

3 IN THE MATTER OF THE HEARING CALLED
4 BY THE OIL CONSERVATION DIVISION FOR
5 THE PURPOSE OF CONSIDERING:

6 APPLICATION OF NEARBURG
7 EXPLORATION COMPANY, L.L.C.
8 FOR A NONSTANDARD SPACING
9 AND PRORATION UNIT AND
10 COMPULSORY POOLING, LEA COUNTY,
11 NEW MEXICO.

CASE NO. 14940

ORIGINAL

12 REPORTER'S TRANSCRIPT OF PROCEEDINGS

13 EXAMINER HEARING

14 BEFORE: WILLIAM V. JONES, Chief Examiner
15 DAVID K. BROOKS, Legal Examiner

16 January 24, 2013

17 Santa Fe, New Mexico

18 This matter came on for hearing before the
19 New Mexico Oil Conservation Division, William V. Jones,
20 Chief Examiner, and David K. Brooks, Legal Examiner, on
21 Thursday, January 24, 2012, at the New Mexico Energy,
22 Minerals and Natural Resources Department, 1220 South
23 St. Francis Drive, Porter Hall, Room 102,
24 Santa Fe, New Mexico.

25 REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102

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1 APPEARANCES

2 FOR APPLICANT NEARBURG EXPLORATION COMPANY, L.L.C.:

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1 (11:05 a.m.)

2 EXAMINER JONES: Call cases 14940,
3 application of Nearburg Exploration Company, LLC for a
4 nonstandard spacing and proration unit and compulsory
5 pooling, Lea County, New Mexico.

6 Call for appearances.

7 MR. FELDEWERT: May it please the Examiner,
8 Michael Feldewert, with the Santa Fe office of the law
9 firm of Holland & Hart, appearing on behalf of the
10 Applicant. We have two witnesses here today.

11 EXAMINER JONES: Any other appearances?

12 Will the witnesses stand?

13 And will the court reporter swear the
14 witnesses?

15 (Mr. Gant and Mr. Elton sworn.)

16 MR. FELDEWERT: Mr. Examiner, I'd call
17 Mr. Gant to the stand and ask him, likewise, to keep a
18 copy of the exhibits for himself and distribute the
19 remaining three to the court reporter and to the
20 Examiners.

21 TERRENCE "TERRY" GANT,
22 after having been previously sworn under oath, was
23 questioned and testified as follows:

24

25

1 DIRECT EXAMINATION

2 BY MR. FELDEWERT:

3 Q. Would you please state your name and identify
4 by whom you are employed and in what capacity?

5 A. Terrance Gant. I'm employed with Nearburg
6 Producing Company as a Midland Manager.

7 Q. Have you previously testified before this
8 Division as an expert witness in petroleum land matters?

9 A. Yes, I have.

10 Q. Were your credentials accepted and made a
11 matter of public record?

12 A. Yes, they were.

13 Q. Are you familiar with the application filed by
14 the company in this case?

15 A. Yes, I am.

16 Q. And are you familiar with the status of the
17 lands in the subject area?

18 A. Yes, I am.

19 MR. FELDEWERT: I'd tender Mr. Gant, once
20 again, as an expert witness in petroleum land matters.

21 EXAMINER JONES: So qualified.

22 Q. (BY MR. FELDEWERT) Would you turn to what's
23 been marked as Nearburg Exhibit Number 1? And please
24 identify it for us, please, and then explain to the
25 Commissioners -- or to the Examiners what you're seeking

1 under this application.

2 A. Exhibit 1 is basically our approved APD from
3 the BLM regarding Laguna 23 Fed Com #1H well. It shows
4 the surface hole location, along with the bottom hole or
5 terminus location. And what we are seeking is basically
6 a forced pooling order as to the spacing unit of this
7 well.

8 Q. Do you seek to form a nonstandard unit
9 comprised of the east half of the west half of Section
10 23?

11 A. Yes.

12 Q. And with respect to your pooling, are you
13 pooling the mineral interest in the Bone Spring
14 Formation underlying this nonstandard space?

15 A. Yes, we are.

16 Q. Now, you mentioned the well that's been
17 initially dedicated to this unit. If I look at the
18 second page of Exhibit Number 1, will that provide us
19 with the well name, as well as the API number?

20 A. Yes, it will.

21 Q. And does it identify the pool that's involved
22 in this application?

23 A. Yes, it does.

24 Q. What pool is that?

25 A. It's going to be the Lea-Bone Spring south

1 pool.

