

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. 12,350
)
 APPLICATION OF McELVAIN OIL AND GAS)
 PROPERTIES, INC., FOR COMPULSORY)
 POOLING, RIO ARRIBA COUNTY, NEW MEXICO)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MARK ASHLEY, Hearing Examiner

March 2nd, 2000

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MARK ASHLEY, Hearing Examiner, on Thursday, March 2nd, 2000, 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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OIL CONSERVATION DIV
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I N D E X

March 2nd, 2000
 Examiner Hearing
 CASE NO. 12,350

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

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* * *

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

3 EXAMINER ASHLEY: This hearing will now come back
4 to order, and the Division calls Case 12,350.

5 MS. HEBERT: 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: Additional appearances?

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

16 EXAMINER ASHLEY: Will the witnesses please stand
17 to be sworn?

18 (Thereupon, the witnesses were sworn.)

19 EXAMINER ASHLEY: Mr. Carr?

20 STEVEN R. JORDAN,

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

23 DIRECT EXAMINATION

24 BY MR. CARR:

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

1 A. Steve Jordan.

2 Q. Mr. Jordan, where do you reside?

3 A. Santa Fe, New Mexico.

4 Q. By whom are you employed?

5 A. McElvain Oil and Gas Properties.

6 Q. And what is your position with McElvain Oil and
7 Gas Properties?

8 A. Land manager.

9 Q. Have you previously testified before this
10 Division?

11 A. Yes.

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

15 A. Yes.

16 Q. Are you familiar with the Application filed in
17 this case?

18 A. Yes.

19 Q. And are you familiar with the status of the lands
20 in the area which is the subject of this Application?

21 A. Yes.

22 MR. CARR: Are Mr. Jordan's qualifications
23 acceptable?

24 EXAMINER ASHLEY: They are.

25 Q. (By Mr. Carr) Would you briefly state what it is

1 that McElvain seeks with this Application?

2 A. McElvain is seeking an order pooling the minerals
3 in the -- in lots 3, 4, the south half of the northwest
4 quarter, and the southwest quarter, being a west-half
5 equivalent in Section 3, Township 25 North, Range 2 West,
6 Rio Arriba County, comprising 320.97 acres, more or less.

7 Q. And to what well will this spacing unit -- or
8 these spacing units, be dedicated?

9 A. They'll be dedicated to our Elk Com Number 1A
10 well.

11 Q. Will that well be drilled at a standard location?

12 A. Yes.

13 Q. In the southwest quarter of this section?

14 A. Yes, sir.

15 Q. Let's go to what has been marked McElvain Exhibit
16 Number 1. I'd ask you to identify it and review it for Mr.
17 Ashley.

18 A. Exhibit Number 1 is a plat showing the location
19 in Section 3, the spacing unit being a west-half
20 equivalent, the approximate location of our proposed well
21 in the southwest quarter of that section, and the leasehold
22 ownership in the west half of Section 3.

23 Q. What is the primary objective of the proposed
24 well?

25 A. The primary objective is the Mesaverde formation.

1 Q. Let's go to what has been marked McElvain Number
2 2. Would you identify this, please?

3 A. Exhibit Number 2 is a list of the working
4 interest owners in the west half of Section 3.

5 Q. And what is the status of voluntary commitment to
6 this well of these working interest owners?

7 A. We do have voluntary commitment of some but not
8 all of the owners. I could go down the list here.

9 T.H. McElvain Oil and Gas Limited Partnership has
10 voluntarily committed.

11 Noseco Corporation out of Reno, Nevada, we've
12 talked with them. They are not committed to this well and
13 will need to be compulsorily pooled. We have visited with
14 them, however, and they have indicated that they do not
15 want to join in this effort.

16 Neumann Family Trust, we've spoken with Peter C.
17 Neumann in Reno, an attorney, who also did not want to
18 voluntarily commit his interest and does not want to
19 participate.

20 Gavilan Dome Properties is an entity that we
21 never have been able to find a telephone number for. We
22 have contacted them in previous hearings. Nobody can get
23 ahold of them; even their own partnership group in their
24 lease doesn't know how to get ahold of the owner there. We
25 have sent them, of course, the notice letter and received

1 our certified green card back, but haven't had actual
2 contact with Gavilan Dome.

3 James M. Raymond has voluntarily committed his
4 interest and will participate, as will John S. Brown, Jr.

5 Mesa Grande Resources has not voluntarily joined
6 our proposal. We've spoken with the owner of Mesa Grande,
7 Alex Phillips, who has undergone considerable heart
8 operations recently and indicated that he does not have the
9 resources to participate and has not voluntarily committed
10 his interest otherwise.

