

IN THE COURT OF COMMON PLEAS OF THE FIFTY-NINTH  
JUDICIAL DISTRICT, PENNSYLVANIA

COUNTY OF ELK,  
Plaintiff

vs.

WILLIAM DICKEY, MATTHEW W. DICKEY,  
WILLIAM JEROME DICKEY, CLARENCE CLAIRE  
DICKEY, MARY EDNA DICKEY, MARTHA  
PAULINE DICKEY, MATTHEW W. DICKEY, JR.,  
JOSEPHINE DICKEY, WILLIAM D. LONG, JAMES  
LONG, PAUL B. DICKEY, MARY EDNA DICKEY  
FAWCETT, MYRTLE H. LONG, CARLTON CLAIRE  
DICKEY, ADA DICKEY MEANS, WILLIAM  
WARREN DICKEY, LULU MAY BROWN, their  
heirs, assigns, devisees, and personal  
representatives, and SAMUEL MOORE, EARL  
MOORE, JOHN W. ELLIOTT, RICHARD E. ELLIOTT,  
JR., JOHN OSCAR MOORE, ALSO KNOWN AS  
OSCAR JOHN MOORE, SARAH MOORE,  
S. EVAN MOORE, MARY T. MOORE, and their  
heirs, assigns, devisees, and personal  
representatives, and AARON REITZ,  
JESSIE E. THOMPSON, JEAN BARRETT  
BENNINGER, WAYNE H. BARRETT,  
REBECCA BORDEN, their heirs, assigns, devisees,  
and personal representatives, and WILLIAM  
KELSO, DAVID GEALEY and MAUREEN GEALEY,  
his wife, PETER GEALEY and MARY GEALEY, his wife,  
SCOTT CHRISTOPHERSON and EILEEN  
CHRISTOPHERSON, his wife, KAREN  
CHRISTOPHERSON FITZPATRICK, and  
BRIAN FITZPATRICK, her husband, CAROL ANN  
CHRISTOPHERSON STOUT and ROBERT STOUT, her  
husband, DEBORAH D. MORTON, LINDA LAUER, LONI  
CHRISTOPHERSON and their heirs, assigns, devisees,  
and personal representatives; SANDRA GODFREY,  
personal representative for the Estate of A. HOWARD  
MARLIN, her successors and or assigns; and

COUNTY BRANCH - ELK  
CIVIL DIVISION

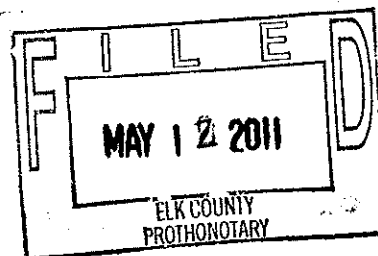
No. 2011-140

AMENDED COMPLAINT IN CIVIL  
ACTION--QUIET TITLE

Filed on behalf of Plaintiff,  
County of Elk

Counsel of Record for  
this party:

Lisa C. McManus, Esq.  
Pa. I.D. 59661  
616 Sherry Road  
Saint Marys, PA 15857  
Office: 814.781.1319  
Cell: 814.594.7690  
Fax: 814.834.0006  
Email: [lisamcmanus616@gmail.com](mailto:lisamcmanus616@gmail.com)



MICHAEL A. KUBICO, JR. and STEPHEN B. KUBICO,  
as personal representatives for the Estate of  
HELEN SMITH KUBICO,

Defendants

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SCOTT CHRISTOPHERSON and EILEEN  
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CHRISTOPHERSON FITZPATRICK, and  
BRIAN FITZPATRICK, her husband, CAROL ANN  
CHRISTOPHERSON STOUT and ROBERT STOUT, her  
husband, DEBORAH D. MORTON, LINDA LAUER, LONI  
CHRISTOPHERSON and their heirs, assigns, devisees,  
and personal representatives; SANDRA GODFREY,  
personal representative for the Estate of A. HOWARD  
MARLIN, her successors and or assigns; and  
MICHAEL A. KUBICO, JR. and STEPHEN B. KUBICO,  
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Defendants

COUNTY BRANCH - ELK  
CIVIL DIVISION

No. 2011-140

COMPLAINT IN CIVIL  
ACTION--QUIET TITLE

## NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Elk County Prothonotary  
Elk County Courthouse  
Main Street  
Ridgway, PA 15853  
(814) 776-5344



Lisa C. McManus

IN THE COURT OF COMMON PLEAS OF THE FIFTY-NINTH  
JUDICIAL DISTRICT, PENNSYLVANIA

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Plaintiff

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CHRISTOPHERSON and their heirs, assigns, devisees,  
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COUNTY BRANCH - ELK  
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No. 2011-140

COMPLAINT IN CIVIL  
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MICHAEL A. KUBICO, JR. and STEPHEN B. KUBICO,  
as personal representatives for the Estate of  
HELEN SMITH KUBICO,

Defendants

### **AMENDED COMPLAINT IN CIVIL ACTION--QUIET TITLE**

Plaintiff, by and through its counsel, Lisa C. McManus, complains of all persons known or unknown claiming any right, title, estate, lien or interest in the oil and natural gas described herein adverse to Plaintiff's title, and for cause of action alleges:

