

**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES  
BEFORE THE OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:**

**APPLICATION OF NEARBURG EXPLORATION  
COMPANY FOR AN UNORTHODOX GAS WELL  
LOCATION, EDDY COUNTY, NEW MEXICO.**

RECEIVED

APR 13 1996

Oil Conservation Division

**CASE 11481**

**RESPONSE TO MOTION FOR  
RECONSIDERATION OF EXAMINERS  
DECISION TO GRANT READ & STEVEN'S  
MOTION TO QUASH SUBPOENA**

Nearburg Exploration Company urges the Division to reconsider its decision to quash the subpoena issued in this matter principally on the basis of a letter addressed to Mr. Kellahin, signed by an attorney-in-fact, and on behalf an entity that may or may not be the applicant in this case.

The content of the letter presumes that we are all going to accept an unsworn statement that Nearbury is "not presently negotiating for the acquisition of any interest in Section 9". Does that mean on March 26, 1996 or the previous week? Does it say that Nearbury has no interest in Section 9? Would Nearburg open its files to verify the statements made in the letter?

At the hearing on Read & Steven's Motion to Quash counsel of Nearburg was concerned about being "ambushed" at the hearing if Nearburg did not have the requested pressure date. Yet Nearburg's application at Paragraph 3 of the

application clearly states that the necessity for an unorthodox location is for "geologic reasons." Counsel for Nearburg at the hearing stated that Nearburg desired to obtain, by the unorthodox location, a higher structural geologic position. Counsel's statement and the application are consistent. Additionally, Nearburg's Pre-Hearing Statement states that the unorthodox location "is... an effort to minimize the geologic risk..."

Nearburg's Pre-Hearing Statement also lists the proposed testimony of a petroleum engineer who would introduce about six exhibits. Presumably, the testimony and exhibits of the engineer had a that time term fairly established because in the Procedural Matters portion of the Pre-Hearing Statement there was no mention of an effort to obtain information from any of the offset operators.

Pure and simple, Nearburg's fishing expedition is an afterthought as an inexpensive way to get valuable business information from a competitor. Additionally, the reasoning behind confidentiality of the information applies to all other competitors.

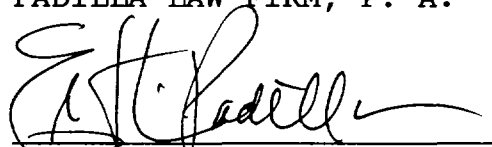
#### **CONCLUSION**

The motion for reconsideration should be denied for the same reasons that the Motion to Quash the subpoena was granted.

Respectfully submitted,

PADILLA LAW FIRM, P. A.

By:



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ATTORNEYS FOR READ & STEVENS

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Response to Motion for Reconsideration of Examiners Decision to Grant Read & Steven's Motion to Quash Subpoena to be mailed first-class, to W. Thomas Kellahin, Esquire, El Patio Building, 117 North Guadalupe, Santa Fe, New Mexico 87504 and Oil Conservation Division, 2040 South Pacheco, Santa Fe, New Mexico 87505, this 24 day of April, 1996.



Ernest L. Padilla