

8-10-99

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July 12, 1999

*ms.*

Hand Delivered

Michael E. Stogner  
Oil Conservation Division  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

Re: Case 12206 (Application of Nearburg Exploration Company,  
L.L.C.)

Dear Mr. Mike:

Enclosed, on disk (Wordperfect 5.1) and hard copy, is a proposed  
order in the above matter. I hope its of some use to you.

Very truly yours,

*James Bruce*  
James Bruce  
Attorney for Nearburg  
Exploration Company, L.L.C.

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. 12206  
ORDER NO. R- \_\_\_\_\_

APPLICATION OF NEARBURG EXPLORATION  
COMPANY, L.L.C. FOR COMPULSORY POOLING  
AND AN UNORTHODOX GAS WELL LOCATION,  
LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 8, 1999,  
at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this \_\_\_\_\_ day of July, 1999, the Division Director,  
having considered the testimony, the record, and the  
recommendations of the Examiner,

FINDS THAT:

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

(2) The applicant, Nearburg Exploration Company, L.L.C.,  
seeks an order pooling all mineral interests from the surface to  
the base of the Morrow formation underlying the following described  
acreage in Section 24, Township 19 South, Range 33 East, NMPM, in  
the following manner:

(a) the E½ to form a standard 320-acre gas spacing and  
proration unit for any formations and/or pools developed on  
320-acre spacing within that vertical extent, including the  
Undesignated East Gem-Morrow Gas Pool;

(b) the NE¼ to form a standard 160-acre gas spacing and  
proration unit for any formations and/or pools developed on  
160-acre spacing within that vertical extent; and

(c) The NE¼NE¼ to form a standard 40-acre oil spacing and  
proration unit for any and all formations and/or pools  
developed on 40-acre spacing within that vertical extent,  
including the Undesignated East Gem-Delaware Pool,  
Undesignated East Gem-Bone Spring Pool, and Undesignated East

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Gem-Strawn Pool.

(3) These units are to be dedicated to the applicant's proposed Sagebrush "24" Fed. Com. Well No. 1, to be drilled and completed at an unorthodox gas well location 660 feet from the North line and 990 feet from the East line (Unit A) of Section 24. The applicant also seeks approval of an unorthodox gas well location in the Morrow formation.

(4) The applicant is a working interest owner within the 320-acre, 160-acre, and 40-acre well units, and has the right to drill for and develop the minerals underlying these units.

(5) Harvey E. Yates Company, an interest owner in the well units, appeared at the hearing.

(6) The East Gem-Morrow Gas Pool is subject to the Division's statewide rules and regulations, which currently provide for 320-acre spacing and proration units with wells to be located no closer than 1650 feet to the nearest end boundary, nor closer than 660 feet to the nearest side boundary, nor closer than 330 feet to any quarter-quarter section or subdivision inner boundary.

(7) The geologic evidence and testimony presented by the applicant in this case indicates that:

(a) the primary objective of the Sagebrush "24" Fed. Com. Well No. 1 is the Morrow "C" sand, and the secondary target is the Morrow Upper "B" sand.

(b) the applicant's proposed well should encounter over 20 feet of net sand in the Morrow "C" at either an orthodox location or the proposed unorthodox location.

(c) the Matador Petroleum Corporation Esmeralda Fed. "24" Well No. 1, located 1650 feet from the South line and 1980 feet from the West line of Section 24, Township 19 South, Range 33 East, NMPM, was drilled in 1998 and was wet in the Morrow "C" sand. Moving the applicant's well to its proposed unorthodox location will enable it to gain approximately 70 feet in structure on the Matador well, thereby increasing the chances that it will not be wet.

(d) the proposed location also places the well at the same approximate structural position as the Pipeline Deep Federal Unit Well No. 2, located 760 feet from the North line and 2050 feet from the East line of Section 18, Township 19 South, Range 33 East, NMPM, which is an economic Morrow "C" producer.

(e) moving the proposed well to the north of an orthodox location will also enable it to penetrate approximately 30 feet of net sand in the Morrow Lower "B" sand, and be on trend with economic Morrow Lower "B" producers 2-3 miles southeast of the proposed well, thus lessening the risk in that zone.

(f) stacking of Morrow zones is important in this area to increase the chances of drilling a commercial well.

(8) The evidence also showed that:

(a) the parties being pooled do not object to the unorthodox location;

(b) Matador Petroleum Corporation, an offset operator, waived objection to the location (applicant's Exhibit 7); and

(c) no other offset operator and/or interest owner appeared at the hearing in opposition to the unorthodox location.

(9) The unorthodox location should be approved.

