

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. 11,679
)	
APPLICATION OF NEARBURG EXPLORATION)	
COMPANY, L.L.C., FOR COMPULSORY POOLING,)	
EDDY COUNTY, NEW MEXICO)	
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

December 19th, 1996

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, December 19th, 1996, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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December 19th, 1996
Examiner Hearing
CASE NO. 11,679

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A P P E A R A N C E S

FOR THE DIVISION:

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 By: W. THOMAS KELLAHIN

* * *

1 WHEREUPON, the following proceedings were had at
2 1:20 p.m.:

3 EXAMINER CATANACH: At this time we'll call the
4 hearing back to order and call Case 11,679.

5 MR. CARROLL: Application of Nearburg Exploration
6 Company, L.L.C., for compulsory pooling, Eddy County, New
7 Mexico.

8 EXAMINER CATANACH: Are there appearances in this
9 case?

10 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
11 the Santa Fe law firm of Kellahin and Kellahin, appearing
12 on behalf of the Applicant, and I have two witnesses to be
13 sworn.

14 EXAMINER CATANACH: Are there additional
15 appearances?

16 Will the two witnesses please stand to be sworn
17 in?

18 (Thereupon, the witnesses were sworn.)

19 DUKE W. ROUSH,
20 the witness herein, after having been first duly sworn upon
21 his oath, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. KELLAHIN:

24 Q. Would you please state your name and occupation?

25 A. Yes, my name is Duke Roush, R-o-u-s-h. I'm an

1 independent land consultant on contract with Nearburg
2 Exploration Company.

3 Q. Mr. Roush, on prior occasions have you qualified
4 before the Division as an expert in petroleum land
5 management issues?

6 A. Yes, I have.

7 Q. And as a consultant for Nearburg, have you made
8 yourself knowledgeable about the ownership with regards to
9 the proposed spacing unit, and based upon that knowledge,
10 have you attempted to consolidate on a voluntary basis the
11 various working interest owners in order to form a spacing
12 unit and commit all the working interest owners to the
13 drilling of the well?

14 A. Yes, I have.

15 MR. KELLAHIN: We tender Mr. Roush as an expert
16 petroleum landman.

17 EXAMINER CATANACH: He is so qualified.

18 Q. (By Mr. Kellahin) Mr. Roush let's first turn to
19 Exhibit Number 1 and have you identify the plat for us and
20 help us understand the location of the spacing unit.

21 A. Exhibit Number 1 is a locator map. It shows our
22 proposed proration unit, being the west half of Section 3,
23 located in Township 18 South, Range 28 East, Eddy County,
24 New Mexico. This is approximately 12 miles southeast of
25 Lakewood, New Mexico.

1 Q. What is Nearburg proposing to do?

2 A. We're proposing to drill a 10,900-foot Morrow
3 test.

4 Q. Let's turn to Exhibit Number 2 and have you
5 identify and describe that display.

6 A. Exhibit Number 2 Is a breakdown of the individual
7 ownership by tract, showing the location of the well, which
8 is 1650 from the north, 1650 from the west.

9 Q. When we look at the tract divisions within the
10 320 gas spacing unit, are there interest owners in Tracts 2
11 and Tract 3 that you have not yet had committed to the
12 project?

13 A. That is correct.

14 Q. So there is currently a need, despite your
15 efforts, to have certain of these parties and companies
16 subject to a pooling order for 320 gas spacing?

17 A. Yes.

18 Q. And in the event that the well is successful for
19 shallow gas spacing on 160 acres, there would still be
20 certain of these parties that are not yet committed to that
21 spacing unit?

22 A. That is correct. We've had two individual
23 parties we've been unable to locate.

24 Q. And then finally, if the well is dedicated to a
25 40-acre spacing unit, there will still be parties for which

1 you need a force-pooling order?

2 A. That is correct.

3 Q. Let's use this exhibit for a moment and have you
4 identify for us those parties that you have, despite your
5 efforts, not been able to locate at all.

6 A. Yes, there's two individuals. Their names are
7 Cynthia Morton Norgaard and Sally Morton. We attempted
8 through a Mr. Randolph Richardson to run these individuals
9 down. He wrote a letter to a Mr. Randy Watts, who is the
10 consultant we were using at the time, and he basically said
11 in his letter of April 29, 1996, that, Frankly I believe
12 that Debbie, Sally and Cindy are not wanting to be found.

