

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. 14,009

APPLICATION OF McELVAIN OIL AND GAS)
PROPERTIES, INC., FOR COMPULSORY)
POOLING, SAN JUAN COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Technical Examiner
DAVID K. BROOKS, Jr., Legal Examiner

October 18th, 2007

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Technical Examiner, DAVID K. BROOKS, Jr., Legal Examiner, on Thursday, October 18th, 2007, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

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I N D E X

October 18th, 2007
Examiner Hearing
CASE NO. 14,009

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A P P E A R A N C E S

FOR THE DIVISION:

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FOR THE APPLICANT:

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 P.O. Box 2208
 Santa Fe, New Mexico 87504-2208
 By: OCEAN MUNDS-DRY

* * *

1 WHEREUPON, the following proceedings were had at
2 8:43 a.m.:

3
4 EXAMINER EZEANYIM: Let's go to page 4 and call
5 Case Number 14,009, Application of McElvain Oil and Gas
6 Properties, Inc., for compulsory pooling, San Juan County,
7 New Mexico.

8 Call for appearances.

9 MS. MUNDS-DRY: Good morning, Mr. Hearing
10 Examiner. Ocean Munds-Dry with the law firm of Holland and
11 Hart, here representing McElvain Oil and Gas Properties,
12 Inc., this morning, and I have one witness.

13 EXAMINER JONES: Welcome back, Ocean.

14 MS. MUNDS-DRY: Thank you.

15 EXAMINER EZEANYIM: Any other appearances?
16 May the witness stand up to be sworn, please?
17 (Thereupon, the witnesses was sworn.)

18 EXAMINER EZEANYIM: You may proceed.

19 MS. MUNDS-DRY: Thank you, Mr. Examiner.

20 McElvain seeks to pool a number of parties, as
21 you saw in the Application this morning, for the Ruby
22 Number 1 well.

23 Just at the start, before I call the witness, Mr.
24 Examiner, the -- McElvain has reached agreement with some
25 of the parties, and I just wanted to list those for you,

1 for the record.

2 Perhaps if you turn to the Application in Exhibit
3 A, that might be the best way to follow along. There's
4 just a few names that I wanted to mention to you.

5 EXAMINER EZEANYIM: Where is Exhibit A? Okay.

6 EXAMINER BROOKS: It's in -- I gather she's
7 referring to the Application --

8 MS. MUNDS-DRY: Do you have the Application with
9 you, Mr. Examiner? If not, I can just read the names to
10 you, its --

11 EXAMINER EZEANYIM: Oh, the Application we have?
12 Okay. Yeah, I might put it in the record, I think I have
13 here some citizens who are opposing this Application,
14 because they think this is in their backyard, and I get
15 these big documents, and then they -- a lot of them signed.

16 MS. MUNDS-DRY: Oh, I see.

17 EXAMINER EZEANYIM: Before I admit this into the
18 record, what effort have you made, before we proceed, to be
19 able to talk to them about this? Because we --

20 MS. MUNDS-DRY: Should we --

21 EXAMINER EZEANYIM: -- yeah -- need to send out a
22 large number of state workers to go there and see and stop
23 you from doing this, so what have you done with these
24 people?

25 MS. MUNDS-DRY: Maybe we should proceed with the

1 witness then, Mr. Examiner, and we can go through our
2 efforts to obtain voluntary agreement from the parties.
3 Would that be better?

4 EXAMINER EZEANYIM: Okay, sure.

5 MS. MUNDS-DRY: Okay. And then I'll just list
6 those names for you in a little while.

7 DAVID W. SIPLE,
8 the witness herein, after having been first duly sworn upon
9 his oath, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. MUNDS-DRY:

12 Q. Would you please state your full name for the
13 record?

14 A. Yes, it's David W. Siple, S-i-p, as in Paul, l-e.

15 Q. And Mr. Siple, by whom are you employed?

16 A. I'm employed by McElvain Oil and Gas Properties,
17 Inc.

18 Q. And what is your position with McElvain?

19 A. Vice president of land.

20 Q. And have you previously testified before the
21 Division as an expert witness?

22 A. No, I have not.

23 Q. Would you please review for the Examiner your
24 educational background and your work history?

25 A. Yes, I have a degree from the University of

1 Colorado in mineral land management, and I've worked for --
2 as a landman and officer of corporations for the past 25
3 years, including Pan Canadian Petroleum Company, and most
4 recently I was with Patina Oil and Gas Corporation as their
5 vice president of land, and then with Noble Energy
6 Corporation as the regional land director.