#### **FACTUAL ALLEGATIONS AS TO ALL PROPERTIES**

1. Plaintiff is the County of Elk, a municipal corporation, being a sixth class county, with its office located at Main Street, Ridgway, Pennsylvania.
2. Defendant group "one" is William Dickey and his last known heirs, assigns, devisees, and personal representatives, who may claim an interest in the property that is the subject of this suit, being as follows:
  - a. William Dickey, his heirs and/or assigns, whose last and current addresses are unknown.
  - b. William Jerome Dickey, his heirs and/or assigns, whose last and current addresses are unknown.
  - c. Carlton Claire Dickey, his heirs and/or assigns, whose last and current addresses are unknown.
  - d. Clarence Claire Dickey, his heirs and/or assigns, whose last and current addresses are unknown.
  - e. Mary Edna Dickey, her heirs and/or assigns, whose last and current addresses are unknown.
  - f. Martha Pauline Dickey, her heirs and/or assigns, whose last and current addresses are unknown.
  - g. Matthew W. Dickey, Jr., his heirs and/or assigns, whose last and current addresses are unknown.
  - h. Ada Dickey Means, her heirs and/or assigns, whose last and current address-

es are unknown.

- i. William Warren Dickey, his heirs and/or assigns, whose last and current addresses are unknown.
- j. Lulu May Brown, her heirs and/or assigns, whose last and current addresses are unknown.
- k. Georgia Josephine Dickey, her heirs and/or assigns, whose last and current addresses are unknown.
- l. William D. Long, his heirs and/or assigns, whose last known address is believed to have been Los Angeles, California, and whose current address is unknown.
- m. James Elliott Long, his heirs and/or assigns, whose last known address is believed to have been Los Angeles, California, and whose current address is unknown.
- n. Paul B. Long, his heirs and/or assigns, whose last known address is believed to have been Pittsburgh, Pennsylvania, and whose current address is unknown.
- o. Myrtle H. Long, her heirs and/or assigns, whose last known address is believed to have been Los Angeles County, California, but whose current address is unknown.
- p. Mary Edna Maxwell, also known as Edna Dickey Maxwell, her heirs and/or assigns, whose last known address is believed to have been Pittsburgh, Pennsylvania, but whose current address is unknown.
- q. Mary Edna Dickey Fawcett, her heirs and/or assigns, whose last known address is believed to have been Los Angeles County, California, but whose current address is unknown.

3. Defendant group "two" is Samuel M. Moore, and his last known heirs, assigns, devisees, and personal representatives, who may claim an interest in the property that is the subject of this suit, being as follows:

- a. Samuel M. Moore, his heirs and assigns, whose last known address is unknown;
- b. John Oscar Moore, also known as Oscar John Moore, and Sarah, his wife, whose last known address was Kane, McKean County, Pennsylvania, in 1913, but whose current address is unknown, and their heirs and assigns.

- c. S. Evan Moore and Mary T. Moore, his wife, whose last known address was Brookville, Jefferson County, Pennsylvania, in 1912, but whose current address is unknown, and their heirs and assigns.
- d. Earl Moore, his heirs and/or assigns, whose last known address was Chama, New Mexico, but whose current address is unknown.
- e. Richard E. Elliott, Jr., his heirs and/or assigns, whose current identity and whereabouts are unknown.

4. Defendant group "three" is Aaron Reitz and his last known heirs, assigns, devisees, and personal representatives that may claim an interest in the property that is the subject of this suit, being as follows:

- a. Jessie E. Thompson, her heirs and/or assigns, whose last known address was 953 Jackman Avenue, Avalon, Pennsylvania, but whose current address is unknown.
- b. Jean Barrett Benninger, her heirs and/or assigns, whose last known address was Madison, New Jersey, but whose current address is unknown.
- c. Wayne H. Barrett, his heirs and/or assigns, whose last known address was 121 Ridgwood Drive, Youngstown, Ohio, but whose current address is unknown.
- d. Rebecca Borden, her heirs and/or assigns, whose last known address was 109-16 112<sup>th</sup> Street, Ozone Park, New York, but whose current address is unknown.

5. Defendant group "four" is William H. Kelso and his last known heirs, assigns, devisees, and personal representatives that may claim an interest in the property that is the subject of this suit, being as follows:

- a. William Kelso, his heirs and assigns, whose last known address is unknown;
- b. David Gealey and Maureen Gealey, his wife, adult individuals who reside at 26571 North Highway 1, Fort Bragg, California 95437-9586;
- c. Peter Gealey and Mary Gealey, his wife, adult individuals who reside at 30161 Simpson Lane, Fort Bragg, California 95437-9586;
- d. Scott Christopherson and Eileen Christopherson, his wife, adult individuals who reside at 326 Camaritas Avenue, South San Francisco, California 94080;
- e. Karen Christopherson Fitzpatrick and Brian Fitzpatrick, her husband, 3706 Redwood Circle, Palo Alto, California 94306;



- f. Carol Ann Christopherson Stout and Robert Stout, her husband, adult individuals who reside at 4095 Millagra Drive, Fallbrook, California 92028-8674;
- g. Deborah D. Morton, an adult individual who resides in Santa Cruz, California, and maintains a mailing address at P.O. Box 2966, Santa Cruz, California 95063;
- h. Linda Lauer, an adult individual who resides at 2411 Carrelton Drive, Champaign, IL 61821-4763;
- i. Sandra Godfrey, as personal representative for the estate of A. Howard Marlin, his successors and assigns, an adult individual who resides at 1188 Huntingdon Road, Winston-Salem, NC 27104;
- j. Loni Christopherson of 326 Camaritas Avenue, South San Francisco, California 94080;
- k. Michael A. Kubico, Jr. and Stephen B. Kubico, as personal representatives of the estate of Helen Smith Kubico, c/o Michael A. Kubico, Jr., of 17264 Bay Street, Jupiter, Florida 33477.