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

(11) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in the 320-acre, 160-acre, and 40-acre units the opportunity to recover or receive without unnecessary expense its just and fair share of the production in any completion resulting from this order, this application should be approved by pooling all mineral interests, whatever they may be, within these units.

(12) Nearburg Producing Company should be designated the operator of the subject well and units.

(13) 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.

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

(15) 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.

(16) 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.

(17) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing. The operator should be authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest. The supervision charges shall be adjusted annually pursuant to the COPAS-1984-ONSHORE Accounting Procedure.

(18) All proceeds from production from the well that 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.

(19) If the operator of the pooled units fails to commence drilling the well on or before October 15, 1999, or if all the parties to this forced pooling reach voluntary agreement subsequent to entry of this order, this order should become null and void and of no effect whatsoever.

(20) The operator of the well and units should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, from the surface to the base of the Morrow formation underlying the following described acreage in Section 24, Township 19 South, Range 33 East, NMPM, Lea County, New Mexico are hereby pooled in the following manner:

(a) the E½ to form a 320-acre gas spacing and proration unit for any formations and/or pools developed on 320-acre spacing within that vertical extent, which presently includes the Undesignated East Gem-Morrow Gas Pool;

(b) the NE¼ to form a standard 160-acre gas spacing and proration unit for any formations and/or pools developed on

160-acre spacing within that vertical extent; and

(c) the NE $\frac{1}{4}$ NE $\frac{1}{4}$  to form a standard 40-acre oil spacing and proration unit for any formations and/or pools developed on 40-acre spacing within that vertical extent, which presently includes the Undesignated East Gem-Delaware Pool, Undesignated East Gem-Bone Spring Pool, and Undesignated East Gem-Strawn Pool.

(2) These units are to be dedicated to the applicant's proposed Sagebrush "24" Fed. Com. Well No. 1, to be drilled and completed at an unorthodox gas well location 660 feet from the South line and 990 feet from the East line (Unit A) of Section 24. The unorthodox gas well location is hereby approved.

(3) Nearburg Producing Company is designated operator of the subject well and units.

PROVIDED HOWEVER THAT, the operator of the units shall commence drilling the well on or before October 15, 1999, and shall thereafter continue drilling the well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, in the event the operator does not commence drilling the well on or before October 15, 1999, Ordering Paragraph (1) shall be of no effect whatsoever, unless the operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should the well not be drilled to completion or abandonment within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

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

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

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

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

(8) 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 its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and
- (b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

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

(10) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$6,000.00 per month while drilling and \$600.00 per month while producing. The operator is hereby authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest. The supervision charges shall be adjusted annually pursuant to the COPAS-1984-ONSHORE Accounting Procedure.

(11) 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 this order.

(12) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share

CASE NO. 12206

ORDER NO. R- \_\_\_\_\_

PAGE 7

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of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(13) All proceeds from production from the well that 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 the escrow agent within 30 days from the date of first deposit with the escrow agent.

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

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

(16) 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 date and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

LORI WROTENBERY  
Director

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: )  
APPLICATION OF NEARBURG EXPLORATION )  
COMPANY, L.L.C., FOR COMPULSORY POOLING )  
AND UNORTHODOX GAS WELL LOCATION, )  
LEA COUNTY, NEW MEXICO )

CASE NO. 12,206

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

July 8th, 1999

Santa Fe, New Mexico

99 JUL 23 AM 7:05

OIL CONSERVATION DIV

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, July 8th, 1999, 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.

\* \* \*

## I N D E X

July 8th, 1999  
 Examiner Hearing  
 CASE NO. 12,206

	PAGE
APPEARANCES	3
APPLICANT'S WITNESSES:	
<u>MICHAEL M. GRAY</u> (Landman)	
Direct Examination by Mr. Bruce	6
Examination by Examiner Stogner	15
<u>TED GAWLOSKI</u> (Geologist)	
Direct Examination by Mr. Bruce	17
Examination by Examiner Stogner	24
REPORTER'S CERTIFICATE	28

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## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	7	15
Exhibit 2	8	15
Exhibit 3A	10	15
Exhibit 3B	10	15
Exhibit 4	13	15
Exhibit 5	13	15
Exhibit 6	14	15
Exhibit 7	14	15
Exhibit 8	18	24
Exhibit 9	19	24
Exhibit 10	20	24
Exhibit 11	20	24
Exhibit 12	22	24

\* \* \*

## A P P E A R A N C E S

## FOR THE DIVISION:

RAND L. CARROLL  
Attorney at Law  
Legal Counsel to the Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

JAMES G. BRUCE, Attorney at Law  
612 Old Santa Fe Trail, Suite B  
Santa Fe, New Mexico 87501  
P.O. Box 1056  
Santa Fe, New Mexico 87504

## FOR HARVEY E. YATES COMPANY:

MILLER, STRATVERT and TORGERSON, P.A.  
150 Washington  
Suite 300  
Santa Fe, New Mexico 87501  
By: J. SCOTT HALL

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 9:22 a.m.:

3           EXAMINER STOGNER: Okay, at this time I'll call  
4 Case Number 12,206.

5           MR. CARROLL: Application of Nearburg Exploration  
6 Company, L.L.C., for compulsory pooling and unorthodox gas  
7 well location, Lea County, New Mexico.