7 Q. And have you previously testified before any
8 other state oil and gas commissions?

9 A. Yes, the Colorado Oil and Gas Conservation
10 Commission.

11 Q. And were you recognized as an expert witness in
12 petroleum land matters at that time?

13 A. Yes, I was.

14 Q. Are you familiar with the pooling Application
15 McElvain has filed in this matter?

16 A. Yes, I am.

17 Q. And have you directed efforts to locate and reach
18 agreement with the interest owners affected by this
19 Application?

20 A. Yes, I've been involved personally and directed
21 others who have been working on the project.

22 Q. And are you familiar with the status of the lands
23 in this Application?

24 A. Yes, I have, I've actually visited the sites and
25 have also been familiar with the project in general and the

1 ownership.

2 MS. MUNDS-DRY: Mr. Examiner, we would tender Mr.
3 Siple as an expert in petroleum land matters.

4 EXAMINER EZEANYIM: Mr. Siple, do you happen to
5 be a certified petroleum landman?

6 THE WITNESS: Yes, I am. I'm sorry, I --

7 EXAMINER EZEANYIM: All right, Mr. Siple is so
8 qualified.

9 MS. MUNDS-DRY: Thank you.

10 Q. (By Ms. Munds-Dry) Mr. Siple, would you please
11 turn to Exhibit Number 1, identify this exhibit and explain
12 it to the Examiner?

13 A. Yes, Exhibit Number 1 depicts the spacing units
14 for the Ruby Number 1 well, and it's located in the
15 southwest quarter of Section 3, and that's Township 29
16 North, Range 13 West. The exhibit also depicts the nine
17 surrounding sections and the Pictured Cliffs formation
18 wells in those sections.

19 Q. And does McElvain seek an order pooling all
20 uncommitted interests in all formations developed on 160
21 acres from the surface to the base of the Pictured Cliffs
22 formation?

23 A. Yes, we do.

24 Q. And what well will be dedicated to that proposed
25 spacing unit?

1 A. That will be the Ruby Number 1 well.

2 Q. Would you please turn to Exhibit Number 2 and
3 review that for the Examiner?

4 A. Exhibit Number 2 is an aerial photo of the south
5 half of Section 3, and outlined in red is the spacing unit
6 for the Pictured Cliffs formation, and then a smaller red
7 circle indicates the surface location for the well. And
8 then the blue outline is the section boundary.

9 Q. And this is located south of the South Worley
10 Baseball Field?

11 A. Yes, it is, it's in the City of Farmington, south
12 of the baseball field complex, and will be adjacent to an
13 existing oil and gas well.

14 Q. And you mentioned this is within the City of
15 Farmington. Have you received the necessary approvals from
16 the City of Farmington?

17 A. Yes, we have.

18 EXAMINER EZEANYIM: Excuse me, before you
19 continue. You said that's an adjacent existing oil and gas
20 well?

21 THE WITNESS: Yes, it's up --

22 EXAMINER EZEANYIM: What was the permitted from
23 that gas well -- for this well, do you know?

24 THE WITNESS: The --

25 EXAMINER EZEANYIM: What is the distance from

1 that well to this well?

2 THE WITNESS: Oh, approximately 100 feet. We'll
3 be located 100 feet to the west of the existing well.

4 EXAMINER EZEANYIM: And that existing well is
5 producing now? Is that producing --

6 THE WITNESS: Yes. Yes, sir.

7 Q. (By Ms. Munds-Dry) Mr. Siple, what are your
8 plans for that existing well?

9 A. At the time we move onto the location, we will be
10 acting as a contract operator for the operator of the well,
11 and that well will be plugged and abandoned before we
12 commence our drilling operations.

