

STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION

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

CASE NO. 12073 (De Novo)  
Order No. R-11089-C

APPLICATION OF NEARBURG EXPLORATION COMPANY  
FOR COMPULSORY POOLING AND AN UNORTHODOX  
SURFACE LOCATION AND SUBSURFACE DRILLING WINDOW  
EDDY COUNTY, NEW MEXICO.

AFFIDAVIT OF DUKE ROUSH  
IN SUPPORT OF  
AMENDING ORDER R-11089

STATE OF TEXAS                    )  
  ) SS  
COUNTY OF MIDLAND            )

Before me, the undersigned authority, personally appeared Duke Roush, who being first duly sworn, stated:

A. My name is Duke Roush. I am over the age of majority and am competent to make this Affidavit.

B. I am a senior staff landman for Nearburg Exploration Company, L.L.C. who has been responsible for overseeing the contacting the interest owners involved in the E/2 of Section 11, T17S, R25E, Eddy County, New Mexico and attempting to obtain a surface location for this well.

C. The following is a partial factual summary of my efforts on behalf of Nearburg Exploration Company:

BEFORE THE  
OIL CONSERVATION COMMISSION  
Case No. 12073 Exhibit No.   2    
Submitted By:  
*Nearburg Exploration Co.*  
Hearing Date: January 14, 1999

(1) Nearburg Exploration Company, L.L.C. proposed its Eagle Creek "11" Well No. 1 as a Morrow well to be dedicated to the E/2 of Section 11, T17S, R25E, NMPM, Eddy County, New Mexico.

(2) This well is to be directionally drilled because the optimum subsurface location is in the SE/4 of this section where surface use is limited by existing houses in a subdivision and by the close proximity of the Artesia airport and the applicable FAA restrictions.

(3) Pursuant to Section 70-2-17(c) NMSA (1978) and upon the application of Nearburg, the Division entered Order R-11089 which pooled  
pooled the following interests:

Yates Petroleum Corporation  
ABO Petroleum Corporation  
MYCO Petroleum Corporation  
S.P. Yates  
John A. Yates  
John A. Yates, PR for estate of Peggy A. Yates  
Sharbro Oil Ltd. Co.

(4) Order R-11089 also approved Nearburg requests for the drilling of its Eagle Creek "11" Well No. 1 as a directional well ("topographical exception") from an unorthodox surface location to an unorthodox subsurface gas well location for potential production from the Morrow and other formations. Yates, et al. have waived any objection to the unorthodox subsurface drilling window.

(5) At the time of the Division Examiner hearing held on November 5, 1998, Nearburg:

(a) had searched for a suitable surface location in the SE/4 of this section but believed no suitable location existed;

(b) intended to use an unorthodox surface location in adjoining section 14 at a point 1070 feet FNL and 2110 feet FWL. (Unit C) which is adjacent to an existing well and which would minimize the need to build additional location facilities.

(c) this surface location was located on surface tract controlled by Yates Petroleum Corporation ("Yates") whom Nearburg believed would consent to the use of their surface; and

(d) the proposed costs of the well ("AFE") were \$801,530.00 for a completed well to be drilled directionally to the Morrow formation at approximately 8,000 feet TVD.

(6) At the time of the Examiner's hearing, Yates had filed a written waiver of objection to the location for this well and filed an entry of appearance but did not present any evidence or objection to the entry of this compulsory pooling order.

(7) After entry of this order, Yates Petroleum Corporation filed for a DeNovo hearing in this case.

(8) Nearburg believed it would not be able to reach an agreement with Yates for the use of the original unorthodox surface location in Section 14, and has:

(a) now located a surface owner in the SE/4 of Section 11 who was previously unknown to Nearburg and who is willing to allow Nearburg a surface location 460 feet FEL and 1120 feet FSL of this section;

(b) obtained an FAA permit for this new surface location; **See Exhibit 1 attached**

(c) notified all of the parties pooled by Order R-11089 of this change in surface location and has afforded them an opportunity to elect to participate in this well as revised;

(d) applied to the Commission to amend only that portion of Order R-11089 necessary in order to authorize Nearburg to drill this well at an unorthodox surface location 460 feet FEL and 1120 feet FSL of Section 11. **See Exhibit 2 attached**

(e) a revised directional wellbore plan is attached as **Exhibit 3** to this affidavit.

