

**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. 11861
ORDER NO. R-_____**

**APPLICATION OF NEARBURG
EXPLORATION COMPANY, L.L.C.
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.**

**NEARBURG EXPLORATION COMPANY, L.L.C.
PROPOSED ORDER OF THE DIVISION**

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on October 9, 1997 at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this _____ day of October, 1997, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Nearburg Exploration Company, L.L.C. ("Nearburg"), seeks an order pooling all minerals in certain spacing and proration units from the surface to the base

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of the Strawn formation, underlying the NE/4 of Section 19, Township 16 South, Range 36 East, NMPM, Lea County, New Mexico, and in the following manner:

the NE/4 forming a standard 160-acre gas spacing and proration unit for any and all formations and/or pools spaced on 160 acres within said vertical extent which presently includes but is not necessarily limited to the North Shoe Bar-Wolfcamp Pool;

the NE/4 NE/4 forming a standard 40-acre spacing and proration unit for any and all formations and/or pools spaced on 40 acres within said vertical extent.

Said units are to be dedicated to the applicant's proposed Gandy 19 Well No. 1 to be drilled at a standard location 810 feet from the North line and 660 feet from the East line (Unit A) of Section 19.

(3) The applicant has the right to drill and proposes to drill its Gandy 19 Well No. 1 at the location described above.

(4) There are interest owners in the proposed proration units who have not agreed to pool their interests.

(5) Chesapeake Operating, Inc. a working interest owner in the proposed proration units appeared at the hearing but presented no testimony.

(6) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil and gas in any pool resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said units.

(7) The testimony indicated that although the application is in the name of Nearburg Exploration Company, L.L.C., the well will be drilled and operated by Nearburg Production Company, L.L.C., a sister company, who should be designated operator of the subject well and unit.

(8) Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

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

(10) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs, but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(11) Following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs, and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(12) \$6000.00 per month while drilling and \$600.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operation of the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(13) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(14) Upon failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before February 1, 1998, the order pooling said units should become null and void and of no effect unless extended by the Director of the Division for good cause shown.

(15) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(16) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All minerals interests, whatever they may be, from the surface to the base of the Strawn formation underlying the NE/4 of Section 19 , Township 16 South, Range 36 East, NMPM, Lea County, New Mexico, are hereby pooled in the following manner:

the NE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160-acre spacing within said vertical extent which presently includes but is not limited to the North Shoe Bar-Wolfcamp Pool; and,

the NE/4 NE/4 forming a standard spacing and proration unit for any and all formations and/or pools spaced on 40-acre spacing within said vertical extent.

Said units shall be dedicated to the proposed Gandy 19 Well No. 1 to be drilled at a standard location 810 feet from the North line and 660 feet from the East line (Unit A) of said Section 19.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the first day of February , 1997, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Strawn formation.

PROVIDED FURTHER THAT, in the event said operator does not commence drilling operations on said well on or before the first day of February, 1997, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandoned within 120-days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Nearburg Production Company is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90-days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30-days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operation costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual costs within 90-days following completion of the well; 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 said schedule, the actual well costs shall be the reasonable well costs; provided, however, if there is objection to actual well costs within said 45-days period, the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60-days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

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

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30-days from the date the schedule of estimated well costs is furnished.
- (B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$6000.00 per month while drilling and \$600.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operation of such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) 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 the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of said escrow agent within 30-days from the date of first deposit with said escrow agent.

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

(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force pooling provisions of this order.

(15) Jurisdiction is hereby 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.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY,
DIRECTOR

(SEAL)