

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:)

APPLICATION OF NM&O OPERATING COMPANY) CASE NO. 12,467
 FOR COMPULSORY POOLING, RIO ARRIBA)
 COUNTY, NEW MEXICO)

APPLICATION OF McELVAIN OIL AND GAS) CASE NO. 12,452
 PROPERTIES, INC., FOR COMPULSORY)
 POOLING, RIO ARRIBA COUNTY, NEW MEXICO)
 (Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

ORIGINAL

BEFORE: MARK ASHLEY, Hearing Examiner

August 10th, 2000

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MARK ASHLEY, Hearing Examiner on Thursday, August 10th, 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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August 10th, 2000
 Examiner Hearing
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A P P E A R A N C E S

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FOR McELVAIN OIL AND GAS PROPERTIES, INC.

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By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 10:48 a.m.:

3 EXAMINER ASHLEY: At this time the Division calls
4 Case Number 12,467, Application of NM&O Operating Company
5 for compulsory pooling, Rio Arriba County, New Mexico.

6 Call for appearances.

7 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
8 representing the Applicant. I have two witnesses to be
9 sworn.

10 MR. CARR: May it please the Examiner, my name is
11 William F. Carr with the Santa Fe law firm Campbell, Carr,
12 Berge and Sheridan. We represent McElvain Oil and Gas
13 Properties in this matter. I have one witness.

14 I would request that this case be consolidated
15 with Case Number 12,452, which is the Application of
16 McElvain for the pooling of certain interests in the east
17 half of Section 4. It's the same east-half acreage that's
18 involved, although we have different formations.

19 Our case was presented four weeks ago and
20 continued to this date because NM&O's Application was
21 actually called, I believe, on or about the hearing date,
22 and you wanted to have all matters before you. I request
23 the case be consolidated for hearing.

24 MR. BRUCE: I have no objection.

25 EXAMINER ASHLEY: Okay, Case 12,452 and Case

1 12,467 will be consolidated at this time.

2 Will the witnesses please rise to be sworn in?

3 (Thereupon, the witnesses were sworn.)

4 W. H. McDERMOTT,

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

7 DIRECT EXAMINATION

8 BY MR. BRUCE:

9 Q. Would you please state your name?

10 A. W.H. McDermott.

11 Q. Where do you reside?

12 A. Ranchos de Taos, New Mexico.

13 Q. What is your occupation?

14 A. Landman.

15 Q. Have you previously testified before the
16 Division?

17 A. No, I haven't.

18 Q. Would you please summarize your educational and
19 employment background?

20 A. I graduated business administration, 1949, from
21 Miami University; graduated 1959, law degree, from Denver
22 University. Worked in the oil business as oil broker while
23 in law school. Five, six years after law school, worked
24 for Superior Oil and worked for Amoco, Pogo, Sinclair,
25 mostly in the land department. Had my own law practice in

1 Santa Fe from 1962 to 1974, which involved some oil and gas
2 and mining. Had my own oil company from 1981 to 1986, and
3 back into the oil business after the crash, and been semi-
4 practicing law and in the oil business and doing land work
5 to date.

6 Q. So you have approximately 40-plus years in the
7 oil and gas business, then?

8 A. Something like that.

9 Q. Are you hired on a contract basis with NM&O to do
10 the landwork with respect to this matter?

11 A. Yes, sir.

12 Q. And are you familiar with the land matters
13 involved in this Application?

14 A. Yes, NM&O is seeking an order pooling --

15 MR. BRUCE: Just a minute, Mr. McDermott.

16 Mr. Examiner, I tender Mr. McDermott as an expert
17 petroleum landman.

18 EXAMINER ASHLEY: Mr. McDermott is so qualified.

19 Q. (By Mr. Bruce) Now, what does NM&O seek, Mr.
20 McDermott?

21 A. Seeks an order pooling all interests from the
22 base of the Mesaverde formation to the base of the -- to
23 the Basin-Dakota Gas Pool underlying the east half of
24 Section 4, Township 25 North, Range 2 West. The unit will
25 be dedicated to the existing Dewey-Bartlett Well Number 1

1 in the northeast southeast of Section 4, which will be re-
2 entered to test the Dakota formation.

3 Q. What is Exhibit 1?

4 A. Exhibit 1 is a list of working interest owners or
5 unleased mineral owners in the east half of Section 4.
6 There's one federal lease covering the northeast quarter of
7 Section 4. The southeast quarter of Section 4 is a fee
8 tract with several mineral owners.

9 Q. Which -- I'm referring to Exhibit 1. Which
10 working interest owners have agreed to join in NM&O's
11 proposal?

12 A. On the exhibit that you have, it's items 1, 2, 3,
13 4 and 6, have agreed either to a farmout or to executing an
14 operating agreement.

15 Q. What is the approximate percentage of those
16 interests?

17 A. It's about 44 percent.

18 Q. And so NM&O would seek to force pool the
19 remaining interest owners?

20 A. Yes.

21 Q. Now, let's discuss efforts to obtain the
22 voluntary joinder of the interest owners in the well. What
23 is Exhibit 2?

24 A. Exhibit 2 is the letter sent on May the 22nd to
25 the working interest owners requesting they become involved

1 in the well, and also there's a letter on July the 28th of
2 this year requesting their participation in this well.

3 Q. Okay. And did the second letter include an
4 operating agreement --

5 A. Yes, it did.

6 Q. -- for their consideration? Okay. In your
7 opinion, has NM&O made a good-faith effort to obtain the
8 voluntary joinder of the interest owners in this well?

9 A. Yes, it has.

10 Q. Does NM&O request that it be designated operator
11 of the well?

12 A. Yes, as to the Dakota formation.

13 Q. Okay. What overhead rates does NM&O request?

14 A. \$5000 per month for a drilling well and \$500 per
15 month on a producing well.

16 Q. Are these rates fair and reasonable?

17 A. Yes, they are equivalent to the rates used by
18 McElvain in this area.

19 Q. And were the interest owners notified of this
20 hearing?

21 A. Yes, they were.

22 Q. And is Exhibit 3 my affidavit of notice?

23 A. Yeah.

24 Q. Were Exhibits 1 through 3 prepared by you or
25 under your supervision or compiled from company business

1 records?

2 A. Yes.

3 Q. And in your opinion, is the granting of NM&O's
4 Application in the interests of conservation and the
5 prevention of waste?

6 A. Yes, it is.

7 MR. BRUCE: Mr. Examiner, I'd move the admission
8 of NM&O Exhibits 1 through 3.

9 MR. CARR: No objection.

10 EXAMINER ASHLEY: Exhibits 1 through 3 will be
11 admitted as evidence at this time.

12 EXAMINATION

13 BY EXAMINER ASHLEY:

14 Q. Mr. McDermott, could you say again what zone that
15 you were wanting to pool?

16 A. Dakota.

17 Q. Dakota?

18 A. Yes.

19 EXAMINER ASHLEY: Mr. Bruce, have you had a
20 chance to review the objection that was received by James
21 Raymond?

22 MR. BRUCE: I never saw it, Mr. Examiner.

23 EXAMINER ASHLEY: Do you know who James Raymond
24 is?

25 MR. BRUCE: I do know. He is in many wells with

1 the McElvain group. He owns numerous mineral and leasehold
2 interests up in Rio Arriba County.

3 Q. (By Examiner Ashley) Is he listed in this
4 Exhibit A anywhere, or is he --

5 A. No, he isn't, because he hasn't appeared of
6 record.

7 EXAMINER ASHLEY: Mr. Carr, do you know about --
8 do you know James Raymond?

9 MR. CARR: I know he is an interest owner. We
10 believe his interest is of record, but we --

11 MR. BRUCE: If we haven't notified him, then we
12 would have to carry him, Mr. Examiner, without penalty.

13 EXAMINER ASHLEY: Okay. I have nothing further.
14 Thank you.

15 MR. CARR: May I cross-examine?

16 EXAMINER ASHLEY: Excuse me, Mr. Carr. Yes.

17 CROSS-EXAMINATION

18 BY MR. CARR:

19 Q. Mr. McDermott, my first question goes just to
20 confirming what it is that's being sought here with this
21 Application. When Mr. Bruce asked you to state what you
22 sought, you stated from the base of the Mesaverde to the
23 base of the Dakota.

24 A. Right.

25 Q. It's my understanding all you're seeking in this

1 hearing today is a pooling of the Dakota formation; is that
2 correct?

3 MR. BRUCE: That is the primary zone, Mr. Carr,
4 and that's --

5 MR. CARR: Well my question is, are you asking to
6 pool the Mesaverde?

7 MR. BRUCE: No.

8 THE WITNESS: No.

9 Q. (By Mr. Carr) And when did you decide not to
10 pool the Mesaverde?

11 A. I didn't make that decision. Somebody else made
12 that decision.

13 Q. When were you advised of it?

14 A. On the Mesaverde?

15 Q. Yes.

16 A. Back in June, to conduct an examination of the
17 records just as to the Mesa- -- not to the Mesaverde but as
18 to the Dakota formation. That's all I looked at, was the
19 Dakota formation.

20 Q. So back as far as last June, you weren't looking
21 at Mesaverde interests?

22 A. (Shakes head)

23 Q. Were you involved with the preparation of the
24 Application in this case?

25 A. No.

1 Q. Are you aware of any other effort by NM&O to ever
2 propose or pool for a Dakota well in this area?

3 A. Not to my knowledge.

4 Q. You wouldn't be the person to ask? And, Mr.
5 McDermott, really, I'm not trying to push into areas --

6 A. Oh, that's okay.

7 Q. -- that I shouldn't go. But are you aware of any
8 current efforts to develop the west half of this section
9 with a Dakota well by McElvain?

10 A. Not at all.

11 Q. Were you involved with providing the joint
12 operating agreement concerning this well to any of the
13 interest owners on this list?

14 A. I submitted -- I got an operating agreement and
15 had it prepared by NM&O, which we sent out.

16 Q. And when did it go out?

17 A. Oh, I think it went out with a letter July 22nd.
18 That's when we sent the operating -- Yeah. July the 28th,
19 excuse me.

20 Q. And that operating agreement provided for
21 operations of the Mesaverde as well as the Dakota
22 formation, did it not?

23 A. I didn't examine it, as far as that goes. It was
24 prepared by NM&O's office.

25 Q. Do you know which of the interest owners set

1 forth on Exhibit A have executed the operating agreement?