13 Q. And what gas pool is involved in this
14 Application?

15 A. It's the Fulcher Kutz-Pictured Cliffs Gas Pool.

16 Q. And is the Ruby Well Number 1 located at a
17 standard location?

18 A. Yes, it is, it'll be located at -- 1755 from the
19 south line and 860 feet from the west line of unit L.

20 Q. And what is the status of the acreage for the
21 proposed spacing unit?

22 A. All the ownership within the spacing unit is fee
23 ownership. There are no state or federal minerals within
24 the spacing unit.

25 Q. And I believe you mentioned, Mr. Siple, that this

1 well is located -- and the spacing unit is located in a
2 subdivision. Has McElvain reached agreement concerning the
3 development with some of the other interest owners in this
4 quarter section?

5 A. Yes, we have.

6 Q. And if you would please turn to Exhibit Number 3
7 and review this for Mr. Ezeanyim.

8 A. Yes, Exhibit 3 is a spreadsheet that shows
9 McElvain's ownership in the property.

10 I would direct you, Mr. Examiner, to the last
11 column, which would really give you a picture of where the
12 ownership stands right now. McElvain would own
13 approximately 48 percent of the spacing unit through leases
14 that we've acquired or leases that we're earning from the
15 existing operator through a farmout agreement.

16 You can see the E.L. Fundingsland is the current
17 operator. He would own approximately 9 percent, and then
18 additionally he has another -- several working interest
19 owners that would have .79 percent.

20 And then the parties that we're seeking to pool
21 today, the uncommitted owners, would be represented in the
22 last two rows, combined approximately 41 percent of the
23 ownership in the spacing unit.

24 Q. So this not only shows the let acres attributed
25 to each interest owner, but it also shows their

1 percentages?

2 A. Yes, it does.

3 Q. Would you please explain to Mr. Ezeanyim, since
4 he asked the question, what efforts McElvain has undertaken
5 to reach voluntary agreement with the interest owners?

6 A. Yes.

7 Q. And before -- Mr. Siple, excuse me, we're going
8 to divide this into two parts, because there are interest
9 owners here who have obviously been found, and there are
10 also interest owners who we've not been able to locate. So
11 we'll discuss both -- our efforts on both categories.

12 Go ahead, Mr. Siple.

13 A. This is a project that goes back two years now.
14 We originally entered into a farmout agreement with E.L.
15 Fundingsland, that was our first acquisition of an
16 interest. So we've got a farmout agreement whereby we will
17 earn an interest in his leases after drilling the well.

18 We had a drilling title opinion prepared covering
19 the entire southwest quarter, and it indicated -- went into
20 great detail and indicated the ownership of each tract,
21 each lot, where minerals were reserved, where they weren't.

22 And then subsequently we contracted with Rio
23 Grande Exploration, a land brokerage company, to go out and
24 attempt to lease these unleased parties, and they used the
25 records of San Juan County, New Mexico, to update from the

1 opinion, including the county -- the records of the county
2 clerk, the assessor, and the probate records. And that's
3 an ongoing project, we're still contacting -- well, we've
4 contacted everyone. We're still -- there are still
5 negotiations taking place, and we still have leases that
6 are being signed as we speak.

7 We also used large database programs to identify
8 the parties that we couldn't locate, Lexus, Nexus, Accurate
9 and then a phone database called zababase -- or, excuse me,
10 zabasearch.com, for those phone numbers.

11 Q. And you mentioned that you hired a broker to
12 assist you in locating and contacting the individuals.
13 When was the initial contact made with those interest
14 owners who were found?

15 A. Yes, the initial leasing of the owners that we
16 could identify started in August of 2006 and has continued
17 since then.

18 Q. And when did McElvain make its first contact with
19 those interest owners?

20 A. Through our broker and then -- we've been
21 managing that project with him, so he was handling the
22 direct contact with the owners.

