

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. 13,693

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

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Hearing Examiner

April 13th, 2006

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Hearing Examiner, on Thursday, April 13th, 2006, 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.

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I N D E X

April 13th, 2006
 Examiner Hearing
 CASE NO. 13,693

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APPLICANT'S WITNESS:	
<u>DENISE R. GREER</u> (Landman)	
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* * *

A P P E A R A N C E S

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: MICHAEL H. FELDEWERT

* * *

ALSO PRESENT:

WILLIAM V. JONES, JR.
Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 9:00 a.m.:

3 EXAMINER BROOKS: Next case is Case Number
4 13,693, the Application of McElvain Oil and Gas Properties,
5 Inc., for compulsory pooling, Rio Arriba County, New
6 Mexico.

7 Call for appearances.

8 MR. FELDEWERT: May it please the Examiner,
9 Michael Feldewert with the Santa Fe office of the law firm
10 of Holland and Hart. I'm appearing on behalf of the
11 Applicant.

12 EXAMINER BROOKS: Any other appearances?

13 MR. FELDEWERT: Mr. Examiner, before we begin I
14 will point out, I think, that this is a matter that would
15 now fall under Rule 36 because this involves an infill
16 well. But at the time that the letters were going out and
17 McElvain was dealing with the interest owners that are at
18 issue here, that rule was becoming effective. So we
19 determined that the best way to proceed was to -- for this
20 particular matter, a compulsory pooling case. So that's
21 why we're here today.

22 EXAMINER BROOKS: Okay, do you have a witness?

23 MR. FELDEWERT: I have one witness.

24 EXAMINER BROOKS: Okay, will the witness be
25 sworn?

1 (Thereupon, the witness was sworn.)

2 EXAMINER BROOKS: Okay, you may proceed, Mr.
3 Feldewert.

4 MR. FELDEWERT: Thank you.

5 DENISE R. GREER,

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

8 DIRECT EXAMINATION

9 BY MR. FELDEWERT:

10 Q. Would you please state your full name and where
11 you reside for the record, please?

12 A. Denise R. Greer, I reside in Lafayette, Colorado.

13 Q. And by whom are you employed and in what
14 capacity?

15 A. McElvain Oil and Gas Properties, Inc., and I'm a
16 senior landman.

17 Q. And have you previously testified before this
18 Division as an expert witness on petroleum land matters in
19 New Mexico?

20 A. Yes, I have.

21 Q. And are you familiar with the pooling application
22 involved in this matter?

23 A. Yes, I am.

24 Q. Have you been involved in the efforts to reach an
25 agreement with the interest owners that are affected by

1 this Application?

2 A. Yes, I am.

3 Q. And are you familiar with the status of the lands
4 in the area?

5 A. Yes, I am.

6 Q. Would you please turn to McElvain Exhibit Number
7 1, which is Division Order R-12,226? Is this the order
8 that was entered by the Division in October of 2004,
9 establishing a west half spacing unit in Section 14,
10 Township 25 North, Range 2 West?

11 A. Yes, it is.

12 Q. And was this order for the initial well, which is
13 the Badger Com Well Number 1?

14 A. Yes, it is.

15 Q. And this order pools the lands from the surface
16 to the base of the Mesaverde formation, correct?

17 A. That's correct.

18 Q. And it involves the Blanco-Mesaverde Gas Pool?

19 A. Yes.

20 Q. Were you the land person at McElvain that was in
21 charge of obtaining this order?

22 A. Yes, I was.

23 Q. And what do you seek at today's hearing?

24 A. A pooling order for the first optional infill
25 well on the Blanco-Mesaverde Pool.

1 Q. Okay, and is that well shown on what has been
2 marked as McElvain Exhibit Number 2?

3 A. Yes, it is, it's the Badger 14 Number 1A.

4 Q. So just to orient the Examiner, you show the
5 initial well that was drilled under the pooling order in
6 Unit D as the Badger 14 1?

