

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. 12,415

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

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MARK ASHLEY, Hearing Examiner

June 1st, 2000

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MARK ASHLEY, Hearing Examiner, on Thursday, June 1st, 2000, 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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## I N D E X

June 1st, 2000  
Examiner Hearing  
CASE NO. 12,415

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

FOR THE DIVISION:

LYN S. HEBERT  
 Attorney at Law  
 Legal Counsel to the Division  
 2040 South Pacheco  
 Santa Fe, New Mexico 87505

FOR THE APPLICANT:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.  
 Suite 1 - 110 N. Guadalupe  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: WILLIAM F. CARR

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 9:17 a.m.:

3 EXAMINER ASHLEY: The Division now calls Case  
4 12,415.

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

8 EXAMINER ASHLEY: Call for appearances.

9 MR. CARR: May it please the Examiner, my name is  
10 William F. Carr with the Santa Fe law firm Campbell, Carr,  
11 Berge and Sheridan. We represent Nearburg Exploration  
12 Company, L.L.C., and I have two witnesses.

13 EXAMINER ASHLEY: Call for additional  
14 appearances?

15 Will the witnesses please rise to be sworn in?

16 (Thereupon, the witnesses were sworn.)

17 EXAMINER ASHLEY: Mr. Carr?

18 MARK WHEELER,  
19 the witness herein, after having been first duly sworn upon  
20 his oath, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. CARR:

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

24 A. Mark Wheeler.

25 Q. Mr. Wheeler, where do you reside?

1 A. Midland, Texas.

2 Q. By whom are you employed?

3 A. Nearburg Exploration Company, L.L.C.

4 Q. And what is your position with Nearburg  
5 Exploration Company?

6 A. Senior landman.

7 Q. Mr. Wheeler, have you previously testified before  
8 this Division and had your credentials as an expert in  
9 petroleum land matters accepted and made a matter of  
10 record?

11 A. Yes, I have.

12 Q. Are you familiar with the Application filed in  
13 this case?

14 A. Yes, sir.

15 Q. Are you familiar with the status of the lands  
16 involved in this matter?

17 A. Yes, sir.

18 MR. CARR: Are the witness's qualifications  
19 acceptable?

20 EXAMINER ASHLEY: They are.

21 Q. (By Mr. Carr) Could you briefly summarize for  
22 Mr. Ashley what it is that Nearburg seeks with this  
23 Application?

24 A. Nearburg seeks an order pooling all minerals from  
25 the surface to the base of the Morrow formation under the

1 east half of Section 29, Township 18 South, Range 28 East,  
2 Eddy County, New Mexico, in the following manner:

3 The east half for all formations and/or pools  
4 developed on 320-acre spacing in either the Undesignated  
5 North Illinois Camp-Morrow Gas Pool or the Undesignated  
6 North Turkey Track-Morrow Gas Pool;

7 The northeast quarter for all formations or pools  
8 developed on 160-acre spacing;

9 The east half, northeast quarter, for all  
10 formations and/or pools developed on 80-acre spacing in the  
11 undesignated Travis-Upper Pennsylvanian Pool;

12 And the southeast quarter, northeast quarter, for  
13 all formations and/or pools developed on 40-acre spacing in  
14 the Artesia-Queen-Grayburg-San Andres Pool or the  
15 Undesignated Travis-Wolfcamp Pool.

16 Q. And to what well do you propose to dedicate these  
17 spacing units?

18 A. Our Pathfinder 29 State Com Number 1 well, which  
19 will be drilled at a standard location in the southeast  
20 quarter, northeast quarter, of said Section 29.

21 MR. CARR: May it please the Examiner, the  
22 location for the well is today 1980 from the north and 990  
23 from the east line of this section. It originally was  
24 proposed being 660 from the east line, so it's been moved  
25 to a 990 location. In both instances, the location remains

1 standard.

2 Those interest owners who have voluntarily  
3 committed to the well have been advised of the change in  
4 location, and none of them object, so we submit we can go  
5 forward with the case as it is before you, because the  
6 location remains standard; we're only moving from one  
7 standard location to another, and those who have joined  
8 have been advised of the change.

9 THE WITNESS: And I might add, those that have  
10 not joined --

11 MR. CARR: Right.

12 THE WITNESS: -- have also been advised.

13 Q. (By Mr. Carr) All owners have been advised?

14 A. All parties have been advised.

15 Q. Mr. Wheeler, let's go to what has been marked for  
16 identification as Nearburg Exhibit Number 1. Would you  
17 identify and review that, please?

18 A. This is the land plat of the area, showing the  
19 spacing unit for the proposed Pathfinder "29" State Com  
20 Number 1 well, the east half of Section 29. And it also  
21 shows all ownership in the area.