13 We have still to this date not been able to
14 locate them. We have written letters to the other heirs of
15 Louetta Rowley, who these interests stem from, asking that
16 they attempt to help us locate these various individuals.
17 We went a step further and through a computer program took
18 their last known address, plugged it into a program that
19 pulls up the names and known numbers of the individuals
20 within those cities, and we are still unable to locate
21 them.

22 Q. Apart from those two individuals, at this point
23 do you have final signed agreements with any of the other
24 interest owners in the spacing unit?

25 A. Yes, we have a final signed JOA and AFE with

1 Louis Dreyfus.

2 Q. All right. So they can be deleted from --

3 A. That's correct.

4 Q. -- the pooling order?

5 A. Vernon Eggleston and Cheryl Eggleston Austin have
6 all executed the JOA.

7 Q. All right. And although you're working with
8 Yates, ARCO and Marathon, you have not yet reached the
9 point where those companies have signed final agreements?

10 A. No, they have not signed final agreements, but we
11 have had negotiations.

12 Q. Okay, let's turn to Exhibit 3 --

13 A. Okay.

14 Q. -- and look at the summary of the interest owners
15 and their percentage interests under the assumption that
16 this is dedicated to a 320-acre spacing unit. Is this how
17 you make the calculation in the results?

18 A. That is correct.

19 Q. All right. Let's turn now to the package of
20 documents that supports your efforts to form a voluntary
21 agreement among the interest owners, and you made reference
22 to Mr. Richardson's efforts on your behalf. We're looking
23 at what is marked as Nearburg Exhibit 4, and this is one of
24 the communications Mr. Richardson has had, and he's
25 indicating his efforts to find individuals that had an

1 interest?

2 A. That is correct.

3 Q. All right. Without going through the documents
4 or the information shown in Exhibit 4, summarize for us --
5 Other than Cynthia Norgaard and Sally Morton, you have made
6 contact with all the other interest owners?

7 A. That is correct.

8 Q. Now, some of these parties appear to be related
9 to Sally Morton and Cynthia Morton Norgaard; is that true?

10 A. That is true.

11 Q. And either you or Mr. Richardson have contacted
12 those family members, and those family members refuse to
13 either divulge the location of Sally Morton or Cynthia
14 Norgaard or pretend not to know or, in fact, do not know?

15 A. That's correct.

16 Q. All right. Let's turn -- All these are stapled
17 together, Mr. Roush, but if you'll turn to Exhibit 5 which
18 is the fourth sheet down in the stapled exhibit, identify
19 and describe what we're seeing here.

20 A. Exhibit 5?

21 Q. Yes, sir, it's a letter dated June 7th.

22 A. That is our letter proposing the well. We sent
23 this to the working interest owners, sending them an AFE
24 setting forth the estimated costs and expenses expected in
25 drilling and completing this well, along with a proposed

1 JOA to govern the drilling of the well.

2 Q. And how did you communicate this to these working
3 interest owners?

4 A. By certified letter, certified mail.

5 Q. Okay. Page 2 indicates some notations on that
6 page that confirms that you could not find Ms. Norgaard or
7 Sally Morton?

8 A. That is correct.

9 Q. But the others you did make contact to about this
10 specific proposal?

11 A. That's correct, and received a return, evidenced
12 on the certified mail that they had, in fact, received the
13 documents.

14 Q. Have you received any objection or complaints
15 with regards to the proposed AFE?

16 A. No, sir, we have not.

17 Q. And this AFE was prepared by one of your
18 engineering experts that does this on a regular course of
19 doing business for Nearburg?

20 A. That is correct.

21 Q. And have you identified wells in this area which
22 are similar in fashion for which the Division has already
23 accepted overhead rates?

24 A. Yes, we have.

25 Q. Do you have a recommendation to the Examiner for

1 overhead rates to be applied in this pooling case?

2 A. Yes, and that would be \$6000 for a drilling well
3 rate and \$600 for a producing well rate.

4 Q. And how do those rates compare to the Ernst and
5 Young tabulation of overhead rates?

6 A. I believe Ernst and Young are a little above
7 \$5800 and \$580.

8 Q. Do you have examples of where the Division has
9 approved recently, for wells of this type in this area, the
10 overhead rates that you're requesting?

11 A. Yes, they have, by Order Number R-10,626, which
12 was a compulsory pooling of the north half of Section 4,
13 which is a spacing unit to the west, that was ordered that
14 the overhead rate be \$6000 and \$600.

15 Q. In addition, how has the Commission addressed and
16 resolved the risk factor penalty for wells of this type in
17 this area when they have issued pooling orders?

18 A. In the same order it was 200 percent.

19 Q. If you'll turn beyond the AFE and beyond the
20 copies of the return receipt cards, you'll finally turn to
21 Exhibit Number 6, which is the letter of June 18th.