2 A. No.

3 Q. None of --

4 A. Well, I just got word that one, Number 5,
5 Johansen Energy Partnership, was going to --

6 Q. Have you seen that at this time?

7 A. No, I just got advised that today. And the other
8 ones that I mentioned before are oral commitments given to
9 Mr. Sweet of NM&O.

10 Q. So as to the interest owners set out on Exhibit
11 A, as of today you have no one who's executed an operating
12 agreement?

13 A. That's right.

14 Q. And the operating agreement you haven't
15 examined -- Will there be another witness who could address
16 what formations are covered by that?

17 A. I can't answer that.

18 Q. Were you the person responsible for negotiating a
19 voluntary agreement with these interest owners?

20 A. No.

21 Q. And who would have done that?

22 A. Mr. Sweet.

23 Q. And is he going to testify?

24 A. That's up to counsel.

25 Q. Will there be a witness who can discuss the

1 actual efforts to negotiate a voluntary agreement with the
2 interest owners shown on Exhibit A?

3 MR. BRUCE: We can put one, Mr. Carr.

4 Q. (By Mr. Carr) And you're not the proper person
5 to discuss historic things concerning this lease? You're
6 not the proper witness for those questions?

7 A. No, I just got called in to examine some title
8 and prepare some information.

9 MR. CARR: That's all I have. Thank you, Mr.
10 McDermott.

11 THE WITNESS: Surely.

12 EXAMINER ASHLEY: Mr. Bruce?

13 MR. BRUCE: I don't have any follow-up questions.

14 EXAMINER ASHLEY: Thank you, Mr. McDermott.

15 MR. BRUCE: Mr. Examiner, I wasn't intending to
16 present Mr. Sweet, but just so Mr. Carr's questions can be
17 answered, if we can have him sworn in and I will present
18 his testimony very briefly.

19 EXAMINER ASHLEY: Okay.

20 LARRY D. SWEET,
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. BRUCE:

25 Q. Would you please state your name and city of

residence?

2 A. My name is Larry Sweet, and I reside in Sand
3 Springs, Oklahoma. I work in Tulsa, Oklahoma.

4 Q. What is your relationship to NM&O Operating
5 Company?

6 A. I'm the president and owner of NM&O Operating
7 Company.

8 Q. Have you previously testified before the
9 Division?

10 A. I have.

11 Q. As an engineer?

12 A. Yes, sir.

13 Q. And were your credentials accepted as a matter of
14 record?

15 A. They have been.

16 MR. BRUCE: Mr. Examiner, I don't intend to
17 present Mr. Sweet with respect to engineering testimony,
18 but just as to his knowledge on what Mr. McDermott was
19 testifying about.

20 Q. (By Mr. Bruce) Mr. Sweet, Exhibit 1 lists the
21 interest owners according to our examination, and certain
22 of those -- Have you had personal contacts with the owners
23 listed by Mr. McDermott, the ones checked off as having
24 agreed to join in the well?

25 A. Yes, I've talked to the people who have agreed to

1 farm out or join, I've talked to Mesa Grande Resources,
2 Inc., Noseco Corporation, Peter and Renate Neumann,
3 Johansen Energy Partnership.

4 Q. You do not seek to force pool those interests, do
5 you?

6 A. No, we do not.

7 Q. Even though they have not signed the formal JOA,
8 do you anticipate them signing?

9 A. Yes.

10 Q. Are you in a number of wells with them?

11 A. Yes, they've been our partners, related partners
12 with us 14 years or so. I guess I got involved in this
13 Gavilan area in 1985, and many of these parties have been
14 our partners since that time, so I know them all very well.

15 Q. Okay. So you do not seek to pool them because
16 you know they will sign your agreement?

17 A. Yes, that's correct.

18 Q. Okay. One other thing. Mr. Carr asked about the
19 JOA that was sent out on behalf of NM&O to the interest
20 owners, covering the Mesaverde as well as the Dakota. Now,
21 one thing with respect to the re-entry, Mr. Sweet. You
22 don't have any problem with the Mesaverde being tested in
23 this well, do you?

24 A. No, we do not. We don't have a problem with
25 that. We have a problem with the sequence of events of the

1 Mesaverde being tested.

2 Q. And including that Mesaverde as well as the
3 Dakota in your JOA was just to show that both zones should
4 be tested, in your opinion?

5 A. That's correct. We included the -- In the
6 operating that was sent out, we included the Mesaverde and
7 the Dakota. But it's our belief the Dakota should be
8 tested prior to the Mesaverde. But the operating agreement
9 does cover testing the Mesaverde at a future date, and
10 we've agreed to turn over operations once the Dakota is
11 tested either as commercial or noncommercial or reaches a
12 minimum rate to turn over the operations as to the
13 Mesaverde recompletion of McElvain.

14 Q. McElvain is already the Mesaverde operator
15 because of its Cougar 4-1 well in the northeast quarter; is
16 that correct?

17 A. That's correct.

18 Q. So you do not seek to become the operator of the
19 Mesaverde in the well in the southeast quarter?

20 A. No. In fact, I sent a letter to Ms. Mona Binion
21 on August 8th setting forth that in efforts to come to some
22 type of an agreement with McElvain on who would operate the
23 Mesaverde and who would operate the Dakota.

24 MR. BRUCE: I have nothing further of this
25 witness, Mr. Examiner.

1 EXAMINER ASHLEY: Mr. Carr?

2 CROSS-EXAMINATION

3 BY MR. CARR:

4 Q. Mr. Sweet, what percentage interest does NM&O own
5 in the east half of this section?

6 A. Three -- I'm going to read off of Mr. McDermott's
7 land work, which is Exhibit A. 3.523626 percent.

8 Q. Now, in terms of the parties you're seeking to
9 pool, Dennis Hopper, Huntington Walker, Cougar Capital and
10 McElvain, are you aware of the negotiations between NM&O
11 and those entities to try and reach a voluntary agreement
12 for the development of the well?

13 A. I'm aware that our landman has contacted Mr.
14 Hopper's land attorney on several occasions to try to seek
15 voluntary agreement. I was not privy to those
16 conversations. Also I know that he's contacted Mr. Walker.
17 We both have contacted Cougar Capital, and I've talked with
18 Ms. Mona Binion several times, with McElvain Oil and Gas
19 Properties.

20 Q. And you're aware that your proposals have
21 included everything, including the Mesaverde formation; is
22 that --

23 A. I understand that. But like I said earlier, we
24 are not challenging McElvain's rights to enter the well to
25 test the Mesaverde. In fact, I proposed to McElvain, we

1 prefer and think it's prudent engineering practice, much
2 more prudent, to test the Dakota prior to the Mesaverde,
3 and we would turn over operations to McElvain for the
4 Mesaverde test.

5 Q. What if you made a very good Dakota well? Would
6 you turn operation over so that production could be
7 commingled with Mesaverde production?

8 A. Well, the letter I proposed -- Could I introduce
9 this as an exhibit? I didn't intend to testify about it,
10 but --

11 MR. BRUCE: We only have one copy of this, Mr.
12 Examiner. We'll make more.

13 THE WITNESS: Could I give it to --

14 MR. BRUCE: Yeah, give it to Mr. Carr.

15 MR. CARR: I have seen this letter.

16 THE WITNESS: Okay, you have it. Can I give it
17 to the Examiner?

18 MR. CARR: I don't know if I have it; I have seen
19 it. Yeah.

20 THE WITNESS: This is the letter, it's --

21 EXAMINER ASHLEY: Okay, thank you.

22 MR. BRUCE: It's been marked Exhibit 7, Mr.
23 Sweet. Could you just briefly describe what was proposed
24 in that?

25 THE WITNESS: Well, we proposed that McElvain --

1 Mrs. Binion has talked to her engineers about the merits of
2 completing the Mesaverde prior to completing the Dakota.
3 And we reviewed that, and it's NM&O's opinion that that is
4 the wrong way to complete this well.

5 The correct way is to re-enter the well, clean it
6 out, test the deeper zone first, the potentially productive
7 Dakota zone first. And I think the bottom of my letter
8 says if it's commercial, NM&O will continue to operate. If
9 it reaches a rate that's marginal or noncommercial, or even
10 a rate that McElvain and NM&O could agree to in advance
11 prior to the re-entry, you know, we would allow them to
12 proceed with the Mesaverde completion and either dual the
13 zone or commingle it at that time.

14 Q. (By Mr. Carr) Is it your testimony that you
15 would be agreeable to an arrangement whereby the Mesaverde
16 would be produced in this well at the same time you were
17 producing the Dakota?

18 A. Yeah, it's in the letter.

19 Q. And you would have two operators in that --

20 A. No, we --

21 Q. -- wellbore, one for Mesaverde and one for the
22 Dakota?

23 A. No. I'm sorry, we only have one exhibit, but...
24 McElvain would be operator of both.

25 Q. Would this be before the well becomes

1 noncommercial in the Dakota?

2 A. If it's done before, yes. The letter states that
3 if it becomes noncommercial, if we reach a rate, production
4 rate, that is commercial, that we agree to in advance, that
5 another zone should be opened at that time, NM&O resigns as
6 operator, we'll turn the well over to McElvain, and whether
7 it's dually completed or commingled, McElvain will be the
8 operator of it.

9 Q. Isn't what you're seeking potentially going to
10 result in a completion in the Dakota, and the Mesaverde
11 just sitting, not produced, for some period of time?

12 A. Well, I'm not sure I can answer that question.
13 If the Dakota makes 5 million a day and we're all excited
14 about it, I'm not sure I'd want to risk that for a
15 Mesaverde completion. It depends on what the Dakota does
16 in terms of testing.

17 Q. Aren't you proposing that the way to have both
18 zones producing is for the two of you to reach an agreement
19 on a production rate from the Dakota before it could be
20 commingled?

21 A. Yes, I think that makes sense.

22 Q. And you have not been able to reach an agreement
23 on the well to date, have you?

24 A. Not to the -- not to --

25 Q. And if no agreement was reached, and you had a

1 Dakota well that was producing at some economic rate as
2 possible, that the Mesaverde would just have to stand back
3 and be on hold; isn't that right?