8           EXAMINER STOGNER: Call for appearances.

9           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
10 representing the Applicant. I have two witnesses to be  
11 sworn.

12           EXAMINER STOGNER: Any other appearances?

13           MR. HALL: Mr. Examiner, Scott Hall, Miller,  
14 Stratvert and Torgerson law firm, Santa Fe, appearing on  
15 behalf of Harvey E. Yates Company.

16           No plans to put on witnesses this morning. I  
17 would like to make a preliminary statement, if I might.

18           EXAMINER STOGNER: Any other appearances? All  
19 right.

20           Are you prepared to make that statement at this  
21 time?

22           MR. HALL: Yes, sir.

23           EXAMINER STOGNER: Okay, Mr. Hall?

24           MR. HALL: Mr. Examiner, Harvey E. Yates Company  
25 has authorized me to represent to the Division that it does

1 not oppose the issuance of a compulsory pooling order in  
2 this case. It also supports the unorthodox well location  
3 that has been applied for in this case.

4 I'm also authorized to represent that Harvey E.  
5 Yates Company will execute the AFE they were provided by  
6 Nearburg on May 19th. However, they are not in a position  
7 to do so as of today, for internal business reasons.

8 Again, they do not oppose the issuance of a  
9 pooling order, except to the extent that it may put them in  
10 a position of having to participate in the drilling of a  
11 well before September 1st, again for purely business  
12 reasons.

13 We spoke with Nearburg representatives before the  
14 hearing to see if we could find a way to eliminate the need  
15 to present testimony at all today. It just doesn't appear  
16 that we can do that. But I do not plan to present any  
17 testimony of my own, and I don't perceive a need to do any  
18 cross-examination of Nearburg witnesses.

19 EXAMINER STOGNER: Mr. Hall, refresh my memory.  
20 Was it Harvey E. Yates who originally protested the  
21 administrative filing of that particular unorthodox  
22 location?

23 MR. HALL: I don't believe so.

24 MR. BRUCE: It was Matador, Mr. Examiner.

25 EXAMINER STOGNER: Matador, okay.

1 MR. CARROLL: And where is Matador today?

2 MR. BRUCE: They have waived the unorthodox  
3 location.

4 Mr. Examiner, if I may, because Heyco is not  
5 ready to execute the AFE at this time, and because of an  
6 upcoming deadline, we would prefer to go ahead with the  
7 compulsory pooling. If they come to terms subsequently, we  
8 will, of course, dismiss Heyco. Item number one.

9 And item number two, with respect to the  
10 unorthodox location, that will come up during the course of  
11 the geologist's testimony, and we will leave it up to you  
12 whether to incorporate that in a pooling order or to refer  
13 it back for administrative approval.

14 EXAMINER STOGNER: Okay. Then if you're ready to  
15 proceed at this time, Mr. Bruce.

16 MR. BRUCE: Have the witnesses been sworn in?

17 EXAMINER STOGNER: No, they haven't.

18 (Thereupon, the witnesses were sworn.)

19 MICHAEL M. GRAY,

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. BRUCE:

24 Q. Would you please state your name for the record?

25 A. Michael M. Gray.

1 Q. And where do you reside?

2 A. Midland, Texas.

3 Q. Who do you work for and in what capacity?

4 A. Nearburg Producing Company as senior landman.

5 Q. Have you previously testified before the  
6 Division?

7 A. Yes.

8 Q. And were your credentials as an expert petroleum  
9 landman accepted as a matter of record?

10 A. Yes.

11 Q. And are you familiar with the land matters  
12 involved in this Application?

13 A. Yes.

14 MR. BRUCE: Mr. Examiner, I tender Mr. Gray as an  
15 expert petroleum landman.

16 EXAMINER STOGNER: Mr. Gray is so qualified.

17 Q. (By Mr. Bruce) Mr. Gray, will you identify  
18 Exhibit 1 and describe what Nearburg seeks in this case?

19 A. Exhibit 1 is a locator map depicting our proposed  
20 location and unit, the unit being the east half of Section  
21 24, Township 19 South, Range 33 East, in Lea County, New  
22 Mexico, the location being 990 feet from the east line and  
23 660 feet from the north line of that section.