23 Q. Did you submit a well proposal letter to those
24 interest owners?

25 A. Yes, we did.

1 Q. When did you submit that?

2 A. That letter was sent out in late August of 2007.

3 Q. And is a copy of that letter identified as
4 Exhibit Number 4 in our packet?

5 A. Yes.

6 Q. And did the same letter go to all of those
7 interest owners who you had an address for?

8 A. Yes, it did.

9 Q. And what efforts have you undertaken to reach an
10 agreement since submitting this letter to those interest
11 owners?

12 A. Right. The letter generated some contacts from
13 some of the owners, so they did contact us. The ones that
14 we didn't hear from, we contacted by phone where we could
15 identify their phone numbers. And a number of them were
16 unlisted, but we've been pursuing basically via phone calls
17 and follow-up calls.

18 Q. And what is Exhibit Number 5?

19 A. Exhibit 5 is a copy of our phone log showing the
20 contacts that we've made. You'll see some yellow-
21 highlighted names. Those are owners who indicated that
22 they would be willing to consider a lease, so... This is
23 all subsequent to our well proposal.

24 Q. And so the names that are highlighted in yellow
25 here, you indicated those parties are interested in

1 obtaining a lease from McElvain. Will McElvain then follow
2 up with those parties and attempt to enter into a lease?

3 A. Yes. In fact, we've already directed Rio Grande
4 Exploration to get in contact with those parties and
5 discuss an oil and gas lease with them.

6 Q. And on the third page of Exhibit Number 5 there's
7 a party, David and Karen Valdez. It's highlighted in blue.
8 What does that indicate?

9 A. Yes, that was just something to indicate to us
10 that they were wanting a higher royalty than we had offered
11 the other parties. So we haven't agreed to that.

12 Q. But you'll continue to try to negotiate and enter
13 into a voluntary agreement with --

14 A. Yes.

15 Q. -- the Valdezes?

16 A. Yes.

17 Q. Any other contacts or communications with any of
18 the parties that we didn't cover already? I want to make
19 sure that we've covered it all for Mr. Ezeanyim. I believe
20 we have, but --

21 A. Really, what we've presented to this point is our
22 contacts, and I really feel that this has been an extensive
23 project going back two years, and as you can imagine in a
24 city like this, the ownership gets very split up. But we
25 feel -- I'm proud of the job we've done, trying to contact

1 people and get them either under lease or participating in
2 the well.

3 Q. In your opinion, has McElvain undertaken a good-
4 faith effort to reach a voluntary agreement with all those
5 interest owners who you were able to find?

6 A. Yes.

7 Q. If you would please turn to Exhibit Number 6 and
8 identify that for the Examiner?

9 A. Exhibit Number 6 is a copy of the authority for
10 expenditure that was attached to our well-proposal letter
11 showing the estimated costs of the Ruby Number 1 well.

12 Q. And what are the dryhole and completed well costs
13 as put forth in the AFE?

14 A. Certainly, the dryhole costs are \$439,410, and
15 completed well costs \$958,900.

16 Q. And is this AFE based on the cost McElvain has
17 incurred for drilling similar wells in the area?

18 A. Yes, it is, it's comparable to a Pictured Cliffs
19 formation well that we drilled two miles to the west in
20 Section 5.

21 Q. And have you made an estimate of administrative
22 and overhead costs while drilling this well and while
23 producing, if it is successful?

24 A. Yes, we have, and that estimate would be \$5500 a
25 month for a drilling well rate and \$550 for a producing

1 well rate.

2 Q. And do you ask that these figures be incorporated
3 into any order that results from this hearing?

4 A. Yes.

5 Q. And does McElvain wish to be the entity
6 designated operator of their proposed well?

7 A. Yes, we do.

8 Q. And does McElvain request that the Division
9 impose the 200-percent risk penalty authorized by statute
10 against the parties pooled by this Application?

