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William F. Carr

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October 18, 2002

**BY HAND DELIVERY**

Ms. Florene Davidson, Secretary  
Oil Conservation Division  
New Mexico Energy, Minerals and  
Natural Resources Department  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

02 OCT 18 PM 3:56

OIL CONSERVATION DIV

Re: New Mexico Oil Conservation Division Case 12908: Division  
Nomenclature Case, August 1, 2002.

New Mexico Oil Conservation Division Case 12622 (De Novo):  
Application of Nearburg Exploration Company, L.L.C. for  
approval of two non-standard 160-acre gas spacing and proration  
units, Lea County, New Mexico.

Dear Ms. Davidson:

Late yesterday the attorney representing M.D. Mark, Inc. contacted me. M.D. Mark provided seismic data to Nearburg which Nearburg was planning to introduce as Exhibit 7 at the October 21 and 22 Commission hearing in the above referenced case. M.D. Mark's attorney, however, informed me that the seismic data is a trade secret and threatened that any use of the data, even in a hearing before the Commission, would be an unacceptable disclosure and would represent a breach of the license agreement. M.D. Mark has demanded that I prevent use and disclosure of this seismic information.

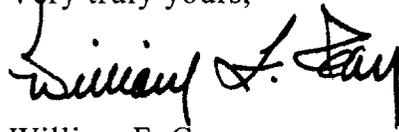
Today, we again attempted to obtain permission from M.D. Mark to use the data at the hearing. We were not successful. Therefore, I request that all copies of Exhibit 7 previously filed with the Commission be returned as soon as possible.

With this letter, we are also advising the Commission and all counsel of record that Nearburg cannot seek to introduce this data during the hearing, and therefore, does not intend to call a geophysical witness at the October 21 and 22 hearing.

HOLLAND & HART <sup>LLP</sup>  
ATTORNEYS AT LAW

Ms. Florene Davidson, Secretary  
October 18, 2002  
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Very truly yours,

A handwritten signature in black ink, appearing to read "William F. Carr". The signature is written in a cursive style with a large initial "W" and a distinct "C" at the end.

William F. Carr

cc: Commissioner Lori Wrotenbery  
Commissioner Jami Bailey  
Commissioner Robert Lee  
Stephen C. Ross, Esq.  
W. Thomas Kellahin, Esq.  
J. Scott Hall, Esq.  
Robert Shelton  
Nearburg Exploration Company, L.L.C.