24 Q. And you do seek pooling for all formations from  
25 the surface to the base of the Morrow?

1 A. Yes.

2 Q. And for well units spaced on 40, 160 and 320  
3 acres?

4 A. Yes.

5 Q. What is the leasehold ownership of the east half  
6 of Section 24? And I would refer you to your Exhibit 2.

7 A. Exhibit 2 is a depiction of the east half of  
8 Section 24.

9 The leasehold ownership consists of two leases,  
10 one being a relatively new federal lease purchased jointly  
11 by Harvey E. Yates Company and Nearburg and being in the  
12 northeast quarter.

13 The southeast quarter is a term assignment, also  
14 owned jointly by Harvey E. Yates and Nearburg, which is a  
15 term assignment from Atlantic Richfield and Ray Westall.

16 Q. Okay. So even though there are two leases,  
17 working interest ownership is uniform in each of those two  
18 leases?

19 A. Yes, it's 60 percent Nearburg Exploration Company  
20 and 40 percent Harvey E. Yates Company and their  
21 affiliates.

22 Q. Okay. Now, you mentioned the term assignment  
23 from ARCO in the southeast quarter. When does that expire?

24 A. The term assignment from Atlantic Richfield and  
25 Ray Westall in the southeast quarter expires on October

1 14 --

2 Q. Okay.

3 A. -- of this year.

4 Q. So you need to commence drilling before that  
5 date?

6 A. Yes.

7 Q. Okay. Now, let's briefly discuss your efforts to  
8 obtain the voluntary joinder of the interest owners in this  
9 well.

10 First, when did you first write to Heyco, *et al.*,  
11 regarding this prospect?

12 A. Well, Heyco and we jointly bought the leasehold  
13 interest in the east half of Section 24 in the summer of  
14 1998.

15 In November of 1998 we submitted an operating  
16 agreement to Heyco for their review, for a location in the  
17 east half of Section 24.

18 On March 3rd of 1999, we received Heyco's  
19 comments regarding their proposed changes to our operating  
20 agreement.

21 By letter of March 9, 1999, we agreed to  
22 substantially all of the changes requested by Heyco.

23 And on May 4, 1999, we resubmitted an amended  
24 operating agreement, along with a new AFE for the proposed  
25 location.

1 Q. And Heyco's March 3 letter and Nearburg's March  
2 19 letter are marked Exhibit 3A; is that correct?

3 A. Yes. The two exhibits together are marked -- I  
4 mean the two letters, the March 3 letter and the March 19  
5 letter, are jointly marked as Exhibit 3A.

6 Q. And then Exhibit 3B is your May 4 letter, and  
7 that really kind of restated the whole package again; is  
8 that correct?

9 A. Yes.

10 Q. And that contained AFEs for each of Heyco's  
11 partners?

12 A. Yes.

13 Q. And it contained the operating agreement?

14 A. Yes.

15 Q. Okay. Were there any phone calls between the  
16 parties?

17 A. We've had several -- numerous phone calls with  
18 Heyco, with Vernon Dwyer, discussing the timing on getting  
19 the return of the AFE and other issues regarding this well.

20 Q. Okay. In your opinion, has Nearburg made a good-  
21 faith effort to obtain the voluntary joinder of the  
22 interest owners in this well?

23 A. Yes.

24 Q. Now, referring back to Exhibit 3B -- let's go to  
25 the second page -- would you discuss the cost of the

1 proposed well?

2 A. The authority for expenditure which was submitted  
3 to Harvey E. Yates Company estimates a dryhole cost for a  
4 13,600-foot Morrow test well at \$771,000 and a completed  
5 well cost at \$1,186,000 [sic].

6 Q. And are these costs in line with the costs of  
7 other wells drilled to this depth in this area of New  
8 Mexico?

9 A. Yes.

10 Q. Does Nearburg request that it be designated  
11 operator of the well?

12 A. Nearburg requests that its operating entity,  
13 Nearburg Producing Company, be designated operator of the  
14 well.

15 EXAMINER STOGNER: If I may interject, what was  
16 those costs again, dryhole and the --

17 THE WITNESS: Dryhole is \$770,391.

18 EXAMINER STOGNER: Okay, and what was the --

19 THE WITNESS: And the completion cost is  
20 \$1,168,033.

21 EXAMINER STOGNER: Okay, that's 168. I believe I  
22 heard 186.

23 THE WITNESS: Oh, well, you may have.

24 EXAMINER STOGNER: Okay, thank you.

25 MR. BRUCE: Probably my dyslexia in typing things

1 up, Mr. Examiner.