4 A. Well, if the Dakota was a stand-alone commercial
5 production and we had no prior agreement with McElvain on
6 what kind of production level, then obviously we would want
7 to produce the Dakota to some noneconomic rate. But I have
8 proposed that if that level was agreed to by McElvain and
9 NM&O, we would resign and they can recomplete the Mesaverde
10 and commingle or dually complete the well.

11 Q. I think Mr. McDermott testified that the JOA was
12 mailed out sometime within, say, the last two weeks?

13 A. Our landlady in Tulsa would put the JOA together
14 and mail that to him for circulation, that's correct.

15 Q. And that JOA did reference the Mesaverde?

16 A. Yes, it does.

17 Q. When did you finally announce to the people you
18 were negotiating with that you were only looking at the
19 Dakota formation?

20 A. Since day one, that has been the primary
21 objective for NM&O, is the Dakota formation.

22 Q. But when did you propose to them pooling or
23 combining interest that would only include the Dakota?

24 A. The letters that were sent originally was
25 primarily Dakota, solely Dakota. That's been our attempt

1 from day one.

2 Q. But your Application included the Mesaverde?

3 A. I'll blame that on Mr. Bruce.

4 Q. And the joint operating agreement included --

5 A. It is included, because of the future potential
6 attached to the Mesaverde. We believe the Mesaverde should
7 be tested at a future date.

8 Q. And who do we want to blame that on?

9 A. Well, you can blame it on me, I'm responsible for
10 NM&O Operating Company, what goes out of the office. I'll
11 take the blame for that.

12 Q. If I understood your testimony, you prefer that
13 the Dakota be produced first?

14 A. That's correct.

15 Q. You think that's a better way to do this
16 recompletion?

17 A. Absolutely.

18 Q. How many recompletions have you done in this
19 area?

20 A. How many have we done in this area? Well, we
21 recompleted, let's see -- I'll just throw a number, six to
22 ten.

23 Q. Okay. Was the Gavilan 101 one of those wells?

24 A. Gavilan 1?

25 Q. Gavilan 1, right.

- 1 A. Yes.
- 2 Q. Located in 26, 25, 2 West?
- 3 A. Yes, uh-huh.
- 4 Q. That was done in 1999?
- 5 A. Uh-huh.
- 6 Q. What formation were you recompleting in?
- 7 A. Mesaverde.
- 8 Q. And how successful has that been?
- 9 A. It's not been successful.
- 10 Q. Is the Gavilan Howard Number 1 one of those wells
11 that you --
- 12 A. Yes, I don't recall the time frame, but it was
13 completed in the Mesaverde after the Dakota and Gallup were
14 produced.
- 15 Q. And how successful was that?
- 16 A. Not very successful, marginally successful.
- 17 Q. What about the Gavilan Number 2? Did you attempt
18 to recomplete in that?
- 19 A. Yes, we've recompleted that one.
- 20 Q. And how successful was that?
- 21 A. It's again -- it's gas-productive, marginally
22 successful, I would say.
- 23 Q. What about the Hellcat Number 1?
- 24 A. Same, we've recompleted in the Mesaverde.
- 25 Q. And how successful?

1 A. The same as the others.

2 Q. Not very successful?

3 A. Marginally successful.

4 Q. What about the North Lindrith 23 Number 1?

5 A. No, that well we did not -- We've done nothing
6 with. That well was drilled originally by Mesa Grande
7 Resources, Inc., out of Tulsa, Oklahoma. For record
8 purposes, that entity is fairly well defined, and we took
9 over as, quote, record operator of that well, but we have
10 not worked on that well.

11 Q. Are you aware of the success ratio or success
12 that McElvain has had with re-entering the well?

13 A. Well, I've read -- Is it Mr. Stubble -- ?

14 MR. BRUCE: Steuble

15 THE WITNESS: -- Steuble's testimony on some of
16 the wells they've drilled. I've not kept up with
17 McElvain's wells in detail, because we do not participate
18 with McElvain in the Mesaverde drilling.

19 Q. (By Mr. Carr) In fact, you've been pooled a
20 number of times by McElvain, have you not?

21 A. Yes, we have.

22 Q. There have been disputes between you concerning
23 title issues; isn't that fair to say?

24 A. I don't have a dispute on title issues, no. It's
25 their dispute, McElvain's dispute.

1 Q. But the two of you have been unable to
2 voluntarily get the NM&O interest into a number of wells in
3 this area?

4 A. That's correct. We've made several offers to
5 McElvain to farm out. In fact, we do have a farmout
6 agreement. In the case prior to this case, Mr. Carr,
7 you're aware that we did enter a farmout agreement with
8 McElvain on the north half of Section 10 of Township 25
9 North, 2 West, which was the well they originally drilled
10 as the 10-1.

11 And we were pooled previously. You received my
12 letter about the infill well in ten --

13 Q. Right.

14 A. -- dash one. So -- And we were dismissed from
15 that, and we do have an agreement on that well.

16 However, we have made many attempts to farm out
17 to McElvain, and we've offered to them farmouts that are
18 similar to the one that was executed in Section 10.

19 Also, we made attempts to trade acreage with
20 them, just on an acre-by-acre basis, so not to impede them
21 but not to force us.

22 Q. But you haven't reached agreement on those, have
23 you?

24 A. You're right.

25 Q. There is a well proposed to the Dakota in the

1 west half of Section 4 at this time by McElvain. Are you

2 aware of that?

3 A. That -- I don't know if I've received their
4 pooling or not. I would think plan to drill a test,
5 primarily a Mesaverde test, is my understanding, in the
6 west half of 4.

7 Q. Have you made any decision on whether or not to
8 participate in that well?

9 A. NM&O will not participate in the drilling, no,
10 sir.

11 Q. Does NM&O participate -- Have you participated in
12 the drilling of any Dakota well in the area?

13 A. Well, participate -- We haven't drilled wells in
14 that area in several years. I was involved in 1985 with
15 the primary development of the field with McHugh Oil out of
16 Denver and NM&O Operating Company and Mesa Grande
17 Resources, and we actually, in 1985, drilled and put in the
18 first -- or early 1980s time-frame, there were just a few
19 wells drilled at that time, and we actually participated
20 with McHugh and on our behalf at that time in drilling
21 several, several wells out there, and we operate
22 approximate 48 wells --

23 Q. In this particular area?

24 A. Yes, in Township 25 North, 2 West, and the one-
25 mile area around it.

1 Q. How long has NM&O had an interest in this tract?

2 A. I don't know. I'd have to look at the title. I
3 think our interest was derived through the purchase of a
4 small interest called the Venada National out of
5 California, but I don't recall the time when that occurred.

6 Q. Has it been some time?

7 A. I'm going to say within three to five years. I
8 just don't recall, Mr. Carr.

9 Q. Back at the time that the Dewey-Bartlett Number 1
10 was plugged and abandoned --

11 A. Uh-huh.

12 Q. -- NM&O would have had no interest in that area?

13 A. I believe that's correct.

14 Q. Were you involved with any of the interest owners
15 in that property at that time?

16 A. No, we weren't. That well was originally drilled
17 by McHugh, and then Oryx bought McHugh's interest out. We
18 tried to buy the well from Oryx at that time, and then they
19 elected to plug and abandon the well.

20 Q. And did you object to the plugging of the well at
21 that time?

22 A. No, we didn't have an interest in the well. We
23 tried to --

24 Q. During the period of time which you've owned your
25 lease on this property, have you ever proposed to anyone

1 the development of either the Mesaverde or Dakota prior to
2 this effort?

3 A. No, we haven't.

4 Q. And are you aware that the well in the west half
5 of this section is a Dakota proposal from McElvain?

6 A. I don't recall specifically. I may have been
7 sent the letter. Ms. Binion can tell you, but I don't
8 recall specifically. I know their primary objectives have
9 been the Mesaverde in this area, "their" objective being
10 McElvain's objectives.

11 MR. CARR: I think that's all I have. Thank you.

12 THE WITNESS: You bet.

13 EXAMINER ASHLEY: Do you have anything further,
14 Mr. Bruce?

15 MR. BRUCE: I had a couple -- just one or two
16 follow-up questions.

17 REDIRECT EXAMINATION

18 BY MR. BRUCE:

19 Q. Mr. Sweet, Mr. Carr was quizzing you about the
20 Mesaverde. Do you view that as uneconomic in this area?

21 A. Well, I'm not sure I'm convinced that drilling
22 for it is -- It may be economic as it relates to getting
23 your money back, but as far as obtaining a decent rate of
24 return, I have not been convinced of that, primarily
25 because of our experience in testing the Mesaverde in the

1 area and primarily because of the field reports I get from
2 our field people about the water production associated with
3 it.

4 Q. This well is a little different because it's a
5 re-entry, isn't it?

6 A. That's correct. It's significant cost savings of
7 re-entry versus drilling a well from...

8 Q. Can you justify drilling a well strictly to the
9 Dakota in the southeast quarter?

10 A. No, NM&O cannot, no.

11 Q. Or to the Mesaverde? Can you justify that?

12 A. No, we have not been able to do that yet.

13 Q. Which is why NM&O has not joined in McElvain's
14 well?

15 A. That's correct.

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

17 EXAMINATION

18 BY EXAMINER ASHLEY:

19 Q. Mr. Sweet, when did you propose to re-enter this
20 well to the Dakota? Was it prior to McElvain's --

21 A. No.

22 Q. -- filing of the Application?

23 A. No, it was after. We had had our eyes on this
24 well for a long time because it's drilled, and the casing
25 had already been set. But we did not -- In fact, we looked

1 at it years ago to try to acquire -- We did not try to
2 acquire, and we did not make a proposal to re-enter for the
3 Dakota.

4 But when McElvain made their proposal and it
5 became obvious that the Dakota wasn't going to be tested,
6 we felt that we should protect our interest and make a
7 proposal, because we believe the Dakota should definitely
8 be tested in this well.

9 Q. What's the Dakota production like in this area?

10 A. Well, we'll ask our expert to review that.

11 Q. Okay.

12 A. We've had a Dakota well in Section 22. I don't
13 recall the cums off of it off the top of my head, but it's
14 been a very good well. It's made upwards towards a BCF.
15 But I've asked our expert to look at it, and he'll be able
16 to testify to that today.