6. Plaintiff is the owner of the natural gas and oil underlying a parcel or tract of land in the Township of Millstone, County of Elk, and State of Pennsylvania, being portions of Warrant Numbers 2542, 2548, and 2533 and being more particularly described as follows:

Beginning at a point, being the southeastern corner of Warrant 2548; thence, North 89 West, 60.51 chains; thence North 0 East, 40.5 chains; thence South 89 West, 6.66 chains; thence South 86 West, 18.07 chains; thence South 0 West, 39.35 chains; thence North 89 West, 31 chains; thence South 0 West, 74.57 chains; thence North 88 West, 2.87 chains; thence North 61 West, 9.01 chains; thence North 54 West, 6.88 chains; thence North 48 West, 12.31 chains; thence North 29 East, 1.07 chains; thence North 14 East, 9.32 chains; thence North 90 West, 1.97 chains; thence South 33 West, 5.49 chains; thence South 68 West, 4.99 chains; thence North 64 West, 2.06 chains; thence North 65 West, 7.75 chains; thence South 69 West, 14.26 chains; thence South 55 West, 12.59 chains; thence South 31 West, 12.63 chains; South 30 West, 8.67 chains; thence South 40 West, 3.83 chains; thence North 89 West, 39.61 chains; thence North 0 East, 27.33 chains; thence South 89 East, 17.5 chains; thence North 0 East, 40 chains; thence South 89 East, 12.49 chains; thence North 0 East, 16.5 chains; thence North 1 West, 33.21 chains; thence North 89 West, 30 chains; thence North 1 East, 52.5 chains; thence South 89 East, 115.75 chains; thence South 89 East, 121 chains; thence South 0 West, 81.62 chains, to the place of beginning.

Also being part of Uniform Parcel Identifier 08-09-004-5521.

EXCEPTING AND RESERVING: Description of said Exception No. 1; Beginning at corner 1, common to land of the Dickey Estate, within Warrant 2548, W of the Old Olean Road, in the clear on a gentle SW slope, a 1" solid iron bar 6" above ground, a 2" x 48" iron pipe in a mound of stones;

Thence with four lines of the Dickey Estate, S 86° 52' W, 24.58 chains to corner 2, in a scattered young growth of white oak on a gentle SE slope, a 1" iron pipe, a 2" x 48" iron pipe in a mound of stones;

Thence N 08° 57' W, 21.44 chains to Corner 3, in the NW corner of a cleared field, on a gentle NW slope, a 2" iron pipe with three pine stump witnesses, a 2" x 48" iron pipe in a mound of stones;

Thence N 86° 52' E, 24.58 chains to Corner 4, in a second growth of white oak on a gentle rocky SW slope, a 2" x 48" iron pipe in a mound of stones;

Thence S 08° 57' E, 21.49 chains to the place of beginning, containing 52.49 acres, be the same more or less, being the same land conveyed by William Dickey et al. to Anne E. Gregg in 1913, lying at the head of Gregg Run, a branch of Milestone Creek, tributary to the Clarion River.

Description of said Exception No. 11; Beginning at Corner 1, common to land of the Dickey Estate, on a W slope an iron pin driven flush with the surface of the ground, a 2" x 48" iron pipe in a mound of stones;

Thence with seven lines of the Dickey Estate, S 09° 21' W, 5.11 chains to corner 2, on a west slope, a 1 1/4" iron pipe flush with surface of ground, a 2" x 48" iron pipe in a mound of stones;

Thence N 89° 58' W 1.50 chains to a Corner 3, on a W slope about 0.08 chain E of the NE corner of an old barn, a 2" x 48" iron pipe in a mound of stones;

Thence N 01° 03' W 5.37 chains to Corner 4, on a W slope, at corner of a fence bearing N, S and E, a 2" x 48" iron pipe in a mound of stones;

Thence N 10° 59' E 5.77 chains to Corner 5, on a W slope at corner of fence bearing S 10° W and E, about 0.70 chain E of the road to Marienville, a 2" x 48" iron pipe in a mound of stone;

Thence S 80° 51' E 2.96 chains to Corner 6, on a rocky W slope at edge of second growth white oak, a 2" x 48" iron pipe in a mound of stones;

Thence S 11° 01' W 5.62 chains to Corner 7, in the clear on a W slope about 0.06 chain S of the center of the south foundation wall of abandoned schoolhouse, a 2" x 48" iron pipe in a mound of stones;

Thence N 83° 36' W, 0.50 chain to the place of beginning, containing 2.71 acres be

the same more or less; being the same land now owned by Joseph Moore and John Van Tassel near the mouth of the Millstone Creek, originally conveyed by William Dickey, et al. to Joseph Moore and others by various deeds.

7. Plaintiff acquired the rights to said natural gas and oil hereinabove described by virtue of an unseated tax sale for delinquent taxes for the tax year 1941 for oil and natural gas underlying Warrant Numbers 2542, 2548, and 2533. Having no bidders at the sale, the Commissioners purchased the properties. The upset sale is reflected in Elk County Treasurer's Sale Book K at page 54, which is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g). The Treasurer's Deed for said sale was recorded August 27, 2009, in the Elk County Recorder of Deeds' Office at Document Number 2009-003181, is available in the records of the Elk County Courthouse, and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

8. William Dickey, Samuel Moore, William Kelso, and Aaron Reitz were all at one time partial owners of various tracts at issue herein.