2 EXAMINER STOGNER: Oh, it might have been the way  
3 I heard it too.

4 Q. (By Mr. Bruce) Do you have a recommendation for  
5 the amounts which Nearburg should be paid for supervision  
6 and administrative costs?

7 A. Yes, I do, \$6000 a month for the drilling well  
8 cost and \$600 a month for monthly operating overhead.

9 Q. Are these amounts equivalent to those normally  
10 charged by Nearburg and other operators in this area for  
11 wells of this depth?

12 A. Yes, they are.

13 Q. And this is a fairly deep well, is it?

14 A. 13,600 feet, yes.

15 Q. Okay. Now, referring to the JOA, going back to  
16 Exhibit C to the JOA, which is the JOA, which is the COPAS  
17 accounting procedure, page 4 of that procedure, does  
18 Nearburg request that any overhead rates be adjusted  
19 according to the COPAS accounting procedure in the case  
20 someone goes nonconsent under a force-pooling order?

21 A. Yes, that paragraph 1.A.3 on page 4 of the  
22 standard COPAS agreement has the standard escalation  
23 clauses, cost-of-doing-business clauses that we would like  
24 to implement in this case.

25 Q. And that's based on an annual inflation rate

1 calculated by the Federal Bureau of Labor Statistics?

2 A. That's correct.

3 Q. Now, were the interest owners being pooled  
4 notified of this hearing?

5 A. Yes, they were.

6 Q. And is the affidavit of notice submitted as  
7 Exhibit 4?

8 A. Yes.

9 Q. What is Exhibit 5?

10 A. Exhibit 5 is an exhibit which was prepared in  
11 anticipation of the unorthodox location application,  
12 depicting the ownership of the drill site, or the  
13 surrounding acreage upon which we were encroaching near the  
14 drill site, and all of the leasehold owners in that acreage  
15 and operators.

16 Q. Okay. Now, just to be clear, Section 18 is  
17 operated by Matador?

18 A. Section 18 is part of a federal unit operated by  
19 Matador Petroleum.

20 Q. And in Section 13 there are no Morrow wells, so  
21 you have listed all of the working interest owners?

22 A. That's correct.

23 Q. And was notice of the unorthodox location portion  
24 of this Application given to all of these offsets?

25 A. Yes, it was.

1 Q. And is Exhibit 6 the affidavit of notice  
2 regarding that notification?

3 A. Yes.

4 Q. Now, finally, has Nearburg come to terms --  
5 Matador did object to this location when it was filed  
6 administratively; is that correct?

7 A. Yes, Matador had filed an objection, and Exhibit  
8 7 is a letter between -- an agreement between Nearburg and  
9 Matador, under the terms of which Matador has waived its  
10 objections to this location.

11 Q. Okay. And as you said, you do have an upcoming  
12 -- a well commencement deadline, which is the reason you  
13 are moving forward and would --

14 A. Yes, we have an expiration date on a term  
15 assignment in the southeast quarter of this section  
16 comprising half the unit of October 14th. We have a well  
17 that will be commenced in this same township within the  
18 next -- about the next week, that will be -- will have  
19 completed drilling to the Morrow formation about the first  
20 of September, and our rig schedule has that rig scheduled  
21 for this well, assuming we receive approval or reach  
22 agreement with Harvey E. Yates Company for the drilling of  
23 the well.

24 Q. Okay. Were Exhibits 1 through 7 prepared by you  
25 or under your direction?

1 A. Yes.

2 Q. And is the granting of Nearburg's Application in  
3 the interests of conservation and the prevention of waste?

4 A. Yes.

5 MR. BRUCE: Mr. Examiner, I'd move the admission  
6 of Nearburg Exhibits 1 through 7.

7 EXAMINER STOGNER: Exhibits 1 through 7 will be  
8 admitted into evidence at this time.

9 EXAMINATION

10 BY EXAMINER STOGNER:

11 Q. Okay, Mr. Gray, let's see, referring to Exhibit  
12 Number 7, this was Matador's response. Let's see, this  
13 came in yesterday afternoon; is that correct?

14 A. Yes, about four o'clock, I think.

15 Q. And they originally had objected to that back in,  
16 I believe, back in June; is that correct?

17 A. I'm not sure, Mr. Stogner.

18 Q. But that has been worked out, whatever --

19 A. Yes.

20 Q. -- problem there was?

21 Okay, referring to Exhibit Number 2, this is the  
22 -- As I understand it, it's the 40 percent that is not  
23 Nearburg that's being force-pooled with the expectation  
24 some sort of an agreement will be worked out; is that  
25 correct?

