

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. 12,484

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

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MARK ASHLEY, Hearing Examiner

October 5th, 2000

Santa Fe, New Mexico

OCT 13 PM 8:23

This matter came on for hearing before the New Mexico Oil Conservation Division, MARK ASHLEY, Hearing Examiner on Thursday, October 5th, 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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October 5th, 2000
Examiner Hearing
CASE NO. 12,484

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A P P E A R A N C E S

FOR THE DIVISION:

LYN S. HEBERT
 Attorney at Law
 Legal Counsel to the Division
 2040 South Pacheco
 Santa Fe, New Mexico 87505

FOR THE APPLICANT:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.
 Suite 1 - 110 N. Guadalupe
 P.O. Box 2208
 Santa Fe, New Mexico 87504-2208
 By: MICHAEL FELDEWERT

* * *

1 WHEREUPON, the following proceedings were had at
2 8:46 a.m.:

3
4 EXAMINER ASHLEY: At this time the Division calls
5 Case 12,484, Application of McElvain Oil and Gas
6 Properties, Inc., for compulsory pooling, Rio Arriba
7 County, New Mexico.

8 Call for appearances.

9 MR. FELDEWERT: May it please the Examiner, my
10 name is Michael Feldewert. I'm with the Santa Fe law firm
11 of Campbell, Carr, Berge and Sheridan, appearing on behalf
12 of the Applicant, and I have two witnesses here today.

13 EXAMINER ASHLEY: Additional appearances?

14 Will the witnesses please rise to be sworn in?

15 (Thereupon, the witnesses were sworn.)

16 MONA L. BINION,
17 the witness herein, after having been first duly sworn upon
18 her oath, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. FELDEWERT:

21 Q. Would you please state your full name for the
22 record?

23 A. Mona Binion.

24 Q. Ms. Binion, where do you reside?

25 A. Littleton, Colorado.

1 Q. And by whom are you employed?

2 A. McElvain Oil and Gas Properties, Inc.

3 Q. And could you tell the Examiner your current
4 position with McElvain?

5 A. Land Manager.

6 Q. And have you previously testified before this
7 Division?

8 A. Yes.

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

12 A. Yes.

13 Q. And are you familiar with the Application filed
14 in this case?

15 A. Yes.

16 Q. And are you familiar with the status of the lands
17 in the subject area?

18 A. Yes.

19 MR. FELDEWERT: At this point, Mr. Examiner, I
20 would tender Ms. Binion as an expert witness in petroleum
21 land matters.

22 EXAMINER ASHLEY: Ms. Binion is so qualified.

23 Q. (By Mr. Feldewert) Ms. Binion, could you briefly
24 explain what McElvain seeks with this Application?

25 A. McElvain seeks to obtain an order pooling all of

1 the mineral interests in all formations from the base of
2 the Pictured Cliffs down to the base of the Dakota
3 formations, under Lots 3 and 4 and the south half of the
4 northwest and the southwest quarter of Township 25 North,
5 Range 2 West, which is the west-half equivalent, containing
6 approximately 320.79 acres.

7 We ask that this be dedicated to our Cougar Com
8 Number 4-2 well, to be drilled at a standard location in
9 the northwest quarter of the northwest quarter of Section
10 4, and that the dedicated acres be the 320.79 acres, which
11 is standard and subject to the survey variations.

12 Q. Have you prepared exhibits for your presentation
13 at this hearing?

14 A. Yes, I have.

15 Q. Could I have you identify and review for the
16 Examiner McElvain Exhibit Number 1?

17 A. Exhibit 1 is a plat which shows the ownership
18 breakdown in the west half of Section 4. There are three
19 identified tracts with individual separate ownerships of
20 the three.

21 It also shows the well location, which I might
22 comment that it's not at the exact physical location, but
23 it was just meant to show what tract the well was expected
24 to be on.