22 A. That's correct.

23 Q. Would you identify and describe for us what is
24 the purpose of this letter?

25 A. It was a clarification as to the parties that had

1 an ownership in the proration unit, and we sent out a
2 revised Exhibit A to reflect the change in ownership.

3 Q. Okay. Then if you'll turn two more pages, then
4 you'll see a series of letters that are all addressed to
5 different individuals. The content is identical, and
6 they're Exhibits 7 through 10. What is occurring here?

7 A. Again, this was the heirs of Louetta Rowley, and
8 we were attempting to try and get them to give us a
9 response and at the same time hopefully give us some help
10 in trying to locate the heirs we were unable to locate.

11 Q. At this point, Mr. Roush, have you formed an
12 opinion as to whether or not you have exhausted all good-
13 faith effort to obtain a voluntary agreement with the
14 various interest owners involved?

15 A. Yes, I have.

16 Q. And what is that opinion?

17 A. That we have done the best that we can and that
18 we'll be unable to locate these two individuals, we
19 definitely need to force-pool those, and we will continue
20 to work with the balance of the parties to get a voluntary
21 agreement with the individual parties.

22 Q. In the absence of getting those final agreements
23 on a voluntary basis, though, you do need the ability to
24 drill this well and will therefore require a force-pooling
25 order?

1 A. That is correct.

2 MR. KELLAHIN: Mr. Examiner, that concludes my
3 examination of Mr. Roush.

4 We move the introduction of his Exhibits 1
5 through 10.

6 EXAMINER CATANACH: Exhibits 1 through 10 will be
7 admitted as evidence.

8 EXAMINATION

9 BY EXAMINER CATANACH:

10 Q. Mr. Roush, the -- on your Exhibit Number -- well,
11 the one that shows the interest ownership --

12 A. Yes, sir.

13 Q. -- that is for the 320-acre proration unit?

14 A. That's correct.

15 Q. Does that change with reference to a 160 and a
16 40?

17 A. Yes, it will. That's the reason for the
18 additional -- Exhibit 2, to show the difference in tracts.
19 For a 40 it will, in fact, remain the same -- And actually
20 I recant that. For a 40 it will be that -- as listed in
21 Tract 2, as will be a 160. So you will see that the
22 interests vary a little bit. Atlantic, Yates and Marathon
23 would fall out of the well at that point in time.

24 Q. Okay. And at this point in time, you have an
25 agreement with what parties?

1 A. Louis Dreyfus has executed full agreement. Mr.
2 Eggleston, Vernon Eggleston, and Cheryl Eggleston Austin.

3 Q. Okay, and that's it?

4 A. That's it.

5 Q. Okay. You were able to locate the Debbie Morton
6 Thompson?

7 A. Yes, we were.

8 Q. Okay. And how about the Murchison interest?
9 Does that still -- Are you still negotiating with them?

10 A. We're still negotiating with them. I spoke with
11 Mike Daugherty today, and he has hopes of having that
12 executed in the next couple of days.

13 Q. So do you anticipate Marathon, ARCO and Yates to
14 eventually sign up?

15 A. Yes, I do. One of the difficult problems we're
16 having at this time of year is personnel out of the office,
17 people that need to approve things, people that need to
18 execute things.

19 We received a counteroffer from Yates, which I
20 received today, I have not seen, so I'm not sure what that
21 is, but they have sent us a revised JOA for our review.

22 Q. Okay. The Hickson interest, you're still talking
23 to her?

24 A. Yes, and I believe that that will be sent in.

25 Q. Has that well already been staked? Do you know?

1 A. I believe it has.

2 Q. Okay. You've already gotten clearance?

3 A. I believe we have.

4 EXAMINER CATANACH: I have nothing further.

5 MR. KELLAHIN: Mr. Examiner, Exhibit 11 is my
6 certificate of compliance with the notice requirements, to
7 which we've attached the copy of the notice letter, which
8 included the Application itself. And then there are copies
9 of all the return receipt cards that we received back from
10 that mailing.

11 My next witness is Mr. Jerry Elger.

12 JERRY B. ELGER,

13 the witness herein, after having been first duly sworn upon
14 his oath, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KELLAHIN:

17 Q. For the record, sir, would you please state your
18 name and occupation?

19 A. My name is Jerry Elger, and I'm a petroleum
20 geologist.

21 Q. On prior occasions, have you testified before the
22 Division and had your qualifications as a geologist
23 accepted and made a matter of record?