1 A. Yes, sir.

2 Q. Okay, now, there's several parties here besides  
3 the Harvey E. Yates, and I'm assuming --

4 A. Yes.

5 Q. -- that other than sharing the same P.O. Box,  
6 1933, that is all one entity?

7 A. The -- I guess the Harvey E. Yates Company people  
8 could speak better -- It's my understanding that all of  
9 these companies are affiliates with Harvey E. Yates. They  
10 all office -- or their mailing address is all at the same  
11 address. And it's also my understanding that the same  
12 corporate officer with each company is responsible for  
13 executing documents and approving expenditures.

14 EXAMINER STOGNER: Mr. Hall, who are you  
15 representing today?

16 MR. HALL: Mr. Examiner, I represent Harvey E.  
17 Yates Company. And that is correct, Harvey E. Yates  
18 Company does speak for all of those entities on the list.

19 EXAMINER STOGNER: So you're essentially  
20 representing that 40 percent?

21 MR. HALL: Yes.

22 EXAMINER STOGNER: Okay, even though Harvey E.  
23 Yates Company shows to be only 32 percent of an owner?

24 MR. HALL: That's correct, sir.

25 EXAMINER STOGNER: Okay, thank you. Appreciate

1 that.

2 I don't believe I have any other questions of Mr.  
3 Gray at this time.

4 Mr. Bruce?

5 MR. BRUCE: Call Mr. Gawloski to the stand.

6 TED GAWLOSKI,

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

9 DIRECT EXAMINATION

10 BY MR. BRUCE:

11 Q. Would you please state your name and city of  
12 residence for the record?

13 A. My name is Ted Gawloski, and I'm from Midland,  
14 Texas.

15 Q. Who do you work for and in what capacity?

16 A. I'm a staff geologist with Nearburg Producing  
17 Company.

18 Q. Have you previously testified before the Division  
19 as a geologist?

20 A. Yes, I have.

21 Q. And were your credentials as an expert accepted  
22 as a matter of record?

23 A. Yes, they have.

24 Q. And are you familiar with the geology involved in  
25 this Application?

1           A.    Yes, I am.

2           MR. BRUCE:  Mr. Examiner, I'd tender Mr. Gawloski  
3 as an expert petroleum geologist.

4           EXAMINER STOGNER:  Mr. Gawloski is so qualified.

5           Q.    (By Mr. Bruce)  Would you please refer to your  
6 Exhibit 8, identify that for the Examiner and inform him of  
7 the main zones of interest in your particular well?

8           A.    Okay, Exhibit Number 8 is a production map around  
9 our Sagebrush 24 Federal location.  The location is shown  
10 there in Section 24, in the northeast quarter.

11           Our primary target in this area is the Morrow gas  
12 sands, and they are denoted on this production map in the  
13 red shadings.  Other zones of interest are shown below.

14           Within this area, of the nine surrounding  
15 sections from the proposed location, there are twelve  
16 Morrow-depth wells.  Four of them are Morrow nonproducers  
17 or dryholes, or some of them may have been recompleted  
18 uphole.  Six of these Morrow wells were noncommercial, and  
19 two of them are commercial wells that have cum'd greater  
20 than 1 BCF of gas.  The best of those is in the northeast  
21 quarter of Section 18.  That well has made 2.4 BCF of gas  
22 and 148,000 barrels of oil.

23           In the surrounding sections there are some  
24 secondary targets, primarily in the Delaware, Yates, Seven  
25 Rivers and a few Bone Springs.  But very few of those wells

1 would be noncommercial as a bailout zone for a Morrow-depth  
2 well of this depth, of 13,600 feet.

3 Q. Okay. Would you move on to your Exhibit 9, the  
4 cross-section, and maybe discuss a little bit more about  
5 the potential Morrow zones in this area?

6 A. Okay, this is a cross-section that's -- You'll  
7 see it denoted on all the maps as cross-section SBR-SBR',  
8 essentially going from the well in Section 18 and down into  
9 Section 31 and through the proposed location.

10 One of the things of note when we refer to these  
11 other maps, the structure map that we'll be referring to  
12 will be off of the top of the Morrow, which is on the top  
13 part of this cross-section, about where that red line is.  
14 That will be our structural pick.

15 And then the isopachs we'll be showing will be  
16 the Morrow "C" sands -- you can see that off to the left  
17 and the right, bracketed there -- and the upper Morrow "B"  
18 sands. Those will be the two isopachs that will be shown.

19 The primary point of this is to show the  
20 variability of the Morrow out here. There is multiple  
21 zones, and what we do out in this portion of Lea County is  
22 to try to stack these sands to give us the best chance of  
23 finding an economical well.