17 We do -- This is a little unique situation also.
18 It's not drilling a new well. We do have the well logs of
19 the well. We know what the Dakota looks like, so we're not
20 fishing, we know what's there from the open-hole log
21 analysis. We have induction logs, we have density neutron
22 logs. We know the well is cased, we know that Oryx did not
23 pull any pipe from the well when they plugged the well
24 pursuant to the records that were filed with the NMOCD at
25 that time.

1 So it's not a situation of being able to go --
2 grassroots drill a well; there's a significant, potentially
3 significant, cost savings to test the Dakota at this time
4 in this particular well, because it's cased through the
5 Dakota, and the matter of re-entering, cleaning out through
6 the Dakota and making that completion at that time.

7 Again, we're not adverse to the Mesaverde being
8 tested in the wellbore. We just believe that the prudent
9 way to do it is test the Dakota first.

10 Q. Was the Dakota tested when the well was
11 originally drilled?

12 A. It was not. The initial permit for drilling the
13 well by McHugh, they had proposed both a Gallup and Dakota
14 test. Based on the records that were filed with the NMOCD,
15 the Gallup was tested, and a report was filed that even
16 though the Dakota was permitted it was not tested, left
17 behind pipe with cement around the zone, around the casing
18 at that time.

19 So the original intent was to test -- drill and
20 test the Gallup and the Dakota. I don't know what McHugh's
21 reasons were, why they never did test it, but they did
22 elect at that time -- I don't know if I remember exactly
23 when this well was drilled, but Mr. Carr is familiar. At
24 that time we had several pooling cases in the Gavilan area.
25 We had three five-day hearings as a result of -- in front

1 of the Commission, as a result of how to properly develop
2 that field.

3 I don't recall if this well was drilled in that
4 time frame and McHugh was anxious to get the Gallup on or
5 not. I just don't know, I'd be speculating as to the
6 reasons not to test the well at that time.

7 EXAMINER ASHLEY: Anything further?

8 MR. BRUCE: No, the only thing I have left is, I
9 do need to move the admission of NM&O Exhibit 7.

10 MR. CARR: No objection.

11 THE WITNESS: Of which we have one copy.

12 EXAMINER ASHLEY: Exhibit 7 will be admitted as
13 evidence at this time.

14 And I have nothing further. Thank you.

15 JOE HILL,

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

18 DIRECT EXAMINATION

19 BY MR. BRUCE:

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

21 A. Joe Hill.

22 Q. Where do you reside?

23 A. In Kirtland, New Mexico.

24 Q. What is your occupation?

25 A. Consulting engineer.

1 Q. Have you previously testified before the
2 Division?

3 A. No, I have not.

4 Q. Would you please summarize your educational and
5 employment history for the Examiner?

6 A. Yes, I have a degree, a bachelor's degree in
7 chemistry, with minors in math and geology. I began work
8 in the oil industry with Halliburton Services in 1964.
9 During the next few years, while working for Halliburton,
10 raising a family and going to school, I completed my
11 education and training.

12 I left Halliburton in the early 1970s, roughly,
13 and went to work for Sun Oil Company in the North Sea out
14 of Aberdeen, Scotland, spent two years there.

15 I returned to the States, maintained my own
16 consulting engineering firm out of Farmington, working out
17 of the San Juan Basin, for a period of another two or three
18 years, and then went to work for Keplinger and Associates,
19 which was the largest consulting engineering firm in the
20 oil industry at that time, as vice president of operations
21 for that company. We had 700 engineers covering most oil
22 operating basins in the world, everything from drilling and
23 production operations to reservoir-engineering operations.

24 I then left there to Tulsa, Oklahoma, as vice
25 president of engineering and production for the Unit

1 Corporation. We spent an average of somewhere around \$200
2 million a year in exploration and development, primarily in
3 the Anadarko basins, with some in the DJ Basin in Wyoming
4 and some in the Cotton Valley play in East Texas.

5 Following that, I went into the environmental
6 business for a while -- I didn't stay in that very long, it
7 wasn't very economical -- and returned to the oil industry
8 in the consulting business in roughly 1989, where I
9 maintained and handled all engineering and field operations
10 for several independent companies, one of which was the GHK
11 Company out of Oklahoma, drilling primarily Deep Anadarko
12 Basin tests, the Arkoma Basin tests, some work in
13 southeastern Oklahoma, and three or four wells in the
14 Gillette area of Wyoming.

15 I then left there to become president of GHJ
16 Company Columbia, when they had a discovery in Columbia in
17 South America. I spent two and a half years there,
18 establishing operations, setting up offices, drilling the
19 delineation and development wells until my contract had
20 expired.

21 And when that was over with I was tired, so I
22 came back to New Mexico to take a year off and finish
23 building my cabin in Colorado.

24 That amounts to roughly 36 years of experience
25 and a good portion of it in the San Juan Basin, but a lot

1 of it scattered all over the world.

2 Q. Although your degree wasn't in petroleum
3 engineering, is it fair to say that you've spent the bulk
4 of your career as a petroleum engineer?

5 A. That's all I've ever done besides --

6 Q. -- building your cabin in Colorado?

7 A. Yeah, and yardwork.

8 Q. What is your relationship to NM&O Operating
9 Company in this case?

10 A. I've solely been retained as a consulting
11 engineer to assist in whatever their needs might be.

12 Q. And are you familiar with engineering matters
13 involved in the proposed re-entry of the Dewey-Bartlett
14 well?

15 A. Yes, I've reviewed both proposals in both the
16 Mesaverde and the Dakota.

17 MR. BRUCE: Okay. Mr. Examiner, at this time I
18 would tender Mr. Hill as an expert petroleum engineer.

19 EXAMINER ASHLEY: Mr. Carr?

20 MR. CARR: No objection.

21 EXAMINER ASHLEY: Mr. Hill is so qualified.

22 Q. (By Mr. Bruce) Yeah, just briefly, Mr. Hill,
23 what materials did you examine in order to prepare for this
24 hearing?

25 A. Oh, let's see, both the NM&O AFE for the Dakota

1 completion and the AFE from McElvain on the Mesaverde
2 completion. I reviewed the well logs on the Dewey-Bartlett
3 Number 1. I then took those well logs to the company that
4 had run those logs, Welex, Halliburton, and reviewed it
5 with their engineering staff. I discussed it with Mr.
6 Sweet, regarding his analysis of those logs, and found that
7 both my own analysis, the analysis of Halliburton's
8 engineer and Mr. Sweet's coincided as well as any three
9 engineers can probably agree on anything.

10 Q. Now, based on your review, what is your
11 conclusion with respect to the NM&O and the McElvain
12 proposal?

13 A. Well, to arrive at the conclusion to begin with,
14 you have to first understand -- I have to understand that
15 the primary responsibility of all parties in any of these
16 endeavors is to protect and develop all of our state's
17 natural resources in the most economic and efficient manner
18 possible.

19 And it's been standard industry practice for as
20 long as I've been in the industry, for 36 years, that you
21 start at the bottom and work up. And there's as many
22 reasons for that as what you have imagination, because
23 there are so many things that can go wrong that put a well
24 in jeopardy or at risk by starting higher when there's
25 potential that exists below. And I'm sure you've heard

1 that testified in this Commission many times, is that the

2 common practice is to start at the bottom and work up. And
3 there's good, valid reasons to do so. However --

4 Q. Well, let's move on to those reasons. Why don't
5 you identify your Exhibit 4, tell the Examiner what it is
6 and what it shows with respect to the Dewey-Bartlett well,
7 the proposed re-entry?

8 A. Well, the Exhibit 4 is the log off of the Dewey-
9 Bartlett well, and the sections that I've highlighted on
10 those exhibits cover primarily the bulk of the Mesaverde
11 section as well as the Dakota section on page 2.

12 Q. Okay, so the Mesaverde is on page 1?

13 A. Yes.

14 Q. Okay.

15 A. It basically shows that the -- This log exhibits
16 that the Mesaverde in this particular wellbore is very
17 dirty, it's lenticular, it's not well developed, as
18 compared to other areas. There's almost no gas effect
19 shown on this log whatsoever.

20 There are two areas of roughly 13-percent
21 porosity in the Mesaverde that show some interest, and if
22 you not only look at the neutron log but you look at the
23 gamma-ray and correlate that back, you can see that there's
24 a possibility there may be some filter cake development
25 there, based on the caliper log, which would indicate some

1 permeability. It may just be elliptical hole or hole

2 erosion as well, but the -- My consensus, the consensus of
3 Halliburton as well, is that this is a very poor Mesaverde
4 section based on this particular log.

5 However, on page 2 of that same exhibit, the
6 Dakota interval, which is highlighted, shows very good,
7 clean development. The caliper exhibits that there is most
8 likely filter cake development, which would be indicative
9 of permeability within that zone. There's porosity of 13
10 to 13-plus percent through a portion of it and other
11 porosity within that one zone that ranges from 6 to 9
12 percent.

13 It's certainly worth testing, and it's the
14 cleaner of the two zones, based on the logs run in this
15 wellbore.

16 Q. So definitely, just looking at this log, the
17 Dakota is preferable in your mind to the Mesaverde?

18 A. Well, I don't know that I would make the
19 statement that it's preferable. It's preferable that the
20 Dakota be tested prior to testing the Mesaverde. My
21 testimony is, and my belief is, that the Dakota warrants
22 inspection. Other Dakota production in the area has
23 exhibited recoveries in excess of 2 billion cubic feet. I
24 don't know, you know, what the recovery per net foot of pay
25 is for the Dakota offhand, but --

1 Q. This definitely warrants testing?

2 A. -- this Dakota definitely warrants testing, yes.

3 Q. Okay.

4 A. If so, it should be tested prior to the Mesaverde
5 being tested.

6 Q. Okay. What is your Exhibit 5?

7 A. Let's see, Exhibit 5 is a portion of the log from
8 the Cougar Com 4-1A, the well directly to the north in the
9 east half of Section 4. And I brought it only as a
10 comparison so that we could see in laying these two logs
11 side by side, the Mesaverde section and the Cougar Com 4-1A
12 shows that those sands to be much better developed and much
13 cleaner than they are, as compared to the log from the
14 Dewey-Bartlett Number 1-A well.

15 Q. And this was just brought for comparison
16 purposes?

17 A. The thickness and the -- reading the gamma ray,
18 the sands are much cleaner.

19 Q. Okay. Now, you mentioned this before, but --
20 about completing in the deeper zone first. If the
21 Mesaverde is completed first, rather than the Dakota, as
22 proposed by McElvain, what may happen?