24 A. Yes.

25 Q. Pursuant to your employment, have you made a

1 geologic investigation of this particular area with regards
2 to the drilling of this well?

3 A. Yes, I have.

4 MR. KELLAHIN: We tender Mr. Elger as an expert
5 petroleum geologist.

6 EXAMINER CATANACH: He is so qualified.

7 Q. (By Mr. Kellahin) Let me have you turn your
8 attention to the first of your displays. It's marked
9 Exhibit Number 12. Would you identify and describe that
10 for us?

11 A. Exhibit Number 12 is a -- simply a production map
12 around the spacing unit for this hearing. And it shows, as
13 the legend indicates, the name of the -- it's color-coded
14 for the formation, producing formation. It shows the field
15 name, it shows the cumulative gas production, it shows the
16 cumulative oil production, and it shows the daily rate as
17 of April of 1996.

18 Q. The color code at the bottom of the legend
19 indicates the type of well that's productive within the
20 area described on the map?

21 A. That's correct, and the yellow, which is the
22 majority of wells in this area, are Morrow producers.

23 Q. Let's set that aside as a reference map for a
24 moment and have you turn your attention to Exhibit Number
25 13. What are you describing here, Mr. Elger?

1 A. Exhibit 13 is an isopach. It's a gross isopach,
2 and it also has net shaded green areas where well control
3 has indicated that the Morrow formation is porous in
4 nature. That's borne out by the production history of
5 those particular wells.

6 Q. Let's start with a general explanation of your
7 geologic concept here. Let's start with the northern
8 portion of the display where you have labeled this channel
9 a distributary channel and have you describe the channel
10 system as we move down into these three areas that you've
11 described as areas of clean porous sand.

12 A. The interpretation of the lower Morrow "C" zone,
13 which this is an isopach of in this particular area, is
14 that there's a distributary channel system, which is
15 feeding a delta mouth bar complex, which is where the
16 majority of the gas production in this particular area for
17 the Morrow occurs.

18 You'll see a small lobe centered, concentrated in
19 Section 29 of 17 South, 28 East, with a well shaded blue in
20 there. By the legend, wells that have a blue shading are
21 producing from this particular sand.

22 That well has been offset numerous times, as you
23 can see. It's the only well that's shaded blue. It's the
24 only well that's been productive from this particular sand.
25 That well has cum'd in excess of 34 BCF and 300,000 barrels

1 of condensate.

2 Wells to the northeast of our proposed prospect
3 area, you'll see a number of -- Actually, there's five
4 wells that are shaded blue, which are also producing from
5 this particular sand event, the lower "C".

6 And you'll see that there's -- I've transposed
7 the cumulative production from the Exhibit Number 12 onto
8 this isopach map, and you can see that there's also some
9 tremendous cumulatives in that particular bar complex. Two
10 wells in Section 25: one has cum'd 12 BCF, 80,000 barrels
11 of condensate; one has cum'd 15.2 BCF and 181,000 barrels
12 of condensate.

13 So this is a very prolific reservoir, and this is
14 the target -- this is the horizon that we're targeting in
15 this particular exploratory test.

16 Q. When you look at your proposed location in 3 and
17 compare it to the highly productive wells in Section 25,
18 there is not yet geologic data to show that a well at your
19 location is actually going to be connected with that same
20 reservoir?

21 A. That's correct.

22 Q. Describe for us, then, the risk.

23 A. Well, the risk, again, if I go back to Section
24 29, we see that there's a very prolific well in Section 29.
25 It's been offset more than a half a dozen times,

1 unsuccessfully. So that particular bar is relatively
2 small, even though it has -- must have tremendous porosity
3 to contain that significant of reserves.

4 The well -- The bar that's interpreted in Section
5 25, in the north half of Section 36 and the northeast
6 quarter of Section 35, is by comparison a larger bar.
7 We're not even sure that a bar exists across the proposed
8 location. We've interpreted that one exists.

9 And even if one does exist, of course, there's no
10 way to tell what size it would be, whether it would be more
11 like the -- in areal extent for the bar up in Section 29 or
12 the one off to the northeast.

13 Q. Have you been able to form an opinion as a
14 geologist as to a recommendation for a percentage risk
15 factor penalty to apply in this case?

16 A. Yes.

17 Q. And what is that opinion?

18 A. The same as Mr. Roush testified to in the
19 previous hearings out here, 200 percent.

20 Q. Let's take a moment and look at the cross-
21 section, which is Exhibit 14. You have the line of cross-
22 section shown on Exhibit 13, and you've also duplicated it
23 as an index portion on the bottom of Exhibit 14.