2 Q. Will it complete an interval there as well and
3 comply with all the required setbacks?

4 A. Yes, it will.

5 Q. And what is your -- today, what do you think
6 your initial target's going to be for this particular
7 well in terms of the intervals within the Bone Spring
8 Formation?

9 A. 3rd Bone Spring.

10 Q. Is the east half of the west half of Section 23
11 all federal lands?

12 A. Yes, it is.

13 Q. Now, what company will actually operate this
14 well?

15 A. Nearburg Producing Company.

16 Q. So Nearburg Exploration is the Applicant. Is
17 it the leaseholder?

18 A. It is the leaseholder, yes, sir.

19 Q. Now, with respect to the production company,
20 it's going to be Nearburg Producing Company?

21 A. Correct.

22 Q. Has the west half of Section 23 been subject of
23 a recent similar pooling order?

24 A. Yes. Yes, it was.

25 Q. If I turn to what's been marked as Nearburg

1 Exhibit Number 2, is this an order that was issued by
2 the esteemed Examiner Will Jones in 2012?

3 A. Yeah.

4 Q. Pooling for a nonstandard spacing unit
5 comprised of the west half of the west half; is that
6 correct?

7 A. Yes, it is.

8 Q. Now you're here before the Division seeking a
9 similar pooling order for the east half of the west
10 half?

11 A. Yes.

12 Q. If I turn to what's been marked as Exhibit
13 Number 3, on the first page, Mr. Gant, is a plat of the
14 proposed spacing unit in the surrounding area, correct?

15 A. Yes.

16 Q. If I look at the second page of Exhibit Number
17 3, it identifies the interest owners by tract?

18 A. Yes, it does.

19 Q. If I look, then, at the third page of this
20 exhibit, does it identify the interest owners in your
21 proposed area on a percentage basis?

22 A. Yes, it does. I guess the only point I'd make
23 is that it shows Cimarex Energy Company with an eighth
24 interest. They are not actually a part of this pooling
25 procedure. However, they have an interest in the west

1 half of the west half, and we've reached voluntary
2 agreement with them to spread in the form of 320-acre
3 working interest. It's shown on there, but, again,
4 they're not a party to this pooling.

5 Q. Does your joint operating agreement cover the
6 entire west half --

7 A. Yes.

8 Q. -- west half of Section 23?

9 A. Yes, it does.

10 Q. And does this exhibit essentially identify the
11 status of the efforts to reach an agreement with the
12 working interest owners in this nonstandard unit?

13 A. Yes.

14 Q. Are there certain working interest owners that
15 remain uncommitted?

16 A. Yes.

17 Q. Roughly, what percentage of interest owners
18 remain uncommitted at this point?

19 A. A little over 22 percent.

20 Q. Now, I see that Read & Stevens has a
21 substantial percentage interest. What's the status with
22 respect to the efforts to reach an agreement with
23 Read & Stevens?

24 A. We're currently attempting to negotiate and
25 reach a voluntary agreement.

1 Q. Have they indicated whether or not they want to
2 participate?

3 A. They've advised us that they do not want to
4 participate. They'd like to try to work out something
5 in line with the term assignment.

6 Q. And then the remaining interest that remains to
7 be pooled accounts for what -- roughly what percentage?

8 A. A little under six percent.

9 Q. And with respect to these interest owners, if I
10 turn to what's been marked as Exhibit Number 4, is this
11 your well proposal letter that was sent out back in May
12 of 2012?

13 A. Yes, it is.

14 Q. For this project, correct?

15 A. That's correct.

16 Q. And it contains within it an AFE?

17 A. Yes.

18 Q. When you sent this letter out, did you include
19 your proposed JOA?

20 A. No. In fact, the JOA was sent out with the
21 prior -- with the prior proposal, in which we make
22 reference to that it would be basically the same -- same
23 operating --

24 Q. To cover the entire west half?

25 A. Which is what we would like to do. But, in

1 essence, if we couldn't come to an agreement covering
2 the whole west half, we would basically just shrink the
3 contract area down to the spacing unit.

4 Q. Has that joint operating agreement that you've
5 proposed been signed by some of the interest owners?

6 A. Yes, it has.

7 Q. Now, what additional efforts has the company
8 undertaken to obtain the voluntary joinder of the
9 uncommitted interest owners that you've been able to
10 locate?

11 A. We've made contacts or attempted contacts, you
12 know, through mail, through telephone conversations and
13 e-mails. Then I sent a letter out, dated November 19th,
14 again advising the noncommitted owners that we were
15 trying to form -- we would like to form a 320. But in
16 connection with the noncommittal, there are certain
17 parties that are pushing for the forced-pooling hearing
18 covering this unit -- this spacing unit for this well.