11 A. Yes.

12 Q. And is McElvain Exhibit Number 7 an affidavit
13 with attached letters giving notice of this hearing?

14 A. Yes, it is.

15 Q. And is McElvain Exhibit Number 8 a copy of the
16 affidavit of publication in the *Farmington Daily Times*?

17 A. Yes, it is.

18 MS. MUNDS-DRY: And Mr. Examiner, I meant to do
19 this when we were discussing the parties. McElvain has
20 since reached agreement or entered a lease with Candace
21 Riggie.

22 EXAMINER EZEANYIM: Page what? What exhibit is
23 that?

24 MS. MUNDS-DRY: This actually is on the Exhibit

25 A. Let me see, if -- if you go to our Exhibit Number 7,

1 and the third page on Exhibit A --

2 EXAMINER EZEANYIM: Okay.

3 MS. MUNDS-DRY: -- and if you look at the bottom
4 there of that first page on Exhibit A, Candace Riggie,
5 we've reached agreement with her and we no longer seek to
6 pool here interest.

7 EXAMINER EZEANYIM: Okay.

8 MS. MUNDS-DRY: If you turn to the next page,
9 please, Mr. Examiner, we've entered into agreement with the
10 City of Farmington, which is in the third column at the top
11 there, sort of -- three down.

12 EXAMINER EZEANYIM: Okay.

13 MS. MUNDS-DRY: And then on the left-hand side,
14 Grant McCullough.

15 EXAMINER EZEANYIM: Who?

16 MS. MUNDS-DRY: Grant McCullough.

17 EXAMINER EZEANYIM: Okay, yeah.

18 MS. MUNDS-DRY: And if you'll please turn to the
19 next page, Mr. Examiner, on the right-hand side, Joseph
20 Delmagori -- I'm probably butchering that.

21 EXAMINER EZEANYIM: Okay. You've reached
22 agreement with him?

23 MS. MUNDS-DRY: Pardon?

24 EXAMINER EZEANYIM: You've reached agreement with
25 him?

1 MS. MUNDS-DRY: We have reached agreement with
2 him.

3 And Mr. Ezeanyim, on the next page, on the left-
4 hand, two down, Mary L. Peterson.

5 EXAMINER EZEANYIM: Uh-huh.

6 MS. MUNDS-DRY: That same column, going down,
7 Robert F. Brothers --

8 EXAMINER EZEANYIM: Okay.

9 MS. MUNDS-DRY: -- and Leonora Brothers. And on
10 the right-hand side at the very bottom, Dessie Mae Grimes.

11 EXAMINER EZEANYIM: Dessie?

12 MS. MUNDS-DRY: She's the second name down. It's
13 Roy C. Grimes and Dessie Grimes.

14 EXAMINER EZEANYIM: On the third column?

15 MS. MUNDS-DRY: Yes, sir, on the very last --

16 EXAMINER EZEANYIM: Is that the next page?

17 MS. MUNDS-DRY: On the same page, but the very
18 last name on the right-hand corner there.

19 EXAMINER EZEANYIM: Okay.

20 MS. MUNDS-DRY: And the next page, in the middle
21 column three down, Steven J. Gabaldon Trust.

22 EXAMINER EZEANYIM: Uh-huh.

23 MS. MUNDS-DRY: And that is all the parties that
24 we have thus far reached agreement --

25 EXAMINER EZEANYIM: Okay.

1 MS. MUNDS-DRY: -- with.

2 Q. (By Ms. Munds-Dry) Mr. Siple, were McElvain
3 Exhibits 1 through 8 prepared by you or compiled under your
4 supervision?

5 A. Yes, they were.

6 MS. MUNDS-DRY: Mr. Ezeanyim, we'd ask that
7 Exhibits 1 through 8 be admitted into evidence.

8 EXAMINER EZEANYIM: Exhibits 1 through 8 will be
9 admitted.

10 MS. MUNDS-DRY: And I have no further questions
11 for Mr. Siple, Mr. Examiner.

12 EXAMINER EZEANYIM: Okay. Mr. Brooks?

13 EXAMINATION

14 BY MR. BROOKS:

15 Q. Since this is a long list of parties, I'm not
16 going to try to check it here on the stand -- while you're
17 on the stand. But is there -- Did you mail this notice to
18 everybody that's listed on Exhibit A to Exhibit 7?