25 Q. What's the status of the acreage in this area?

1 A. The west half of Section 4 is divided up in half,
2 with half being owned in fee, and the other half is
3 federal.

4 Q. Okay, and what is the primary objective of the
5 proposed well?

6 A. The proposed well's primary objective is the
7 Dakota formation, the Basin-Dakota Pool.

8 Q. And is that the ownership breakdown that you show
9 here?

10 A. That's correct.

11 Q. Okay. Why don't you turn to McElvain Exhibit
12 Number 2 and identify and review that exhibit for the
13 Examiner, please.

14 A. Exhibit 2 is an ownership breakdown which takes
15 the tract participation factor and combines the ownership
16 of all the parties within the west half on a combined 100-
17 percent basis as to the Dakota.

18 Q. Does this correspond, then, with the ownership
19 shown on Exhibit Number 1?

20 A. Yes, it does.

21 Q. Okay. What percentage of the acreage is
22 voluntarily committed to the well?

23 A. Twenty-three percent, currently, has voluntarily
24 participated to commit.

25 Q. And how many interest owners are subject to this

1 pooling Application?

2 A. There will be ten owners currently, that would be
3 subject to this Application.

4 Q. Can you identify for the Examiner the interest
5 owners who have voluntarily committed to this well?

6 A. The parties that have voluntarily committed to
7 this well have been T.H. McElvain Oil and Gas Limited
8 Partnership; Cougar Capital, LLC; James Raymond; Peña
9 Blanca Corporation; Big Snowy Exploration; and Joe Elledge.

10 Q. I notice that Dennis Hopper is shown as the
11 largest interest owner in this area; is that correct?

12 A. That's correct.

13 Q. What is the status of your negotiations with Mr.
14 Hopper?

15 A. We have reached a verbal agreement to obtain an
16 oil and gas lease from Dennis Hopper, which also contains
17 surface-use easement and right-of-way provisions, because
18 he is the 100-percent surface owner at the location.

19 And the documents for this are currently
20 circulating for execution, but without those documents in
21 hand we intended to include him in the force pooling.

22 Q. Are there any working interest owners shown on
23 Exhibit Number 2 in your proposed spacing unit who you have
24 been unable to locate?

25 A. There are two owners that we have been unable to

1 get direct communication with, verbally.

2 Q. Okay, and who are they?

3 A. That's Gavilan Dome Properties and Mesa Grande
4 Resources. There are extenuating circumstances in those.

5 Mesa Grande Resources, the principal party, has
6 been ill, and so we have not been able to reach him by
7 certified mail because the mail has been returned
8 unclaimed. What we have done is sent a separate package of
9 information by regular mail, and that has been accepted and
10 received, because it has not been returned unclaimed. And
11 the party has not been available to be reached by phone
12 recently, and we just continue to try to reach him
13 verbally.

14 Gavilan Dome, they do accept the mailed packages
15 that we do send, but we have been unable to locate a phone
16 number that works, that reaches that company, by phone.

17 Q. Okay, and why don't you summarize the efforts you
18 have made to obtain voluntary joinder of all interest
19 owners in the proposed spacing unit, beginning with your
20 first contact?

21 A. The first contact was by mail, certified mail,
22 April 21st. McElvain sent out a proposal to drill the
23 Cougar Com 4-2 well as a Mesaverde test.

24 On June 29th we sent a second mailing which
25 revised that objective depth and formation to the Dakota

1 and revised the cost estimate to reflect a Dakota well.

2 And then subsequent to that, there have been
3 occasional phone conversations with all of the owners that
4 we've been able to reach by phone.

5 Q. Is Exhibit Number 3 a sample of the
6 correspondence related to the April 21st, 2000, first
7 contact?

8 A. Exhibit Number 3 is a copy of the proposal that
9 was mailed out on April 21st.

10 Q. Okay. And then is Exhibit Number 4 the June 29th
11 correspondence, the subsequent correspondence that you just
12 spoke of?

13 A. Yes.

14 Q. Okay. And does Exhibit Number 4 contain the AFE
15 that governs the Application that's sought in this case?

16 A. Yes, it does.

17 Q. In your opinion, Ms. Binion, have you made a good
18 faith effort to obtain voluntary joinder of all working
19 interest owners in the proposed unit?