19 Q. Are you hoping to proceed, if possible, with
20 getting -- to dealing with it prior to the prairie
21 chicken season?

22 A. We would like to try to do that. A lot of it's
23 going to depend on the voluntary joinders, getting those
24 tied up on the --

25 Q. Now, have there been any interest owners that

1 you've been unable to locate?

2 A. If I remember correctly, I think we've got
3 correct addresses on everyone, but I know there is one
4 owner, if I'm thinking right, that was unclaimed, you
5 know, that the letters come back. Some of the
6 letters -- it's been interesting. Some of the letters
7 have actually gone through and have been claimed, and
8 then subsequent letters, they were not claimed. Those
9 are the only reasons why we did the affidavit and filed
10 a public notice.

11 Q. So you've been able to use the addresses that
12 you have for the interest owners, but in some
13 circumstances, particularly with respect to the pooling
14 application, they've been unclaimed?

15 A. Right.

16 Q. Now, if I turn to what's been marked as
17 Nearburg Exhibit Number 5, is this an Affidavit of
18 Publication for this hearing that names, specifically,
19 the individuals or entities whose letters came back
20 unclaimed?

21 A. Yes.

22 Q. Are there actually some individuals or entities
23 on this list that have since responded to you?

24 A. Yes, and have actually signed an operating
25 agreement.

1 Q. If I turn to the AFE that's included with
2 Nearburg Exhibit Number 4, are these costs consistent
3 with what the company has incurred when drilling similar
4 horizontal wells?

5 A. Yes.

6 Q. And has the company made an estimate of the
7 overhead and administrative costs while drilling this
8 well and also while producing this well if you are
9 successful?

10 A. Yes, we have.

11 Q. And what are your costs?

12 A. \$6,000 for drilling, and 600 for operating or
13 producing.

14 Q. Have those administrative costs been accepted
15 under the terms of -- under the JOA that has been
16 executed by some of the interest owners for this --

17 A. Yes, they have.

18 Q. Are these costs that were approved under the
19 Division order that has been marked as Nearburg Exhibit
20 Number 2?

21 A. Yes, they were.

22 Q. And so do you request that these figures,
23 likewise, be incorporated into any order from this
24 hearing, and they provide for adjustments in accordance
25 with the COPAS accounting procedures?

1 A. Yes.

2 Q. And do you also request the customary
3 200-percent risk penalty in the event that there are
4 interest owners that remain uncommitted?

5 A. Yes.

6 Q. With respect to the request for a nonstandard
7 unit, has the company brought a geologist in support of
8 the testimony for the nonstandard unit?

9 A. Yes.

10 Q. In preparing for this hearing, did the company
11 identify the leased mineral interest owners of the
12 40-acre tract surrounding the proposed nonstandard unit?

13 A. Yes, we did.

14 Q. Were those interest owners included in the
15 notice of this hearing?

16 A. Yes, they were.

17 Q. I'll turn to what's been marked as Nearburg
18 Exhibit Number 6. Is this an affidavit, with attached
19 letters, providing notice of this hearing to the
20 affected parties?

21 A. Yes.

22 Q. Were Exhibits 1 through 5 prepared by you or
23 compiled under your direction and supervision?

24 A. Yes, they were.

25 MR. FELDEWERT: Mr. Examiner, at this time,

1 I'd move the admission of Exhibits 1 through 6, which
2 include the affidavit.

3 EXAMINER JONES: Exhibits 1 through 6 will
4 be admitted.

5 (Nearburg Exploration Company Exhibits
6 Numbers 1 through 6 were offered and
7 admitted into evidence.)

8 MR. FELDEWERT: That concludes my
9 examination of this witness.

10 EXAMINER JONES: I'll turn it over to
11 Mr. Brooks.

12 EXAMINER BROOKS: I do not have any
13 questions. I think you've covered everything.

14 EXAMINER JONES: Thorough. Thank you.

15 THE WITNESS: Thank you-all.

16 MR. FELDEWERT: Leave those exhibits.

17 I'd call our next witness.

18 Go ahead.

19 BILL ELTON,

20 after having been previously sworn under oath, was
21 questioned and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. FELDEWERT:

24 Q. Would you please state your full name for the
25 record and identify by whom you are employed and in what

1 capacity?

2 A. My name is Bill Elton, and I'm employed by
3 Nearburg Producing as a senior geologist in Midland,
4 Texas.

5 Q. Mr. Elton, have you previously testified before
6 this Division as an expert in petroleum engineering?

7 A. Yes, I have.

8 Q. In fact, were you one of the witnesses that
9 testified in the hearing that resulted in the order
10 that's been marked as Nearburg Exhibit Number 2?