19 A. Yes.

20 Q. Including all the people that you've since
21 reached agreement with?

22 A. Yes.

23 Q. Okay. Now I noticed, just paging through this,
24 that a bunch of these have been returned, and you published
25 a notice here, and that's at the back of Exhibit -- That's

1 Exhibit 8, right?

2 MS. MUNDS-DRY: That's Exhibit Number 8, Mr.
3 Brooks.

4 EXAMINER BROOKS: Okay. Doesn't look like you
5 listed the parties in your published notice, though.

6 MS. MUNDS-DRY: We can do that, Mr. Examiner. We
7 can republish and put the names in there.

8 EXAMINER BROOKS: Well, like I told you on a
9 prior case, I believe, our rule doesn't require that, so
10 I'm hesitant to insist that you do it.

11 I just point it out because in view of the fact
12 that it's required for a notice published under the rules
13 of the district court, I have a concern that if some of
14 these people showed up later and attacked this order, that
15 a court might construe it that way. And so I'm not going
16 to advise the Examiner to require you to republish.

17 But once again I say, if you want to do so as a
18 matter of caution, that might be -- I think it's more your
19 client's concern than it is the Division's.

20 MS. MUNDS-DRY: Sure, and I'll visit with them
21 after the hearing and we'll discuss --

22 EXAMINER BROOKS: Okay.

23 MS. MUNDS-DRY: -- that and see if they'd like to
24 republish.

25 EXAMINER BROOKS: I don't have anything further.

EXAMINATION

BY EXAMINER EZEANYIM:

Q. Okay, following up on that, I don't think I'm going to require it, but I think what he said, it makes sense for you, not really for us, because, you know, if we approve the order, you use the order.

But if somebody challenges you and say, Well, you are -- I didn't include that, I didn't -- you know, I think it's wise for you to include those names that you couldn't find in case either they change the address or you send it out and they return to you, if they already -- they might -- you know, it's something that is really important that -- under our rules, as he said, doesn't require you to do that. But if I were you, I would do it to protect yourself.

So that being said, let's go back to this letter I got from the citizens in the area. Did you get that letter?

MS. MUNDS-DRY: I don't believe so, Mr. Ezeanyim. I don't believe there's been a copy of that letter.

Mr. Siple, have you see that?

THE WITNESS: No, I have not.

EXAMINER EZEANYIM: Oh, this is --

MS. MUNDS-DRY: So this is -- this is news to us, I'm afraid.

1 EXAMINER EZEANYIM: Yeah, there is a bunch of
2 citizens, they gathered, you know, some signatures asking
3 the Division to not grant, or delay the granting of this
4 Application because it's -- you know, I thought they sent
5 it to you, and apparently they didn't.

6 MS. MUNDS-DRY: And I'm sorry, I can't respond
7 since I haven't seen the letters.

8 EXAMINER EZEANYIM: Yeah. Yeah, so -- I don't
9 know how it happened --

10 EXAMINER BROOKS: I hadn't seen it either.

11 EXAMINER EZEANYIM: Yeah.

12 EXAMINER BROOKS: It doesn't have anything on it
13 to indicate that a copy was sent to McElvain.

14 EXAMINER EZEANYIM: No, they just sent it to us,
15 so I say we should delay the action.

16 MS. MUNDS-DRY: Mr. Examiner, they're requesting
17 it be delayed or -- I'm not even sure what the nature of
18 what they're asking is.

19 EXAMINER BROOKS: Okay, what they say -- and I
20 believe that we should give you a chance to copy this --

21 MS. MUNDS-DRY: Please.

22 EXAMINER BROOKS: -- before you leave this
23 morning -- they say, Before you approve this Application
24 filed by McElvain, I respectfully request that you send a
25 large and competent staff -- I'm not sure where they think

1 we would find that, but -- to circulate within the
2 neighborhood affected to determine how the population at
3 risk really feels about the proposed drilling. Neither my
4 neighbors nor I oppose energy development, the economies of
5 San Juan and -- County and Farmington are prospering and
6 dependent on energy development. This is simply not the
7 place for it. Please do not act too quickly on the
8 Application without considering and investigating these
9 concerns.