9. By virtue of a conveyance from James McCahon, et al., at Elk County Deed Book Q, page 247, and recorded January 28, 1874, John K. Moore, Samuel M. Moore, and Henry C. Moore became vested with title to 1/3 of Warrants 2542, 2548, and 2533.

10. By virtue of a conveyance from James McCahon, et al., at Elk County Deed Book Q, page 263, and recorded January 30, 1874, Edward H. Darragh became vested with title to 1/3 of Warrants 2542, 2548, and 2533.

11. By virtue of a conveyance from James McCahon, et al., at Elk County Deed Book Q, page 267, and recorded January 30, 1874, William Dickey became vested with title to 1/3 of Warrants 2542, 2548, and 2533.

12. William Dickey conveyed his 1/3 interest in Warrants 2542, 2548, and 2533 to John K. Moore, Henry C. Moore, and Samuel M. Moore by virtue of a deed recorded November 17, 1873, at Elk County Deed Book Q, page 259, thereby vesting the Moores with title to 2/3 of Warrants 2542, 2548, and 2533.

#### **FACTUAL ALLEGATIONS AS TO WARRANTS 2548**

13. By virtue of tax sales dated August 6, 1874, on unseated land for delinquent taxes for the years 1872 and 1873, Jerome Powell became seized of Warrant 2548, which

sale was evidenced by Elk County Acknowledgement Book B/90/16. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

14. The records of the Elk County Court of Common Pleas indicate that the deed to Powell was acknowledged in open court on June 13, 1876, which was all that was required to pass title under the Act of April 3, 1804, 4 Sm. L. 201, and supplementary legislation and decisions under the Act.

15. By virtue of this sale for delinquent taxes, the Moores and Darrough lost title to Warrant 2548.

16. By deed dated November 12, 1878, and recorded April 7, 1879, at Elk County Deed Book U, page 425, the Sheriff of Elk County purported to convey the 2/3 Moore interest to William Dickey; however, this transfer had no effect because the Moores did not own an interest in Warrant 2548 at time of sale, the property having been sold at tax sale to Powell.

17. By deed dated August 31, 1882, and recorded January 18, 1884, at Deed Book 28, page 59, William Dickey purported to convey a 1/3 interest in Warrant 2548 to Samuel M. Moore, "excepting and reserving thereout such rights and privileges of entering upon said lands for the purpose of exploring and boring for oil (petroleum) as have been to the original complaintfore contracted for by lease or otherwise to the 'Millstone Oil Company' or to others"; however, this transfer had no effect because Dickey did not own an interest in Warrant 2548 at time of sale, the property having been sold at tax sale to Powell.

18. By deed dated July 16, 1886, and recorded August 4, 1886, at Deed Book 81, page 60, Edward H. Darrough, et ux., purported to convey a 1/3 interest in Warrant 2548 to William Kelso; however, this transfer had no effect because Darrough did not own an interest in Warrant 2548 at time of sale, the property having been sold at tax sale to Powell.

19. By unseated tax sale dated September 14, 1916, and recorded at "Deeds Acknowledged in Open Court," at Book B, page 100, line 12, the Treasurer of Elk County purported to convey an undivided 1/3 interest in the gas and minerals in Warrant 2548 to Elk County based on delinquent taxes assessed to "Dickey, Moore, and Kelso" for the tax years 1914 and 1915. The deed for said conveyance was dated September 11, 1916, and recorded November 13, 1925, in Elk County Deed Book 86, page 388. A copy of this deed

is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

20. The assessments for the tax years 1914 and 1915 were as follows:

1914 – Unseated 900A Dickey, Moore, Kelso (gas and minerals to CCFSC)

1914 – Unseated 707A (5 of 2548) Oil City Fuel Supply Co.

1915 – Unseated 850A Dickey Moore and Kelso (gas and minerals to OCFSC)

21. By virtue of the failure to properly identify the parcel in the tax sale, this tax sale was invalid.

22. By deed dated June 27, 1924, and recorded October 26, 1925, in Elk County Deed Book 86, at page 342, the Commissioners of Elk County purported to convey to Aaron Reitz "an undivided one third of eight hundred fifty acres, situate in the Township of Millstone, in the County of Elk, and State of Pennsylvania, surveyed upon warrant numbered (2548), (Unseated List)." A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

23. The conveyance to Reitz was void because the Elk County Commissioners had no interest to convey.

24. By Last Will and Testament dated December 21, 1888, and registered March 1, 1897, in Elk County Will Book A, at page 501, Jerome Powell devised the rest, residue, and remainder of his estate, including real property, to his sons, Edgar C. Powell and Robert J. Powell. No real property was specifically devised in the Will. A copy of this Will is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

25. By deed dated August 1, 1925, and recorded on September 22, 1925, at Elk County Deed Book 86, page 288, E.C. Powell and Ella G. Powell, his wife, by E.C. Powell, her attorney in fact duly constituted by Letter of Attorney dated October 29, 1921, and recorded in Elk County, Pennsylvania, in Miscellaneous Book "J" page 171, and Robert J. Powell and Mabelle N. Powell, his wife, by E.C. Powell, their attorney in fact duly constituted by Letter of Attorney dated April 18, 1923, and duly recorded in the County of Elk in Miscellaneous Book "J" at page 281, conveyed their interest in Warrant 2548 to William W. Dickey, Ada Dickey Means and Mary Edna Maxwell, Trustees and Executors of the Estate of William Dickey, deceased. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

