

STATE OF NEW MEXICO
 OIL CONSERVATION DIV.
 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
 OIL CONSERVATION DIVISION
 99 MAY 13 AM 6:31

IN THE MATTER OF THE HEARING CALLED BY)
 THE OIL CONSERVATION DIVISION FOR THE)
 PURPOSE OF CONSIDERING:)

CASE NO. 12,172

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: MARK ASHLEY, Hearing Examiner

April 29th, 1999

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MARK ASHLEY, Hearing Examiner, on Thursday, April 29th, 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.

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I N D E X

April 29th, 1999
 Examiner Hearing
 CASE NO. 12,172

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* * *

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 DENNIS HOPPER:

GROVE BURNETT, Attorney at Law
P.O. Box 360
Taos, NM 87571
By: SPENCER CROSS

FOR NM&O OPERATING COMPANY:

JAMES G. BRUCE, Attorney at Law
612 Old Santa Fe Trail, Suite B
Santa Fe, New Mexico 87501
P.O. Box 1056
Santa Fe, New Mexico 87504

* * *

1 WHEREUPON, the following proceedings were had at
2 10:15 a.m.:

3 EXAMINER ASHLEY: This hearing will now come back
4 to order, and the Division calls Case 12,172.

5 MR. CARROLL: Application of McElvain Oil and Gas
6 Properties, Inc., for compulsory pooling, Rio Arriba
7 County, New Mexico.

8 EXAMINER ASHLEY: Call for appearances.

9 MR. CARR: May it please the Examiner, my name is
10 William F. Carr with the Santa Fe law firm Campbell, Carr,
11 Berge and Sheridan. We represent McElvain Oil and Gas
12 Properties, Inc., and I have two witnesses.

13 EXAMINER ASHLEY: Any additional appearances?

14 MR. CROSS: Mr. Examiner, my name is Spencer
15 Cross and I work with Grove Burnett who is the attorney for
16 Dennis Hopper, who is an interest holder in the property to
17 be pooled, and I'm here to make sure that Mr. Hopper is a
18 party of record in this proceeding.

19 EXAMINER ASHLEY: Okay, thank you.

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

22 EXAMINER ASHLEY: What was that company again?

23 MR. BRUCE: Capital N, Capital M, and Capital O.

24 MR. CARROLL: What does that stand for?

25 MR. BRUCE: New Mexico and Oklahoma Operating

1 Company.

2 EXAMINER ASHLEY: Any additional appearances?

3 Will the witnesses please stand to be sworn?

4 (Thereupon, the witnesses were sworn.)

5 MR. CARR: May it please the Examiner, at this
6 time we would call Steve Jordan.

7 EXAMINER ASHLEY: Mr. Carr?

8 STEVEN R. JORDAN,

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

11 DIRECT EXAMINATION

12 BY MR. CARR:

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

14 A. Steven R. Jordan.

15 Q. Where do you reside?

16 A. Santa Fe, New Mexico.

17 Q. By whom are you employed?

18 A. McElvain Oil and Gas Properties, Inc.

19 Q. What is your position with McElvain?

20 A. Land Manager.

21 Q. Have you previously testified before this
22 Division?

23 A. Yes.

24 Q. At the time of that testimony, were your
25 credentials as an expert in petroleum land matters accepted

1 and made a matter of record?

2 A. Yes.

3 Q. Are you familiar with the Application filed in
4 this case?

5 A. Yes.

6 Q. And are you familiar with the status of the lands
7 in the subject area?

8 A. Yes.

9 MR. CARR: Are Mr. Jordan's qualifications
10 acceptable?

11 EXAMINER ASHLEY: Yes.

12 Q. (By Mr. Carr) Initially, would you summarize for
13 Mr. Ashley what it is that McElvain seeks with this
14 Application?