11 A. Yes, I was.

12 Q. Are you familiar with the application filed in
13 this particular case?

14 A. Yes.

15 Q. And have you done a geologic study of the area
16 that is the subject of this?

17 A. Yes, I have.

18 MR. FELDEWERT: Once again, I'd tender
19 Mr. Elton as an expert witness in petroleum geology.

20 EXAMINER JONES: He is so qualified.

21 THE WITNESS: Thank you.

22 Q. (BY MR. FELDEWERT) Mr. Elton, what, again, is
23 the target -- at least at this point in time, what is
24 the target of your proposed well?

25 A. The target will be a 3rd Bone Spring test.

1 Q. If I turn to what's been marked as Nearburg
2 Exhibit Number 7, would you please first identify that,
3 and then explain to the Examiners what this shows?
4 There's a lot of coverage on here.

5 A. Okay. Exhibit Number 7 is a structure map on
6 top of a Wolfcamp marker. We use this Wolfcamp marker
7 because it's a consistent horizon; it's a good
8 structural horizon for mapping in this area. The
9 contour interval of the structure map is 25 feet. It
10 shows a depth of about 100 feet per mile cross section
11 23. That's about a one-degree dip. There is no
12 apparent faulting in the area of Section 23.

13 In addition, it shows the surface location
14 for our proposed well in the southeast quarter of the
15 southwest quarter, with the terminus in the northeast
16 quarter and a north-south orientation.

17 In addition, on this map, there are several
18 vertical wells that are highlighted with the green
19 circles. These are Bone Spring completions. And then
20 in the legend box, on the lower, left-hand corner, we've
21 attempted to break out, in terms of horizontal wells,
22 what wells have either been drilled into or proposed at
23 this time, into the various members of the Bone Spring.

24 Q. And with respect to the shading in yellow,
25 is that acreage that's held by Nearburg?

1 A. That's correct.

2 Q. And the salmon-colored lines would indicate
3 wells that have either been drilled or proposed by the
4 3rd Bone Spring interval?

5 A. That's correct.

6 Q. And the particular spacing unit that's involved
7 here has a red dash around it?

8 A. Red-dashed outline, the east half of the west
9 half of our proposed spacing unit.

10 Q. And then the salmon line to the west of that,
11 in the west half of the west half of Section 23, is the
12 well that is pooled under the Division order that's been
13 marked as Nearburg Exhibit Number 2?

14 A. That's correct.

15 Q. I should say the spacing unit has been marked.

16 Does this exhibit, likewise, have on it the
17 wells that you have utilized for a cross section?

18 A. It does.

19 Q. Could you identify those for us, please?

20 A. Right. The first well will be the Marathon
21 Road well. It has a gas symbol on it. It's in the
22 southeast-southeast of Section 14. And then the other
23 well on the cross section will be the well with the
24 green highlight in the southeast-southeast of Section
25 23, the Nearburg and Rett well.

1 Q. And do you believe that these two wells are
2 representative of the area that's the subject of your --

3 A. Yes, I do.

4 Q. If I then turn to what's been marked as
5 Nearburg Exhibit Number 8, is this a cross section that
6 you have developed from these -- with these wells?

7 A. Yes, it is.

8 Q. Would you walk us through this exhibit, please?

9 A. Okay. The cross section is oriented north to
10 south, and north being on the left-hand side, and the
11 Rett well, the southerly well, being on the right-hand
12 side. Again, the index map shows the proposed unit and
13 location of the Laguna 23 1H, and the red-dashed line
14 there connects the Marathon Road well in the section to
15 the north, with the Rett well in the southeast-southeast
16 quarter.

17 Q. So you're looking at the legend of Exhibit
18 Number 8?

19 A. Correct. Correct.

20 In addition, on the cross section, there
21 are two green arrows. The green arrow above the Rett
22 well will show you the approximate kick-off point of the
23 Laguna 23 1H well, and the arrow on the Marathon Road
24 well will show the approximate position of where we
25 anticipate to land the curve within the 3rd Bone Spring,

1 at about TVD of about 11,000 feet.

2 Q. What have you observed with respect to the
3 structure across this project area, in particular the
4 presence of the sands?

5 A. Well, as far as -- as far as the structure,
6 it's pretty much a uniform dip to the southwest about
7 one degree per mile. As far as the stratigraphy of the
8 3rd Bone -- although there is some minor thinning and
9 thickening across here, the 3rd Bone appears to be
10 fairly consistently developed across Section 23.