23 A. Oh, my gosh, anything. Tubing failure, packer
24 stuck. Anytime you perforate casing, you distort the
25 casing. It's not at all uncommon to have trouble running a

1 packer through the perforations or getting a packer stuck
2 in perforations when you want to complete a lower zone.
3 You can have total casing collapse. A roughneck can drop a
4 pipewrench down the hole and plant the whole thing. You
5 can jump the well, literally, without ever having tested
6 the Dakota formation in that interval.

7 Q. In short, completing the Mesaverde first puts the
8 Dakota at risk?

9 A. Absolutely, without question. There's no way you
10 can complete the Mesaverde prior to the Dakota without
11 putting the Dakota at risk. It's physically impossible.

12 Q. What about the reverse? If the Dakota is
13 completed first, does that put the Mesaverde at risk?

14 A. Yes, it does. There's no such thing as entering
15 a wellbore without putting that wellbore at risk. However,
16 completing the Dakota first is -- in relation to the
17 Mesaverde, puts the Mesaverde at very, very minimal risk,
18 whereas the opposite, completing the Mesaverde first, puts
19 the Dakota at tremendous risk.

20 Q. Okay. Now, if the Mesaverde is completed first
21 and the Dakota is lost, would you have to drill a new well
22 to test the Dakota in the east half of Section 4?

23 A. If you were interested in the Dakota, of course.

24 Q. And what would be the approximate cost of that?

25 A. Well, off the top of my head, \$800,000-plus to

1 drill and complete for this Dakota zone.

2 Q. So by re-entering this well, you could test both
3 the Dakota and the Mesaverde at a substantially lower cost;
4 is that correct?

5 A. Absolutely. It's the only economical way to test
6 it.

7 Q. Okay. Now, have you reviewed Mr. Steuble's
8 testimony from McElvain's hearing four weeks ago?

9 A. Yes, sir, I have.

10 Q. Do you agree with him that cost plus 200 percent
11 is an appropriate risk penalty for this re-entry?

12 A. That appears to be pretty well standard
13 statewide, I think.

14 Q. Okay. And that would apply whether it's a
15 Mesaverde or a Dakota test?

16 A. Correct.

17 Q. Now, I think you have the original of this
18 exhibit, Mr. Hill, and I've marked it Exhibit 8, NM&O's
19 Exhibit 8.

20 Mr. Examiner, it's actually a Xerox copy of
21 Exhibit -- of McElvain Exhibit 8 from their case four weeks
22 ago, and the handwriting on it is mine, Mr. Examiner.

23 But some questions were asked about Dakota
24 potential in this township. There isn't a lot of Dakota

1 A. Yes, it is.

2 Q. But what is the potential, the upside, from
3 completing in the Dakota at this time?

4 A. Well, something above 2 BCF. You can look and
5 first understand that almost all production from the
6 Fruitland to the Dakota in the San Juan Basin trends from
7 northwest to southeast. And you can see that there's very
8 good production in the township to the northwest and to the
9 west. There is some Dakota production in this township, be
10 it limited, but it is on trend with the rest of the Dakota
11 production. And the logs are indicative of potential
12 commercial production in the Dakota.

13 Q. Okay. So for instance, if you're looking at what
14 I've bracketed down in Section 15, there's a Dakota well
15 that produced over a BCF, correct?

16 A. Yes, 1.2-plus BCF --

17 Q. And then in -- to the north --

18 A. -- which is roughly two miles away from the
19 Dewey-Bartlett.

20 Q. And then to the northwest in Section 36, there's
21 a well that produced what, about 2.2 BCF; is that correct?

22 A. That's correct.

23 Q. And the Dewey-Bartlett is more or less, like you
24 say, in that northwest-southeast trend, is it not?

25 A. Well, it's pretty much on trend between those two

1 wells, yes.

2 Q. Okay. So it's risky, but there is potential?

3 A. Well, I never heard of an oil and gas well that
4 wasn't risky, have you?

5 Q. Finally, Mr. Hill, what is Exhibit 6?

6 A. Let's see, Exhibit 6 is the AFE from NM&O
7 Operating Company for re-entry and testing of the Basin-
8 Dakota in the Dewey-Bartlett Number 1.

9 Q. And it shows a cost of approximately \$230,000?

10 A. Yes, sir.

11 Q. In your opinion, is this a fair and reasonable
12 cost for re-entry of this type in this area of New Mexico?

13 A. Yes, it's reasonable.

14 Q. Were Exhibits 4 through 6 and Number 8 prepared
15 by you or compiled from company or OCD records?

16 A. Yes, they were.

17 Q. And in your opinion, is the granting of NM&O's
18 Application, that is, to test the Dakota first, in the
19 interest of conservation and the prevention of waste?

20 A. I believe that it's the only logical way to
21 approach this wellbore and that it is indeed the correct
22 thing to do.

23 MR. BRUCE: Mr. Examiner, I'd move the admission
24 of NM&O's Exhibits 4, 5, 6 and 8.

25 MR. CARR: No objection.

1 EXAMINER ASHLEY: Exhibits 4, 5, 6 and 8 will be
2 admitted as evidence at this time.

3 Mr. Carr?

4 CROSS-EXAMINATION

5 BY MR. CARR:

6 Q. Just a couple. On Exhibit 8, I'm not sure I --

7 A. Where?

8 Q. On Exhibit 8, the Xerox of the McElvain plat?

9 A. Uh-huh.

10 Q. I just am not certain. I heard your testimony.
11 You said there were 2 BCF recoverable in the area? Is that
12 what you said?

13 A. Yes.

14 Q. And how large an area are you talking about?

15 A. Well, I'm looking at what's exhibited on this
16 Xerox copy, and I'm referring specifically to the well in
17 Section 36, in the township to the northwest of 25.

18 Q. But was it your testimony that there are
19 substantial recoverable reserves in the area we're talking
20 about today in the Dakota formation?

21 A. Well, this is the area encompassed by this Xerox
22 map.

23 Q. And so it is your testimony that there are
24 substantial Dakota reserves here that could be recovered?

25 A. Yes, sir, it is.

1 Q. Could you tell me why NM&O will not participate
2 in Dakota wells that are proposed one after another?

3 A. No, I can't, I don't work for NM&O, nor do I make
4 their economic decisions.

5 MR. CARR: Thank you, that's all.

6 EXAMINER ASHLEY: Mr. Bruce?

7 MR. BRUCE: I have no follow-up.

8 EXAMINATION

9 BY EXAMINER ASHLEY:

10 Q. Mr. Hill, how many Mesaverde wells are there in
11 the area of this re-entry?

12 A. How many Mesaverde wells? I think that would go
13 back, Mr. Examiner, to the McElvain Exhibit 7 from the
14 previous hearing, and let's see, there's eight in this
15 township, or within a mile to the north of this township,
16 some of which have been commercial, and several of which
17 have not been. There is a fair amount of Mesaverde
18 production to the north and to the west.

19 Q. Okay. The Dakota well that you mentioned in your
20 Exhibit Number 8, down in Section 15 --

21 A. Yes, sir.

22 Q. -- is that still a Dakota well?

23 A. I do not know. I would assume from that
24 production that it is. That came off of McElvain Exhibit
25 8, and it states that these are current cums as of November

1 30th of 1999. And at that time I assume that it was still
2 producing.

3 Q. Okay. Do you know if any of the Mesaverde wells
4 in the area tested, the current Mesaverde wells, tested in
5 the Dakota formation?

6 A. No, sir, I do not. I'd have to research and see
7 if some of these were perhaps commingled between Dakota and
8 Mesaverde, but I don't know.

9 Q. When McElvain proposed the Cougar Com, NM&O did
10 not participate in that well, did not voluntarily join in
11 that well; is that right?

12 A. I have no knowledge of that at all. That would
13 relate to their operating agreement and landman's work.

14 EXAMINER ASHLEY: Is there somebody here who
15 could answer some questions about -- I have a few more
16 questions about this other well.

17 MR. BRUCE: Mr. Sweet could.

18 EXAMINER ASHLEY: You did not voluntarily join in
19 that well?

20 MR. SWEET: No, sir, we did not.

21 EXAMINER ASHLEY: How come at that time you
22 didn't propose your own well as a Dakota well?

23 MR. SWEET: At that time, as a Dakota well, the
24 Dewey-Bartlett well?

25 EXAMINER ASHLEY: No, in the Cougar Com.

1 MR. SWEET: We were not sure -- We're not sure
2 you can spend \$800,000 to develop the Dakota and the
3 Mesaverde at that time. McElvain's AFE's, off the top of
4 my head, have ranged from \$750,000 to a Mesaverde well,
5 to -- I don't recall the last one that was sent out. Maybe
6 \$650,000. But our economics don't support, based on logs
7 we have seen in our experience in the Mesaverde, spending
8 \$800,000 for a Dakota test.

9 However, again, this well is -- the re-entry is a
10 unique animal, because it offers a chance of testing the
11 Dakota at a substantially less cost exposure, and we do
12 agree that it should be done in the Dewey-Bartlett well.
13 The well has been drilled and cased.

14 EXAMINER ASHLEY: Thank you, Mr. Bruce.

15 Mr. Carr, do you have anything further?

16 MR. CARR: No, I do not.

17 EXAMINER ASHLEY: I have nothing further. Thank
18 you.

19 Mr. Bruce, do you have anything further?

20 MR. BRUCE: I have nothing further at this time,
21 Mr. Examiner.

22 MR. CARR: At this time.

23 MR. BRUCE: See what you say.

24 EXAMINER ASHLEY: Mr. Carr?

25 MR. CARR: I just would like to note that Mr.

1 Bruce's handwriting on Exhibit 8 is illegible, and I don't
2 want any --

3 (Laughter)

4 MR. BRUCE: And I would note that that's more
5 legible than most of my handwriting.

6 MR. CARR: May it please the examiner, at this
7 time we would call John Steuble.

8 JOHN STEUBLE,
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. John Steuble.

15 Q. Where do you reside?

16 A. Denver, Colorado.

17 Q. By whom are you employed?

18 A. McElvain Oil and Gas Properties.

19 Q. Mr. Steuble, did you testify in the McElvain
20 compulsory pooling case involving the acreage which is at
21 issue here today before the Division on July 13th, 2000?