11 NM&O Operating Company has indicated that they do
12 not want to participate and has not voluntarily joined in
13 any way in our proposal. We have talked with the president
14 of NM&O, Mr. Larry Sweet, and our counsel has also spoken
15 with Mr. Sweet's counsel.

16 George A. Lippman has voluntarily committed his
17 interest and will participate in this proposal.

18 J. Roger Friedman, and, on the next page Patricia
19 M. Friedman, have both voluntarily joined and will
20 participate.

21 Joe Elledge has voluntarily joined and will
22 participate.

23 Johansen Energy Partnership, we have spoken with
24 them. They did not want to participate and have not
25 voluntarily joined in our proposal.

1 Williams Production Company has an after-payout
2 interest. We have spoken with them and, as I say, they
3 have an after-payout interest. They have not voluntarily
4 joined.

5 Dugan Production Corporation is listed on here as
6 an interest owner with zero percent. They have a potential
7 reassignment interest in one of the federal leases, and
8 that's why we have put them on here for notification
9 purposes. I've spoken with David Poage, their land
10 manager, and he has indicated that they are not in a
11 position to voluntarily commit their interest to this
12 proposal.

13 Q. Mr. Jordan, what percentage of the working
14 interest is voluntarily committed?

15 A. Approximately 50 percent.

16 Q. Could you summarize for Mr. Ashley McElvain's
17 efforts to obtain voluntary joinder of these interest
18 owners in this proposed well and spacing unit?

19 A. We sent our proposal out December of 1999 and
20 have since been in contact with all of the parties that
21 have not voluntarily committed their interests, and have
22 not been able to convince anyone to voluntarily join us in
23 this proposal.

24 Q. Is Exhibit Number 3 a copy of your December
25 letter?

1 A. Yes, sir.

2 Q. And with that letter did you send an AFE and a
3 JOA?

4 A. Yes, we did.

5 Q. In your opinion, have you made a good-faith
6 effort to obtain the voluntary participation of all
7 interest owners in this well?

8 A. Yes, we have.

9 Q. There are no interest owners who you've been
10 unable to locate?

11 A. There's one interest owner that we have been
12 unable to locate.

13 Q. And that was the Gavilan --

14 A. Gavilan Dome, and we have had them in a number of
15 other proposals within the last several years and have not
16 been able to find a telephone number for them.

17 Q. Let's go to Exhibit Number 4. Would you identify
18 that, please?

19 A. Exhibit Number 4 is the model form operating
20 agreement that was included in our proposal for this well.

21 Q. And this agreement has been executed by those
22 parties you indicated have committed their interest to the
23 well?

24 A. Yes, it has.

25 Q. And this contains the COPAS accounting provisions

1 that we will be referencing later in this testimony; is
2 that right?

3 A. Yes, it does.

4 Q. Is Exhibit Number 5 a copy of an affidavit
5 confirming that notice of today's hearing has been provided
6 in accordance with Oil Conservation Division rules and
7 regulations?

8 A. Yes.

9 Q. Other than the Gavilan Dome group, have all those
10 interest owners who are not participating in the well been
11 notified of today's hearing?

12 A. Yes, and Gavilan Dome had been notified as well,
13 but we just have not had telephone conversations with them.

14 Q. Were Exhibits 1 through 5 either prepared by you
15 or prepared under your direction?

16 A. Yes.

17 Q. Will McElvain be calling an engineering witness
18 to review the technical portions of this case?

19 A. Yes.

20 MR. CARR: At this time, Mr. Ashley, we would
21 move the admission into evidence of McElvain Exhibits 1
22 through 5.

23 EXAMINER ASHLEY: Exhibits 1 through 5 will be
24 admitted as evidence.

25 MR. CARR: And that concludes my direct of Mr.

1 Jordan.

2 EXAMINER ASHLEY: Mr. Bruce?

3 EXAMINATION

4 Q. Just one question. I don't have the exhibit, Mr.
5 Jordan, but Exhibit 3 consists of one letter; is that
6 correct?

7 A. Yes, sir.

8 Q. And that was the only letter sent to the working
9 interest owners?

10 A. That's correct.

11 MR. BRUCE: That's all I have.

12 EXAMINATION

13 BY MR. ASHLEY:

14 Q. Mr. Jordan, you said you have been in contact
15 with Gavilan Dome. You've talked to them but --

16 A. No.

17 Q. You've sent them a letter, but you haven't talked
18 to them?

19 A. We've sent them a letter, we got our green card
20 back. In the past there have been times when we didn't
21 even get a green card back because they were not accepting
22 certified mail. I'm talking about past proposals, in the
23 last several years, and this particular instance we did get
24 our green card back. In cases where we didn't get our
25 green card back, we have sent them by regular mail an

1 additional set of papers.

