that testimony, were your  
21 credentials as an expert in petroleum land matters accepted  
22 and made a matter of record?

23 A. Yes.

24 Q. Are you familiar with the Application filed in  
25 this case?

1 A. Yes.

2 Q. Are you familiar with the status of the lands in  
3 the subject area?

4 A. Yes.

5 MR. CARR: We tender Mr. Jordan as an expert  
6 witness in petroleum land matters.

7 EXAMINER STOGNER: Are there any objections?

8 MR. BRUCE: No.

9 EXAMINER STOGNER: So qualified.

10 Q. (By Mr. Carr) Mr. Jordan, would you briefly  
11 state what McElvain seeks with this Application?

12 A. We're seeking an order pooling all the minerals  
13 from the base of the Pictured Cliffs formation to the base  
14 of the Mesaverde formation, under Lots 1, 2, south half of  
15 the northeast quarter and southeast quarter, being an east-  
16 half equivalent of Section 4, Township 25 North, Range 2  
17 West, Rio Arriba County, New Mexico.

18 Q. And what well do you propose to dedicate this  
19 acreage to?

20 A. It will be dedicated to our Elk Com 4-7 well.  
21 Actually, the name has changed. It's now the Cougar Com 4  
22 Number 1 well, to better comply with State naming  
23 requirements.

24 Q. Was this pooling Application the subject of a  
25 previous hearing?

1           A.    Yes.

2                   MR. CARR:  May it please the Examiner, this  
3 matter was the subject of a pooling case.  It was Case  
4 12,172.  It was heard by the Division by Examiner Ashley on  
5 April the 29th, 1999.

6                   An order, Order Number R-11,182, dated May 13,  
7 1999, was entered.  It granted the Application of McElvain  
8 in this case.

9                   That order contains a standard provision.  It  
10 provided that in the event the operator didn't commence  
11 drilling of the well on or before August the 15th, 1999, or  
12 get an extension for due cause shown, the order would  
13 expire.

14                   No application was made to the Director to extend  
15 the order, and it terminated on that date.

16                   For that reason, we're before you again today.

17           Q.    (By Mr. Carr)  Mr. Jordan, could you identify  
18 what has been marked as McElvain Exhibit Number 1?

19           A.    This is the order of the Division, the order in  
20 Case Number 12,172, Order Number R-11,182, pooling the  
21 minerals in the subject acreage.

22           Q.    Did McElvain fail to timely request an extension  
23 of this order?

24           A.    Yes, sir.

25           Q.    Why was the well not drilled prior to the August

1 15, 1999, deadline?

2 A. We were having considerable difficulty securing a  
3 roadway easement into our well site from the surface  
4 owners. Time basically just got away from us.

5 We finally, ultimately, just recently did secure  
6 that easement and noticed that due to an internal error we  
7 didn't get a timely extension filed in this case.

8 Q. And does McElvain intend to drill this well?

9 A. Yes, sir.

10 Q. And when do you plan to spud the well?

11 A. We hope to drill this well prior to the end of  
12 the year.

13 Q. Were you a witness in the April, 1999, hearing in  
14 which McElvain was seeking a pooling of these lands?

15 A. Yes, I was.

16 Q. Is the testimony and evidence presented by  
17 McElvain at that April hearing identical to the testimony  
18 that McElvain would present here today, other than the  
19 change in the well name?

20 A. Yes, sir.

21 Q. No facts have changed?

22 A. No facts have changed, sir.

23 Q. Does McElvain request that the record of Case  
24 12,172 be incorporated by reference into the record of this  
25 case?

1 A. Yes, we do.

2 Q. Have all affected interest owners been notified  
3 of this Application in today's hearing?

4 A. Yes, they have.

5 Q. Is McElvain Exhibit Number 2 an affidavit  
6 confirming that notice has been provided in accordance with  
7 OCD rules?

8 A. Yes, it is.

9 Q. And are copies of the letters and return receipts  
10 also attached --

11 A. Yes, they are.

12 Q. -- to that affidavit?

13 To whom was notice provided?

14 A. Notice was provided to all of the working  
15 interest owners that are not otherwise voluntarily  
16 participating or committed to this well.

17 Q. In your opinion, will approval of this  
18 Application and the drilling of this well be in the best  
19 interest of conservation, the prevention of waste, and the  
20 protection of correlative rights?