22 A. Yes, I did.

23 Q. Were your qualifications as an expert in
24 petroleum engineering accepted and made a matter of record
25 at that time?

1 A. Yes, they were.

2 MR. CARR: Are the witness's qualifications
3 acceptable?

4 EXAMINER ASHLEY: Yes, they are.

5 Q. (By Mr. Carr) Mr. Steuble, would you refer to
6 what has been marked as Exhibit A, identify that and review
7 it for Mr. Ashley?

8 A. Exhibit A is a map showing the Dakota or possible
9 -- the Dakota wells within the area of the Cougar Com 4
10 Number 1 A.

11 Q. Would you go through these and just review the
12 status of each of these wells?

13 A. Okay. The Cougar Com 4-1A is in the southeast
14 quarter of Section 4, and that's the proposal that's
15 highlighted in yellow.

16 Cougar Com 4 Number 2 is a proposed well that
17 will be drilled to the Dakota between now and Christmas.

18 Cougar Com 33-1 in Section 33 is a Dakota
19 completion, strictly Basin-Dakota, or it's in the Basin-
20 Dakota Pool.

21 Currently we are drilling the Cougar Com 33
22 Number 2. We have not reached the Dakota pay zone, but we
23 will in the next few days.

24 In Section 29 we have drilled our Bear Com 29
25 Number 1, which is currently cased and waiting on

1 completion.

2 I might add, just because there is some
3 confusion, there are three -- there are four separate
4 Dakota pools listed on this map, and the Ojito Gallup-
5 Dakota is a commingled pool with the Gallup and the Dakota.
6 So those cumulative production numbers are not strictly
7 Dakota numbers. The same with the Lindrith Gallup-Dakota
8 Pool and the same with the Gavilan Greenhorn-Graneros-
9 Dakota Pool --

10 Q. Mr. Steuble --

11 A. -- so they don't accurately reflect actual Dakota
12 isolated production.

13 Q. If we look at the exhibit, three of the wells
14 that you've discussed have triangles around them?

15 A. Yes.

16 Q. Does that show that those, in fact, are wells
17 where compulsory pooling orders had to be obtained from the
18 Division?

19 A. Yes, they are.

20 Q. Was NM&O pooled in each of those cases?

21 A. Yes, they were.

22 Q. How many of these wells are either currently
23 operated by McElvain or does McElvain propose to ultimately
24 operate in the Dakota formation?

25 A. We operate all of the wells on the map in

1 Sections 29, 33 and Section 4. We also operate the well

2 down in Section 15 that has on it recompletion in the
3 Mesaverde, and we operate the well up in Section 22.

4 Q. You were here for the testimony presented a few
5 minutes ago by NM&O's engineering witness concerning the
6 data that is currently available on the Mesaverde and
7 Dakota formation in the Dewey-Bartlett Number 1 well, were
8 you not?

9 A. Yes.

10 Q. Do you have a copy of NM&O Exhibit Number 4, the
11 log section?

12 A. Yes, sir, I do.

13 Q. If you look at the first page of that exhibit,
14 there are basically two intervals that are highlighted as
15 potentially productive in the Mesaverde. Do you see that?

16 A. Yes, sir.

17 Q. How does this information compare with your
18 review of the logs on this well and their prospective -- or
19 their potential for commercial production from the
20 Mesaverde formation?

21 A. Ours is much more detailed than just highlighting
22 the two zones, two sands with crossover. We have found
23 that you do not need to have actual neutron crossover in
24 order to complete the wells and to have a productive well.

25 We have also found that you're not relying so

1 much on matrix permeability and porosity as you are
2 fractured porosity and permeability. In our well where he
3 has approximately 12 feet of net pay, our proposal which
4 was sent out with our AFE proposes to open up and perforate
5 123 feet of net pay, and that net pay will go from footages
6 of 5972 to 6036, 5723 to 5938, and 5623 to 5804.

7 Q. You've also examined this log in the Dakota
8 formation, have you not?

9 A. Yes. Yes, we have.

10 Q. Could you summarize McElvain's assessment of the
11 interval in the Dakota?

12 A. The gamma ray looks clean, the density curve is
13 spiky, which we can't explain. It looks like a decent
14 Dakota well, but from our experience by drilling other
15 Mesaverde wells in the area, there's a lot more potential
16 in the Mesaverde to make an economic well.

17 Q. Is it your testimony that if McElvain is
18 successful on its compulsory pooling Application here from
19 the base of the Pictured Cliffs to the base of the
20 Mesaverde, McElvain still intends to go and complete in the
21 Dakota on this wellbore?

22 A. That's correct.

23 Q. But you intend to complete the Mesaverde first?

24 A. That's correct.

25 Q. Why?

1 A. Economics. Right now, gas prices are high. We

2 just completed an offset well one location to the east that
3 is currently making 1.3 million a day.

4 We recompleted a well in the northeast quarter of
5 10 that is currently producing a million cubic feet a day.

6 The well in the northwest section of 3 has cum'd
7 over 300,000 in approximately a year. Its average
8 production for the first year, average production for a
9 year, was over 700 a day.

10 Compared with our completion in the Section 33-1
11 well, which is similar to the Dakota in this well, the
12 average production -- bear with me. The average production
13 for 113 days is 31 percent of what we get with a Mesaverde
14 well, compared to the Elk Com well, which is right across
15 the road from it. So, you know, there's a 70-percent
16 increase in production capability out of the Mesaverde over
17 the Dakota.

18 So in answer to your question -- that's a round
19 about way of getting to it -- economics.

20 Q. Could you explain to Mr. Ashley how it is you
21 propose to physically go in and recomplete the well in the
22 Mesaverde?

23 A. First thing we would do, because we realize that
24 we're going to go back into the Dakota later, I would go in
25 and drill out the cast-iron bridge plug and set a

1 retrievable bridge plug so we wouldn't have drilling
2 operations with Mesaverde perforations open. Possibly at
3 the same time we would cement-squeeze the Mancos, because
4 the Mancos perforations are still open. I haven't really
5 determined that part yet. And then we would go in and
6 complete the Mesaverde in those three intervals that I've
7 read off before and individually frac each one of those
8 intervals. We've found that this gives us a lot better and
9 a lot longer well life and higher production in the
10 Mesaverde.

11 Q. If you were going to go out and first complete in
12 the Dakota, what would you do that is different than what
13 you've just described for your Mesaverde completion?

14 A. Nothing.

15 Q. Nothing? If McElvain prevails in this case would
16 it be possible for you to commingle or dually complete this
17 well without having to reach an agreement with any other
18 operator?

19 A. Yes. I might add, you probably can't dual
20 complete the well because the pipe isn't large enough. It
21 would have to be a commingle.

22 Q. If you can't reach an agreement, you might have
23 to come back later and pool the Dakota; is that -- ?

24 A. Yes, that's correct

25 Q. We're talking here about two things, pooling

1 applications and proposals from McElvain for the
2 development of this tract. Has McElvain from the beginning
3 been proposing a completion in the Dakota as well as the
4 Mesaverde?

5 A. Yes, we have. We have never said that we're
6 going to walk away from the Dakota, we just want to do the
7 Mesaverde first.

8 Q. And when you sent out your original operating
9 agreement with your original proposal, did it also include
10 the Dakota?

11 A. I believe so.

12 Q. And did you not include the Dakota because you
13 are not ready to do that one yet, because you believe the
14 Mesaverde should be first?

15 A. That's correct.

16 Q. What would you think of having NM&O operate the
17 well in the Dakota and then come back and turn it over at
18 some later point in time to McElvain, the operator of the
19 Mesaverde? Would that be acceptable to McElvain?

20 A. Well, no, it's like the previous witness, you
21 know. There are risks every time you go into the wellbore.
22 Those risks for us in that situation would not be much
23 different than the risks that they stated. You know, you
24 can literally lose the wellbore, especially on a re-entry.
25 And we feel that the amount of risk that you're putting up

1 against -- the amount of reserves you're risking in the
2 Dakota is a lot less than the amount of reserves that
3 you're risking in the Mesaverde.

4 Q. Let me ask you, does McElvain own an interest in
5 both the Mesaverde and the Dakota?

6 A. Yes.

7 Q. Is your percentage the same?

8 A. I believe so.

9 Q. Could you identify what has been marked as
10 McElvain Exhibit B?

11 A. Exhibit B are letters. The first one is a letter
12 from Mr. Hopper's attorney stating that he is going to
13 lease his 24.9-percent interest to us on the subject lands.

14 The other one is from James Raymond who is one of
15 our partners in a number of wells, expressing his
16 objections to NM&O's proposal, and he is involved in
17 numerous wells.

18 And the third one is the same type of letter from
19 another one of our partners, Cougar Capital, Limited
20 Liability Corporation, stating that they would prefer to
21 complete the Mesaverde first.

22 Q. Mr. Steuble, is Mr. Hopper a partner or in any
23 way related to McElvain?

24 A. No, sir.

25 Q. And has McElvain been working with Mr. Hopper to

1 accommodate surface damage concerns on his property?

2 A. Yes. In fact, we had a meeting with his attorney
3 yesterday and pretty much finalized the surface agreement.

4 Q. Could you identify what has been marked as
5 McElvain Exhibit C?

6 A. Exhibit C is an approved APD from the OCD,
7 approving our plan to go in and recomplete in the
8 Mesaverde.

9 Q. Were Exhibits A through C prepared by you or
10 compiled at your direction?

11 A. Yes.

12 MR. CARR: At this time we move the admission of
13 McElvain Exhibits A through C.

14 MR. BRUCE: No objection.

15 EXAMINER ASHLEY: Exhibits A through C will be
16 admitted as evidence.

17 MR. CARR: That concludes my direct examination
18 of Mr. Steuble.

19 EXAMINER ASHLEY: Mr. Bruce?

20 CROSS-EXAMINATION

21 BY MR. BRUCE:

22 Q. Mr. Steuble, does your Exhibit C or the original
23 recompletion proposal sent out, oh, in April or May by
24 McElvain say anything about completing in the Dakota at any
25 time?

1 A. Which exhibit?

2 Q. Exhibit C.

3 A. Exhibit C is --

4 Q. And then McElvain's original proposal, which I
5 believe is in -- Just a minute, Mr. Steuble, I'm sorry.

6 Mr. Steuble, what I'm handing you is Exhibit 4
7 from the hearing four weeks ago. Does that letter or your
8 Exhibit C, which is the APD for the well, say anything
9 about any potential test of the Dakota?