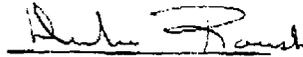


(9) In addition, Nearburg has reached a voluntary agreement for this revised well with all of the parties in this spacing unit who were pooled by Order R-11089 and now desires that the Commission vacate those portions of Order R-11089 which deal with compulsory pooling. See Exhibit 3 attached

(10) Nearburg's requested subsurface drilling window will not change and the AFE resulting for this amended surface location will be approximately \$812,198.00.

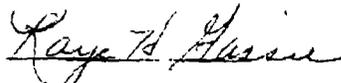
(11) The applicant, Nearburg Exploration Company, L.L.C., seeks an amendment to Order R-11089 to drill its proposed Eagle Creek "11" Well No. 1 which will be directionally drilled from an unorthodox surface location 460 feet from the East line and 1120 feet from the South line of Section 11, Township 17 South, Range 25 East, such that the unorthodox bottomhole location at the base of the Morrow and the producing interval within the Morrow formation is located no closer than 660 feet from the south, west or east boundaries of a standard 320-acre spacing and proration unit consisting of the E/2 of this section. See Exhibit 4 attached.

FURTHER AFFLIANT SAYETH NOT:

  
Duke Roush

STATE OF TEXAS            )  
  )     JSS  
COUNTY OF MIDLAND    )

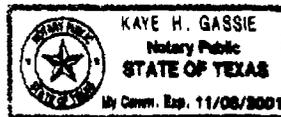
SUBSCRIBED AND SWORN to before me this 12th day of January, 1999, by Duke Roush.

  
Notary Public

My Commission Expires:

11/06/2001

(SEAL)



Federal Aviation Administration  
Southwest Region  
Air Traffic Division, ASW-520  
Fort Worth, TX 76193-0520

AERONAUTICAL STUDY  
No: 98-ASW-5298-OE

ISSUED DATE: 01/06/99

DUKE ROUSE  
NEARBURG PRODUCING COMPANY  
3100 N. "A" ST., BLDG. 2, STE 120  
MIDLAND, TX 79705

**\*\* DETERMINATION OF NO HAZARD TO AIR NAVIGATION \*\***

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 4471a and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Description: TEMPORARY DRILLING RIG; EAGLE CREEK "11" #1 WELL

Location: ARTESIA NM  
Latitude: 32-50-45.40 NAD 83  
Longitude: 104-26-56.67  
Heights: 152 feet above ground level (AGL)  
3650 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does exceed obstruction standards but would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

-As a condition to this determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1J, Obstruction Marking and Lighting, Chapters 3 (Marked), 4, 5 (Red), & 13.

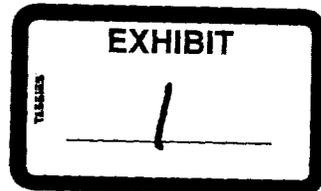
-It is required that the FAA be notified at least 48 business hours prior to the temporary structure being erected and again when the structure is removed from the site. Notification should be made to this office during our core business hours (Monday through Friday, 9:00 am to 3:00 pm) via telephone at 817-222-5534. Notification is necessary so that aeronautical procedures can be temporarily modified to accommodate the structure.

-It is required that the manager of Artesia Municipal at 505-748-3206, be notified at least 48 business hours prior to the temporary structure being erected and again when the structure is removed from the site.

-See attachment for additional condition(s) or information.

This determination expires on 07/06/00 unless:

- (a) extended, revised or terminated by the issuing office or
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case the determination expires on the date prescribed by the FCC for completion of construction or on the date the FCC denies the application.



NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

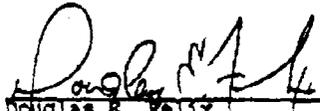
This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, frequency(ies) or use of greater power will void this determination. Any future construction or alteration, including increase in heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at 817-222-5534. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 98-ASW-5298-OE.



Douglas E. Felix  
Specialist, Airspace Branch

(EBO)

Attachment

AERONAUTICAL STUDY  
NO: 98-ASW-5298-OE

"WELL SITE: Eagle Creek "11" #1 Well"

Conditions for Operation of Temporary Drilling Rig

- Notify the FAA at least 48 hours prior to the drilling rig being erected. Such advance notice is required because a standard instrument approach procedure (SIAP) must be modified to accommodate the drilling rig. This notification should be made to the FAA during normal working hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.) via telephone, at (817) 222-5534.
- The temporary drilling rig shall be obstruction flagged and lighted in accordance with FAA Advisory Circular 70/7460-1 "Obstruction Marking and Lighting."
- Notify the Artesia Municipal Airport Manager, or his representative, at (505) 748-3206, or (505) 746-4612, prior to raising the temporary drilling rig and when the project is complete and the temporary drilling rig is removed from the site.
- Notify the FAA when the project is complete and the drilling rig is removed from the site. This notification is necessary so that the affected Standard Instrument Approach Procedure can be returned to normal. This notification should be made to the FAA during normal working hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.) via telephone at (817) 222-5534.

NOTE: The temporary drilling rig will cause the following effect on the NDB or GPS RWY 30 Standard Instrument Approach Procedure at the Artesia Municipal Airport.

- Increase the S-MDA and Category "A" circling MDA from 3940 feet above mean sea level (AMSL) to 4000 feet AMSL.

NOTE: This determination shall be valid for a period of 18 months. While the determination is valid, it is permissible to return the temporary drilling rig to the site without submitting a new FAA Form 7460-1, "Notice of Proposed Construction or Alteration," provided the following conditions are met:

- The temporary drilling equipment does not exceed a maximum height of 152 feet above ground level (AGL)/3650 feet above mean sea level (AMSL).
- Notify the FAA at least 48 hours prior to the drilling rig being erected. Such advance notice is required because a standard instrument approach procedure (SIAP) must be modified to accommodate the drilling rig. This notification should be made to the FAA during normal working hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.) via telephone, at (817) 222-5534.
- The temporary drilling rig shall be obstruction flagged and lighted in accordance with FAA Advisory Circular 70/7460-1 "Obstruction Marking and Lighting."

- Notify the Artesis Municipal Airport Manager, or his representative, at (505) 748-3206, or (505) 748-4612, prior to raising the temporary drilling rig and when the project is complete and the temporary drilling rig is removed from the site.
- Notify the FAA when the project is complete and the drilling rig is removed from the site. This notification is necessary so that the affected Standard Instrument Approach Procedure can be returned to normal. This notification should be made to the FAA during normal working hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.) via telephone at (817) 222-5534.

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FAA FORM 7480-1, "NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION" SHALL BE SUBMITTED FOR ANY TEMPORARY DRILLING EQUIPMENT THAT EXCEEDS THE MAXIMUM ALLOWABLE HEIGHT OF 152 FEET AGL / 3650 FEET AMSL.

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DISTRICT II  
P.O. Box 2088, Hobbs, NM 88241-2088

DISTRICT III  
1000 Rio Brazos Rd., Aztec, NM 87410

DISTRICT IV  
P.O. Box 2088, Santa Fe, N.M. 87504-2088

### OIL CONSERVATION DIVISION

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

AMENDED REPORT

#### WELL LOCATION AND ACREAGE DEDICATION PLAT

API Number	Pool Code	Pool Name
Property Code	Property Name EAGLE CREEK 11	Well Number 1
OGRID No.	Operator Name NEARBURG PRODUCING COMPANY	Elevation 3476

#### Surface Location

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
P	11	17 S	25 E		1120	SOUTH	460	EAST	EDDY