26. By deed dated February 3, 1926, and recorded February 24, 1926, at Elk County Deed Book 86, page 565, William Warren Dickey, Ada Dickey Means and Mary Edna Maxwell, Executors of William Dickey, deceased, testate, Mary Kelso, widow, and Rufus G. Reitz, Executors of William Kelso, deceased, testate, and Aaron M. Reitz, conveyed, inter alia, Warrant 2548 to the United States of America, excepting and reserving all oil, gas, gasoline, coal and mineral rights in, upon or under the said lands, not otherwise excepted from the above described premises. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

27. At the time of this conveyance, only the heirs of William Dickey had an interest in the property.

28. On August 13, 1942, the County of Elk purchased 850 acres of Oil and Gas only in Warrant 2548 at a Treasurer's Sale for delinquent taxes for the 1941 tax year. Said sale is evidenced at Elk County Treasurer's Sale Book K, page 54, aforementioned.

#### **FACTUAL ALLEGATIONS AS TO WARRANTS 2542**

29. By virtue of tax sales dated August 6, 1874, on unseated land for delinquent taxes for the years 1872 and 1873, Jerome Powell became seized of Warrants 2542, which sale was evidenced by Elk County Acknowledgement Book B/90/14.

30. The records of the Elk County Court of Common Pleas indicate that the deed to Powell was acknowledged in open court on June 13, 1876, which was all that was required to pass title under the Act of April 3, 1804, 4 Sm. L. 201, and supplementary legislation and decisions under the Act.

31. By virtue of this sale for delinquent taxes, the Moores and Darragh lost title to Warrants 2542.

32. By deed dated November 12, 1878, and recorded April 7, 1879, at Elk County Deed Book U, page 425, the Sheriff of Elk County purported to convey the 2/3 Moore interest to William Dickey; however, this transfer had no effect because the Moores did not own an interest in 2542 at time of sale, the property having been sold at tax sale to Powell.

33. By deed dated August 31, 1882, and recorded January 18, 1884, at Deed Book 28, page 59, William Dickey purported to convey a 1/3 interest in Warrant 2542 to

Samuel M. Moore, "excepting and reserving thereout such rights and privileges of entering upon said lands for the purpose of exploring and boring for oil (petroleum) as have been to the original complaintfore contracted for by lease or otherwise to the 'Millstone Oil Company' or to others"; however, this transfer had no effect because Dickey did not own an interest in Warrant 2548 at time of sale, the property having been sold at tax sale to Powell.

34. By deed dated July 16, 1886, and recorded August 4, 1886, at Deed Book 81, page 60, Edward H. Darrogh, et ux., purported to convey a 1/3 interest in Warrant 2542 to William Kelso; however, this transfer had no effect because Darrogh did not own an interest in Warrant 2548 at time of sale, the property having been sold at tax sale to Powell.

35. By unseated tax sale dated September 14, 1916, and recorded at Tax Claim Book 1, page 100, the Treasurer of Elk County purported to convey an undivided 1/3 of gas and minerals in Warrant 2542 to Elk County based on delinquent taxes assessed to "Dickey, Moore, and Kelso" for the tax years 1914 and 1915. The deed for said conveyance was dated September 11, 1916, and recorded November 13, 1925, in Elk County Deed Book 86, page 388. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

36. The assessments for the tax years 1914 and 1915 were as follows:

1914 – Dickey, Moore, & Kelso Wt 2542 900 ac unseated Gas & Min to OCFS Co.

1914 – Oil City Fuel Supply Co. Wt 2542 900 ac unseated from DK&Moore Gas & Min Rights

1915 – Dickey, Moore, & Kelso Wt 2542 900 ac unseated Gas & Min to OCFS Co.

37. By virtue of the failure to properly identify the parcel in the tax sale, this tax sale was invalid.

38. By deed dated June 27, 1924, and recorded October 26, 1925, in Elk County Deed Book 86, at page 345, the Commissioners of Elk County purported to convey to Aaron Reitz "an undivided one third of nine hundred acres, situate in the Township of Millstone, in the county of Elk, and State of Pennsylvania, surveyed upon warrant numbered (2542) (Unseated List)." A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

39. The conveyance to Reitz was void because the Elk County Commissioners had no interest to convey.

40. By Last Will and Testament dated December 21, 1888, and registered March 1, 1897, in Elk County Will Book A, at page 501, Jerome Powell devised the rest, residue, and remainder of his estate, including real property, to his sons, Edgar C. Powell and Robert J. Powell. No real property was specifically devised in the Will. A copy of this will is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

41. By deed dated August 1, 1925, and recorded on September 22, 1925, at Elk County Deed Book 86, page 288, E.C. Powell and Ella G. Powell, his wife, by E.C. Powell, her attorney in fact duly constituted by Letter of Attorney dated October 29, 1921, and recorded in Elk County, Pennsylvania, in Miscellaneous Book "J" page 171, and Robert J. Powell and Mabelle N. Powell, his wife, by E.C. Powell, their attorney in fact duly constituted by Letter of Attorney dated April 18, 1923, and duly recorded in the County of Elk in Miscellaneous Book "J" at page 281, conveyed their interest in Warrant 2542 to William W. Dickey, Ada Dickey Means and Mary Edna Maxwell, Trustees and Executors of the Estate of William Dickey, deceased. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