15 A. We seek to pool the minerals from the base of the
16 Pictured Cliffs formation to the base of the Mesaverde
17 formation in Lots 1, 2, the south half of the northeast,
18 and the southeast quarter, being an east half equivalent,
19 of Section 4, Township 25 North, Range 2 West, Rio Arriba
20 County, to be dedicated to our proposed Elk Com Number 4-7
21 well, to be located at a standard spacing unit, or standard
22 spacing -- a standard location, in the northeast quarter of
23 that section.

24 Q. Mr. Jordan, let's go to what has been marked for
25 identification as McElvain Exhibit Number 1, and I'd ask

1 you to identify and review that, please.

2 A. This is a land plat, showing the location of our
3 proposed spacing unit in the east half of Section 4, along
4 with the approximate location of our Elk Com Number 4-7
5 well, located in the northeast quarter of that section,
6 which is off the Dennis Hopper land, and it gives you the
7 general descriptions of the properties and the ownership,
8 in general, of that east-half spacing unit.

9 Q. Where is Mr. Hopper's property?

10 A. Mr. Hopper owns the surface and half mineral
11 interest in the south half of Section 4.

12 Q. What is the primary objective in the proposed
13 well?

14 A. The primary objective is the Mesaverde formation,
15 Blanco-Mesaverde Pool.

16 Q. Would you identify what has been marked for
17 identification as McElvain Exhibit Number 2?

18 A. Exhibit 2 is a list of all of the mineral owners
19 in the east half spacing unit, including leasehold, working
20 interest owners, and unleased mineral interest owners.

21 Q. What percentage of these interests are
22 voluntarily committed to the proposed well?

23 A. We currently have 38.78 percent of the interest
24 owners voluntarily committed to our proposal, and two
25 additional owners at the bottom of page 1. Huntington T.

1 Walker and James B. Fullerton have indicated that they will
2 voluntarily commit their interest to our well.

3 Q. What is the status of the interest of Williams
4 Production Company?

5 A. Williams Production Company has an after-payout
6 reversionary working interest in this spacing unit, and the
7 payout is in accordance with the terms of their agreement
8 with Mesa Grande Resources, and they do not have a before-
9 payout interest.

10 Q. Would you summarize for Mr. Ashley the efforts
11 that have been made by McElvain to obtain the voluntary
12 joinder of all working interest and mineral interest owners
13 in the proposed spacing unit?

14 A. Yes, sir. On February the 1st, 1999, we mailed
15 to all of the listed owners a well proposal to drill the
16 McElvain Elk Com Number 4-7 well in the northeast quarter.
17 That proposal included our proposal letter, an AFE and an
18 operating agreement.

19 Q. Is that what has been marked as Exhibit Number 3,
20 the material with the clip on the top? It's marked on the
21 very back page of the last document.

22 A. Yes, sir.

23 Q. Since you mailed that out, what contacts have you
24 made with the individuals who would be subject to pooling?

25 A. We have had conversations with virtually all of

1 the working interest owners in the spacing unit.

2 Q. Have you been in contact with Mr. Hopper?

3 A. Yes, we've been in contact with Grove Burnett and
4 Spencer Cross, who are representing Mr. Hopper, on numerous
5 occasions.

6 Q. Now, McElvain -- if we look at Exhibit Number 2,
7 T.H. McElvain, their interest is voluntarily committed.
8 You've talked with Mr. Hopper. Is Noseco in?

9 A. Noseco has -- they are in, they have signed the
10 operating agreement, have agreed to go nonconsent under our
11 proposal.

12 Q. When you are talking with the rest of these
13 individuals, other than the Huntington and Fullerton and
14 Williams Production Company interests, have you been
15 directing your conversations primarily through NM&O?

16 A. We've had some conversations, our company has,
17 with NM&O, and we've also had some conversations directly
18 with some of these other owners, most of the other owners.

19 Q. What is the status of the Dugan Production
20 Corporation interest?

21 A. Dugan Production Company, Corporation, farmed out
22 an interest in the northeast quarter to Mesa Grande
23 Resources, and pursuant to that farmout there is a
24 reassignment provision, and they are listed therefore under
25 the potential of obtaining a reassignment as a working

1 interest owner with a zero interest.