11 Q. Did you observe any geologic impediment to
12 developing this area using full-section horizontal
13 wells?

14 A. No, I have not.

15 Q. In your opinion, is this an area that can be
16 efficiently and economically developed by horizontal
17 wells?

18 A. Yes, it can.

19 Q. And based on your study, do you believe that
20 the acreage, on average, will contribute to more or less
21 equal production from the well?

22 A. Yes, I do.

23 Q. Now, you mentioned that this -- or you
24 testified that the well -- the completed intervals for
25 this well will comply with all of the setback

1 requirements under the horizontal well rules. If I turn
2 to what's been marked as Nearburg Exhibit Number 9, is
3 this directional survey report for this well?

4 A. Right. This is a directional plan that was
5 created by Aim Directional Services for this well, and
6 it basically shows the wellbore at a horizontal TVD of
7 about 11,000 feet. In addition, it also shows the top
8 set of perfs and the bottom set of perfs that will be
9 within the 330-foot standoff.

10 Q. In your opinion, will the granting of
11 Nearburg's application be in the best interest of
12 conservation, the prevention of waste and the protection
13 of correlative rights?

14 A. Yes, it will.

15 Q. Were Nearburg Exhibits 7 through 9 prepared by
16 you or compiled under your direction and supervision?

17 A. Yes, they were.

18 MR. FELDEWERT: Mr. Examiner, at this time,
19 I'd move for the admission of Nearburg Exhibits 7
20 through 9.

21 EXAMINER JONES: Exhibits 7 through 9 are
22 admitted.

23 (Nearburg Exploration Company Exhibits
24 Numbers 7 through 9 were offered and
25 admitted into evidence.)

1 MR. FELDEWERT: That completes my
2 examination of the witness.

3 CROSS-EXAMINATION

4 BY EXAMINER JONES:

5 Q. What have you learned by drilling the well to
6 the west?

7 A. Well, we haven't drilled it yet.

8 Q. Oh, okay.

9 Has your thinking evolved any from the
10 initial wells to current day as far as the viability of
11 this play?

12 A. Well, as you'll note on the structure map,
13 Cimarex has drilled two horizontal 3rd Bone wells in the
14 east half of Section 23, both of which are very
15 commercial wells. And we see no change in the 3rd Bone
16 stratigraphy that should hopefully prevent us from also
17 encountering a very productive 3rd Bone section.

18 Q. Why the 3rd Bone cutoff on your resistivity
19 log?

20 A. We did that to try to -- if you'll notice,
21 down -- say in the Rett well, down around 11,100, in the
22 lower part of the section, you can pick out some very
23 tight, thin lines. So by using this cutoff, we're
24 trying to exclude some of what we would consider
25 nonreservoir, or some of these tight lines.

1 Q. Okay. Fine calibration there, looks like. You
2 have your salt [sic] digitized --

3 A. These are ASTER images. They were downloaded
4 off your Web site.

5 Q. Oh, okay.

6 I have no more questions. Thank you.

7 EXAMINER BROOKS: Just to fill in one of --
8 the chief always likes us to ask.

9 CROSS-EXAMINATION

10 BY EXAMINER BROOKS:

11 Q. I noticed both in 23 and 28, even, you know,
12 further north of that, a lot of north-south horizontals.
13 Is there a reason you favor the north-south horizontals
14 in this area?

15 A. Well, I mean, we're basically patterning our
16 program after what Cimarex has already established in
17 the east half. And that's what we believe, that they
18 believe, there is a preferential, you know, north-south
19 orientation, best way to develop the 3rd Bone.

20 Q. Thank you.

21 EXAMINER JONES: Okay. Thank you.

22 With that, we'll take Case 14940 under
23 advisement.

24 (Case 14940 concludes, 11:27 a.m.) foregoing is
25 a complete record of the proceedings in
the Examiner hearing of Case No. 14940
heard by me on 1-24-13
David Brooks, Examiner
Oil Conservation Division

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, New Mexico Certified
6 Court Reporter No. 20, and Registered Professional
7 Reporter, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that
9 the foregoing pages are a true and correct transcript of
10 those proceedings that were reduced to printed form by
11 me to the best of my ability.

12 I FURTHER CERTIFY that the Reporter's
13 Record of the proceedings truly and accurately reflects
14 the exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither
16 employed by nor related to any of the parties or
17 attorneys in this case and that I have no interest in
18 the final disposition of this case.

19 *Mary C. Hankins*

20 MARY C. HANKINS, CCR, RPR
21 Paul Baca Court Reporters
22 New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2013

23

24

25