#### Bottom Hole Location if Different From Surface

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
O	11	17 S	25 E		660	SOUTH	1980	EAST	EDDY

Dedicated Acres	Joint or Infill	Consolidation Code	Order No.
-----------------	-----------------	--------------------	-----------

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION

				<p><b>OPERATOR CERTIFICATION</b></p> <p>I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.</p> <p>Signature _____</p> <p>Printed Name _____</p> <p>Title _____</p> <p>Date _____</p>	
				<p><b>SURVEYOR CERTIFICATION</b></p> <p>I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.</p> <p>DECEMBER 2, 1998</p> <p>Date Surveyed _____ DMCC</p> <p>Signature _____</p> <p>Professional Surveyor</p> <p>NEW MEXICO</p> <p>3239</p> <p>96-17-1536</p> <p>12-10-98</p> <p>Certification No. _____</p> <p>RONALD G. EDSON 3239</p> <p>EDSON 12641</p> <p>PROFESIONAL SURVEYOR DONALD 12185</p>	
		<p>3478.7'      3474.4'</p> <p>3478.7'      3477.2'</p> <p>DETAIL</p>		<p>LAT. 32°50'45.0"N</p> <p>LONG. 104°26'54.8"W</p>	
		<p>BOTTOM HOLE LOCATION</p> <p>660'</p>		<p>SURFACE LOCATION</p> <p>460'</p> <p>1980'</p> <p>1120'</p> <p>SEE DETAIL</p>	

EXHIBIT  
2

SCIENTIFIC DRILLING INTERNATIONAL  
MIDLAND, TEXAS

NEARBURG PRODUCING COMPANY

Well Name	: EAGLE CREEK '11' #1
Field	: EAGLE CREEK FIELD, EDDY COUNTY, NM
Site	: SEC11, T-17-S, R-25-E
SHL	: FSL 1120' & FEL 460'
Plan BHL	: FSL 660' & FEL 1980'
Date Surveyed	: 30 NOVEMBER 1998
Job No.	: WELL PLAN

This survey is correct to the best of my knowledge  
and is supported by actual field data.

..... COMPANY REPRESENTATIVE

**Directional Drilling Plan**

EXHIBIT  
3

## SCIENTIFIC DRILLING INTERNATIONAL

Customer : NEARBURG PRODUCING COMPANY  
 Well Name : EAGLE CREEK '11' #1  
 Field : EAGLE CREEK FIELD, EDDY COUNTY, NM  
 Site : SEC11, T-17-S, R-25-E  
 SHL : FSL 1120' & FEL 460'  
 Plan BHL : FSL 660' & FEL 1980'