24 Without spending a lot of time on it, give us the
25 general summary of what you're interpreting here.

1 A. Again, this is a stratigraphic cross-section.
2 It's hung on the top of the lower Morrow, which we -- by
3 nomenclature, we call the top of the "C" zone.

4 The sand, the thick sand, is readily apparent on
5 the three wells on the right side of the cross-section.
6 Their sand exceeds 100 feet thick in one of the wells,
7 uninterrupted. It's very -- nice-looking sand. That's the
8 15.2-BCF well. It's a very attractive target.

9 Simply -- The cross-section simply shows that
10 stratigraphically, the sand that's developed in these wells
11 off to the northeast of our prospect area is the same sand
12 that's producing on the bar over in Section 29, with the
13 large well, the 34-BCF well, being the well on the far left
14 side of this cross-section.

15 That well continues to perform, I believe, at 1.5
16 million cubic feet per day, so I'm not real sure what the
17 ultimate cum of that well is going to be, but it definitely
18 is an attractive target.

19 Q. You have between the attractive areas in Section
20 25 and your location in 3, we have the well in 35, shown in
21 the cross-section, and while it has cum'd 2.5 BCF it is not
22 nearly as prolific as the wells in Section 25, obviously?

23 A. That's correct.

24 Q. Are there any other targets for a well at this
25 location that are more optimistic than this one?

1 A. No.

2 Q. Is this your best chance?

3 A. This is the best -- This is the main reason we're
4 drilling this test.

5 Q. Okay. So if you have secondary objectives in the
6 wellbore, they truly are more speculative than this one?

7 A. That's correct.

8 MR. KELLAHIN: Okay. That concludes my
9 examination of Mr. Elger, Mr. Examiner.

10 We move the introduction of his Exhibits 12, 13
11 and 14.

12 EXAMINER CATANACH: Exhibits 12, 13 and 14 will
13 be admitted as evidence.

14 EXAMINATION

15 BY EXAMINER CATANACH:

16 Q. Mr. Elger, you just used well control to
17 construct this isopach map?

18 A. That's correct.

19 Q. What leads you to believe that there may be a
20 sand buildup in Section 3?

21 A. There is a well in the east half of Section 3, in
22 the southeast quarter, that has 30 feet of sand. That was
23 not productive. The sand quality was too poor for that
24 well to be productive. But that's common along the pro-
25 delta sides of these particular delta bar complexes.

1 A prime instance of that is a well in the north
2 half of Section 2 which has 35 feet of sand, which was also
3 unproductive, even though it had that much sand in it, and
4 it was drilled as a south offset to the well that's the
5 fourth from the right on the cross-section, the ARCO "BX"
6 State Number 1, which made 2.5 BCF from the sand.

7 So we think that the well in Section 3 is in a
8 position off the front of the delta mouth bar complex, and
9 by moving a little more towards the source, we'll encounter
10 a better quality reservoir.

11 There are quite a number of wells out here, as
12 you can tell, that indicate where the sand is not present,
13 and those help, as much as the wells that have penetrated
14 the sand.

15 Q. Are all of those wells nonproductive, basically?

16 A. Well, again, I would defer to Exhibit 12, the
17 production map, and you can see if there are wells that are
18 not shaded blue on Exhibit 13, but they are producing from
19 the Morrow, as indicated by the production map, then they
20 are from some other unit developed within the Morrow,
21 probably within the middle Morrow.

22 EXAMINER CATANACH: I have nothing further, Mr.
23 Kellahin.

24 The witness may be excused.

25 Do you have anything else in this case?

1 MR. KELLAHIN: No, sir.

2 EXAMINER CATANACH: There being nothing further
3 in this case, Case 11,679 will be taken under advisement.

4 (Thereupon, these proceedings were concluded at
5 1:48 p.m.)

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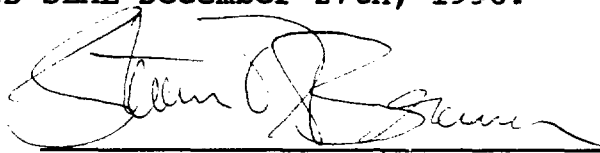
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

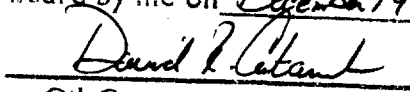
WITNESS MY HAND AND SEAL December 27th, 1996.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 1998

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 11679, heard by me on December 19, 1996.

, Examiner
 Oil Conservation Division

STEVEN T. BRENNER, CCR
 (505) 989-9317