

**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:**

**REOPENED CASE NO. 12633
ORDER NO. R-11471-B**

**APPLICATION OF McELVAIN OIL & GAS PROPERTIES, INC. TO REOPEN
COMPULSORY POOLING CASE NO. 12633 FOR THE LIMITED PURPOSE OF
INCLUDING ADDITIONAL MINERAL INTERESTS UNDER ORDER NO. R-11471-
A AND TO AMEND THIS ORDER TO FORM A STANDARD 640-ACRE OIL
SPACING AND PRORATION UNIT, RIO ARriba COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on August 23, 2001, at Santa Fe, New Mexico before Examiner Michael E. Stogner.

NOW, on this 22nd day of October, 2001, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and its subject matter.

(2) By Order No. R-11471, issued in Case No. 12484 on October 13, 2000, the Division granted the application of McElvain Oil & Gas Properties, Inc. ("McElvain") for the compulsory pooling of all uncommitted mineral interests, whatever they may be, from the base of the Pictured Cliffs formation to the base of the Dakota formation underlying Lots 3 and 4, the S/2 NW/4, and the SW/4 (W/2 equivalent) of Section 4, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, to form a standard 320.43-acre stand-up gas spacing and proration unit for any pool developed on 320-acre spacing within that vertical extent, which includes the Basin-Dakota and Blanco-Mesaverde Pools, and provided for the dedication of the 320.43 acre unit to McElvain's Cougar Com. Well No. 2.

(3) Division Order No. R-11471 further provided for the recovery out of production attributed to the interest of non-consenting working interest owners of reasonable well costs of McElvain's Cougar Com. Well No. 2 (**API No. 30-039-26401**), located at a

standard gas well location 835 feet from the North line and 800 feet from the West line (Lot 4/Unit D) of Section 4, together with an additional 200 percent of such costs as a charge for the risk involved in the drilling of this well.

(4) By Order No. R-11471-A, issued in Case No. 12633 on July 10, 2001, the Division granted the application of McElvain dedicating the 320.43-acre unit formed by Division Order No. R-11471 to an additional well, the Cougar Com. "4" Well No. 2-A (**API No. 30-039-26668**), located at a standard infill gas well location 935 feet from the South line and 835 feet from the West line (Unit M) of Section 4.

(5) Division Order No. R-11471-A provided for the recovery out of production from the Cougar Com. "4" Well No. 2-A attributed to the interest of non-consenting working interest owners of reasonable well costs of the Cougar Com. "4" Well No. 2-A, as described above, together with an additional 200 percent of such costs as a charge for the risk involved in the drilling of this well.

(6) In a separate case that was considered at the Division's hearing on August 9, 2001, McElvain requested that Case No. 12633 be reopened. Order No. R-11632 was issued dismissing that separate case.

(7) McElvain at this time seeks to reopen Division Case No. 12633 for the limited purpose of including additional mineral interests under Order No. R-11471-A and including all of Section 4 to form a standard 641.16-acre oil spacing and proration unit within the Gavilan-Mancos Oil Pool.

(8) McElvain offered testimony at this hearing that two certain mineral interest owners (Noseco Corporation of Reno, Nevada and the Neumann Family Trust Group also of Reno, Nevada) did not receive notice of the Division hearing on April 5, 2001 in Case No. 12633 that resulted in Order No. R-11471-A. Further, McElvain offered testimony that at the time the application in Case No. 12633 was filed McElvain understood that both entities had voluntarily executed a Farmout Agreement that included all of Section 4. Therefore, notice of the April 5, 2001 hearing was not provided to these two parties.

(9) Noseco Corporation and the Neumann Family Trust Group (the "additional owners") were duly notified of the August 23, 2001 hearing.

(10) McElvain recently drilled its Cougar Com. "4" Well No. 2-A and tested the Dakota interval, but encountered non-commercial gas production from the Basin-Dakota Pool.

(11) As a result of this non-commercial gas production in the Basin-Dakota Pool, McElvain proposes to recomplete the Cougar Com. "4" Well No. 2-A up-hole into the Mancos formation.

(12) The Mancos formation underlying all of Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico is within the governing limits of the "*Special Rules and Regulations for the Gavilan-Mancos Oil Pool*," as promulgated by Division Order No. R-7407, as amended, which requires standard 640-acre gas spacing and proration units with wells to be located no closer than 790 feet from the outer boundary of a proration unit nor closer than 330 feet from any governmental quarter-quarter section or subdivision inner boundary.

(13) At this time there are interest owners in both the 320.43-acre gas and 641.16-acre oil units that have not agreed to pool their interests. However, there are no owners of interests in the proposed 641.16-acre unit that are not also owners of interests in the 320.43-acre unit.

(14) Neither the additional owners nor any other interested party appeared at the August 23, 2001 hearing in opposition to this application and proposed amendments; therefore, the immediate application of McElvain should be approved.

(15) The additional owners should be afforded an opportunity to pay their share of actual well costs so far incurred, and of estimated subsequent completion costs of the Cougar Com. "4" Well No. 2-A, in lieu of paying their share of reasonable well costs out of production.