7 A. Yes.

8 Q. And your first optional infill well is shown on
9 here as the Badger 14 Well Number 1A?

10 A. Yes, it is.

11 Q. And is that in Unit L?

12 A. Yes, it is.

13 Q. Is this well to be drilled at a standard
14 location?

15 A. Yes, it is, it's 660 feet from the west line and
16 2120 from the south line.

17 Q. And what is the status of the acreage in this
18 area?

19 A. It's all fee acreage.

20 Q. Have you identified on what's been marked as
21 McElvain Exhibit Number 3 an ownership breakdown by quarter
22 section?

23 A. Yes, I have.

24 Q. It shows your west half spacing unit, correct?

25 A. That's correct.

1 Q. Now, I note that there are percentages shown on
2 this particular exhibit. Are those broken down by quarter
3 section or by half section?

4 A. Those are broken down by the quarter section.

5 Q. And do we have a subsequent exhibit that shows
6 the ownership percentages by half section?

7 A. Yes, on the AFE it shows it by the half section.

8 Q. Okay, so we'll get to that in a minute.

9 Of the interest owners that are shown on Exhibit
10 Number 3, how many of these interest owners are subject to
11 this pooling Application?

12 A. Just two of the interest owners are subject to
13 the pooling.

14 Q. And who are they?

15 A. Christopher Phillips and San Juan Gas
16 Corporation.

17 Q. With respect to the other interest owners shown
18 on McElvain Exhibit Number 3, have you reached an agreement
19 concerning the development of this west half spacing unit?

20 A. Yes, we have, they all elected to participate.

21 Q. Okay. You mentioned the two interest owners that
22 are the subject of this Application, San Juan Corporation
23 and then Christopher Phillips. Were those two interest
24 owners -- With respect to those two interest owners, were
25 you able to reach an agreement with them concerning the

1 initial well in this spacing unit?

2 A. No, we were not able to reach it. They were
3 subject to the force pooling order.

4 Q. Did you submit a letter to these two interest
5 owners for your proposed infill well?

6 A. Yes, we did, on several occasions.

7 Q. And has that been marked as McElvain Exhibit
8 Number 4?

9 A. Yes, it is.

10 Q. So McElvain Exhibit Number 4 is the letter that
11 went out to the two interest owners that are the subject of
12 the hearing today?

13 A. Yes, it is.

14 Q. All right. Now since the submission of this
15 letter, what effort have you made to reach agreement with
16 these two interest owners?

17 A. We have sent full packages to both owners twice,
18 once in -- or actually three times, once in October, once
19 in November, and again in December. We have had telephone
20 discussions with them, including for San Juan Gas with
21 their attorney, trying to reach agreement with them or get
22 them to do something before we had to come to hearing.
23 We'd even made offers to purchase their interests, which
24 they just had no response to, said they -- you know, San
25 Juan Gas Corp. is a gentleman by the name of Alex Phillips;

1 he said he was 85 years old and did not want to really put
2 any money on the line for anything.

3 Q. Okay. So have you tried to get them to act but
4 without success?

5 A. That's true.

6 Q. All right. Is McElvain Number 5, is that the AFE
7 that was sent out with this infill well proposal letter?

8 A. Yes, it is.

9 Q. Now, is this the exhibit that shows their
10 percentage interest in the west half spacing unit?

11 A. Yes, it is.

12 Q. And it shows San Juan Gas Corporation as having a
13 9.375-percent interest?

14 A. Correct.

15 Q. And then the other party that's subject to the
16 hearing today, Christopher Phillips, is having a 1.5625
17 percent?

18 A. Yes.

19 Q. All right. Is this AFE based on the costs that
20 were incurred for the drilling of the initial well in this
21 west half spacing unit?

22 A. Yes, it is.

23 Q. And when was that initial well drilled?

24 A. The initial well was drilled at the end of
25 October, 2004.

1 Q. Now the costs on this AFE, do they reflect
2 escalation costs since the drilling of that well about a
3 year and a half ago?

4 A. They do, because we've seen a great deal of
5 escalation in cost.

6 Q. Are these costs that are reflected on this AFE in
7 line with the costs that McElvain has incurred in this area
8 for similar wells?