20 A. Yes.

21 Q. Would you turn to McElvain Exhibit Number 5 and
22 identify and review that exhibit for the Examiner, please?

23 A. Exhibit Number 5 is the proposed operating
24 agreement that was included in both the April 21st and the
25 June 29th mail-outs.

1 It contains the standard AAPL Form 610-1982
2 provisions, with very few modifications, and includes an
3 Exhibit A which represents the ownership of the parties and
4 the oil and gas leases currently in effect under the
5 properties, and which corresponds with the ownership
6 represented under the Exhibit 1 and 2.

7 Q. And Ms. Binion, have other working interest
8 owners in the proposed well executed this model form
9 operating agreement?

10 A. Yes, some have.

11 Q. Okay. I might have you briefly skip through
12 Exhibit Number 8. Is that the affidavit and letters giving
13 notice of the hearing?

14 A. Right.

15 Q. Okay. Ms. Binion, were Exhibits 1 through 5
16 prepared by you or compiled under your direction and
17 supervision?

18 A. Yes, they were.

19 MR. FELDEWERT: At this point, Mr. Examiner, I
20 would move the admission into evidence of McElvain Exhibits
21 1 through 5, as well as Exhibit Number 8, the affidavit.

22 EXAMINER ASHLEY: Exhibits 1 through 5 and 8 will
23 be admitted as evidence.

24 MR. FELDEWERT: That concludes my examination of
25 this witness.

EXAMINATION

BY EXAMINER ASHLEY:

Q. Ms. Binion, is this the first well on this unit?

A. Yes, it is.

Q. Have you received any objections from anybody?

A. No.

EXAMINER ASHLEY: Okay, I have nothing further.

Thank you.

MR. FELDEWERT: At this time I would call Mr.
John Steuble.

JOHN D. STEUBLE,

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

DIRECT EXAMINATION

BY MR. FELDEWERT:

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

A. John D. Steuble.

Q. Mr. Steuble, where do you reside?

A. Denver, Colorado.

Q. And by whom are you employed?

A. McElvain Oil and Gas Properties.

Q. And what is your current position with McElvain?

A. Current position is engineering manager.

Q. Have you previously testified before this

1 Division or one of its Examiners and had your credentials
2 as a petroleum engineer accepted and made a matter of
3 record?

4 A. Yes, I have.

5 Q. And are you familiar with the Application filed
6 in this case?

7 A. Yes, I am.

8 Q. And have you made an engineering study of the
9 area which is the subject of this Application?

10 A. Yes, I have.

11 Q. And are you prepared to share the results of that
12 study with the Examiner?

13 A. Yes.

14 MR. FELDEWERT: At this time I would tender Mr.
15 Steuble as an expert witness in petroleum engineering.

16 EXAMINER ASHLEY: Mr. Steuble is so qualified.

17 Q. (By Mr. Feldewert) Mr. Steuble, have you
18 prepared exhibits for your presentation in this case?

19 A. Yes, I have.

20 Q. Would you turn to McElvain Exhibit Number 6,
21 identify and review that for the Examiner, please?

22 A. Exhibit Number 6 is just a vicinity map, a nine-
23 section area map, showing the location of the proposed well
24 and the Dakota production that is either currently
25 producing or has produced within this nine-section area.

1 Q. This map shows two wells. Could you explain what
2 the numbers are on those wells?

3 A. Yes, the top number is the reported initial
4 production of the well, and the bottom number is the
5 cumulative production of the well through March of 2000.

6 Q. What is the well in Section 33? Who operates
7 that?

8 A. We operate the well in 33. It was originally
9 completed as a Dakota well and first produced in February
10 of this year, so this number only represents about a month
11 and a half of production.

12 Q. What is the status of that well?

13 A. That well currently is being recompleted into the
14 Mesaverde. The Dakota was produced until June of this
15 year, and a bridge plug was set over it, and the Mesaverde
16 is being stimulated, in fact, this week.

17 Q. What is the status of the well that's shown in
18 Section 3?

19 A. Section 3 is a well operated by Mallon. It was a
20 Dakota attempt, and it is currently producing out of the
21 Mesaverde also.