22 Q. What is the status of the acreage in the east  
23 half of Section 29?

24 A. It is all State of New Mexico land.

25 Q. And the primary objective in this well is the

1     Morrow formation?

2             A.     Yes, sir.

3             Q.     Let's go to Exhibit Number 2, and I'd ask you to  
4     first identify and then review what it shows.

5             A.     This is an ownership breakdown for the east half,  
6     showing the subdivisions that each party owns in, the  
7     number of net acres owned by each party currently, and the  
8     status -- the working interest and status of the parties  
9     that have already executed our AFE and other parties that  
10    have indicated that they're willing to work farmouts or  
11    other trade arrangements with us.

12            Those that show nothing beside their name are the  
13    parties that we have thus far been unable to get  
14    voluntarily to join.

15            Q.     What percentage of the working interest has been  
16    at this time voluntarily committed to the well?

17            A.     80.3 percent.

18            Q.     Are there any owners in the subject spacing or  
19    proration unit that you've been unable to locate?

20            A.     No, sir, we've located everyone.

21            Q.     And if we look at Exhibit Number 2, those that  
22    have nothing behind them in the status column are the  
23    interest owners who are subject to pooling?

24            A.     Yes, sir.

25            Q.     Marbob Energy had originally raised some



1 questions with the Division about the Application. They  
2 have signed an AFE, and they are not subject to pooling; is  
3 that correct?

4 A. That is correct, we have withdrawn Marbob and  
5 Pitch from the order, from any order.

6 Q. Would you summarize for Mr. Ashley the efforts  
7 made by Nearburg to obtain the voluntary joinder of all  
8 working and mineral interest owners in the subject spacing  
9 units?

10 A. We initially started contacting parties back in  
11 December of 1999, worked out several farmout agreements and  
12 other term assignments from some of the parties. We AFE'd  
13 our well in April, April 7th of this year, to the parties  
14 that still remained, and we are still in some negotiations  
15 with Louis Dreyfus, Enron -- or EOG, and others, that might  
16 result in a trade being made.

17 One thing I might point out is, although it lists  
18 for Louis Dreyfus "farmout pending", we have not  
19 consummated that trade yet, so we would like them to be  
20 subject to the order pending -- Hopefully, we will  
21 consummate that trade.

22 Q. Is Exhibit Number 3 a copy of the correspondence  
23 you have had with the various interest owners in this  
24 spacing unit concerning their voluntary participation in  
25 the well?

1 A. Yes, sir, it is.

2 Q. In your opinion, have you made a good-faith  
3 effort to locate each interest owner and obtain their  
4 joinder?

5 A. Yes, sir.

6 Q. Would you identify what has been marked Nearburg  
7 Exhibit Number 4?

8 A. This is a copy of our AFE for the Pathfinder "29"  
9 State Com Number 1 well.

10 Q. And what are the totals set forth on this  
11 exhibit?

12 A. The dryhole cost is \$574,438, the completed well  
13 cost is \$923,531.

14 Q. Nearburg has drilled a number of deep wells in  
15 southeastern wells in New Mexico in the past few years --

16 A. Yes.

17 Q. -- is that correct?

18 A. Yes, sir.

19 Q. Are these costs in line with costs that have been  
20 incurred by Nearburg drilling similar wells in this area?

21 A. Yes, sir.

22 Q. Is Exhibit Number 5 an affidavit confirming that  
23 notice of today's hearing has been provided to the owners  
24 who are subject to pooling in accordance with Oil  
25 Conservation Division rules and regulations?

1           A.    Yes, sir.

2           Q.    Are you prepared to make a recommendation to the  
3 Examiner concerning the overhead and administrative costs  
4 to be incurred while drilling the well and also while  
5 producing it, if it is successful?

6           A.    Yes, sir, we are asking for \$5664 per month  
7 during the drilling phase and \$560 per month during the  
8 producing phase.

9           Q.    Are these costs consistent with what has been  
10 charged by other operators in the area for wells drilled to  
11 this depth?

12          A.    Yes, sir.

13          Q.    Are these in line with what Nearburg has charged  
14 for other wells?

15          A.    Yes, sir, for this depth.

16          Q.    Are these the costs that have been accepted by  
17 Marbob and others in executing agreements with you for the  
18 drilling of this well?

19          A.    Yes, sir.

20          Q.    One of the exhibits, or one of the documents  
21 contained in Exhibit Number 3, is the joint operating  
22 agreement for the well?

23          A.    Yes, sir.

24          Q.    And attached to that is the COPAS accounting  
25 procedure?

1 A. Yes, sir.

2 Q. Does Nearburg request that the overhead and  
3 administrative costs approved by this order be subject to  
4 the adjustment set forth in that COPAS accounting document?