42. By deed dated February 3, 1926, and recorded February 24, 1926, at Elk County Deed Book 86, page 565, William Warren Dickey, Ada Dickey Means and Mary Edna Maxwell, Executors of William Dickey, deceased, testate, Mary Kelso, widow, and Rufus G. Reitz, Executors of William Kelso, deceased, testate, and Aaron M. Reitz, conveyed, inter alia, Warrant 2542 to the United States of America, excepting and reserving all oil, gas, gasoline, coal and mineral rights in, upon or under the said lands, not otherwise excepted from the above described premises. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

43. At the time of this conveyance, only the heirs of William Dickey had an interest in the property.

44. On August 13, 1942, the County of Elk purchased 900 acres of Oil and Gas only in Warrant 2542 at a Treasurer's Sale for delinquent taxes for the 1941 tax year. The upset sale is reflected in Elk County Treasurer's Sale Book K at page 54, aforementioned. The



Treasurer's Deed for said sale was recorded August 27, 2009, in the Elk County Recorder of Deeds' Office at Document Number 2009-003181. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

### **FACTUAL ALLEGATIONS AS TO WARRANT 2533**

45. By deed dated November 12, 1878, and recorded April 7, 1879, at Elk County Deed Book U, page 425, the Sheriff of Elk County conveyed the 2/3 Moore interest in Warrant 2533 to William Dickey.

46. By deed dated August 31, 1882, and recorded January 18, 1884, at Deed Book 28, page 59, William Dickey purported to convey a 1/3 interest in Warrant 2533 to Samuel M. Moore, "excepting and reserving thereout such rights and privileges of entering upon said lands for the purpose of exploring and boring for oil (petroleum) as have been to the original complaintfore contracted for by lease or otherwise to the 'Millstone Oil Company' or to others."

47. By deed dated July 16, 1886, and recorded August 4, 1886, at Deed Book 81, page 60, Edward H. Darrogh, et ux., purported to convey a 1/3 interest in Warrant 2533 to William Kelso.

48. By unseated tax sale dated September 14, 1916, and recorded at "Deeds Acknowledged in Open Court," at Book B, page 100, line 21, the Treasurer of Elk County purported to convey an undivided 1/3 of gas and minerals in Warrant 2533 to Elk County based on delinquent taxes assessed to "Dickey, Moore, and Kelso" for the tax years 1914 and 1915. The deed for said conveyance was dated September 11, 1916, and recorded November 13, 1925, in Elk County Deed Book 86, page 388. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

49. The assessments for the tax years 1914 and 1915 were as follows:

1914 – Unseated 650A Oil City Fuel Supply Co. – Gas & Mineral Rights

1915 – Seated 495A Dickey, Moore & Kelso

50. By virtue of the failure to properly identify the parcel in the tax sale, this tax sale was invalid.

51. By deed dated June 27, 1924, and recorded October 26, 1925, in Elk County Deed Book 86, at page 345, the Commissioners of Elk County purported to convey to Aaron Reitz "a tract of seated land containing 1/3 of 495 acres, situate in the Township of Millstone, in the County of Elk, surveyed to Dickey, Moore & Kelso Wt. 2533 & 2 houses...." This conveyance made no mention of the oil and natural gas rights. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

52. The conveyance to Reitz was void because the Elk County Commissioners had no interest to convey.

53. By deed dated February 3, 1926, and recorded February 24, 1926, at Elk County Deed Book 86, page 565, William Warren Dickey, Ada Dickey Means and Mary Edna Maxwell, Executors of William Dickey, deceased, testate, Mary Kelso, widow, and Rufus G. Reitz, Executors of William Kelso, deceased, testate, and Aaron M. Reitz, conveyed, inter alia, Warrant 2530, to the United States of America, excepting and reserving all oil, gas, gasoline, coal and mineral rights in, upon or under the said lands, not otherwise excepted from the above described premises. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

54. On August 13, 1942, the County of Elk purchased 900 acres of Oil and Gas only in Warrant 2533 at a Treasurer's Sale for delinquent taxes for the 1941 tax year. The upset sale is reflected in Elk County Treasurer's Sale Book K at page 54, aforementioned. The Treasurer's Deed for said sale was recorded August 27, 2009, in the Elk County Recorder of Deeds' Office at Document Number 2009-003181. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

#### **FACTUAL ALLEGATIONS AS TO WILLIAM DICKEY HEIRS**

55. William Dickey died January 8, 1917, and by his Last Will and Testament, recorded in the Office of the Register of Wills of Jefferson County, Pennsylvania, in Will Book 5, page 455, devised his estate as follows: an undivided 1/6 interests to his children Ada Dickey Means, William W. Dickey, Lulu May Brown, Myrtle H. Long, and Mary Edna Max-

well, and 2/3 of 1/6 as a life estate to Matthew W. Dickey with the remainder at death to the children of Matthew W. Dickey, and 1/3 of 1/6 to the children of Matthew W. Dickey, viz., William Jerome Dickey, Carlton Claire Dickey, Mary Edna Dickey, Martha Pauline Dickey, Matthew W. Dickey, Jr., and Georgia Pauline Dickey. An exemplified copy of the will is recorded in Elk County Will Book C, page 28 is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

56. By deed recorded in Elk County Deed Book 185, at page 429, William W. Dickey conveyed his interest in the estate in equal shares to Ada Dickey Means, Lulu May Brown, and Mary Edna Maxwell. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

57. By deed recorded in Elk County Deed Book 200, at page 237, Lulu May Brown conveyed her interest from William W. Dickey to Ada Dickey Means and Mary Edna Maxwell. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