22 Q. You said it was a Dakota attempt. How do you
23 classify that well in terms of Dakota production?

24 A. It's noncommercial.

25 Q. And there's no other Dakota wells in these

1 surrounding sections?

2 A. That's correct.

3 Q. Would you ten turn --

4 A. I might add, we drilled a well in the northwest
5 quarter of Section 33 that didn't get put on this map.
6 It's been drilled but not completed, and it is a Dakota
7 well.

8 Q. Would you turn to McElvain Exhibit Number 7,
9 identify that and review that for the Examiner, please?

10 A. Exhibit Number 7 is just a larger area, again
11 showing the location of the proposed well and the various
12 production numbers for wells within this area. Because of
13 the various pools within the area, you can't really say
14 that this is all Dakota production, because there's three
15 different -- four different pools within the area, so --
16 and three of the four pools are commingled. But it does
17 show cumulative production, and again, IP, as of March of
18 this year.

19 Q. And the target, again, for your proposed well is
20 which pool?

21 A. The Basin Dakota.

22 Q. Okay. And does this exhibit show the well in
23 Section 33 that's still waiting completion that you
24 previously referenced?

25 A. Yes, it does.

1 Q. What is the -- There's a well shown in Section
2 22.

3 A. That well we also operate. At the time it was
4 completed in the Dakota, I believe Amoco operated it, but
5 it was a noncommercial Dakota test also.

6 Q. Okay, and in this Basin Dakota Pool there's also
7 a well shown in Section 29. Could you give us an
8 indication of the status of that well?

9 A. We drilled that well, we operate the well. We
10 drilled it to the Dakota and have completed it and first
11 delivered it just recently. I believe it's currently
12 making about 200 MCF a day.

13 Q. How would you classify that well?

14 A. I would classify it less than stellar.

15 Q. And then the only other well in the Basin-Dakota
16 Pool is the one in Section 33; is that right?

17 A. Yes, in the southeast quarter.

18 Q. Okay. Based on these exhibits, are you prepared
19 to make a recommendation to the Examiner as to the risk
20 penalty that should be assessed against nonconsenting
21 interest owners?

22 A. Yes, I am.

23 Q. What would that recommendation be?

24 A. That would be 200 percent.

25 Q. And upon what do you base this recommendation?

1 A. I base it on the fact that the Basin-Dakota Pool
2 itself has not been truly proven as a commercial success,
3 and there is a high degree of probability that we will not
4 have a commercial producer.

5 Q. Do you believe that there's a chance you could
6 drill a well at the proposed location in the Basin-Dakota
7 Pool that would not be a commercial success?

8 A. Yes, I do.

9 Q. Why don't you briefly turn to McElvain Exhibit
10 Number 4, which contains the AFE for the proposed well.
11 Would you review the totals for dryhole and completed well
12 for the Examiner?

13 A. Yes, our dryhole costs are estimated to be
14 \$373,020. Our completed well cost, which includes one
15 stimulation in the Dakota, is \$695,430.

16 Q. Has McElvain drilled other Dakota wells in the
17 immediate area?

18 A. Yes, we have.

19 Q. And are these costs in line with what has been
20 charged by -- or what has been incurred by McElvain and
21 other operators in the area for similar wells?

22 A. Yes, they are.

23 Q. Have you made an estimate of overhead and
24 administrative costs --

25 A. Yes.

1 Q. -- while drilling this well and also while
2 producing the well if it's successful?

3 A. Yes.

4 Q. And what is your estimate?

5 A. For the drilling, it's \$5455.67 per month, and
6 for overhead rates for producing wells it's \$545.55.

7 Q. And these costs are based on what?

8 A. These costs are based on other wells that we have
9 in the area.

10 Q. Do you recommend that these figures be
11 incorporated into any order that results from this hearing?

12 A. Yes, I do.

13 Q. I believe there are COPAS guidelines which are
14 attached to the joint operating agreement that has been
15 signed by other working interest owners in the properties,
16 that's been marked as McElvain Exhibit Number 5. Do you
17 request that the overhead figures approved by the Division
18 be subject to adjustment in accordance with the COPAS
19 guidelines applicable to other interest owners in the well?