9 A. Yes, they are.

10 Q. Have you made an estimate of the overhead and
11 administrative costs while drilling this well and also
12 while producing this infill well if you are successful?

13 A. Yes, we have. The current rates out there, that
14 we are -- will be on this well are \$5692.50 for the
15 drilling overhead and \$569.25 for the producing overhead.

16 Q. Now those numbers, do they reflect the COPAS
17 escalation to the overhead figures that are set forth in a
18 JOA for this property?

19 A. Yes, they are the escalated figures from the
20 governing JOA out there that originally had \$5500 and \$550.

21 Q. And do you ask that these current figures be
22 incorporated into any order that results from this hearing?

23 A. Yes, we do.

24 Q. And does McElvain request that these overhead
25 figures approved by the Division be subject to adjustment

1 in accordance with the COPAS guidelines?

2 A. Yes, we do.

3 Q. Now, what entity has been designated the operator
4 of this west half spacing unit?

5 A. McElvain Oil and Gas Properties, Inc.

6 Q. And is that the -- That would be the operator for
7 this infill well also?

8 A. Yes.

9 Q. Okay. And does McElvain request that the
10 Division impose a 200-percent risk penalty as authorized by
11 statute and Division Rule 35 against these two remaining
12 interest owners?

13 A. Yes, we do.

14 Q. Is McElvain Exhibit Number 6 an affidavit with
15 the attached letters giving notice of the hearing?

16 A. Yes.

17 Q. And it contains, does it not, the return receipts
18 on the certified letters that went out concerning this
19 hearing?

20 A. Yes.

21 Q. Okay. And is McElvain Exhibit Number 7 an
22 affidavit of publication of this case in the Rio Grande
23 Sun?

24 A. Yes.

25 Q. And does this affidavit confirm that this is a

1 newspaper of -- a weekly newspaper of general circulation
2 in Rio Arriba County, New Mexico?

3 A. Yes, it does.

4 Q. Were McElvain Exhibits 1 through 7 prepared by
5 you or compiled under your direction and supervision?

6 A. Yes, they were.

7 MR. FELDEWERT: Mr. Examiner, at this time I
8 would move the admission into evidence of McElvain Exhibits
9 1 through 7.

10 EXAMINER BROOKS: McElvain Exhibits 1 through 7
11 will be admitted.

12 MR. FELDEWERT: And that concludes my
13 presentation.

14 EXAMINER BROOKS: Okay, I believe you've covered
15 all the matters that I asked about in compulsory pooling
16 cases. The AFE looks high, but I guess -- for a Mesaverde
17 well, but I guess costs are going up faster than I
18 realized.

19 Do you have any questions, Mr. Jones?

20 EXAMINATION

21 BY MR. JONES:

22 Q. The only one is just to clarify the letter you
23 sent out -- Let's see, that was Exhibit Number 4?

24 A. Yes.

25 Q. You said only depths from the base of the PC to

1 the base of the Mesaverde would be that operating
2 agreement. So you basically have a separate operating
3 agreement for the spacing unit; is that the case?

4 A. Yes.

5 EXAMINER BROOKS: And you're asking to pool from
6 the surface to the base of the Mesaverde; is that correct?

7 MR. FELDEWERT: Yes, which is -- which follows
8 the initial pooling order.

9 EXAMINER BROOKS: Okay. That's the way we did it
10 in the existing pooling order.

11 MR. FELDEWERT: Yes.

12 EXAMINER BROOKS: Okay, very good. Case Number
13 13,693 will be taken under advisement.

14 (Thereupon, these proceedings were concluded at
15 9:13 a.m.)

16 * * *

17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. 13693,
21 heard by me on Apr 13, 2006

22 David K. Brooks, Examiner
23 Oil Conservation Division
24
25

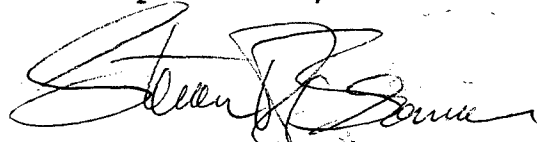
CERTIFICATE OF REPORTER

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 April 14th, 2006.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006