

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. 14836
ORDER NO. R-13631

APPLICATION OF NEARBURG PRODUCING COMPANY FOR
DESIGNATION OF A NON-STANDARD OIL SPACING AND PRORATION
UNIT, AN UNORTHODOX SURFACE LOCATION, AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on June 7, 2012 at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 20th day of September, 2012, 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 of the subject matter.
- (2) Nearburg Producing Company ("Applicant" or "Nearburg") is proposing to drill the Irami 34 Fed Com Well No. 1H (API No. 30-015-NA) ("the proposed well"). This well will be drilled from a surface location 330 feet from the South line and 165 feet from the West line (Unit letter M) in an easterly direction, at approximately 2700 feet true vertical depth, to a bottomhole location 330 feet from the South line and 1650 feet from the East line (Unit letter O) of Section 34, Township 19 South, Range 25 East, NMPM, in Eddy County, New Mexico. The well completion will be "standard"; all portions completed will be greater than or equal to 330 feet from the outer boundary of the proposed oil spacing and proration unit and project area.
- (3) Nearburg seeks approval from the Division to dedicate the S/2 SW/4 and the SW/4 SE/4 of Section 34 to the well to form a non-standard 120-acre oil spacing and

proration unit and project area (the "Unit") for a horizontal completion in the Middle Yeso member of the Yeso formation, North Seven Rivers-Glorieta-Yeso Pool (97565).

(4) Nearburg further seeks to pool all uncommitted interests in the Unit.

(5) The North Seven Rivers-Glorieta-Yeso Pool has no [permanent] Special Rules; therefore, well spacing in this pool is governed by statewide Rule 19.15.15.9.A NMAC, which provides for standard 40-acre units, each comprising a governmental quarter-quarter section. The Unit consists of three adjacent quarter-quarter sections.

(6) Applicant appeared at the hearing and presented land and geologic evidence to the effect that:

- (a) There are no unlocatable owners; however, one owner, Alliance Income Fund, has not returned phone calls from Nearburg;
- (b) Nearburg spotted its proposed well as close to the western edge of the project area as possible in order to penetrate the maximum producing area with the horizontal portion;
- (c) Nearburg is proposing this project area to only include 120 acres (Unit letters M, N, and O) because Mewbourne Oil Company has drilled a standup horizontal well which includes Unit letter P;
- (d) Nearburg intends to drill this well within the Middle Yeso member of the Yeso formation;
- (e) this area within the Yeso formation is suitable for development by horizontal drilling; and
- (f) all quarter-quarter sections to be included in the Unit are expected to be productive in the Yeso formation, so that formation of the Unit as requested will not impair correlative rights.

(7) There were no other appearances in this case.

The Division concludes that:

(8) Approval of the proposed 120-acre non-standard spacing and proration unit will enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights. Applicant's proposed Unit should be approved.

(9) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts that are separately owned.

(10) Applicant is an owner of an oil and gas working interest within this Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply at the proposed location.

(11) There are interest owners in this Unit that have not agreed to pool their interests. There are no un-locatable owners or evidence of a title dispute. Accordingly, provision for escrow of funds is not needed.

(12) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in this Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within this Unit.

(13) Nearburg Producing Company (OGRID 15742) should be designated the operator of the proposed well and of this Unit.

(14) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(15) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,000 per month while drilling and \$500 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Nearburg Producing Company, ("Applicant"), a non-standard 120-acre, more or less, oil spacing and proration unit (the "Unit") is hereby established in the Yeso formation, North Seven Rivers-Glorieta-Yeso Pool (Pool Code 97565), consisting of the S/2 SW/4 and SW/4 SE/4 of Section 34, Township 19 South, Range 25 East, NMPM, in Eddy County, New Mexico.

(2) All uncommitted interests, whatever they may be, are hereby pooled in the oil and gas within the Unit.

(3) The Unit shall be dedicated to Applicant's proposed Irami 34 Fed Com Well No. 1H (API No. 30-015-NA, "the proposed well"). This well will be drilled from a surface location 330 feet from the South line and 165 feet from the West line (Unit letter M) in an easterly direction, at approximately 2700 feet true vertical depth, to a bottomhole location 330 feet from the South line and 1650 feet from the East line (Unit letter O) of Section 34, Township 19 South, Range 25 East, NMPM, in Eddy County, New Mexico. The well completion will be "standard"; all portions completed will be greater than or equal to 330 feet from the outer boundary of the Unit.

(4) The operator of this Unit shall commence drilling the proposed well on or before October 1, 2013, and shall thereafter continue drilling the well with due diligence to test the Middle Yeso formation.

(5) In the event the operator does not commence drilling the proposed well on or before the date specified in the preceding paragraph, Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(6) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the Unit created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is drilled horizontally but is not completed in all of the quarter-quarter sections included in the Unit within 120 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Unit so that it includes only those quarter-quarter sections in which the well is completed.

(7) Upon final plugging and abandonment of the proposed well and any other well drilled on this Unit pursuant to Division Rule 13.9, the pooled Unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(8) Nearburg Producing Company (OGRID 15742) is hereby designated the operator of the well and of the Unit.

(9) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs"). Estimated well costs shall be allocated among pooled working interest owners based on their respective interests in the Unit.

(10) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(11) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule

of actual well costs within 90 days following completion of the proposed well. Actual well costs shall be allocated among pooled working interest owners based on their respective interests in the Unit. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(12) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(13) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(14) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(15) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,000 per month while drilling and \$500 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

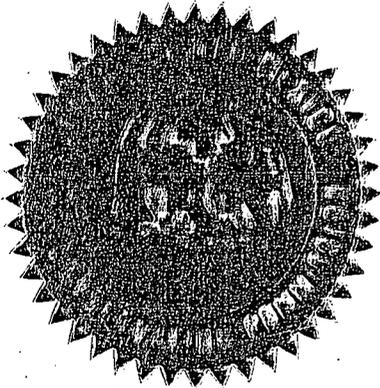
(16) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(17) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

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

(19) 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.



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STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Jami Bailey", written in a cursive style.

JAMI BAILEY
Director