20 A. Yes, I do.

21 Q. Does McElvain Oil and Gas Properties seek to be
22 designated operator of the proposed well?

23 A. Yes, we do.

24 Q. Mr. Steuble, in your opinion will granting this
25 Application be in the best interests of conservation, the

1 prevention of waste and the protection of correlative
2 rights?

3 A. Yes.

4 Q. And were McElvain Exhibits 6 and 7 prepared by
5 you or compiled under your direction?

6 A. Yes, they were.

7 MR. FELDEWERT: At this time, Mr. Examiner, I
8 would then move the admission into evidence of McElvain
9 Exhibits Number 6 and 7.

10 EXAMINER ASHLEY: Exhibits 6 and 7 will be
11 admitted as evidence.

12 MR. FELDEWERT: And that concludes my examination
13 of this witness.

14 EXAMINATION

15 BY EXAMINER ASHLEY:

16 Q. Mr. Steuble, is there a secondary target that you
17 all have for this well?

18 A. Yes. In fact, there's probably three. There
19 could be a possible Gallup potential in this well, and of
20 course the Mesaverde.

21 Q. Could you tell me again the status of the well in
22 Section 22 of 26 North, 2 West?

23 A. Section 22?

24 Q. Yeah, I'm looking at Exhibit 7.

25 Q. That well was drilled originally by Amoco, and I

1 believe they attempted the Dakota and determined it was --
2 Basically, they didn't get anything out of it.

3 Subsequently, the well was taken over by Apache,
4 and they tried a Gallup well, I believe, and a lower
5 Mesaverde attempt and was unsuccessful.

6 We took the well over and have completed it in
7 the Menefee section of the Mesaverde and the Lewis section.
8 Right now it's producing as a Mesaverde producer.

9 Q. How was this location decided on? Did you have
10 geology or seismic data that you used to pick this
11 location?

12 A. No, we don't have seismic data. We had an
13 aeromag survey and we do have offset producers, and some of
14 the wells have been drilled through the Mesaverde that are
15 not shown on here. So the location was basically picked
16 off of geology, based on the Mesaverde trends.

17 And at the time we staked this location -- It was
18 originally staked as a Mesaverde, and one of our partners
19 came back and asked why we weren't looking at the Dakota.
20 So we started -- And we had just drilled the well in the
21 southeast of Section 33, and at that time we opted to
22 change it to a Dakota producer instead of strictly a
23 Mesaverde.

24 So I guess it's through our drilling program,
25 through the evolution of the process, we opted to go to the

1 Dakota. But it was not picked -- The location was not
2 picked based on the Dakota trends. It was picked on the
3 Mesaverde trends.

4 Q. And which interest owner was that that wanted you
5 to look at the Dakota?

6 A. It's called Cougar, LLC.

7 MR. FELDEWERT: Mr. Examiner, I would point out
8 that Exhibit Number 3, which was the first contact,
9 mentions the proposal to drill a Mesaverde well.

10 EXAMINER ASHLEY: Okay.

11 MR. FELDEWERT: And Exhibit Number 4, which is
12 the later contact, shows a change to a Dakota.

13 Q. (By Examiner Ashley) And the location that you
14 have would be standard for all --

15 A. Yes.

16 Q. -- proposed pools?

17 A. Yes.

18 EXAMINER ASHLEY: Thank you, I have nothing
19 further.

20 There being nothing further in this case, Case
21 12,484 will be taken under advisement.

22 (Thereupon, these proceedings were concluded at
23 9:10 a.m.)

24 * * *
25 I hereby certify that the foregoing is
a complete and correct transcript of the proceedings in
the Examination Case No. 12484,
heard by me on 10-5-00 19
Mark Ashley, Examiner
Oil Conservation Division

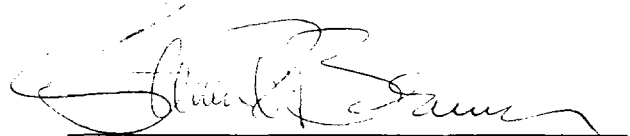
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL October 9th, 2000.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002