5 A. Yes, sir, we do.

6 Q. And you recommend that these figures be  
7 incorporated in the order which results from today's  
8 hearing?

9 A. Yes, sir.

10 Q. Does Nearburg Producing Company seek to be  
11 designated operator of the well?

12 A. Yes, we do.

13 Q. Were Exhibits 1 through 5 either prepared by you  
14 or compiled under your direction and supervision?

15 A. Yes, sir.

16 MR. CARR: Mr. Ashley, at this time we move the  
17 admission into evidence of Nearburg Exhibits 1 through 5.

18 EXAMINER ASHLEY: Exhibits 1 through 5 will be  
19 admitted as evidence.

20 MR. CARR: And that concludes my examination of  
21 Mr. Wheeler.

22 EXAMINATION

23 BY EXAMINER ASHLEY:

24 Q. Mr. Wheeler, on Exhibit 2 --

25 A. Yes, sir.

1 Q. -- is that up to date as far as the status of who  
2 has signed and who has not?

3 A. That was up to date as of Tuesday when I prepared  
4 it. To my knowledge nothing has changed since then, but...

5 Q. I had a question about the units that are being  
6 pooled --

7 A. Yes, sir.

8 Q. -- and you mentioned that you wanted to pool the  
9 east half of the northeast quarter, that 80 acres --

10 A. Yes, sir.

11 Q. -- for the Travis-Upper Pennsylvanian Pool?

12 A. Yes, sir.

13 Q. Is that pool within a mile of this well?

14 A. It's my understanding from Mr. Carr's Examination  
15 that it is.

16 Q. It is within a mile?

17 MR. CARR: Just right at a mile, yes.

18 EXAMINER ASHLEY: Okay.

19 Q. (By Examiner Ashley) Does Nearburg control 100  
20 percent of the interest in any of the proposed units?

21 A. No, sir. We've made numerous trade arrangements  
22 to pick up various percentages, but -- in the different  
23 subdivisions, but we do not own 100 percent in any 40 at  
24 this point.

25 EXAMINER ASHLEY: I have nothing further, thank

1 you.

2 MR. CARR: May it please the Examiner, at this  
3 time we call Ted Gawloski.

4 TED GAWLOSKI,  
5 the witness herein, after having been first duly sworn upon  
6 his oath, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. CARR:

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

10 A. Sure, it's Ted Gawloski.

11 Q. Would you spell your last name, please?

12 A. G-a-w-l-o-s-k-i.

13 Q. Where do you reside?

14 A. I reside in Midland, Texas.

15 Q. By whom are you employed?

16 A. Nearburg Exploration Company.

17 Q. And what is your current position with Nearburg?

18 A. I'm a senior staff petroleum geologist.

19 Q. Mr. Gawloski, have you previously testified  
20 before this Division and had your credentials as an expert  
21 in petroleum geology accepted and made a matter of record?

22 A. Yes, I have.

23 Q. Are you familiar with the Application in this  
24 case?

25 A. Yes, sir.

1 Q. Have you made a geological study of the area  
2 which is the subject of this Application?

3 A. Yes, I have.

4 Q. And are you prepared to share the results of that  
5 work with the Examiner?

6 A. Yes, sir.

7 MR. CARR: Are the witness's qualifications  
8 acceptable?

9 EXAMINER ASHLEY: Yes, they are.

10 Q. (By Mr. Carr) Initially, what are the primary  
11 objectives in this well, Mr. Gawloski?

12 A. The primary objectives are the sands of the lower  
13 Morrow "B" and the middle Morrow "C" formation.

14 Q. Let's go to what has been marked as Nearburg  
15 Exhibit Number 6, your cross-section, and I'd ask you to  
16 review the trace for that cross-section and then the  
17 information contained on this exhibit.

18 A. Okay, Exhibit 6 is cross-section PF-PF', and it  
19 runs from the north of the proposed location through wells  
20 in Sections 17 and 20 that are in the Illinois Camp-Morrow  
21 field, and it moves south southeastward across the proposed  
22 location, down into a couple wells in Section 33, a couple  
23 Marathon wells. One of them is in the North Turkey Track-  
24 Morrow Pool.

25 And what this shows down at the bottom are the

1 sands of the Morrow, it shows the Morrow "B" sand and  
2 Morrow "C" sands. The sands that are on the following  
3 exhibits and the isopachs will be the Morrow "C" sands.  
4 The ones shown in green will be the upper Morrow "C" sands,  
5 and the ones shown in the dark yellow will be the lower  
6 Morrow "B" sands. Those are the primary objectives at the  
7 proposed location.

8 One thing to note on here in this cross-section  
9 is variability and the discontinuous nature of the sands as  
10 we move across this cross-section.

11 Q. Let's go to Nearburg Exhibit Number 7 and the  
12 isopach on the middle Morrow "C" sand. Would you review  
13 the information on this exhibit for Mr. Ashley?