2 Q. In your opinion, have you made a good-faith
3 effort to locate all individuals who own interest that will
4 be subject to this pooling Application, and have you made
5 an effort to obtain their voluntary participation in the
6 well?

7 A. Yes, sir.

8 Q. Could you identify what has been marked for
9 identification as McElvain Exhibit Number 4?

10 A. McElvain Exhibit Number 4 is copies of our
11 proposal letter dated February 1st, 1999, indicating that
12 Noseco Corporation has voluntarily committed their
13 interest, as has Williams Production Company, which owns a
14 reversionary working interest, along with T.H. McElvain Oil
15 and Gas Limited Partnership.

16 Q. Is Exhibit Number 5 an affidavit confirming that
17 notice of today's hearing has been provided to those
18 affected by this Application in accordance with OCD Rules
19 and Regulations?

20 A. Yes, sir.

21 Q. And attached to that, included in that exhibit
22 are copies of the letters and the certified mail receipts?

23 A. Yes, sir.

24 Q. Will McElvain also call an engineering witness to
25 review the technical portions of this case?

1 A. Yes.

2 Q. Were Exhibits 1 through 5 prepared by you or
3 compiled at your direction?

4 A. Yes.

5 MR. CARR: May it please the Examiner, at this
6 time we would move the admission into evidence of McElvain
7 Exhibits 1 through 5.

8 EXAMINER ASHLEY: Exhibits 1 through 5 will be
9 admitted at this time.

10 MR. CARR: And that concludes my direct of Mr.
11 Jordan.

12 EXAMINER ASHLEY: Mr. Cross?

13 MR. CROSS: My only purpose was to enter Mr.
14 Hopper as a party of record.

15 EXAMINER ASHLEY: Okay. Mr. Bruce?

16 MR. BRUCE: No questions.

17 EXAMINATION

18 BY EXAMINER ASHLEY:

19 Q. Mr. Jordan, I'm looking at Exhibit Number 2.
20 Could you go over that again and show me which ones have
21 agreed to participate in this --

22 A. Yes, sir. At the top of the list there, T.H.
23 McElvain Oil and Gas Limited Partnership is a participant.
24 Dennis Hopper is not. Noseco Corporation is a participant.
25 And right now, that is all who have actually signed up as

1 participants in this well.

2 Down towards the bottom, James B. Fullerton and
3 Huntington T. Walker have indicated that they will not be
4 force-pooled and will commit their unleased mineral
5 interest either by leasing or by participating in the well.

6 Q. Okay, what about some of the other ones on the
7 list, like Richard L. Harris, Gavilan Dome Properties?

8 A. Okay, Richard L. Harris, we did get our green
9 card, return receipt, back from that office and then later
10 got a letter from Richard Harris to Peter Neumann,
11 indicating that he was no longer the trustee for the
12 Neumann Family Trust and had forwarded our package to Mr.
13 Neumann.

14 We contacted his law office, Mr. Neumann's law
15 office, many times, seeking a return call, and he never did
16 call us back. But he has received all of the paperwork,
17 and his secretary has confirmed that he has received all
18 the documentation.

19 Gavilan Dome Properties, we tried unsuccessfully
20 in locating a telephone number for them, went through the
21 Corporation Commission's and Secretary of State's Office,
22 as well as the telephone information, et cetera, and did
23 not contact them.

24 And Mesa Grande Resources, we did not have a
25 telephone conversation with them. NM&O, our attorney, has

1 had conversations with their office, as has Larry Van Ryan
2 from our office, has had conversations with the president
3 at NM&O, and we've had numerous conversations with Mr.
4 Fullerton and Mr. Walker. And Johansen Energy partnership
5 did not return our phone calls. And we've had
6 conversations with Williams Production Company and Dugan
7 Production Corporation, both in regard to this proposal.