58. By deed recorded in Elk County Deed Book 221, at page 402, Lulu May Brown conveyed her interest from the William Dickey estate to Ada Dickey Means. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

59. Ada Dickey Means died testate on May 1, 1945, and by Last Will and Testament recorded at Jefferson County Estate 94-1945, she devised the rest, residue and remainder of her property as follows:

- a) one-fourth in trust to Lulu D. Brown for life; the remainder to Myrtle D. Long, Edna D. Maxwell, and Matthew W. Dickey, per stirpes;
- b) one-fourth to Myrtle D. Long for life, thereafter to James E. Long, for life, thereafter to William D. Long.
- c) one-fourth to Edna D. Maxwell, or if she is not alive, to her daughter Mary Dickey Maxwell
- d) one-fourth to Matthew W. Dickey, for life, with the remainder to his children per stirpes. This provision was revoked by Codicil to provide that the children's share be distributed as follows: in lieu thereof I do give, devise, and bequeath the principal of the said share in my estate of my said brother, Matthew W. Dickey, at his death unto all or such one or more exclusively of

the others or other of his six children, in such amounts and in such manner as the trustees shall, in their unlimited discretion, deem proper and the making of such payments and the statement thereof by the trustees shall be conclusive of their correctness."

Copies of the estate materials are attached to the original complaint and marked Exhibit "A" and are incorporated herein by reference.

#### **FACTUAL ALLEGATIONS AS TO WILLIAM KELSO HEIRS**

60. William Kelso died testate on March 3, 1903. His will was admitted to probate in the Jefferson County Register of Wills Office in Will Book 3, page 255. In his will, Kelso named Rufus G. Reitz and Mary Kelso his personal representatives. Kelso devised the rest, residue, and remainder of his estate to his wife, Mary Kelso, and his daughters, Annabel Kelso Smith, Jennie Kelso Gealey, and Myrtle May Kelso Reitz. Copies of the estate materials are attached to the original complaint and marked Exhibit "B" and are incorporated herein by reference.

61. Mary Kelso died testate on May 19, 1930. Her will and a codicil to the original complaint were admitted to probate in the Jefferson County Register of Wills Office on August 11, 1930. Mary Kelso appointed Rufus G. Reitz as her executor and devised the rest, residue, and remainder of her estate to her daughters Myrtle May Reitz, Jennie Gealey, and Annabel Smith. Copies of the estate materials are attached to the original complaint and marked Exhibit "C" and are incorporated herein by reference.

62. Myrtle May Reitz died in 1942, leaving as her sole heirs Donald Kelso Reitz. Her husband, Rufus G. Reitz and her son, Fred W. Reitz, predeceased her. Donald Kelso Reitz died in 1961, leaving as his sole heir, Thomas G. Reitz. Copies of the estate materials are attached to the original complaint and marked Exhibit "D" and are incorporated herein by reference. Thomas G. Reitz conveyed any interest he might have in the oil and gas rights to plaintiff by Quit Claim Deed, dated September 1, 2009, and recorded in the Elk County Recorder of Deeds Office in Record Book 2009-003811. A copy of this deed is available in the records of the Elk County Courthouse and is incorporated herein pursuant to Pa. R. Civ. P. 1019(g).

63. Annabel Kelso Smith and her husband, Paul Smith, died, leaving as their heirs

the following:

- a) Helen Smith Kubico, who is deceased and whose personal representatives, Michael A. Kubico, Jr. and Stephen B. Kubico, have agreed to convey any interest Helen Smith Kubico may have had in the oil and gas rights to plaintiff by Quitclaim Deed;
- b) Howard Marlin, widower of Annabel Smith's daughter, Nella, who died in 2003, and whose estate has agreed to convey any interest Howard Marlin may have had in the oil and gas rights to plaintiff by Quitclaim Deed;
- c) Annabel Smith's daughter, Mary E. Smith Lauer and Mary's husband, Cyril Lauer, both of whom died, leaving as their heirs John Phillip Lauer and his wife, Penny Lauer, James C. Lauer, and Linda Lauer. John Phillip Lauer and his wife, Penny Lauer, and James C. Lauer executed a Quitclaim Deed as to any interest they may have in the oil and gas rights to plaintiff by Quitclaim Deed dated September 1, 2009, and recorded in the Elk County Recorder of Deeds Office in Record Book 2009-003811.

64. Jennie Kelso Gealey died in 1971. Her husband, James Gealey, is also deceased. Their heirs are as follows:

- a) William K. Gealey, son, and his wife, Ursula Gealey are deceased, leaving as their heirs David Gealey and Maureen Gealey, his wife, and Peter Gealey and Mary Gealey, his wife, defendants herein.
- b) Joan Gealey Christopherson, their daughter, and her husband, Irwin Christopherson, are deceased. Their son Larry Christopherson is deceased, leaving a widow, Deborah Morton, a/k/a Deborah Christopherson. Larry Christopherson was survived by two children by his marriage to his first wife, Loni Christopherson. Those children are Scott Christopherson, whose wife is Eileen Christopherson, and Karen Christopherson Fitzpatrick, whose husband is Brian Fitzpatrick. Joan Gealey's daughter, Carol Ann Christopherson Stout, and her husband, Robert Stout, are also defendants herein.

All of these heirs have agreed to convey any interest they may have in the oil and gas rights to plaintiff by Quitclaim Deed.

