

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. 14048
ORDER NO. R-12862

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 December 13, 2007, at Santa Fe, New Mexico, before Examiner Richard I. Ezeanyim.

NOW, on this 31st day of December, 2007, 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 of the subject matter.

(2) The applicant, McElvain Oil & Gas Properties, Inc. ("McElvain" or "applicant"), seeks an order pooling all uncommitted interests in all formations from the surface to the base of the Mesaverde formation underlying the E/2 of Section 14, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico in the following manner:

The E/2 to form a standard 320-acre spacing and proration unit for any and all formations or pools developed on 320-acre spacing within that vertical extent, including but not limited to the Gavilan Greenhorn-Graneros-Dakota Oil Pool (27192) and the Blanco Mesaverde Prorated Gas Pool (72319); and

The SE/4 SE/4 and the NW/4 NE/4 to form standard 40-acre oil spacing and proration units for all formations and/or pools developed on 40-acre spacing.

(3) The above-described spacing and proration units ("the Units") are to be dedicated to the applicant's proposed Badger Com 14 Well No. 2 (API No. 30-039-

30118) to be drilled as a wildcat well at a standard gas well location 671 feet from the North line and 1530 feet from the East line (Unit B) to a depth of 5,898 feet, and to the Badger Com 14 Well No. 2A (**API No. 30-039-30122**) to be drilled as a wildcat well at a standard gas well location 663 feet from the South line and 965 feet from the East line (Unit P) of Section 14 to test the Mesaverde formation.

(4) Two or more separately owned tracts are embraced within the Units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Units that are separately owned.

(5) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill and proposes to drill its Badger Com 14 Well No. 2 and the Badger Com 14 Well No. 2A at standard well locations within the Units.

(6) There are interest owners in the proposed Units that have not agreed to pool their interests.

(7) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Units.

(8) The applicant requested to be designated the operator of the subject wells and of the Units.

(9) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% (pursuant to Rule 35.A) thereof as a reasonable charge for the risk involved in drilling the well.

(10) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,500.00 per month while drilling and \$550.00 per month while producing for each well, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of McElvain Oil & Gas properties, Inc. all uncommitted interests in all formations from the surface to the base of the Mesaverde formation underlying the E/2 of Section 14, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled in the following manner:

The E/2 to form a standard 320-acre spacing and proration unit for any and all formations or pools developed on 320-acre spacing within that vertical extent,

including but not limited to the Gavilan Greenhorn-Graneros-Dakota Oil Pool (27192) and the Blanco Mesaverde Prorated Gas Pool (72319); and

The SE/4 SE/4 and the NW/4 NE/4 to form standard 40-acre oil spacing and proration units for all formations and/or pools developed on 40-acre spacing.

The above-described spacing and proration units ("**the Units**") shall be dedicated to the applicant's proposed Badger Com 14 Well No. 2 (**API No. (30-039-30118)**) to be drilled as a wildcat well at a standard gas well location 671 feet from the North line and 1530 feet from the East line (Unit B) to a depth of 5,898 feet, and to the Badger Com 14 Well No. 2A (**API No. 30-039-30122**) to be drilled as a wildcat well at a standard gas well location 663 feet from the South line and 965 feet from the East line (Unit P) of Section 14 to test the Mesaverde formation

(2) McElvain Oil & Gas Properties, Inc. (OGRID 22044) is hereby designated the operator of the subject wells and of the Units.

(3) The operator of the Units shall commence drilling the first well on or before March 31, 2008 and shall thereafter continue drilling the well with due diligence to test the Mesaverde formation. The operator shall commence drilling the second well on or before June 30, 2008 and shall thereafter continue drilling the well with due diligence to test the Mesaverde formation.

(4) In the event the operator does not commence drilling any of the proposed wells within the time periods stipulated above, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the subject wells not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the Units created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to complete the wells for good cause demonstrated by satisfactory evidence.

(6) Upon final plugging and abandonment of the subject wells, or of other wells subsequently approved within the Units, the pooled Units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(7) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Units, including un-leased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the subject wells ("well costs").

(8) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above within 30 days after receiving the schedule of estimated well costs shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(9) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(10) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(11) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(12) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(13) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,500.00 per month while drilling and \$550.00 per month while producing for each well, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*" The operator is authorized to withhold from production the proportionate share of both the

supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(14) Except as provided in Ordering Paragraphs (11) and (13) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Rio Arriba County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

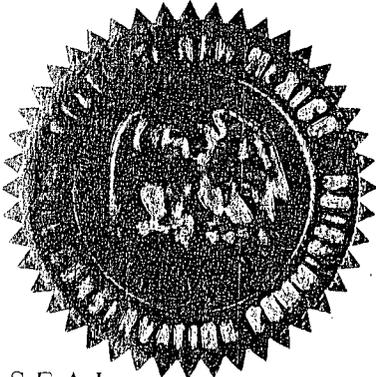
(15) Any unleased interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(16) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the wells and Units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(18) 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.
Director