8 EXAMINER ASHLEY: I have nothing further. Thank
9 you.

10 THE WITNESS: Thank you.

11 MR. CARR: At this time we would call Larry Van
12 Ryan.

13 LAWRENCE O. VAN RYAN,
14 the witness herein, after having been first duly sworn upon
15 his oath, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. CARR:

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

19 A. My name is Lawrence Van Ryan.

20 Q. Where do you reside?

21 A. Denver, Colorado.

22 Q. By whom are you employed?

23 A. McElvain Oil and Gas Properties, Inc.

24 Q. Mr. Van Ryan, what is your current position with
25 McElvain?

1 A. I'm the vice president of exploration and
2 production.

3 Q. Have you previously testified before this
4 Division and had your credentials accepted and made a
5 matter of record?

6 A. Yes, I have.

7 Q. Are you familiar with the Application filed in
8 this case on behalf of McElvain Oil and Gas Properties,
9 Inc.?

10 A. Yes, sir.

11 Q. Are you prepared to share the results of your
12 work and knowledge concerning these properties with the
13 Examiner?

14 A. Yes, I am.

15 MR. CARR: Are the witness's qualifications
16 acceptable?

17 EXAMINER ASHLEY: Yes, they are.

18 Q. (By Mr. Carr) Have you prepared exhibits for
19 presentation here today?

20 A. I have had them prepared, yes.

21 Q. Let's go to what has been marked McElvain Exhibit
22 Number 6. Would you identify that and review it for Mr.
23 Ashley?

24 A. This is a production map of the area where our
25 well is located. It's showing the initial potential or the

1 initial production and the cumulative production through
2 September of 1998 for the Mesaverde wells located in this
3 area.

4 Q. And what does this show you?

5 A. What it shows us is that we have a very few
6 Mesaverde wells in this area. If you'll look down in
7 Section 3 of Township 25 North, Range 2 West, in the
8 northwest corner we have recently drilled and completed a
9 Mesaverde well in there. The IP shown there is actual
10 initial production. This well came on line in February of
11 1999, and that's the cumulative production for the month of
12 February for that well.

13 What it shows us is that there are a lack of
14 wells, and there are a number of what I would call
15 noncommercial wells in this area, and we're trying to show
16 that this is a high-risk area, even though we have
17 committed the moneys to drill some wells in here and are
18 willing to commit some money to drill more wells, it is a
19 high-risk situation.

20 It also does not show it on this map, but one of
21 the things to point out here is that in this area there
22 have been numerous penetrations that have gone through the
23 Mesaverde to lower horizons, but most people have elected
24 not to come back and complete in the Mesaverde.

25 In Township 25 North, Range 2 West, 17 wells in

1 the area you see on the map here have penetrated the
2 Mesaverde, and in the area to the north, in 26 North and 2
3 West, in the area on the map, there's been ten wells that
4 have gone through that zone. So again, we feel this is a
5 high-risk area, although we are willing to commit the
6 moneys to it.

7 Q. Based on this information, are you prepared to
8 make a recommendation to the Examiner as to the risk
9 penalty that should be assessed against nonconsenting or
10 nonparticipating interest owners?

11 A. I think 200 percent is appropriate for this area.

12 Q. In your opinion, is there a chance at this
13 location McElvain could drill that would not be an economic
14 success?

15 A. There is that possibility.

16 Q. Would you identify McElvain Exhibit Number 7?

17 A. That is an AFE for the well that we're proposing
18 in Section 4. It shows the dryhole cost to be \$271,160 and
19 the completed well cost of \$597,280.

20 Q. Are these costs in line with the costs incurred
21 by McElvain in drilling the offsetting Mesaverde wells?

22 A. Yes, they are.

23 Q. Have you made an estimate of the overhead and
24 administrative costs to be incurred while drilling the well
25 and also while producing it if, in fact, it is a success?

1 A. Yes, we have.

2 Q. And what are those numbers?

3 A. We have recommended, or we would recommend, that
4 the producing overhead rate be \$518.41 a month and that the
5 drilling well rate would be \$5184.01 per month. These are
6 kind of a different rounded-off number here, because these
7 are escalated values due to other operating agreements we
8 have in the area.