10 A. I can't address that, because I have not read
11 this. So I mean -- I would assume that it does not.

12 Q. Okay. And if you don't know, that's fine. I'm
13 not trying to put words in your...

14 But does that -- Does your Exhibit C say anything
15 about a Dakota test?

16 A. No, this is strictly approval by the State OCD to
17 allow us to go in and recomplete in the Mesaverde.

18 Q. Okay. Now, your Exhibit A, Mr. Steuble --

19 A. Yes, sir.

20 Q. -- I just want to be clear. Up in 26 North, 2
21 West, you show a well in the southeast quarter of 29,
22 another well in the northwest quarter of Section 33, a well
23 in the southeast quarter of Section 33, and then a well,
24 the Cougar Com 4 Number 2, in the northwest quarter of
25 Section 4 of 25 North, 2 West. Those wells are or will

1 test the Dakota?

2 A. They are being drilled to the -- through the
3 Dakota, yes, sir.

4 Q. Okay. If you're going to test the Dakota in
5 those wells, and especially the one in the northwest
6 quarter of Section 4, why would you not want to test the
7 Dakota in the southeast quarter of Section 3?

8 A. Again, it's an economic decision. We've found
9 that the AFE to drill a mud-drilled Dakota hole is about
10 the same as the completed well cost for a Mesaverde hole.
11 Because we don't know the potential of the Dakota in the
12 area, and we have one completion in the Section 33, we
13 opted to go ahead and try to develop another zone, the
14 Dakota zone, by going ahead and drilling down through the
15 Dakota, rather than stopping at the Mesaverde --

16 Q. Okay.

17 A. -- because the way we complete the Mesaverdes are
18 through a liner, and you can't deepen them.

19 Q. If the Division only allows a Mesaverde
20 completion in the Dewey-Bartlett re-entry, would it be
21 economic to drill a well in the southeast quarter of
22 Section 4, solely to test the Dakota?

23 A. No, sir, not by our economics. The Mesaverde is
24 the primary play.

25 Q. Now, you talked about putting a retrievable

1 bridge plug in the Dewey-Bartlett or the 4-1A, whatever you
2 want to call it.

3 A. Yes.

4 Q. Is there any risk it might not be retrieved?

5 A. Is there any risk it might not be retrieved? I
6 would not say so. There's always mills.

7 Q. If it can't be retrieved, how hard is that to
8 drill through, to get down to the Dakota?

9 A. Well, I guess that's relative. I mean, you drill
10 out Model D packers, you know, almost every day in the
11 Basin that have been put in, in the 1960s. I mean, so
12 technologically it's not that difficult.

13 MR. BRUCE: I think that's all, Mr. Examiner.

14 MR. CARR: Nothing further.

15 EXAMINATION

16 BY EXAMINER ASHLEY:

17 Q. Mr. Steuble, let's see, I'm looking at Exhibit A
18 here. The well that you drilled in the northeast quarter
19 of Section 4 is currently completed in the Mesaverde?

20 A. Yes, sir.

21 Q. Are there plans to go back in that one, to
22 complete in the Dakota?

23 A. No, sir, it was drilled strictly as a Mesaverde
24 completion, and we have a 4-1/2 liner in it. So, you know,
25 virtually it's not -- That's a tough deal, then, to drill

1 it deeper.

2 Q. Okay. Then the wells that have the purple
3 triangles again, can you tell me what those are? These are
4 wells that have penetrated the Dakota, or are they
5 completed in the Dakota?

6 A. With the purple triangles?

7 Q. Yes.

8 A. The well in Section 4 is going to be drilled
9 between now and the end of the year.

10 The Cougar Com 33-1, the southeast of 33, has
11 been completed in the Dakota, so it's a producing Dakota
12 well.

13 The well in the northwest of 33, we are presently
14 drilling, and it will be probably completed in the Dakota.
15 We don't know, we haven't penetrated the Dakota yet.

16 And the well in 29 has been drilled and is
17 awaiting completion.

18 Q. In the Dakota?

19 A. In the Dakota. I might add, the well in Section
20 33 that is presently a Dakota producer will be -- We have
21 approval to go ahead and complete it in the Mesaverde, and
22 it will be a commingled well eventually. We're going to
23 complete it in the Mesaverde and test the Mesaverde for a
24 period of time and then get commingling.

25 Q. Do you have any idea what reserves are in this

1 area for the Dakota and for the Mesaverde?

2 A. No, I have not really run reserves yet, because
3 the only well in the area is the 33-1. I can tell you what
4 it's producing if you're --

5 Q. Sure.

6 A. Presently, the well is producing about 200 MCF a
7 day, and the first 13 days of its life it produced 36,020.
8 And just to make -- Can I make a point?

9 Q. Sure.

10 A. I compared that, the first 117 days of the well,
11 the Elk Com 1, which is a Mesaverde well. It's in the
12 northwest of Section 3.

13 Q. Okay.

14 A. The first 117 days of that well produced 118,588,
15 versus the 36,020.

16 Q. 36,000 cubic feet?

17 A. Yes, MCF.

18 Q. MCF, okay. And then that's Dakota. And then the
19 one in Section -- in the northwest of Section 3 --

20 A. -- produced 118,588.

21 Q. In the first 117 days?

22 A. Yes, sir.

23 Q. And the other one was in the first 100 days?

24 A. First 113.

25 Q. And let's see, I have written down that the well

1 in the northwest quarter of Section 3 is currently
2 producing 310?

3 A. Yes, sir.

4 Q. And the Cougar Com 33 Number 1 is 200?

5 A. Approximately.

6 Q. And that's Dakota?

7 A. Yeah. But it's only been on since -- We're
8 talking different time frames if you're comparing
9 production, right?

10 Q. Uh-huh.

11 A. The one in Section 3 came on in February of 1999,
12 it was first produced. And the one in Section -- or the
13 Dakota well came on in February of 2000. So they're a year
14 apart. That's why I was giving you the information about
15 the cumulatives. You know, they both produced about 115
16 days, and I was trying to make a comparison there.

17 Q. What's the status of the well in Section 15?
18 That has been recompleted to the Mesaverde?

19 A. We've attempted a recompletion in the Mesaverde.
20 The logs are really bad. It was a mud-drilled hole. Right
21 now we're trying to -- We frac'd it last week, and right
22 now we're trying to produce the Mesaverde independently and
23 see if we can't commingle the well.

24 Q. Now, this number, this cum that they have of 1.2
25 BCF, that doesn't -- Or is that production just from the

1 Dakota in this well in Section 15?

2 A. That particular well, I believe it is.

3 Q. That wasn't part of the commingling?

4 A. The records are really bad. But when we went in
5 for a recompletion, I had to mill out two Model D packers
6 set in between the Mancos and the Dakota. But I believe
7 that number reflects strictly Dakota production on that
8 particular well.

9 One other thing. If I'm -- take a little -- You
10 know, you talk about the Dakota production, but we tried --
11 or Apache tried up in Section 22 a Dakota, frac'd it. I
12 think they frac'd it twice, and it was never commercial.

13 The well in Section 3 by another operator was a
14 Dakota completion --

15 Q. Section 2?

16 A. Section 3.

17 Q. Uh-huh.

18 A. That was a Dakota completion that was
19 unsuccessful. Section 2 has one that was unsuccessful.

20 So our feeling is that the Dakota may not be as
21 fractured as the Mesaverde and probably inhibits its
22 production. Geologically, we're along a shoreline. The
23 uplift of the San Juan Basin is just to the east of us a
24 little bit, and the northeast-southwest trends we're
25 finding are not necessarily northeast-southwest, because we

1 think we're along the edge of the Basin, and that had
2 something to do with the shorelines changing. We're
3 finding that in the Mesaverde anyway.

4 And I only mention that because we're confused
5 about it. You know, we're not exactly sure if the ideas in
6 the middle of the Basin pertain to the edge of the Basin
7 here.

8 Q. When you mentioned earlier that you were wanting
9 to recomplete in the Mesaverde because of economics, is
10 that just so you could get a faster rate of return on your
11 investment?

12 A. Well, that's one. Of course, you know, your gas
13 prices is between three and four dollars an MCF now. We've
14 found from our 33-1 that you're going to probably end up
15 with a 150- or 200-MCF-a-day well, and you're going to find
16 that out probably six months to a year down the road. So
17 if you can get a 700-, 800- or 900-MCF-a-day well, you
18 know, your economics are a lot better.

19 And it's not that -- It goes back to what are you
20 putting at risk? You're either going to put all of the
21 reserves in the Mesaverde at risk or you're going to put
22 the reserves in the Dakota at risk. You know, that's your
23 choices right now.

24 There's a lot less reserves, we feel, in the
25 Dakota than there is the Mesaverde. Re-entries are tough

1 deals, and even though you're starting at the bottom of the
2 hole in the Dakota, you still have an inherent risk that
3 you have to take into account. And that's why we want to
4 do the Mesaverde.

5 And the other thing the map doesn't show in
6 Section 3, we just completed our Elk Com 1A.

7 Q. Which map are you looking at?

8 A. I'm looking at this one, but --

9 Q. Which is Exhibit -- ?

10 A. -- 1A.

11 Q. 1A?

12 A. Or Exhibit A.

13 Q. Exhibit A, okay.

14 A. In Section 3, one location to the east of the
15 proposed Cougar Com 4-1A, we just completed our Elk Com 1A
16 Mesaverde well, which is flowing right now at 1.3 million a
17 day.

18 Q. That's in the southwest quarter?

19 A. Yes.

20 Q. And what's the well name again?

21 A. It's the Elk Com 1A.

22 MR. CARR: Mr. Examiner, it's shown on Exhibit 7.

23 EXAMINER ASHLEY: On Exhibit 7?

24 MS. BINION: Of the prior case.

25 MR. CARR: Of the prior case.

1 EXAMINER ASHLEY: Prior case?

2 MR. CARR: Yeah.

3 EXAMINER ASHLEY: Okay. On Exhibit 7 of the
4 prior case it says "not completed". Is that the one you're
5 talking about?