2 We have not been able to find a number for them.
3 We've talked to their other ownership partners in the
4 lease, and they don't know how to get ahold of them, so...

5 Q. But somebody's obviously accepting the mail?

6 A. Yes, sir.

7 Q. Okay. Does McElvain have 100 percent of the
8 interest in that northwest quarter?

9 A. Yes. McElvain -- You say McElvain. We have a
10 number of investment partners that have elected to
11 participate with us in those leases in the northwest
12 quarter. And incidentally, they will all be carrying their
13 proportionate share of any of the force-pooled interests in
14 the southwest quarter.

15 Q. So there are interests in the northwest quarter
16 that also have interests in the southwest quarter too?

17 A. No, there are interests other than McElvain in
18 the northwest quarter, parties that we have brought in with
19 us who have been willing to put up some risk capital to
20 drill this acreage.

21 Q. Okay. So those that have not joined are limited
22 to the southwest quarter?

23 A. Yes.

24 EXAMINER ASHLEY: Okay. I have nothing further.

25 Thank you.

1 MR. CARR: Mr. Examiner, at this time we would
2 call John Steuble.

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

6 DIRECT EXAMINATION

7 BY MR. CARR:

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

9 A. John Steuble.

10 Q. Mr. Steuble, where do you reside?

11 A. Denver, Colorado.

12 Q. By whom are you employed?

13 A. McElvain Oil and Gas Properties.

14 Q. And what is your position with McElvain?

15 A. I'm the engineering manager.

16 Q. Have you previously testified before this
17 Division and had your credentials as a petroleum engineer
18 accepted and made a matter of record?

19 A. Yes, sir.

20 Q. Are you familiar with the Application filed in
21 this case?

22 A. Yes, I am.

23 Q. Have you made an engineering study of the area
24 which is the subject of the Application?

25 A. Yes, I have.

1 Q. Are you prepared to review the results of your
2 work with Mr. Ashley?

3 A. Yes.

4 MR. CARR: Are Mr. Steuble's qualifications
5 acceptable?

6 EXAMINER ASHLEY: They are.

7 Q. (By Mr. Carr) Would you refer to what has been
8 marked for identification as McElvain Exhibit Number 6,
9 identify this and review it for the Examiner?

10 A. Exhibit Number 6 is a nine-section area around
11 our proposed Elk Com 1A well. It shows the spacing unit in
12 yellow and the other Mesaverde wells that have been drilled
13 and/or completed in the area, in the nine-section area.

14 Q. Let's go to Exhibit Number 7. Again, I'd ask you
15 to identify and then review the information on this exhibit
16 as it relates to the risk associated with the development
17 of this acreage.

18 A. Exhibit Number 7 is a larger area that shows all
19 of the Mesaverde wells with the initial potential of the
20 well and the cumulative production as of 5-31-99.

21 What it does show is the sparseness of the
22 drilling in the Mesaverde, and it also shows some of the
23 differences in the completions, as far as the cumulative
24 production, and the lack of consistent development in the
25 area.

1 I think it's very interesting to note, to the
2 northwest -- there's a group of wells up to the northwest
3 in Sections 20 and 29, in that area, that have better
4 production profiles than the wells that we're in the
5 process of drilling right now.

6 Q. If we look at Section 3, will this be the third
7 Mesaverde well in this section?

8 A. Yes, it will.

9 Q. And are both of the wells that have been drilled
10 reasonably good producing wells?

11 A. The two wells in Section 3 are both reasonably
12 good producing wells, yes.

13 Q. When you look at the Mesaverde formation, is this
14 a blanket deposit, or are there characteristics of the
15 reservoir that would tend to contribute to the risk
16 associated with developing these reserves?

17 A. What we're finding is, as we drill them, each of
18 these wells has a different log characteristic and
19 different production profiles. From the Mesaverde down,
20 you have the three formations, the Cliff House, the Menefee
21 and the Point Lookout, and we're seeing big variations
22 between those, specifically in the Menefee section of the
23 wells.