9 Q. Are these the figures that would be charged to
10 those who are voluntarily committing to the well?

11 A. That's correct, to the people that have a joint
12 operating agreement signed, these are what they will be
13 charged. And those do have a clause in there where their
14 costs can escalate depending upon the Council of Petroleum
15 Accountants.

16 Q. And are you requesting that the order that
17 results from this hearing authorize that the figure set by
18 the order be permitted to escalate in accordance with those
19 COPAS figures?

20 A. Yes, we feel it would only be fair to the people
21 that consent to go along with the well that the people that
22 are going nonconsent are being force-pooled also, have that
23 escalation included.

24 Q. This would result in everyone being treated the
25 same?

1 A. Yes.

2 Q. Do you know how these numbers compare to the
3 Ernst and Young numbers for this area?

4 A. These numbers are low by the Ernst and Young,
5 which is a national survey conducted on a yearly basis.

6 Q. And do you recommend that the figures you just
7 set out be incorporated into the order that results from
8 this hearing?

9 A. Yes, I do.

10 Q. Does McElvain Oil and Gas Properties, Inc., seek
11 to be designated operator of the proposed well?

12 A. Yes.

13 Q. In your opinion, will granting this Application
14 and the drilling of this well be in the best interests of
15 conservation, the prevention of waste and the protection of
16 correlative rights?

17 A. Yes.

18 Q. Were McElvain Exhibits 6 and 7 prepared by you or
19 compiled under your direction?

20 A. Yes, they were.

21 MR. CARR: At this time, Mr. Ashley, we would
22 move the admission into evidence of McElvain Exhibits
23 Numbers 6 and 7.

24 EXAMINER ASHLEY: Exhibits 6 and 7 will be
25 admitted as evidence.

1 MR. CARR: And that concludes my examination of
2 Mr. Van Ryan.

3 EXAMINATION

4 BY EXAMINER ASHLEY:

5 Q. Mr. Van Ryan, does McElvain operate any other
6 wells in the area of this proposed well?

7 A. Yes, we operate the well in the northwest quarter
8 of Section 3 of 25 and 2, and we have drilled and are in
9 the process of trying to complete a well in the southwest
10 quarter of Section 34 of 26 and 2.

11 Q. That one is being drilled right now?

12 A. It's been drilled, casing has been run, we're
13 getting ready to complete it.

14 Q. Were either one of those wells subject to
15 compulsory pooling?

16 A. The well in the northwest quarter of Section 4
17 was -- I mean, excuse me, 3.

18 Q. Okay.

19 A. Yes. We also operate a well over in Section 1 to
20 the west. You cannot tell it, but it's in 25 and 3. It's
21 shown as a dryhole marker. There was a small amount of gas
22 produced out of the Mesaverde there.

23 Q. Has that well been P-and-A'd?

24 A. Not at this point in time. It still is being
25 evaluated. It produces large amounts of water, and we're

1 trying to find some way to shut that off.

2 Q. Could you tell me about the well that's in the
3 southeast quarter of Section 2 of 25 North, 2 West?

4 A. That is a well that was plugged back from the
5 Gallup formation or Mancos and completed in the Mesaverde,
6 and it has subsequently been commingled with the Pictured
7 Cliffs, because the production didn't warrant a single
8 completion in there.

9 Q. Downhole commingling?

10 A. Yes.

11 Q. Does McElvain operate that one?

12 A. No, that's operated by Mallon Oil.

13 EXAMINER ASHLEY: I have nothing further. Thank
14 you, Mr. Van Ryan.

15 MR. CARR: That concludes our presentation in
16 this case.

17 EXAMINER ASHLEY: There being nothing further in
18 Case 12,172, this case will be taken under advisement.

19 (Thereupon, these proceedings were concluded at
20 10:40 a.m.)

21 * * *

22 I do hereby certify that the foregoing is
23 a complete record of the proceedings in
24 the Examiner hearing of Case No. 12172,
25 heard by me on 4-29-1999

Mark Dahlberg
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 April 30th, 1999.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002