Page 1 of 2  
 Date 30 NOVEMBER 1998  
 Filename : EAGLE#1A

No Interpolation

Height Of WELLSITE Datum Above Field Datum 0.00 ft

MD ft	INC deg	DIR deg	TVD ft	+N/-S ft	+E/-W ft	VS ft	D'LEG °/100
3800.0	0.00	S20.07°W	3800.00	0.00	0.00	0.00	0.0
3900.0	0.00	S20.07°W	3900.00	0.00	0.00	0.00	0.0
4000.0	0.00	S20.07°W	4000.00	0.00	0.00	0.00	0.0
4100.0	0.00	S20.07°W	4100.00	0.00	0.00	0.00	0.0
4200.0	0.00	S20.07°W	4200.00	0.00	0.00	0.00	0.0
4300.0	0.00	S20.07°W	4300.00	0.00	0.00	0.00	0.0
4400.0	2.25	S73.16°W	4399.97	-0.57	-1.88	1.96	2.3
4500.0	4.50	S73.16°W	4499.79	-2.27	-7.51	7.85	2.3
4600.0	6.75	S73.16°W	4599.31	-5.11	-16.89	17.65	2.3
4700.0	9.00	S73.16°W	4698.36	-9.08	-30.01	31.35	2.3
4800.0	11.25	S73.16°W	4796.79	-14.17	-46.83	48.93	2.3
4900.0	13.50	S73.16°W	4894.46	-20.38	-67.34	70.36	2.3
5000.0	15.75	S73.16°W	4991.22	-27.69	-91.51	95.61	2.3
5100.0	18.00	S73.16°W	5086.91	-36.10	-119.29	124.63	2.3
5200.0	20.25	S73.16°W	5181.38	-45.59	-150.65	157.39	2.3
5300.0	22.50	S73.16°W	5274.50	-56.15	-185.53	193.84	2.3
5400.0	24.75	S73.16°W	5366.11	-67.75	-223.88	233.91	2.3
5500.0	27.00	S73.16°W	5456.08	-80.39	-265.65	277.55	2.3
5511.4	27.26	S73.16°W	5466.21	-81.90	-270.62	282.74	2.3
5600.0	27.26	S73.16°W	5544.99	-93.65	-309.46	323.32	0.0
5700.0	27.26	S73.16°W	5633.88	-106.92	-353.30	369.12	0.0
5800.0	27.26	S73.16°W	5722.78	-120.18	-397.13	414.92	0.0
5900.0	27.26	S73.16°W	5811.68	-133.45	-440.97	460.72	0.0
6000.0	27.26	S73.16°W	5900.57	-146.71	-484.80	506.51	0.0
6100.0	27.26	S73.16°W	5989.47	-159.98	-528.63	552.31	0.0
6200.0	27.26	S73.16°W	6078.37	-173.24	-572.47	598.11	0.0
6300.0	27.26	S73.16°W	6167.26	-186.51	-616.30	643.90	0.0
6400.0	27.26	S73.16°W	6256.16	-199.78	-660.13	689.70	0.0
6500.0	27.26	S73.16°W	6345.06	-213.04	-703.97	735.50	0.0
6600.0	27.26	S73.16°W	6433.95	-226.31	-747.80	781.30	0.0
6700.0	27.26	S73.16°W	6522.85	-239.57	-791.64	827.09	0.0
6800.0	27.26	S73.16°W	6611.75	-252.84	-835.47	872.89	0.0
6900.0	27.26	S73.16°W	6700.64	-266.10	-879.30	918.69	0.0
7000.0	27.26	S73.16°W	6789.54	-279.37	-923.14	964.48	0.0
7100.0	27.26	S73.16°W	6878.44	-292.63	-966.97	1010.28	0.0

107' SL &amp; 1134' FEL

## SCIENTIFIC DRILLING INTERNATIONAL

Customer : NEARBURG PRODUCING COMPANY  
 Well Name : EAGLE CREEK '11' #1  
 Field : EAGLE CREEK FIELD, EDDY COUNTY, NM  
 Site : SEC11, T-17-S, R-25-E  
 SHL : FSL 1120' & FEL 460'  
 Plan BHL : FSL 660' & FEL 1980'  
 Height Of WELLSITE Datum Above Field Datum 0.00 ft