14 A. Okay, the middle Morrow "C" sand is the sands  
15 that are shown in green on the cross-section. I've used an  
16 8-percent porosity cutoff, and from the isopach map you can  
17 see that there's a northwest-southwest-trending channel  
18 system that is projected to go across our proposed  
19 location.

20 The wells denoted with the red markings on them  
21 are wells that are productive out of that horizon, and the  
22 numbers next to them are the cums for the entire well out  
23 of the Morrow formation.

24 So there's some production along this trend in  
25 here, but there's a large gap that's from Section 19, 20



1 and 29 and the north half of 33, that really does not have  
2 any Morrow production in it yet.

3 Q. Let's go to your isopach now on the lower Morrow  
4 "B" sand, Exhibit 8.

5 A. Okay. The lower Morrow "B" are the sands that  
6 are shown in the dark yellow on the cross-section. It also  
7 shows a channel system, but this one is oriented a little  
8 more north-south. We're projected to be along the western  
9 flank of that.

10 Again, there is some production up to the north  
11 in Section 17 and 20 and 21 out of this zone, but so far to  
12 the south it hasn't been productive in any of the wells in  
13 32, 33 or in the Township.

14 Q. Now let's go to your structure map, Exhibit  
15 Number 9.

16 A. Exhibit Number 9 is a structure map that's on the  
17 top of the Morrow "C", and that's the line shown on the  
18 cross-section between the yellow sands and the green sands,  
19 and that's a structural marker that's used in the area,  
20 essentially basically showing southeastward dip across the  
21 area.

22 Q. Are you prepared to make a recommendation to Mr.  
23 Ashley concerning a risk penalty that should be assessed  
24 against any nonparticipating interest owner?

25 A. Yes, sir, I am.

1 Q. And what is that?

2 A. The maximum allowed, the 200 percent.

3 Q. Could you summarize for the Examiner the basis  
4 for that recommendation?

5 A. The basis for the recommendation is, the Morrow  
6 in this part of southeast New Mexico is very discontinuous  
7 in nature. You could drill off the edge of the channel, or  
8 on the edge of the channel and find thin sand zones, or you  
9 could find zones of low permeability that are not very  
10 productive.

11 And there's also always a risk of finding zones  
12 that contain water and not hydrocarbons.

13 Q. It is fair to say that a well at this location  
14 might not be a commercial success?

15 A. That's correct.

16 Q. In your opinion, will granting this Application  
17 and drilling of the proposed well be in the best interests  
18 of conservation, the prevention of waste and the protection  
19 of correlative rights?

20 A. Yes, sir.

21 Q. How soon does Nearburg plan to commence drilling  
22 this well?

23 A. By August 15th of this year.

24 Q. Do you request that the order in this case be  
25 expedited?

1 A. Yes, sir.

2 Q. Were Exhibits 6 through 9 prepared by you?

3 A. Yes, sir.

4 MR. CARR: At this time, Mr. Ashley, we would  
5 move the admission into evidence of Nearburg Exhibits 6  
6 through 9.

7 EXAMINER ASHLEY: Exhibits 6 through 9 will be  
8 admitted as evidence.

9 MR. CARR: That concludes my examination of this  
10 witness.

11 EXAMINATION

12 BY EXAMINER ASHLEY:

13 Q. Mr. Gawloski, do you propose to perforate in the  
14 lower middle Morrow "B" and the middle Morrow "C"? Both  
15 zones?

16 A. That would depend, essentially, on what we find  
17 in there, yes.

18 Q. That's your primary target, though, is both of  
19 those --

20 A. Yes, sir, and we would normally start at the  
21 bottom of the well and move up.

22 EXAMINER ASHLEY: Okay. I have nothing further,  
23 thank you.

24 MR. CARR: That concludes our presentation in  
25 this case.

1 Mr. Examiner, could we have a brief recess to set  
2 up for the next case?

3 EXAMINER ASHLEY: Yes, at this time we will take  
4 a recess and reconvene at 9:55.

5 (Thereupon, these proceedings were concluded at  
6 9:40 a.m.)

7 \* \* \*

10  
11  
12  
13  
14 I hereby certify that the foregoing is  
15 a complete record of the proceedings in  
the Examiner hearing of Case 12415,  
16 heard by me on 6/1/2000.  
17 Mark R. Kelly  
Oil Conservation Division

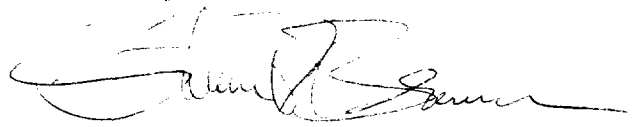
CERTIFICATE OF REPORTER

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 June 8th, 2000.




---

STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 2002