24 I'd also like to point out that there is a well  
25 drilled in the southwest quarter of Section 24 by Matador

1 that was plugged and abandoned in September of 1998. This  
2 well did test the Morrow "C" sand, and it produced water on  
3 a drill-stem test.

4 It also shows that there's -- that they do have  
5 sands in the middle sections of the Morrow, the Morrow "B",  
6 but they were not deemed economical even to test, and I  
7 believe this is what we would call an edge well.

8 And what will be shown with the isopachs is that  
9 we -- the key to being on trend with some of the good  
10 producers. On the left-hand side of the cross-section, the  
11 two wells in Section 31, the two David Fasken Ling Federal  
12 wells, are both very strong Morrow wells. One has made  
13 almost 8 BCF of gas and another one about 3.6. And we'll  
14 show that we can be on trend with some of those and in a  
15 favorable structural position.

16 Q. Okay, let's keep that cross-section available for  
17 a minute, Mr. Gawloski, but could you then refer to your  
18 Exhibits maybe 10 and 11 together and describe why you need  
19 the unorthodox location and also how this plays into the  
20 risk involved in drilling the well?

21 A. Okay, Exhibit Number 10 is a structure map on the  
22 top of the Morrow formation, which again is the red line on  
23 the cross-section there. It's a very good geological pick  
24 that we've used in the area regionally.

25 And Exhibit Number 11 is an isopach of the Morrow

1 "C", which is that lower zone on the cross-section, which  
2 is essentially that green sand which you see on the cross-  
3 section.

4 One thing I would point out, the well again in  
5 Section 24 did test this lower zone --

6 Q. The southwest quarter of Section --

7 A. The southwest quarter of 24, and it on a drill  
8 stem test produced water, with really no shows of any -- of  
9 gas. And that well is at a structural position of minus  
10 9020.

11 I'd also like to point out the well in Section  
12 18, which is on the cross-section on the far right-hand  
13 side, the Union Pipeline Deep Unit Number 2. This well  
14 produced out of that lower Morrow "C" zone, and it produced  
15 1.5 BCF out of this zone, 105,000 barrels of oil, plus  
16 217,000 barrels of water. So that well is sitting there  
17 essentially just above a gas-water contact at minus 8942.

18 There's also a well up in Section 7 that on a  
19 production test -- I'm sorry, it's in the southwest quarter  
20 of 7 -- that on a production test made water out of this  
21 lower zone as well, I think 130 barrels of water. So it  
22 was a good reservoir but it was wet. And it's at a minus  
23 8984. So at least at that interval that depth, we consider  
24 that to be at least in the water area.

25 Q. Now, you mentioned, before you go on, that the

1 pipeline deep unit well in the north half of Section 18 is  
2 at minus 8942 feet and produced quite a bit of water. What  
3 do you think your well will come in at?

4 A. Based upon our structural interpretation, we will  
5 be about at that structural position, about at 8950, 8940,  
6 right about in there. And a legal location of 1650 would  
7 put us at approximately the minus 9020 where the Matador  
8 well was and tested water.

9 So the importance of the structure here is  
10 critical in getting out of the water, in what we consider  
11 to be a really good target in this area, and that's the  
12 primary reason for moving this location to where we --

13 Q. To avoid the water and the Morrow "C" sand?

14 A. To avoid the water and the Morrow "C" sand.

15 Q. In looking at your Exhibit 11, you don't  
16 anticipate having a problem hitting that sand, it's really  
17 just a question of water?

18 A. That's correct.

19 Q. Next, what is Exhibit 12, Mr. Gawloski?

20 A. Exhibit 12 is an isopach of the upper Morrow "B"  
21 sands, again denoted on the cross-section there on either  
22 side, and it is one of the primary pay zones in the two  
23 wells in Section 31, which I pointed out before are very  
24 good Morrow producers. And it again stresses the  
25 importance of being on trend, which is why we're putting

1 this location where we are.

2 And you can see that the two wells on either  
3 side, the Matador well in the southwest quarter of Section  
4 24, and then the well in Section 19, in the northeast  
5 quarter, have -- essentially, they're on the edge of this  
6 trend. They had some sand in it, they were nonreservoir  
7 quality sand, which I consider to be edge wells of that  
8 trend, which I believe comes from the northwest to the  
9 southeast. And playing the Morrow in this area, I believe  
10 it's real important to stay on these trends.

11 Q. So the location is also necessary, in your  
12 opinion, in the upper Morrow "B"?

13 A. That's correct.

14 Q. Now, based on the results of the Matador well in  
15 the southwest quarter of Section 24 and the number of  
16 noncommercial Morrow wells surrounding your well, in your  
17 opinion should a maximum penalty of cost plus 200 percent  
18 be assessed against any interest owner who goes nonconsent  
19 in this well?