Page 2 of 2  
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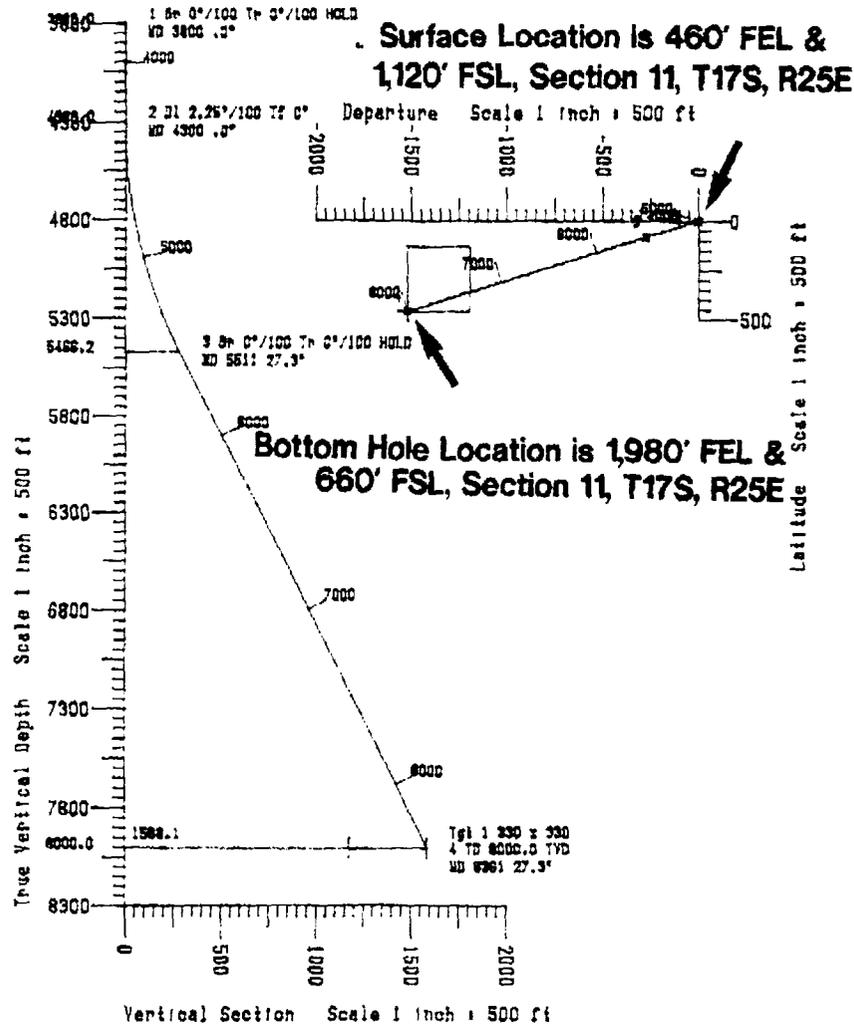
No Interpolation

MD ft	INC deg	DIR deg	TVD ft	+N/-S ft	+E/-W ft	VS ft	D'LEG °/100
7200.0	27.26	S73.16°W	6967.33	-305.90	-1010.81	1056.08	0.0
7300.0	27.26	S73.16°W	7056.23	-319.16	-1054.64	1101.88	0.0
7400.0	27.26	S73.16°W	7145.13	-332.43	-1098.47	1147.67	0.0
7500.0	27.26	S73.16°W	7234.02	-345.69	-1142.31	1193.47	0.0
7600.0	27.26	S73.16°W	7322.92	-358.96	-1186.14	1239.27	0.0
7700.0	27.26	S73.16°W	7411.82	-372.22	-1229.98	1285.06	0.0
7800.0	27.26	S73.16°W	7500.71	-385.49	-1273.81	1330.86	0.0
7900.0	27.26	S73.16°W	7589.61	-398.76	-1317.64	1376.66	0.0
8000.0	27.26	S73.16°W	7678.51	-412.02	-1361.48	1422.46	0.0
8100.0	27.26	S73.16°W	7767.40	-425.29	-1405.31	1468.25	0.0
8200.0	27.26	S73.16°W	7856.30	-438.55	-1449.14	1514.05	0.0
8300.0	27.26	S73.16°W	7945.20	-451.82	-1492.98	1559.85	0.0
8361.6	27.26	S73.16°W	8000.00	-459.99	-1520.00	1588.08	0.0

Origin of Bottom Hole Closure WELLSITE CENTRE  
 Bottom Hole Closure 1588 ft S73.16°W



SCIENTIFIC DRILLING  
 FOR  
 READING PRODUCTION COMPANY  
 HALEY CREEK #011# 01  
 IN  
 HEDY COUNTY, NEW MEXICO



PLANE OF VERT SECT <sup>n</sup> 283.16'				WELL PROPOSAL								
PLOT DATE 12-21-1988				See	MD	TYD	VS	INC	DIN	LAT	DEP	YS
TARGET DETAILS				1	3800.0	3800.0	0.0	0.0	200.07	0.0	0.0	
				2	4300.0	4300.0	0.0	0.0	200.07	0.0	0.0	
No	TYD	Lat	Dep	3	5611.4	5466.2	282.7	27.3	253.16	-61.8	-270.8	
1	8000.0	-460.0	-1520.0	4	6961.8	6000.0	1588.1	27.3	283.16	-460.0	-1820.0	1

