

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

IN THE MATTER OF THE APPLICATION OF
FUEL PRODUCTS, INC. FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE No. 12431

MOTION TO DISMISS

Nearburg Exploration Company, LLC, ("Nearburg"), through its counsel
record, hereby moves to dismiss the Application for Compulsory Pooling brought by Fuel
Products, Inc., ("Fuel Products"), in this matter. In support, Nearburg states:

1. Fuel Products filed its Application for Compulsory Pooling in this matter in approximately May, 2000 seeking to pool the interests of Nearburg in the E/2 of Section 18, T-18-S, R-28-E, NMPM, Eddy County, New Mexico, (the "Subject Lands"). Nearburg entered its appearance in this matter on June 7, 2000 in opposition to the Fuel Products Application.
2. Prior to filing its Application, Fuel Products made no good faith effort to obtain the voluntary agreement of Nearburg for its participation in the drilling of a well by Fuel Products on the Subject Lands. The first indication received by Nearburg that Fuel Products was proposing its own well on the Subject Lands was the Application for Compulsory Pooling. Other than the Application, Fuel Products has sent no AFE or other similar material for its proposed well to Nearburg. (See Affidavit of Mark Wheeler, Exhibit "A", attached.)
3. As a statutory pre-condition to the invocation of the Division's compulsory pooling authority under NMSA 1978 Section 70-2-17, an applicant is obligated to

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make a good faith effort to obtain the voluntary agreement for the participation of the other working interest owners in its proposed well. (See NMSA 1978 Section 70-2-18 (A) .)

4. As Fuel Products failed to make a good faith effort to obtain the voluntary agreement of Nearburg before filing the Application for Compulsory Pooling in this matter, this case is premature and must be dismissed.

WHEREFORE, Nearburg Exploration Company, LLC requests the Division enter its Order dismissing this case.

Respectfully submitted,

MILLER, STRATVERT & TORGERSON, P.A.

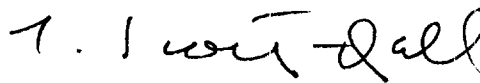
By 
J. Scott Hall
Post Office Box 1986
Santa Fe, New Mexico 87504
(505) 989-9614

ATTORNEYS FOR NEARBURG
EXPLORATION
COMPANY, LLC

Certificate of Mailing

I hereby certify that a true and correct copy of the foregoing was mailed to counsel of record on the 17 day of June, 2000, as follows:

W. Thomas Kellahin, Esq.
Kellahin and Kellahin
P.O. Box 2265
Santa Fe, New Mexico 87504-2265



J. SCOTT HALL

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
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IN THE MATTER OF THE APPLICATION OF
FUEL PRODUCTS, INC. FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

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AFFIDAVIT OF MARK WHEELER

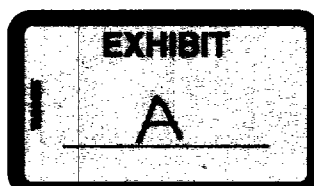
MARK WHEELER, being duly sworn, states:

1. I am the age of majority and am otherwise competent to testify to the matters set forth herein.

2. I am the senior landman for Nearburg Exploration Company, LLC, ("Nearburg"), and am familiar with the lands that are the subject of the application for compulsory pooling brought by Fuel Products, Inc. By virtue of my educational background and work experience, I am also familiar with the New Mexico compulsory pooling procedures.

3. Nearburg owns certain working interests in the E/2 of Section 18, T-18-S, R-28-E, NMPM, Eddy County, New Mexico. Nearburg plans to drill the Pathfinder 18 State Conn. No. 1 well in the E/2 of said Section 18.

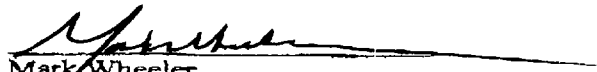
4. On April 12, 2000, Nearburg proposed its well to Fuel Products, Inc., among others, and sought their voluntary participation in the well. Nearburg was unable to obtain the voluntary participation of one-hundred percent of the working interest owners and subsequently filed its Application for Compulsory Pooling with the Division on May 19, 2000. (Application of Nearburg Exploration Company, LLC For Compulsory Pooling, Eddy County, New Mexico; NMOCD Case No. 12427.)



5. On May 30, 2000, Nearburg received by mail a copy of the Application For Compulsory Pooling filed by Fuel Products, Inc., also covering the E/2 of Section 18 (NMOCD Case No. 12431).

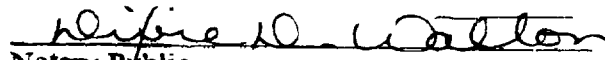
6. The Application for Compulsory Pooling in Case No. 12431 was the first indication to Nearburg that Fuel Products, Inc. was proposing a well for the E/2 of Section 18. Nearburg has received no AFE or other form of proposal for the well and Fuel Products has made no effort to obtain Nearburg's voluntary participation in the well.

Further more affiant sayeth not.


Mark Wheeler

STATE OF TEXAS)
)SS.
COUNTY OF MIDLAND)

Subscribed sworn to and acknowledged before me on this 12th day of June, 2000, by Mark Wheeler.


Notary Public

My commission expires:

5-25-2004