#### **FACTUAL ALLEGATIONS AS TO AARON REITZ HEIRS**

65. Aaron Reitz died intestate February 5, 1945, and Letters of Administration

were granted to Rufus G. Reitz in the Jefferson County Register of Wills Office in Estate Number 23-1945. The Letters presented that Aaron Reitz was survived by four heirs, viz., Rufus G. Reitz, Jessie E. Thompson, Meigs C. Barrett, and Rebecca Borden.

66. Rufus G. Reitz died testate on February 18, 1948. His Last Will and Testament was admitted to Probate in the Jefferson County Register of Wills Office at Estate Number 37-1948, and his son and only heir Donald K. Reitz was granted Letters Testamentary.

67. Meigs C. Barrett died testate on July 8, 1961. His Last Will and Testament was admitted to Probate in the Jefferson County Register of Wills Office at Estate Number 115-1961, and his son Wayne H. Barrett was granted Letters Testamentary. By virtue of his Will, Meigs Barrett devised the rest, residue, and remainder of his estate to Jean Barrett Benninger and Wayne H. Barrett in equal shares.

68. Donald K. Reitz died testate on December 31, 1961. His Last Will and Testament was admitted to Probate in the Jefferson County Register of Wills Office at Estate Number 3-1962, and his son and only heir Thomas G. Reitz was granted Letters Testamentary. Donald Reitz devised the rest, residue, and remainder of his estate to his wife, Jean W. Reitz.

69. Donald K. Reitz died testate on December 31, 1961. His Last Will and Testament was admitted to Probate in the Jefferson County Register of Wills Office at Estate Number 3-1962, and his son and only heir Thomas G. Reitz was granted Letters Testamentary. Donald Reitz devised the rest, residue, and remainder of his estate to his wife, Jean W. Reitz.

70. Jean W. Reitz died testate September 7, 1968. Her Last Will and Testament was admitted to Probate in the Jefferson County Register of Wills Office at Estate Number 156-1968, and her brother Jack Walker was granted Letters Testamentary. Jean Reitz devised the rest, residue, and remainder of her estate to her son Thomas G. Reitz. Copies of the estate materials for the Reitz heirs are attached to the original complaint and marked Exhibit "E" and are incorporated herein by reference.

#### **FACTUAL ALLEGATIONS AS TO SAMUEL MOORE HEIRS**

71. To the best of Plaintiff's information and belief, Samuel M. Moore died leaving four heirs, viz., John Oscar, also known as Oscar John, also known as O.J., Moore, Bertha R. Elliott, S. Evan Moore, and Earl Moore.

72. S. Evan Moore died May 22, 1916, and W.H. Jenks was granted Letters of Administration upon the renunciation of O.J. Moore, Bertha Elliott, and Earl Moore at Jefferson County Register of Wills, Estate Number 64-1916.

73. The heirs of Bertha Elliott, viz. Mary Donaldson, John Elliott, Rachel Robertson, Clyde Smith, Anne Fallin, Joanne Maynard, Ross Bryan, Lee Bryan, Doris Dunn as co-Trustee of the Trust of Charles Elliott Dunn, deceased, have all provided quitclaim deeds to Plaintiff. The remaining heir of Bertha Elliott, Richard Elliott, Jr., is deceased, and his heirs and assigns cannot be located.

74. To the best of Plaintiff's information and belief based on information provided by the Bertha Elliott heirs, John Oscar Moore died a bachelor.

75. To the best of Plaintiff's information and belief, no information that would lead to the location of the remaining heirs of Samuel M. Moore has been found.

#### **COUNT I – QUIET TITLE**

76. The foregoing paragraphs are incorporated herein by reference and made a part hereof as though set forth fully herein.

77. Plaintiff avers that it has fee simple title to the oil and natural gas at issue, which is superior to the title of Defendants named herein.

78. Pursuant to Pa. R.C.P. No. 1061(b)(2), Plaintiff seeks a declaration by the Court that Plaintiff has fee simple title to the oil and natural gas at issue and that Plaintiff's title is superior to the title of Defendants named herein.

79. Defendants, including those whose whereabouts are unknown, may at some time challenge Plaintiff's title to the oil and natural gas at issue, and Plaintiff is desirous of settling forever any dispute with regard to rights to the gas.

WHEREFORE, Plaintiff requests that this Court order as follows:

- a) That the court declares and adjudges that Plaintiff owns in fee and is entitled to the quiet and peaceful possession of the foregoing described oil and natural gas and that Defendants and all persons or entities claiming under them have no estate, right, title, lien or interest in or to the said subject oil or natural gas or any part thereof;

- b) That said decree permanently enjoin Defendants and all persons or entities claiming under them, from asserting any adverse claim to Plaintiff's title to said subject oil and natural gas;
- c) For costs of this action; and
- d) For such other relief as the Court deems just and proper.

Dated: 5/10/11

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Lisa C. McManus", written over a horizontal line.

Lisa C. McManus  
Attorney for Plaintiff



# VERIFICATION

We, the undersigned, state that we are the Commissioners of the County of Elk, the Plaintiff herein, that we are authorized to make this affidavit on its behalf and that the facts set forth in the foregoing Complaint are true upon our personal knowledge, information and belief.

We understand that our statements are made subject to 18 Pa. Cons. Stat. Ann. § 4904 providing for criminal penalties for unsworn falsification to authorities.

COUNTY OF ELK

By: June H. Sorg  
June H. Sorg

By: Daniel R. Freeburg  
Daniel R. Freeburg

By: Ronald T. Beimel  
Ronald T. Beimel

Date: 4/25/11