**Nearburg Exploration Company, L.L.C.**

Exploration and Production  
3300 North A Street  
Building 2, Suite 120  
Arlington, Texas 76010  
915 696-8225  
Fax 915 696-7806

January 12, 1999

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Yates Petroleum Corporation  
105 South Fourth Street  
Artesia, New Mexico 88210

ATTN: Doug Hurlbut

RE Eagle Creek #11 No. 1 Well  
BHL: 1,980' FSL and 660' FSL  
SHL: 460' FSL and 1,120' FSL  
Section 11, T-17-S, R-25-E  
Eddy County, New Mexico  
Eagle Creek Prospect

Gentlemen

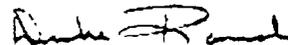
Pursuant to our telephone conversation of this date, Nearburg Exploration Company, L.L.C. (NEC) agrees to accept a farmout of your interest in the E/2 of Section 11, T-17-S, R-25-E for the drilling of the captioned well on the following terms and conditions:

- 1) Yates Petroleum Corporation, et al. will deliver to NEC a 27.50% Net Revenue Interest retaining an overriding royalty equal to the difference between existing burdens and 22.5%.
- 2) At payout of the well, Yates shall have the option to convert a 2.5% overriding royalty (delivering an 80% NRI) to a thirty three and a third percent (33 1/3%) working interest.
- 3) Said override and working interest would be subject to proportional reduction.
- 4) The farmout of Yates Petroleum, et al.'s interest will be on the same form as used in the drilling of the Eagle Creek #14 #1 well and any agreed upon amendments thereto.
- 5) Yates agrees to cancel the De Novo Hearing Case No. 12073 set on the January 14, 1999 docket.
- 6) Yates agrees not to object to either surface hole or bottom hole location as set forth above.
- 7) NEC shall commence the well on or before May 1, 1999.

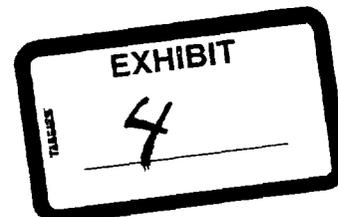
If the terms as set forth above are acceptable, please signify your acceptance by executing in the space provided.

If we can be of further assistance, please advise.

Yours very truly,



Duke Roush  
Senior Landman



Yates Petroleum Corporation, et al  
January 11, 1999  
Page Two

AGREED AND ACCEPTED THIS 12<sup>th</sup> day of January, 1999.

YATES PETROLEUM CORPORATION  
ABO PETROLEUM CORPORATION  
MYCO INDUSTRIES, INC.  
YATES DRILLING CORPORATION  
JOHN A. YATES, AS INDIVIDUAL AND PERSONAL REPRESENTATIVE OF THE ESTATE OF  
PEGGY A. YATES  
SEABRO OIL LTD. CO.  
LILLIE M. YATES ESTATE  
S.P. YATES

By:   
Randy Peterson  
Its: Land Manager

STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION

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

CASE NO. 12073  
Order No. R-11089-C

APPLICATION OF NEARBURG EXPLORATION COMPANY  
FOR COMPULSORY POOLING AND AN UNORTHODOX SURFACE  
LOCATION AND SUBSURFACE DRILLING WINDOW  
EDDY COUNTY, NEW MEXICO.

NEARBURG EXPLORATION COMPANY'S  
PROPOSED  
ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on January 14, 1999, at Santa Fe, New Mexico before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this \_\_\_\_ day of January, 1999, the Commission, a quorum being present, having considered the record and being fully advised in the premises,

FINDS THAT:

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

(2) Nearburg Exploration Company, L.L.C. proposed its Eagle Creek "11" Well No. 1 as a Morrow well to be dedicated to the E/2 of Section 11, T17S, R25E, NMPM, Eddy County, New Mexico.

(3) This well is to be directionally drilled because the optimum subsurface location is in the SE/4 of this section where surface use is limited by existing houses in a subdivision and by the close proximity of the Artesia airport and the applicable FAA restrictions.

(4) Pursuant to Section 70-2-17(c) NMSA (1978) and upon the application of Nearburg, the Division entered Order R-11089 which pooled the following interests:

Yates Petroleum Corporation  
ABO Petroleum Corporation  
MYCO Petroleum Corporation  
S.P. Yates  
John A. Yates  
John A. Yates, PR for estate of Peggy A. Yates  
Sharbro Oil Ltd. Co.

(5) Order R-11089 also approved Nearburg requests for the drilling of its Eagle Creek "11" Well No. 1 as a directional well ("topographical exception") from an unorthodox surface location to an unorthodox subsurface gas well location for potential production from the Morrow and other formations. Yates, et al. have waived any objection to the unorthodox subsurface drilling window.

(6) At the time of the Division Examiner hearing held on November 5, 1998, Nearburg:

(a) had searched for a suitable surface location in the SE/4 of this section but believed no suitable location existed;

(b) intended to use an unorthodox surface location in adjoining section 14 at a point 1070 feet FNL and 2110 feet FWL. (Unit C) which

is adjacent to an existing well and which would minimize the need to build additional location facilities.

(c) this surface location was located on surface tract controlled by Yates Petroleum Corporation ("Yates") whom Nearburg believed would consent to the use of their surface; and

(d) the proposed costs of the well ("AFE") were \$801,530.00 for a completed well to be drilled directionally to the Morrow formation at approximately 8,000 feet TVD.

(7) At the time of the Examiner's hearing, Yates had filed a written waiver of objection to the location for this well and filed an entry of appearance but did not present any evidence or objection to the entry of this compulsory pooling order.

(8) After entry of this order, Yates Petroleum Corporation filed for a DeNovo hearing in this case.

(9) Nearburg believed it would not be able to reach an agreement with Yates for the use of the original unorthodox surface location in Section 14, and has:

(a) now located a surface owner in the SE/4 of Section 11 who was previously unknown to Nearburg and who is willing to allow Nearburg a surface location 460 feet FEL and 1120 feet FSL of this section;

(b) obtained an FAA permit for this new surface location;

(c) notified all of the parties pooled by Order R-11089 of this change in surface location and has afforded them an opportunity to elect to participate in this well as revised;

(d) applied to the Commission to amend only that portion of Order R-11089 necessary in order to authorize Nearburg to drill this well at an unorthodox surface location 460 feet FEL and 1120 feet FSL of Section 11.

(10) In addition, Nearburg has reached a voluntary agreement for this revised well with all of the parties in this spacing unit who were pooled by Order R-11089 and now desires that the Commission vacate those portions of Order R-11089 which deal with compulsory pooling.

(11) Nearburg's requested subsurface drilling window will not change and the AFE resulting for this amended surface location will be approximately \$812,198.00

**IT IS THEREFORE ORDERED THAT:**

(1) Ordering Paragraph (1) of Order R-11089 is hereby amended as follows:

The applicant, Nearburg Producing Company, L.L.C. is hereby authorized to drill its proposed Eagle Creek "11" Well No. 1 which will be directionally drilled from an unorthodox surface location 460 feet from the East line and 1120 feet from the South line of Section 11, Township 17 South, Range 25 East, such that the unorthodox bottomhole location at the base of the Morrow and the producing interval within the Morrow formation is located no closer than 660 feet from the south, west or east boundaries of a standard 320-acre spacing and proration unit consisting of the E/2 of this section.

(2) Those portions of Order R-11089 dealing with compulsory pooling are hereby vacated.

(3) Jurisdiction of this cause 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.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

JAMI BAILEY, Member

BILL LEMAY, Member

LORI WROTENBERY, Chair