20 A. Yes, I do.

21 Q. Were Exhibits 8 through 12 prepared by you or  
22 under your supervision?

23 A. Yes, they were.

24 Q. And in your opinion is the granting of this  
25 Application in the interests of conservation and the

1 prevention of waste?

2 A. Yes, sir.

3 MR. BRUCE: Mr. Examiner, I'd move the admission  
4 of Exhibits 8 through 12.

5 EXAMINER STOGNER: Exhibits 8 through 12 will be  
6 admitted into evidence at this time.

7 Mr. Hall, do you have any questions of this  
8 witness?

9 MR. HALL: No, sir.

10 EXAMINATION

11 BY EXAMINER STOGNER:

12 Q. What's your understanding of what Matador's  
13 original concern with this was?

14 A. Well, Matador's original concern -- The well in  
15 Section 18 was originally operated by Union. Matador has  
16 subsequently bought out Unocal's interest in southeast New  
17 Mexico, so they now have Section 18, and their primary  
18 objection was to the location encroaching in that southwest  
19 quarter of Section 18.

20 However, there is no well in the south half or  
21 the west half of Section 18.

22 Q. Were they primarily interested in -- or concerned  
23 more with their Morrow or Wolfcamp, or what formation?

24 A. It was primarily the Morrow.

25 Q. Morrow.

1           A.    Right.  And a little -- That well right now is I  
2 don't even think producing out of the Morrow, the well in  
3 Section 18.  I think it's already been completed out of its  
4 zone.  So they were really protecting their rights in  
5 Section 18, the south half or southwest quarter.

6           Q.    Now, when I refer to Exhibit Number 12, you seem  
7 to show that channel splitting a little bit.

8           A.    Yes, sir.

9           Q.    But there doesn't seem to be a commercial  
10 producer in this section, at least, of the dark yellow or  
11 the main channel going up to the north and west.  Is there  
12 some other -- Is there a producing well further to the  
13 north that's off this map?

14          A.    Yes.  Yes, sir, in Section 2.  They're Nearburg-  
15 operated wells, as a matter of fact, that are up in Section  
16 1 and 2.  As a matter of fact, they're the two good wells  
17 -- If you look on Exhibit Number 8 --

18          Q.    Exhibit 8, okay.

19          A.    -- there's a well in the southwest quarter of  
20 Section 1 that's produced 2 BCF, 65,000.  It is productive  
21 out of this interval.

22                   And the well in the southeast of Section 2, which  
23 is a 2.6-BCF well, is also productive out of this interval,  
24 and other sands as well, but...

25          A.    And I might point out, there's a well in Section

1 12, the northwest quarter. It's another Nearburg-operated  
2 well. It shows 22 feet there. That is behind-pipe pay in  
3 that well, it just has not been perforated yet. We are in  
4 a lower horizon in that well.

5 Q. "Lower horizon" meaning --

6 A. Lower Morrow "B" is where we're at.

7 Q. So your -- The main interest or the main focus  
8 here is what you designate that lower Morrow?

9 A. I'm sorry, the Morrow "C".

10 Q. The Morrow "C".

11 A. Yes, sir.

12 Q. So does that channel come back together up  
13 further to the north?

14 A. Yeah, I think it stays a little bit -- I  
15 separated there, through there, and then it goes back off  
16 to the northwest.

17 In this area, these zones bifurcate and go all  
18 over the place.

19 EXAMINER STOGNER: Are there any other questions  
20 of this witness?

21 If not, you may be excused.

22 Mr. Bruce, for the interest of issuing one order,  
23 I think it would be better to go ahead and incorporate both  
24 compulsory pooling and the unorthodox location as one order  
25 and then just take administrative notice of Case 12,211,

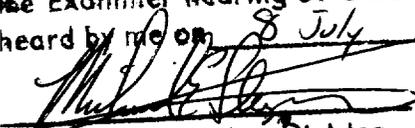
1 which essentially contains all of the administrative  
2 applications for that particular one. That was my error in  
3 that we had two cases for the unorthodox location, and I  
4 apologize for that.

5 But in the essence of quickness, we'll just issue  
6 one order that concerns the unorthodox location.

7 With that, Case Number 12,206 will be taken under  
8 advisement at this time.

9 (Thereupon, these proceedings were concluded at  
10 9:55 a.m.)

11 \* \* \*

12  
13  
14  
15 I do hereby certify that the foregoing is  
16 a complete record of the proceedings in  
17 the Examiner hearing of Case No. 12206,  
18 heard by me on 8 July 1999.  
19  Examiner  
20 of Conservation Division  
21  
22  
23  
24  
25

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 July 11th, 1999.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002