21 A. Yes.

22 Q. Were Exhibits 1 and 2 prepared by you or compiled  
23 under your direction and supervision?

24 A. Yes, they were.

25 MR. CARR: Mr. Stogner, at this time we would

1 move the admission into evidence of McElvain Exhibits 1 and  
2 2.

3 EXAMINER STOGNER: Exhibits 1 and 2 will be  
4 admitted into evidence at this time, and also I'll take the  
5 record of Case 12,172 and incorporate it in this case  
6 today.

7 MR. CARR: And that concludes our direct  
8 presentation in this matter.

9 EXAMINER STOGNER: Mr. Carr.  
10 Mr. Bruce?

11 MR. BRUCE: A few questions, Mr. Examiner.

12 EXAMINATION

13 BY MR. BRUCE:

14 Q. Mr. Jordan, I've handed you a letter dated  
15 September 29, 1999, from NM&O to McElvain. Do you recall  
16 receiving that letter?

17 A. Yes, sir.

18 Q. What is your -- Without taking up too much time,  
19 it offers a farmout or acreage trade. What is McElvain's  
20 response to that?

21 A. Our response is that we have not been able to  
22 reach an agreement with NM&O regarding either of those two  
23 matters.

24 Q. Have you conteroffered a farmout under different  
25 terms?

1           A.    In this particular case, no, we haven't.

2                    However, there is some question in the title  
3 regarding the ownership of the leasehold interests in  
4 question under a prior farmout dated in the 1980s whereby  
5 there was a reassignment provision if certain wells were  
6 not drilled.  And it appears that a reassignment may be  
7 owed from NM&O due to the state of the title.

8                    We don't feel it's in our best interest to pursue  
9 a farmout.

10           Q.    Have you obtained farmouts from any other working  
11 interest owners in this --

12           A.    No, we have not.

13           Q.    -- well?

14                    Has McElvain drilled other Mesaverde wells in  
15 this immediate area?

16           A.    Yes.

17           Q.    In those wells, have you taken farmouts from any  
18 working interest owners?

19           A.    We have taken a farmout in Section 10 on a well  
20 we have not drilled.

21                    But for wells that we have drilled, we have not  
22 taken any farmouts.

23           MR. BRUCE:  That's all I have, Mr. Examiner.

24           EXAMINER STOGNER:  Thank you, Mr. Bruce.

25           MR. BRUCE:  Oh, I do want to move the admission

1 of NM&O Exhibit 1.

2 MR. CARR: We have no objection.

3 EXAMINER STOGNER: NM&O's Exhibit Number 1 will  
4 be admitted into evidence at this time.

5 EXAMINATION

6 BY EXAMINER STOGNER:

7 Q. Mr. Jordan, is it safe to assume that McElvain  
8 now is prepared to drill this well?

9 A. Yes, sir, we're prepared to proceed immediately  
10 towards that end.

11 Q. Okay.

12 A. And, like I say, hope to be drilling well before  
13 the end of the year.

14 Q. Is this in an area in Rio Arriba County that even  
15 though winter is moving in, that that would occur?

16 A. Well, of course winter is a definite factor, as  
17 is rig availability. However, we feel pretty hopeful that  
18 we'll be able to get this accomplished.

19 Q. So a 90-day period from today's date or when the  
20 order is issued will be sufficient at this time?

21 A. We hope so.

22 EXAMINER STOGNER: Okay. Are there any other  
23 questions of this witness?

24 MR. CARR: No further questions.

25 EXAMINER STOGNER: Okay, with that you may be

1 excused.

2 Anything further, gentlemen?

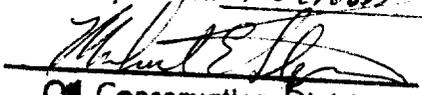
3 MR. CARR: Nothing further.

4 EXAMINER STOGNER: In that case, Case Number  
5 12,251 will be taken under advisement.

6 (Thereupon, these proceedings were concluded at  
7 8:40 a.m.)

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 12251  
heard by me on 7 October 1999.  
 , Examiner  
Oil Conservation Division

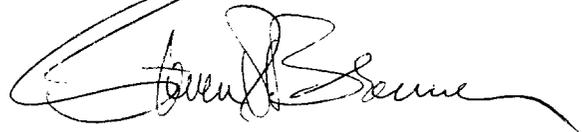
## CERTIFICATE OF REPORTER

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 October 24th, 1999.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 2002