(16) Any additional owner who does not pay its share of actual well costs so far incurred and of estimated subsequent completion costs should have withheld from its share of production from the Cougar Com "4" Well No. 2-A, its share of reasonable well costs (including completion costs) of that well, plus an additional 200 percent thereof as a reasonable charge for the risk involved in drilling and completing that well.

(17) The reasonable costs of drilling the Cougar Com. "4" Well No. 2-A and of the attempted completion thereof in the Dakota formation, together with the risk charge applicable thereto, should be recovered out of production attributable to the non-consenting interests in the 320.43-acre unit in proportion to their respective ownership in such unit. The reasonable costs of completing the well in the Mancos formation, together with the risk charge applicable thereto, should be recovered out of production attributable to the non-consenting interests in the 641.16-acre unit in proportion to their respective ownership in

such unit.

(18) The operator of the Cougar Com. "4" Well No. 2-A and the aforementioned 320.43-acre gas and 641.16-acre oil units should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of McElvain Oil & Gas Properties, Inc. ("McElvain") in Case No. 12633 filed July 31, 2001, Ordering Paragraphs No. (1) and (2) on page 3 of Division Order No. R-11471, as amended by ordering paragraph No. (1) on pages 3 and 4 of Division Order No. R-11471-A, are hereby further amended to read as follows:

"(1) All uncommitted mineral interests, whatever they may be, from the base of the Pictured Cliffs formation to the base of the Dakota formation underlying the following described acreage in Section 4, Township 25 North, Range 2 West, NMPM, Rio Arriba County, New Mexico, are hereby pooled in the following manner:

- (a) Lots 3 and 4, the S/2 NW/4, and the SW/4 (W/2 equivalent) to form a standard 320.43-acre gas spacing and proration unit for those pools developed on 320-acre spacing within that vertical extent, which presently include the Blanco-Mesaverde and Basin-Dakota Pools; and
- (b) all of Section 4 to form a standard 641.16-acre oil spacing and proration unit for the Gavilan-Mancos Oil Pool only.

The 320.43 acre Unit only is dedicated to McElvain's Cougar Com. "4" Well No. 2 (API No. 30-039-26401) located at a standard gas well location in the NW/4 NW/4 (Unit D) of Section 4. Both units are to be dedicated to McElvain's Cougar Com. "4" Well No. 2-A (API No. 30-039-26668),

located at a standard location for both sized units 935 feet from the South line and 835 feet from the West line (Unit M) of Section 4."

(2) Ordering Paragraph No. (5) on page 4 of Division Order No. R-11471-A is hereby amended to read in its entirety as follows:

"(5) McElvain is hereby designated the operator of the subject wells and units."

(3) Within thirty (30) days after the date of this Order, the operator shall furnish to each additional owner within the units and to the Division a schedule of actual well costs so far incurred and of estimated subsequent completion costs of the Cougar Com "4" Well No. 2-A.

(4) Within thirty (30) days from the date the schedule of well costs described in the preceding paragraph is furnished, any additional owner shall have the right to pay its share of such costs to the operator in lieu of paying its share of reasonable well costs out of production, and any additional owner who pays its share of well costs reflected on such schedule as provided in this paragraph shall remain liable for operating costs but shall not be liable for risk charges.

(5) Within ninety (90) days following the completion of the Cougar Com. "4" Well No. 2-A in the Mancos formation, the operator shall comply with Ordering Paragraph (8) of Division Order No. R-11471-A, and Ordering Paragraphs (8) and (9) on Pages 4 and 5 of Division Order No. R-11471-A shall apply to such completion and to the schedule furnished pursuant to this paragraph in exactly the same manner as if such completion in the Mancos formation had been the completion originally contemplated for such well.

(6) The costs associated with the drilling of the Cougar Com. "4" Well No. 2-A and of testing such well in the Dakota formation shall be accounted for separately from the costs of completing the well in the Mancos formation and of equipping the well for production, if it is productive. Each non-consenting working interest owner's share of the former category of costs, together with the risk charge applicable thereto, shall be withheld from such owner's share of production in proportion to such owner's interest in the 320.43-acre Unit. If and when the costs of drilling and testing the well and risk charges associated therewith are fully recovered, each non-consenting working interest owner's share of the costs of completing the well in the Mancos and of equipping it for production, together with an additional 200% of such costs as a charge for the risk involved in such completion, shall be withheld from such owner's share of production, in proportion to its ownership in the

641.16-acre Unit.

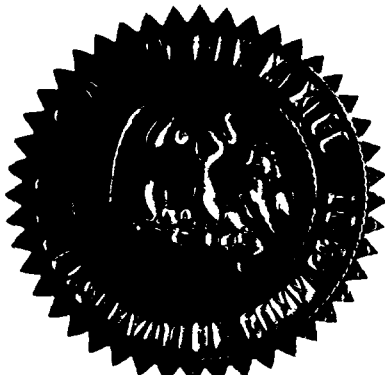
(7) The amendments set forth in this order shall be entered retroactively as of July 10, 2001.

(8) The operator of the wells and units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(9) All other provisions of both Division Orders No. R-11471 and R11471-A not in conflict with the provisions of this order shall remain in full force and affect until further notice.

(10) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


LORI WROTENBERY
Director