6 A. Yes, yes, we just completed it last week.

7 Q. And what's it flowing at now?

8 A. 1300, a million three. And down in the northeast
9 quarter of 10 on that same exhibit --

10 Q. Northeast quarter of Section 10?

11 A. Uh-huh. -- there's a well there. We just
12 recompleted it, and it's flowing about a million a day.
13 And by "recomplete", I mean we added additional Mesaverde
14 zones.

15 Q. Now, I've got a question about the two Dakota
16 wells that we talked about earlier, the one in Section 33,
17 and there's one in the northwest quarter of Section 3. The
18 one in 33 is currently producing 200 MCF a day?

19 A. Yes, sir.

20 Q. And that 113-day test has produced 36,000 MCF?

21 A. Yes, sir.

22 Q. 36 million?

23 A. 36,000 MCF in 113 days. 36 million cubic feet.

24 Q. And then the one in the northwest quarter of
25 Section 3, that is a Mesaverde well?

1 A. That is a Mesaverde well.

2 Q. Okay.

3 A. That's the comparison I was trying to --

4 Q. Okay, that's right. And it had 118 MCF in 117
5 days?

6 A. 118 million -- 118,000.

7 Q. Okay, yeah, I'm sorry. Great, okay.

8 A. We'll get it.

9 Q. Yeah. Okay.

10 A. What I was trying to show was the three-to-one
11 ratio.

12 Q. Uh-huh. Have you completed any wells in this
13 area using the same procedure that you say you're going to
14 do with this well, that is, go in and produce the Mesaverde
15 and then drill out that packer or retrieve it -- pull that
16 packer and then --

17 A. No, sir.

18 Q. -- and then go in the Dakota?

19 A. No.

20 EXAMINER ASHLEY: I have nothing further.

21 Mr. Bruce?

22 MR. BRUCE: I have nothing further.

23 EXAMINER ASHLEY: Mr. Carr?

24 MR. CARR: Nothing further of this witness.

25 EXAMINER ASHLEY: Thank you.

1 MR. CARR: That concludes our presentation in
2 this case. I have a closing statement. I'm original
3 applicant in this matter, and I should go last.

4 MR. BRUCE: That's fine.

5 EXAMINER ASHLEY: Do you have anything further,
6 Mr. Bruce?

7 MR. BRUCE: I have nothing further in this
8 matter, Mr. Examiner, other than a short closing statement.

9 EXAMINER ASHLEY: Okay.

10 MR. BRUCE: Mr. Examiner, as you know, there's
11 two proposals here today. NM&O wants to produce the Dakota
12 first, McElvain wants to do the Mesaverde first. I'm sure
13 you'll hear Mr. Carr attacking NM&O for not joining in
14 McElvain's prior Mesaverde and Dakota new drills.

15 However, every company has different economics,
16 and they have different opinions about the feasibility of
17 prospects. If they didn't, we wouldn't have these force
18 pooling cases before the Division every two weeks.

19 The fact of the matter is, the Dakota can be
20 tested for \$230,000 versus \$800,000 for a new Dakota well.
21 That's why NM&O is interested in testing the Dakota first
22 in the Dewey-Bartlett well.

23 Technically and economically, it only makes sense
24 to recomplete in the Dakota first, or you may lose the
25 Dakota. However, the reverse is not true. If you complete

1 in the Dakota first, there is very, very little risk to the
2 Mesaverde.

3 The alternative to spending \$230,000 on the
4 Dakota right now is to spend \$800,000 to test the Dakota
5 later on. That makes no sense, and in fact Mr. Steuble
6 said it would be uneconomic to drill solely to the Dakota
7 in the southeast quarter.

8 You know, if you look at their Dakota plat and
9 the testimony of Mr. Steuble, their Cougar 33 Com well a
10 mile to the north is producing about 200 MCF a day from the
11 Dakota. You can put paper to pencil, use any type of
12 figure you want, but gas prices are currently about four
13 dollars an MCF. Certainly using three dollars would be
14 reasonable.

15 If you just put paper to pencil, that would
16 result in a payout of approximately four months in the
17 Dakota, if you get similar results. We think anybody would
18 risk doing that to recover the Dakota reserves. As a
19 matter of fact, we can say, How can you justify not
20 producing the Dakota with that short of a payout?

21 We request you enter an order granting a pooling
22 of the Dakota, and, once that zone has been tested and
23 produced, ordering NM&O to turn over operations so that the
24 Mesaverde can be tested by McElvain.

25 McElvain's witness testified, Well, it's

1 economics to test the Mesaverde first. Well, your question

2 was right, Mr. Examiner, economics meaning rate of return.
3 They want to get their money out as fast as they can. And
4 we understand that. But the fact of the matter is, no one
5 is harmed by NM&O's proposal. And in fact, it's the only
6 way to prevent waste and protect the Dakota reserves. And
7 I would remind you that the Division's paramount
8 responsibility is to prevent waste, not to increase the
9 rate of return.

10 We think you should enter an order granting
11 NM&O's Application, ordering the pooling and the testing of
12 the Dakota first, and at such time as that is produced or
13 depleted or tested, then McElvain can come back in and test
14 the Mesaverde. It's the only commonsense way to go.

15 Thank you, Mr. Examiner.

16 EXAMINER ASHLEY: Mr. Carr?

17 MR. CARR: May it please the Examiner, you have
18 two compulsory pooling cases before you. In these cases,
19 there are certain things that are not at issue. No one
20 questions the fact that McElvain is the operator of the
21 subject spacing units from the base of the Pictured Cliffs
22 to the base of the Mesaverde. They have drilled and they
23 operate a well on this pooled unit.

24 There's no dispute between the parties that what
25 is the most prudent way to go about developing these

1 reserves is to re-enter the Dewey-Bartlett well. Both of
2 them state that they would test the Dakota and the
3 Mesaverde.

4 No one here is suggesting, as Mr. Bruce seems to
5 hint in his closing, that the way to develop the Dakota is
6 with a separate Dakota well. And while everyone watches
7 the rate of return, the issue is waste. And the issue is,
8 what production will we put at risk?

9 I think when you look on the transcript, as you
10 reflect on the testimony, there is only one person in the
11 room -- and that's Mr. Bruce -- who seems to think there's
12 no risk in the Mesaverde if you go down and first attempt a
13 completion in the Dakota. I believe his statements are in
14 opposition to what his witnesses testify.

15 The issue, the fundamental issue, is the order of
16 development, and the real issue is who can prudently
17 develop this property?

18 Now, we have in this case facts that are somewhat
19 unique, certain parties pooling one interval, other parties
20 wanting to pool other formations and other depths. But in
21 fact, you have competing pooling Applications. You can't
22 grant one without denying the other, because both parties
23 stand before you, both having proposed to use the same
24 wellbore to test the same formations, just in different
25 orders.

1 And you shouldn't be confused by the fact that
2 McElvain didn't seek pooling of the Dakota. They would
3 have to do that before they went to the Dakota, but they
4 cut it off at the Mesaverde, because that is where they
5 believe a prudent operator would go first.

6 When you have competing pooling applications,
7 there are certain standards that the Division historically
8 applies. The first one is, who owns the largest percentage
9 in the property?

10 There's no debate, no issue here. McElvain is
11 the largest owner. And its ownership is the same in both
12 formations. It's not trying to produce the Mesaverde
13 because it has a larger percentage of production out of the
14 Mesaverde. That's not true. It's doing it because it
15 believes that is right.

16 I think if you look at the record, it's very
17 clear which operator has more experience in the area. I
18 think you should consider that.

19 We have a better track record drilling and
20 developing the Dakota. Of course we do; they have no track
21 record at all. We have past success we've been able to
22 show you in re-entering wells and developing these
23 formations. You today heard the testimony of Mr. Sweet
24 concerning their recompletion attempts. You listened to
25 Mr. Steuble. I trust you to decide which of those two

1 operators knows how to go in and develop the remaining
2 reserves with a re-entry in the Dewey-Bartlett Number 1.
3 We believe we stand before you having a record as
4 developing the area in a systematic, prudent way.

5 You know, it's interesting. We've been out
6 there, and we've been before you month after month, pooling
7 operators, often NM&O, for wells that often go to the
8 Dakota. And while Mr. Sweet says they've had their eye on
9 this well for a long time, they've been out there for seven
10 years, and while they've been looking at it, they've been
11 doing really nothing else. They're reacting to McElvain.

12 They filed their Application for pooling the day
13 of our hearing. They are simply reacting to what the
14 operator who's been out there developing the property has
15 been doing.

16 They may today think they have a better idea, but
17 I submit when you look at this record, they may have a
18 better idea, but they have a much poorer track record.

19 McElvain has been here first, they came to
20 hearing first, they own the largest ownership interest,
21 they have a better track record, they have been in good
22 faith negotiations, which, from the very beginning, in
23 Exhibit 5 from the first hearing, their JOA that was sent
24 out from the very beginning included the Dakota formation.
25 They've been trying to get this well developed as a prudent

1 operator and a knowledgeable operator in the area would
2 develop the acreage.

3 If you go with them, if you go with McElvain, the
4 production from this well can be commingled. We'll develop
5 the Mesaverde, we'll get a read on that, whether by
6 agreement or proving we can then go forward with the
7 Dakota.

8 If you go the other way and you have a Dakota
9 well that may be in our, McElvain's, opinion marginal, and
10 in NM&O's position a great well, the effect of that is to
11 lock out the development of the Mesaverde. We think that's
12 unwise.

13 We ask you to approve the Application of
14 McElvain. We believe that is the most effective way to
15 enable both zones to be produced. It's not going to result
16 in the operation of the well being passed back and forth
17 with suggestions that one may have damaged the wellbore in
18 the process. It avoids the concerns we have about
19 maintaining the integrity of the wellbore.

20 And we believe we stand before you with the
21 support of other interest owners in the property, not just
22 our partners, not just our friends.

23 For all these reasons, the Application of
24 McElvain should be granted and the Application of NM&O must
25 be denied.

1 EXAMINER ASHLEY: Thank you.

2 There being nothing further in this case,
3 actually cases, Cases 12,467 and 12,452 will be taken under
4 advisement.

5 (Thereupon, these proceedings were concluded at
6 12:32 p.m.)

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14 I do hereby certify that the foregoing is
15 a complete record of the proceedings in
the Examiner hearing of Case No. 12467, 12452
16 heard by me on 8-10-00 19.

17 Mark Ashley, Examiner
of Conservation Division
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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 August 14th, 2000.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002