

BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF T.H. McELVAIN OIL & GAS LIMITED)
PARTNERSHIP FOR AN ORDER)
CREATING DRILLING AND SPACING)
UNITS AND POOLING ALL)
NONCONSENTING INTERESTS IN THE)
NIOBRARA FORMATION IN LANDS)
SUBJECT TO EXISTING OIL AND GAS)
LEASES IN THE NW¼ AND E½ OF)
SECTION 19, TOWNSHIP 2 SOUTH,)
RANGE 46 WEST, 6TH P.M., YUMA)
COUNTY, COLORADO)

CAUSE No. 191

DOCKET No. 0903-SP-15

VERIFIED AMENDED APPLICATION

T.H. McElvain Oil & Gas Limited Partnership (“Applicant”), through its counsel, respectfully submits this **AMENDED** application to the Oil and Gas Conservation Commission of the State of Colorado (“Commission”) pursuant to C.R.S. § 34-60-116 and the rules of the Commission for an order pooling the interests of all non-consenting interests in leased lands in the NW¼ and E½ of Section 19 Township 2 South, Range 46 West, 6th P.M., Yuma County, Colorado.¹ The following grounds support this application:

1. The Applicant is a limited partnership duly authorized to conduct business in the State of Colorado.

2. The lands at issue in this Application are the following lands in Yuma County, Colorado:

Township 2 South, Range 46 West, 6th .P.M.
Section 19 NW¼, E½

(hereinafter the “Application Lands”).

3. The Application Lands are not within an oil and gas field created by Commission Order. The Mildred Field is located approximately two sections east and one section north of the Application Lands.

4. Nor has the Commission issued an order creating drilling and spacing units on the Application Lands. But the Application Lands are among those lands included within the Rule 318B. Yuma/Phillips County Special Well Location Rule.

¹ Amendments are noted by the capitalized, bold text as noted in the Commission’s Instruction Memo dated September 5, 2007.

5. The Applicant is an owner of an interest in the mineral estate in the Application Lands as defined in the Commission rules and has standing to submit this **AMENDED** Application pursuant to Commission Rule 503.b.2 and other law.

6. All minerals in the Application Lands are leased. The Applicant is a present lessee and working interest owner in oil and gas leases covering the Application Lands. Petroleum Development Corporation also has oil and gas leases covering the Application Lands. Ownership of the working interest and royalty interest is uniform throughout the Application Lands. All leases permit lands subject to the leases to be pooled for the purposes of the drilling of wells and the production and sale of oil, gas and other hydrocarbons.

7. McElvain Oil & Gas Properties, Inc., is the general partner of the Applicant. In June 2008, McElvain Oil & Gas Properties, as operator (the "Operator"), filed applications for permits to drill the following wells on the Application Lands:

<u>Well Name</u>	<u>Field</u>	<u>Formation</u>	<u>Location in the Application Lands</u>
Massive #19-2	Wildcat	Niobrara	NW $\frac{1}{4}$ NE $\frac{1}{4}$
Massive #19-3	Wildcat	Niobrara	NE $\frac{1}{4}$ NW $\frac{1}{4}$
Massive #19-5	Wildcat	Niobrara	SW $\frac{1}{4}$ NW $\frac{1}{4}$
Massive #19-6	Wildcat	Niobrara	SE $\frac{1}{4}$ NW $\frac{1}{4}$
Massive #19-7	Wildcat	Niobrara	SW $\frac{1}{4}$ NE $\frac{1}{4}$
Massive #19-8	Wildcat	Niobrara	SE $\frac{1}{4}$ NE $\frac{1}{4}$
Massive #19-9	Wildcat	Niobrara	NE $\frac{1}{4}$ SE $\frac{1}{4}$
Massive #19-10	Wildcat	Niobrara	NW $\frac{1}{4}$ SE $\frac{1}{4}$

("the Wells"). The Commission approved the applications and issued permits to drill the Wells in October 2008.

8. The Wells will be drilled to and completed in the Niobrara Formation at permissible locations for new Niobrara wells as provided in Rules 318B.a and 318B.f. None of the Wells required a well exception location.

9. Separate Authorities for Expenditure ("AFE") for each of the Wells have been submitted to the owners of all working interests in the Application Lands. Each AFE satisfied the requirements of C.R.S. § 34-60-116 and Rule 530. These AFEs were submitted more than 30 days before the scheduled March 30, 2009 hearing date.

10. All but one of the working interest owners has executed and returned AFEs for each Well. Petroleum Development Corporation has not executed and returned any of the AFEs for the Wells. Discussions with this non-consenting working interest owner have continued but failed to reach agreement. These efforts to confer have satisfied the requirements of C.R.S. § 34-60-116, Rule 530 and other law.

Creation of **THREE 160-ACRE Drilling and Spacing UnitS**

11. The mineral interests in the Application Lands have been leased and have uniform, common ownership throughout the Application Lands.

12. The Application Lands are located outside an existing field but in lands subject to the Rule 318B. well location rules. Testimony accepted by the Commission in connection with its adoption of Rule 318B. recognized that, for both geologic and engineering reasons, the location of Niobrara wells in the Application Lands requires some flexibility. The Wells are located in compliance with Rule 318B.

13. As applicable here, Rule 318B.f states that “Rule 318B. does not affect production allocation for existing or future wells. An operator may allocate production in accordance with the applicable lease[s], contract terms or established drilling and spacing units recognizing the owner’s right to apply to the COGCC to resolve any outstanding correlative rights issues.”