24 Q. If we look at the well in the southwest of
25 Section 34, is that a Mesaverde well?

1 A. That's a Mesaverde well that we drilled and
2 completed, and we put it on line in July of 1999.

3 Q. And is that going to be a successful Mesaverde
4 completion?

5 A. At this point it does not look like that well
6 will ever reach an economic production profile. We're
7 currently making 90 barrels of water a day and 120 of gas a
8 day. We've had a completion rig on it a number of times
9 trying to isolate where the water is coming from, and as of
10 this date we haven't really solved the problem. In fact,
11 we have installed a pumping unit on the well in order to
12 pump the water off.

13 Q. Are you prepared to make a recommendation to the
14 Examiner as to the risk penalty that should be assessed
15 against any nonparticipating interest owner in the well?

16 A. Yes, I am.

17 Q. And what is that?

18 A. 200 percent.

19 Q. And upon what do you base that recommendation?

20 A. I base it on the lack of consistent development
21 within the area, and the uneconomical well in Section 33 --
22 or 34, I'm sorry. There's two uneconomic wells that have
23 been in Section 2, and also north of that in Section 5.

24 One other thing that I might mention: Up in
25 Section 22, of 26-2, we had a Mesaverde attempt and have

1 since plugged that off because we couldn't get commercial
2 production out of it.

3 Q. Do you believe there's a chance that you could
4 drill a well at this proposed location that, in fact, would
5 not be a commercial success?

6 A. Yes, I do.

7 Q. Let's go to what has been marked Exhibit Number
8 8. Will you identify that, please?

9 A. Exhibit 8 is the AFE that I prepared.

10 Q. And would you review the totals for the completed
11 and the dryhole costs?

12 A. The total cost, assuming stimulation, is
13 \$635,070. The dryhole cost is \$304,020.

14 Q. Are these costs in line with what has been
15 incurred by McElvain for drilling other Mesaverde wells in
16 this area?

17 A. Yes, they are.

18 Q. Have you made an estimate of overhead and
19 administrative costs to be incurred while drilling the well
20 and also while producing it, if it is successful?

21 A. Yes, we have.

22 Q. And what are those?

23 A. The drilling rate is \$5484.67, and the overhead
24 rate is \$548.48.

25 Q. And what is the basis for this recommendation?

1 A. It's based on the other wells that we have in
2 operation in the area.

3 Q. And have these costs been approved by the
4 Division for other wells that you have had to force pool
5 within the last year?

6 A. Yes, they have.

7 Q. And you recommend these figures be incorporated
8 into the order that results from today's hearing?

9 A. Yes, I do.

10 Q. Does McElvain request that these rates be
11 increased in accordance with the 1984 COPAS accounting
12 procedures for joint operations?

13 A. Yes, we do.

14 Q. And those procedures are attached to our Exhibit
15 4, the joint operating agreement?

16 A. That's correct.

17 Q. Does McElvain Oil and Gas Properties, Inc.,
18 request that it be designated operator of the proposed well
19 in this spacing unit?

20 A. Yes, we do.

21 Q. In your opinion, will granting this application
22 and drilling of the well as proposed be in the best
23 interest of conservation, the prevention of waste and the
24 protection of correlative rights?

25 A. Yes.

1 Q. Were McElvain Exhibits 6, 7 and 8 prepared by you
2 or compiled under your direction?

3 A. Yes, they were.

4 MR. CARR: Mr. Ashley, at this time we would move
5 the admission into evidence of McElvain Exhibits 6 through
6 8.

7 EXAMINER ASHLEY: Exhibits 6 through 8 will be
8 admitted as evidence.

9 MR. CARR: And that concludes my direct
10 examination of Mr. Steuble.

11 EXAMINATION

12 BY EXAMINER ASHLEY:

13 Q. Mr. Steuble, is this the first well in this
14 proration unit to be drilled?

15 A. No, sir, we have our Elk Com 1A, which is in the
16 northwest quarter of this section.

17 Q. So this is the first infill well?

18 A. Yes, sir.

19 Q. Now, you mentioned earlier that several wells in
20 the area were uneconomical. One of them was the Section
21 34?

22 A. Yes.

23 Q. You mentioned some other ones too?

24 A. There's two wells. There's -- In Section 2,
25 which is to the east of our proposed well, the well down in

1 the southeast corner is currently producing out of the
2 Mesaverde, but it's an uneconomic well. In August of 1999,
3 it produced a total of 129 MCF per month.

4 The well just to the north of that Section 35 was
5 also a Mesaverde attempt. It is currently shut in and has
6 cum'd the 779 MCF that you see there. That's its
7 cumulative production. It is currently shut in.

8 Q. Did I hear you say that you were going to plug
9 one of these wells? Did I hear that earlier?

10 A. No, sir.

11 Q. Okay.

12 A. Not until we get the geology figured out. It's
13 not a consistent formation from well to well, and it's
14 given us problems because it does make volumes of water
15 that we haven't quite figured out where it's all coming
16 from.

17 Q. Were any of the other wells that you drilled
18 within this area drilled under a compulsory pooling order?

19 A. Yes, sir.

20 Q. Can you tell me which ones those were?

21 A. I believe the well in the northwest of 3 was
22 pooled, the well in 34 was not, but the well in 10 was.

23 MR. JORDAN: No, the well in 10 was not.

24 MR. CARR: Mr. Examiner, the well in 10 was not
25 drilled pursuant to a pooling order.

1 EXAMINER ASHLEY: It was not?

2 MR. CARR: It was not.

3 EXAMINER ASHLEY: So only the well in the
4 northwest quarter of Section 3?

5 Mr. Carr?

6 MR. CARR: May it please the Examiner, I would
7 just like to point out that the well in Section 10 was the
8 subject of a force-pooling order, but there were no working
9 interest owners pooled in that case. They all ultimately
10 joined in the well, and the order was only applicable to
11 certain royalty orders that were under old leases, but
12 didn't grant the working interests the right to pool
13 interests.

14 Furthermore, the well in the northwest of 3 was
15 the subject of Pooling Order Number R-11,247, which was
16 entered in Case 12,224 on September the 9th. And that's
17 the source of the request for the overhead and
18 administrative costs. That's the reference to that.

19 EXAMINER ASHLEY: Mr. Bruce?

20 EXAMINATION

21 BY MR. BRUCE:

22 Q. Mr. Steuble, looking at your Exhibit 6 --

23 A. Yes, sir.

24 Q. -- the well in Section 10, what is the initial
25 potential on that well?

1 A. I don't have the initial potential. I have the
2 most current production of 310 MCF a day and 30 barrels of
3 water a day. It's only been on less than a month.

4 Q. Now, the well in the southeast of Section 3, is
5 that McElvain's well?

6 A. The well in the southeast is operated by Mallon.

7 Q. Oh, okay. And this cumulative production, what
8 date is that through? Do you know?

9 A. Through 5 of 1999.

10 Q. Now, the Elk Com Number 1 in the northwest
11 quarter of Section 3, what is that cumulative production
12 figure through?

13 A. All of these are through 5 of 1999.

14 Q. What is the most recent cumulative production and
15 current rates for that Elk Com Number 1?

16 A. For the Elk Com 1?

17 Q. Yes.

18 A. The most current rate I have is 405 MCF a day and
19 25 barrels of water. Just give me a minute on the -- On
20 the Elk Com Number 1, the gas, cumulative of 247,000 MCF.
21 247.

22 Q. Through what date would that be?

23 A. Through 12 of 1999. And we've also cum'd 12,570
24 barrels of water.

25 Q. One other question. There was a pooling case in

1 Section 33, I believe.

2 A. Yes, there was.

3 Q. Has that well been drilled?

4 A. That well has been drilled, but it's a Dakota
5 well.

6 Q. Oh, okay, it's a Dakota well?

7 A. Yes, sir.

8 Q. Do you know if the Mesaverde was also pooled in
9 that pooling hearing?

10 A. I believe it was, yes, sir.

11 Q. Okay, but it's strictly completed in the Dakota
12 at this point?

13 A. At this point, yes.

14 Q. What are the rates on that well?

15 A. In the Dakota well, it is 360 MCF a day and 12
16 barrels of water a day.

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

18 EXAMINER ASHLEY: Mr. Carr?

19 MR. CARR: I have no redirect.

20 FURTHER EXAMINATION

21 BY MR. ASHLEY:

22 Q. Mr. Steuble, what was the TD of this well,
23 proposed TD?

24 A. It's 6400 feet.

25 EXAMINER ASHLEY: I have nothing further. Thank

1 you.

2 MR. CARR: That concludes our presentation in
3 this case.

4 EXAMINER ASHLEY: There being nothing further in
5 this case, Case 12,350 will be taken under advisement.

6 (Thereupon, these proceedings were concluded at
7 10:40 a.m.)

8 * * *

9
10
11
12
13 I do hereby certify that the foregoing is
14 a complete record of the proceedings in
15 the Examiner hearing of Case No. 12350,
16 heard by me on 3-2-99 2000.
17 *[Signature]*, Examiner
18 of Conservation Division
19
20
21
22
23
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 March 6th, 2000.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002