

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SOUTHWESTERN ENERGY PRODUCTION COMPANY,	: NO. 12 - 00,563
Plaintiff	:
	: CIVIL ACTION - LAW
vs.	:
	:
ANADARKO E&P COMPANY, LP, FOREST RESOURCES,	:
LLC, KOCJANCIC FAMILY LIMITED PARTNERSHIP,	:
HAROLD H. WOLFINGER, JR., ULTRA RESOURCES, INC.,	:
NORTHERN FORESTS, II, INC., HARVEY D. HINMAN, II,	:
MARTHA HINMAN VAUGHN, HENRY LELAND GETZ,	:
VIRGINIA HINMAN CUMMINGS, ELIZABETH C. DAVIDGE,	:
JAMES M. DAVIDGE, LINDA PALMER DAVIDGE, LOUISE	:
DAVIDGE RAIMONDI, ADRIENNE MORPHY LADD,	:
TIMOTHY ALAN MORPHY, MATTHEW MORPHY,	:
CHRISTOPHER EVANS MORPHY, HARRY W. COLMERY,	:
JR., KATHERINE EVANS COLMERY, SARAH ELIZABETH	:
COLMERY, SCOTT GIFFORD COLMERY, SAMUEL ALAN	:
MORPHY, MARK LOUIS MORPHY, MARY LOUISE	:
WATERS, SUMNER WATERS, JR., JEANNE PECK, ALAN	:
WEBB, LESLIE BARRETT, WILLIAM HEMENWAY, JOHN L.	:
HEMENWAY, Each Individually, Generally and d/b/a DAVIDGE	:
& CO., and all heirs and/or assigns, both known and unknown, of	:
SAMUAL P. DAVIDGE, SALLIE M. DAVIDGE, SHERWOOD	:
B. DAVIDGE, M. ELLA DAVIDGE, ROSALIA DAVIDGE,	:
JOHN B. DAVIDGE, CHARLES S. HORTON, and STELLA	:
M. HORTON, and SAMUEL DAVIDGE, SHERWOOD	:
DAVIDGE, JAMES DAVIDGE, JOHN B. DAVIDGE and	:
CHARLES HORTON, Individually, Generally and d/b/a	:
DAVIDGE & CO., Their Successors and/or Assigns and/or	:
Anyone claiming by, through or under them and/or any of them,	:
Defendants as to all counts	:
	:
INTERNATIONAL DEVELOPMENT CORPORATION	:
Defendant as to Declaratory Judgment only	: Preliminary Objections

**OPINION AND ORDER**

Before the court are preliminary objections to Southwestern’s Complaint, filed by Ultra Resources on May 3, 2012. Argument was heard June 28, 2012.

Southwestern claims ownership of the gas, oil and mineral rights under Warrant 1620 in Cogan House Township through a purchase and assignment of such and has brought the instant action to quiet title against those parties who claim an adverse interest through a 1988 Action to Quiet Title, and an action for declaratory judgment against those same parties as well as one other party, in Southwestern's chain of title, who claims an interest through deeds and/or reservation of rights. In its preliminary objections, Ultra contends that the Complaint fails to allege facts and attach relevant writings to show it has valid title to the property at issue, specifically with respect to two conveyances in the chain of title. Each of these will be addressed in turn.

First, Ultra contends that with respect to a deed dated March 12, 1966, from one George C. Levin,<sup>1</sup> on behalf of Keta Gas and Oil Company, Plaintiff has failed to allege that Mr. Levin was legally authorized to execute said deed, and failed to attach the bankruptcy document granting him the authority to do so. In its Exhibit "E", "Lycoming County Mineral Chain", Plaintiff states:

George C. Levin, the duly appointed and acting Trustee for the estate of Keta Gas and Oil Company (formerly Keta Realty Company), Debtor in Chapter X Reorganization proceedings (No. 93046) in the United States District Court for the Southern District of New York, released and quit-claimed any and all gas, oil and mineral rights then held by them in Lycoming County, Pennsylvania, including a list of 141 parcels, to Astra Oil & Gas Corporation by deed dated March 12, 1966. ...

As Plaintiff has alleged that the trustee was "duly appointed and acting", the court finds such allegation sufficient at this time. Should discovery reveal that Mr. Levin was *not* legally authorized to execute the quit-claim deed, such may be

raised as a defense. Further, the court believes that the document appointing Mr. Levin as Bankruptcy Trustee need not be attached to the Complaint. The deed is the document on which Plaintiff's claim is based, not the trustee appointment.

Ultra also contends that with respect to a deed dated April 30, 1975, Plaintiff has failed to allege that the alleged change of name of "Astra Oil and Gas Corporation" to "KGM"<sup>2</sup> was recorded in the real estate records of Lycoming County, and failed to attach the document proving the name change. In its Exhibit "E", "Lycoming County Mineral Chain", Plaintiff states:

KGA Industries, Inc. (formerly Astra Oil & Gas Corporation) conveyed any and all gas, oil and mineral rights it held in lands located in Cameron, Sullivan, Potter, Bradford, Lycoming, Warren, McKean and Tioga Counties, Pennsylvania to Clarence W. Moore by deed dated April 30, 1975. ...

The court finds such allegation sufficient at this time and that documentation regarding the change is unnecessary to Plaintiff's claim. Again, should discovery reveal that KGA Industries was *not* formerly Astra Oil & Gas Corporation, such may be raised as a defense.

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<sup>1</sup> Although Ultra refers to one Michael Levin in its preliminary objections, the deed at issue was executed by one George C. Levin, according to the complaint.

<sup>2</sup> In the complaint, Plaintiff references "KGA Industries, Inc." in the "detailed" section of Exhibit E, but "KGM" in the flow chart section of that exhibit.

**ORDER**

AND NOW, this 2<sup>nd</sup> day of July 2012, for the foregoing reasons, the preliminary objections filed by Ultra Resources to Southwestern's Complaint are hereby OVERRULED.

BY THE COURT,

Dudley N. Anderson, Judge

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