10 I would not -- That's not in the form of an
11 application that -- you know, the concerns they're raising
12 are irrelevant to compulsory pooling, and they did not ask
13 -- they did not make it referable to the -- unlike the
14 citizens of Hobbs with regard to the Quest Cherokee well,
15 that you may be familiar with, they did not make it in the
16 form of an application to cancel the APD, so I'm not sure
17 there's anything we could act on. I just -- It's not
18 relevant to the compulsory pooling issues. Probably should
19 be brought to the Director's attention.

20 MS. MUNDS-DRY: I believe that's right, Mr.
21 Examiner, Mr. Brooks. And in addition we did mention that
22 McElvain has received all the necessary approvals from the
23 City of Farmington. So as citizens of Farmington, you
24 know, that may be something also that they need to bring up
25 with that administrative body. You know, I don't know.

1 But it seems here at least, with this Application, it's not
2 relevant to what we're seeking.

3 EXAMINER EZEANYIM: Yeah, that's right, and I got
4 it just late last -- yesterday, and I didn't have time to
5 share it with him, so... But if I look at it, I know it's
6 not relevant even though I can, you know, sympathize with
7 them. But that's not the issue.

8 EXAMINER BROOKS: I think it's not relevant to
9 the pooling issues.

10 EXAMINER EZEANYIM: Yeah.

11 EXAMINER BROOKS: It might -- We've at least
12 entertained such a complaint -- such neighborhood
13 complaints in the context of the Quest Cherokee case, and
14 we might again if they were presented in proper form, but
15 it would have to be on a challenge to the approval of an
16 APD, not to compulsory pooling.

17 EXAMINER EZEANYIM: Yeah, so even if they -- all
18 the -- whatever the outcome is going to be.

19 Well anyway, do you have any further questions?

20 MS. MUNDS-DRY: (Shakes head)

21 EXAMINER EZEANYIM: Okay, I have some follow-up I
22 want to ask you.

23 Q. (By Examiner Ezeanyim) This is -- I guess this
24 on a 160-acre spacing, because it's a shallow well? It's a
25 shallow well, therefore it's on 160, based on Rule 104?

1 There is no special pool rules for this pool?

2 A. Uh, no, it's --

3 Q. There is no special pool rules?

4 A. Right, it's --

5 Q. -- also, even if it's 160, then it's based on

6 Rule 104.C, which says if it's shallower than the Dakota,

7 then it's spaced on 160. But I was wondering whether there

8 is any special pool rules for that pool. I don't think so.

9 A. I don't think so.

10 Q. Is that --

11 MS. MUNDS-DRY: No, Mr. Examiner --

12 THE WITNESS: No --

13 EXAMINER EZEANYIM: So it's a statewide rule that
14 you are --

15 MS. MUNDS-DRY: Statewide rule, yes.

16 EXAMINER EZEANYIM: I wanted to make sure. No
17 pool rules.

18 Q. (By Examiner Ezeanyim) Have you got an APD and
19 -- you know, do you have an APD already?

20 A. Yes, we do.

21 Q. Because it's on a standard location?

22 A. Yes.

23 EXAMINER EZEANYIM: Okay. I have no further
24 questions. Thank you.

25 MS. MUNDS-DRY: Thank you --

1 THE WITNESS: Thank you.

2 MS. MUNDS-DRY: -- Mr. Ezeanyim.

3 EXAMINER EZEANYIM: Then at this point Case
4 Number 14,009 will be taken under advisement.

5 (Thereupon, these proceedings were concluded at
6 9:12 a.m.)

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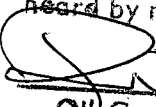
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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 14,009
heard by me on 11/27/05

Oil Conservation Division, Examiner

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 21st, 2007.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2010