14. COMMISSION ORDER NO. 327-9 RECOGNIZED THAT THE MILDRED FIELD LOCATED TO THE EAST OF THE APPLICATION LANDS SHOULD CONTINUE TO BE SPACED AS 160-ACRE DRILLING AND SPACING UNITS. COMMISSION RULE 318B. ALSO RECOGNIZED THAT UP TO FOUR NIOBRARA FORMATION WELLS MAY BE DRILLED IN ANY QUARTER SECTION OF THE APPLICATION LANDS.

15. FOR THE REASONS STATED IN THE EVIDENCE SUPPORTING ORDER NO. 327-9 AND RULE 318B., AS WELL AS OTHER EVIDENCE, THIS COMMISSION SHOULD ISSUE AN ORDER CREATING THREE SEPARATE DRILLING AND SPACING UNITS CONSISTING OF THE NW1/4, THE NE1/4 AND THE SE1/4 OF THE APPLICATION LANDS.

16. The Commission has discretion pursuant to C.R.S. § 34-60-116(2) to create drilling and production units in particular sizes and shapes so that the pool as a whole will be efficiently and economically developed. Here, evidence will show that the Operator should have discretion to develop the Application Lands as **TO EACH** unit so that it may adjust to what is learned about the producing formation as the Wells are drilled and produced.

17. The Commission should issue an order defining the Application Lands as **THREE SEPARATE 160-ACRE Drilling and Spacing UnitS** for all purposes discussed in C.R.S. § 34-60-116 and Rule 530 so that the Operator may allocate production **WITHIN EACH NEWLY CREATED DRILLING AND SPACING UNIT** as provided, by law.

Involuntary Pooling of Non-Consenting Owner

18. As noted above, Petroleum Development Corporation has not consented to, executed and returned AFEs for the Wells. All other working interest owners have consented.

19. In order to prevent waste, protect correlative rights and promote conservation and the other purposes of the Oil and Gas Conservation Act, the Commission should issue an order pooling the interests of all working interest owners in **EACH NEW SEPARATE DRILLING AND SPACING UNIT IN** the Application Lands for all purposes discussed in C.R.S. § 34-60-116, Rules 318B. and 530, and other law.

20. Upon information and belief, the parties listed in Exhibit A submitted with this **AMENDED** Application are the persons or entities who presently own interests in the mineral estate of the Application Lands to be pooled (other than overriding royalty interests) and, under Commission rules and other law, to whom notice should be tendered.

21. The map attached hereto as Exhibit B is reprinted from the Commission's GIS Online Website and accurately shows the location of the Wells within the Rule 318B. well location area and the boundary of the Mildred Field to the east.

22. THE APPLICANT ASKS THAT THIS ORDER BE EFFECTIVE AS OF THE DATE THE VERIFIED AMENDED APPLICATION WAS FILED.

WHEREFORE, Applicant respectfully requests that this Verified **AMENDED** Application be set for hearing, notice of this Verified **AMENDED** Application and the scheduled hearing be given and, in accordance with Commission rules and other law, this Commission order:

A. That the Application Lands be defined by order as comprising **THREE NEW, SEPARATE 160-ACRE Drilling and Spacing UnitS CONSISTING OF THE NW1/4, NE1/4 AND SE1/4 OF THE APPLICATION LANDS** for all purposes discussed in C.R.S. § 34-60-116 and Rule 530 so that the operator may allocate costs and production from the date this Verified **AMENDED** Application was filed as provided in these authorities, Rule 318B. and other law; and

B. That the interests of all working interest owners in the Application Lands be pooled for purposes **OF THE DEVELOPMENT BY THE OPERATOR IN THREE NEW, SEPARATE DRILLING AND SPACING UNITS CONSISTING OF THE NW1/4, NE1/4 AND SE1/4 OF THE APPLICATION LANDS AS** discussed in C.R.S. § 34-60-116, Rules 318B. and 530,

C. THAT THE COMMISSION'S ORDER BE EFFECTIVE ON THE DATE THIS VERIFIED AMENDED APPLICATION WAS FILED; AND

D. That the Applicant be granted such other and further relief as this Commission deems just and proper.

Respectfully submitted on February 19, 2009.

BJORK LINDLEY LITTLE PC

By: /s/ David R. Little
David R. Little #13340
Bjork Lindley Little PC
1600 Stout Street, Suite 1400
Denver, CO 80202
Telephone: 303-892-1400
Facsimile: 303-892-1401
dlittle@bjorklindley.com

Applicant's Contact Information:

T.H. McElvain Oil & Gas Limited Partnership
McElvain Oil & Gas Properties, Inc.
1050 17th Street, Suite 1800
Denver, Colorado 80265-1801

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STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

VERIFICATION OF AMENDED APPLICATION

David W. Siple, being first duly sworn upon oath, states:

1. I am an authorized representative of T.H. McElvain Oil & Gas Limited Partnership and McElvain Oil & Gas Properties, Inc. and am personally familiar with the matters set forth in the foregoing Verified Application.

2. I have read the Verified **AMENDED** Application and the facts contained therein are true and correct to the best of my knowledge, information and belief.

T. H. McElvain Oil & Gas Limited Partnership
by its General Partner,
McElvain Oil & Gas Properties, Inc.

By: _____
David W. Siple
Vice President, Land

Subscribed and sworn to before me this **19TH** day of February, 2009, by David W. Siple.

Witness my hand and official seal.

/s/ _____
Notary Public

My commission expires: