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

EXAMINER HEARING

IN THE MATTER OF:

Application of Nearburg Producing  
Company for an unorthodox gas well                   Case 10032  
location, Lea County, New Mexico

TRANSCRIPT OF PROCEEDINGS

BEFORE: MICHAEL E. STOGNER, EXAMINER

STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO  
August 8, 1990

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A P P E A R A N C E S

FOR THE DIVISION:                   ROBERT G. STOVALL  
  Attorney at Law  
  Legal Counsel to the Division  
  State Land Office Building  
  Santa Fe, New Mexico 87501

FOR THE APPLICANT:                 WILLIAM F. CARR  
  Campbell & Black, P.A.  
  Post Office Box 2208  
  Santa Fe, New Mexico 87504-2208

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I N D E X

Page Number

Appearances

- 1. JERRY ELGER
  - Examination by Mr. Carr
  - Examination by The Hearing Examiner
  - Examination by Mr. Stovall
  
- 2. MARK NEARBURG
  - Examination by Mr. Carr
  - Examination by Mr. Stovall
  - Examination by The Hearing Examiner

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Certificate of Reporter

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E X H I B I T S

- Exhibit No. 1
- Exhibit No. 2
- Exhibit No. 3

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1 P R O C E E D I N S

2 HEARING EXAMINER: This hearing will come to order.  
3 We'll call next case, No. 10032.

4 MR. STOVALL: Application of Nearburg Producing  
5 Company for an unorthodox gas well location, Lea County, New  
6 Mexico.

7 HEARING EXAMINER: Call for appearances.

8 MR. CARR: May it please the Examiner, my name is  
9 William F. Carr with the law firm of Campbell & Black, P.A. of  
10 Santa Fe. We represent Nearburg Producing Company and I have  
11 one witness.

12 HEARING EXAMINER: Will the witness please stand to  
13 be sworn.

14 JERRY ELGER,  
15 the witness herein, after having been first duly sworn upon his  
16 oath, was examined and testified as follows:

17 HEARING EXAMINER: Mr. Carr.

18 EXAMINATION

19 BY MR. CARR:

20 Q. Will you state your full name and place of  
21 residence.

22 A. Jerry Elger, E-l-g-e-r, Midland, Texas.

23 Q. By whom are you employed and in what capacity?

24 A. Senior geologist for Nearburg Producing Company.

25 Q. Have you previously testified before the New Mexico

1 Oil Conservation Division?

2 A. Yes, I have.

3 Q. And at the time of that testimony were your  
4 credentials as a petroleum geologist accepted and made a matter  
5 of record?

6 A. Yes, they were.

7 Q. Does your geographic area of responsibility for  
8 Nearburg include the portion of Southeastern New Mexico  
9 involved in this case?

10 A. Yes, it does.

11 Q. Are you familiar with the application filed in this  
12 case on behalf of Nearburg?

13 A. Yes, I am.

14 Q. And are you familiar with the proposed well?

15 A. Yes.

16 MR. CARR: May it please the Examiner, at this time  
17 we would tender Mr. Elger as an expert witness in petroleum  
18 geology.

19 HEARING EXAMINER: Mr. Elger is so qualified.

20 Q. (BY MR. CARR) Mr. Elger, will you briefly state  
21 what Nearburg seeks with this application.

22 A. We seek an unorthodox drillsite in Section 6 of  
23 Township 20 South, Range 36 East, the footage being 990 from  
24 the north line, 1980 from the east line.

25 Q. What is the pool to which you are projecting this

1 well?

2 A. It is the North Osudo-Morrow gas pool.

3 Q. Are there special pool rules in effect for this  
4 pool?

5 A. 640-acre spacing, 1,600 foot setbacks, 330 from  
6 quarter quarter sections, section lines.

7 Q. Could you refer to what has been marked for  
8 identification as Nearburg Exhibit No. 1, identify this and  
9 review it for the Examiner.

10 A. This is a copy of a land plat on which we have the  
11 outline of the pool boundary for the North Osudo-Morrow gas  
12 pool. The subject proration unit for the well colored in  
13 yellow, the 640 acres. The proposed well indicated by a red  
14 dot. And also notice that there is a previously drilled Morrow  
15 gas well southeast southeast of that section.

16 Q. Was that well a commercial success?

17 A. No, it was not.

18 Q. Do you have any idea -- is it currently producing?

19 A. That well is currently plugged and abandoned.

20 Q. Do you have any idea what the total production from  
21 that well was prior to its being plugged and abandoned?

22 A. That well produced 884 million cubic feet of gas,  
23 about 38,000 barrels of --

24 Q. How close is the proposed well to the outer boundary  
25 of the spacing unit?

1           A.     Well, the proposed well is 990 from the north line  
2 which is, according to the field rules for the North Osudo gas  
3 pool, it's too close to the north line.

4           Q.     So therefore it's encroaching on the tract due north  
5 and to the northeast?

6           A.     Yes, sir.

7           Q.     What is the status of the ownership of each of those  
8 spacing units toward which the well is moving?

9           A.     Well, the south half of Section 31 in the northern  
10 adjacent section is owned jointly by Nearburg Producing Company  
11 and Fortson Oil, 100 percent working interest. The Southwest  
12 Quarter of Section 32, also adjacent on the northeast side, is  
13 co-owned by Nearburg Producing and Fortson Oil, 100 percent,  
14 with a farm-out from City Service, City OXY.

15          Q.     Does Fortson also own an interest with Nearburg in  
16 Section 6, the proposed proration unit?

17          A.     Yes, they do.

18          Q.     Could you now go to what has been marked as Nearburg  
19 Exhibit No. 2. Identify that and then review it for the  
20 Examiner.

21          A.     Exhibit No. 2 is a Morrow structure map constructed  
22 on the top of the middle Morrow. It has in bold lines -- shows  
23 a total isopach thickness values for the thickness of the  
24 middle Morrow to base of Morrow superimposed on top of the  
25 structural contours.

1 Q. What does this isopach actually show?

2 A. This isopach which is constructed using well control  
3 shows that the area is highly faulted, complex basinal faults  
4 down to the west. One major fault running between the subject  
5 acreage, Section 6, and the majority of the wells drilled in  
6 the North Osudo-Morrow gas pool.

7 Q. If we look at the well close to the major fault in  
8 Section 32, what is the status of that well?

9 A. That well is plugged and abandoned.

10 Q. If we go due south to the well spotted in Section 5,  
11 what is the status of that one?

12 A. That was a dry hole.

13 Q. And then the well in the southeast of the southeast  
14 of six is the plugged and abandoned well you previously  
15 testified about; is that correct?

16 A. Yes.

17 Q. From basically a structural point of view why are  
18 you proposing this particular unorthodox location?

19 A. Both the gas wells drilled in Section 32 and the  
20 well, the subject well and sit in the southeast southeast of  
21 Section 6 were produced from the Morrow Sand formation, but  
22 were non-commercial, encountered non-commercial hydrocarbons in  
23 the Morrow. The well of course in Section 5 was plugged and  
24 abandoned due to very poor Morrow Sand development.

25 Q. Why are you attempting to be at this location, not a

1 standard location in Section 6?

2 A. We are attempting to move farther away from this  
3 major basinal fault which well control indicates runs very  
4 close to the well bores in Section 32, Section 6, and Section  
5 5. We think we can improve the quality of the sand risk in the  
6 Morrow by moving farther away from that specific fault.

7 Q. Let's go now to what has been marked as Nearburg  
8 Exhibit No. 3. I'd ask you first to identify that and then  
9 review it for Mr. Stogner.

10 A. Exhibit 3 is a cross-section, stratigraphic  
11 cross-section of the Morrow. The date of the cross-section  
12 being the top of the middle Morrow. And it's approximately the  
13 five mile north-south cross-section running from wells in the  
14 North Osudo-Morrow gas field on the left-hand or south edge of  
15 the cross-section through the various wells in the proximity to  
16 the proposed location in Section 6.

17 Q. There is a trace for this cross-section on Exhibit  
18 No. 2?

19 A. Yes. It's the bold or the bright red orange line.

20 Q. Could you now review this cross-section for the  
21 Examiner.

22 A. This cross-section shows a number of faults. The  
23 faults which of course you see also corresponding on the  
24 corresponding structure map, which separate the various wells  
25 both in Section 32, Section 5, and Section 6. You see that

1 there is discontinuity between the sands from the North  
2 Osudo-Morrow pool across to the proposed location. You also  
3 see that there is a dramatic thinning relative to several  
4 unconformities, both within the Morrow and at the base of the  
5 Morrow, between the North Osudo-Morrow gas pool and the  
6 proposed location. Some of which even completely thin out the  
7 lower Morrow section as the well and the second from the left  
8 on the cross-section, the J. Hamon Klein Petty well No. 1 in  
9 Section 5 indicates.

10 Q. Based on your review or geologic study of this area  
11 what conclusions have you reached concerning a location for a  
12 well in Section 6?

13 A. That we think we can -- we think we can improve the  
14 quality of the Morrow Sand by moving away from the major  
15 basinal fault, three wells of which I've already identified  
16 that the sands are very poorly developed adjacent to that in  
17 the immediate proximity to that fault. And we don't want to  
18 drill too far away from the fault because of the lack of well  
19 control off to the west. We would like to stay in close  
20 proximity to the existing well control, but farther away from  
21 the major regional fault.

22 Q. And when those two factors are weighed against each  
23 other this is a location you have picked?

24 A. This is the location that was picked.

25 Q. Did Fortson participate with you in the selection of

1 this location?

2 A. Yes, they did.

3 Q. You are moving the well only toward acreage  
4 controlled or the working interest controlled and owned by  
5 Nearburg and Fortson?

6 A. Yes, we are.

7 Q. So therefore no notice was given because none was  
8 required?

9 A. Yes.

10 Q. Were Exhibits 1 through 3 either prepared by you or  
11 compiled under your direction and supervision?

12 A. They were compiled under my direction and  
13 supervision.

14 Q. I note that Mr. Mazzullo's name appears on the  
15 structure map. What is his relationship to you in Nearburg  
16 Producing Company?

17 A. Louis J. Mazzullo is a consultant geologist that  
18 works in a capacity for Nearburg Producing Company under my  
19 supervision.

20 Q. Can you testify as to the reasonableness of the  
21 interpretations depicted on Exhibits 2 and 3?

22 A. Yes.

23 Q. Mr. Elger, in your opinion will granting this  
24 application be in the best interest of conservation, the  
25 prevention of waste, and the protection of correlative rights?



1 Exhibit No. 3. And they should be thicker. Is that a -- would  
2 be more in the center of a channel sand deposit or --

3 A. Well, I don't believe there are channel sands in  
4 this particular area. I think you are probably looking at  
5 probably offshore bar-type deposits. The thickness of which  
6 would have been dictated by paleotopography, of course which  
7 the faulting would have played an important role developing.

8 Q. How does the porosity differ with an offshore bar  
9 deposit as opposed to a channel deposit in the Morrow in this  
10 area?

11 A. I believe channel deposits can be much more porous.

12 Q. So you are looking at a more tighter reservoir?

13 A. Yes. I think it's -- the thickness is critical.

14 Q. May I refer you to Exhibit No. 1. Who owns the  
15 interest in the -- or who leases the interest in the west half  
16 of 31?

17 A. I believe it's unleased.

18 Q. Federal, State, or fee?

19 A. It looks like fee lease, fee leases.

20 MR. STOVALL: Let me ask you if I may, Mr. Examiner,  
21 to clarify that point.

22 EXAMINATION

23 BY MR. STOVALL:

24 Q. Are you, in making that, in answering that question  
25 are you relying on the information on the exhibit itself?

1 A. Yes.

2 Q. You don't have any personal knowledge of the --

3 A. No.

4 MR. CARR: May it please the Examiner, Mr. Nearburg  
5 is present, but I can call him to review the ownership. The  
6 only purpose for his being here was to provide that, and we  
7 concluded that this witness could cover. But if you have  
8 questions about that I'll be happy to call him and have him  
9 explain that.

10 MR. STOVALL: Mr. Carr, did you make a determination  
11 that the interest owners in the west half of 31 were not  
12 entitled to notice?

13 MR. CARR: Yes, that was correct, because we were at  
14 least a standard setback from that. And we were -- the rule  
15 provided to give notice to the owners on one or both of the two  
16 sides toward whom the well was being moved, and we were only  
17 encroaching to the north and the northeast.

18 HEARING EXAMINER: Isn't Section 31 also in the  
19 sphere of influence, you might say, from --

20 MR. CARR: Yes. The south half of 31 and the north  
21 or the Northeast Quarter of 32 would both be in the sphere of  
22 influence, Mr. Examiner.

23 HEARING EXAMINER: Therefore they would be spaced on  
24 640.

25 MR. CARR: Yes, sir. And they would both be

1 affected by the location of this well because it is closer to  
2 those two tracts than under the special pool.

3 HEARING EXAMINER: What's the date on this map that  
4 you got Exhibit 1 from?

5 MR. NEARBURG: It's within the last two or three  
6 months.

7 MR. STOVALL: Mr. Nearburg is not sworn so we'll  
8 strike that.

9 THE WITNESS: Several months old.

10 MR. STOVALL: Let me come back and make sure I  
11 understand.

12 With respect to Section 31 to whom -- who owns what  
13 portions of that? Let me clarify that in my mind again. Can  
14 you do that or do we need to get Mr. Nearburg?

15 MR. CARR: We'll need to call Mr. Nearburg on that.

16 HEARING EXAMINER: Would you like to do so at this  
17 time?

18 MR. CARR: If you would like to, Mr. Examiner.

19 MR. STOVALL: Do we have any other geological  
20 questions?

21 HEARING EXAMINER: I have no other questions of this  
22 witness as far as geological aspects of it go.

23 MR. CARR: Then at this time, Mr. Stogner, if  
24 Mr. Elger can be excused we'll call Mr. Nearburg.

25 HEARING EXAMINER: Mr. Elger, you are so excused.

1 MARK NEARBURG,  
2 the witness herein, after having been first duly sworn upon his  
3 oath, was examined and testified as follows:

4 EXAMINATION

5 BY MR. CARR:

6 Q. Will you state your full name for the record,  
7 please.

8 A. Mark Nearburg.

9 Q. Mr. Nearburg, by whom are you employed and in what  
10 capacity?

11 A. Nearburg Producing Company, land manager.

12 Q. Have you previously testified before the Oil  
13 Conservation Division and had your credentials as a landman  
14 accepted and made a matter of record?

15 A. Yes, I have.

16 Q. Are you familiar with the application filed in Case  
17 10032 on behalf of Nearburg?

18 A. Yes.

19 Q. Are you familiar with the proposed well and the  
20 ownership of the offsetting tracts?

21 A. Yes, I am.

22 Q. Mr. Nearburg, would you refer to what has been  
23 marked in this case and admitted as Nearburg Exhibit No. 1.  
24 Could you review for the Examiner the ownership in the south  
25 half of Section 3, the section due north of the proposed

1 spacing unit.

2 A. Right. That's the south half Section 31, the dashed  
3 line.

4 Q. Right, I am sorry.

5 A. The actual mineral ownership is very complicated.  
6 It's taken over a year to put this together. Fortson owns 62  
7 and a half percent working interest, Nearburg owns 37 and a  
8 half percent as to the Morrow formation. In the Southwest  
9 Quarter of Section 32 I believe Nearburg owns somewhere  
10 between, oh, 2.5 and five net acres and Fortson owns the rest  
11 under farm-out from OXY.

12 Q. Is there any other working interest owner in either  
13 the south half of 31 or the Southwest Quarter of Section 32?

14 A. No.

15 MR. CARR: I have nothing further on direct of  
16 Mr. Nearburg.

17 EXAMINATION

18 BY MR. STOVALL:

19 Q. Mr. Nearburg, when -- what about the north half of  
20 31, what's the status of that?

21 A. I would have to bring up the takeoffs and just show  
22 it to you. It's very complicated.

23 Q. It's not the same as the south half is what you are  
24 saying.

25 A. It's all owned by either Fortson or Nearburg.

1 Nearburg owns the entire Northeast Quarter. Nearburg owns a  
2 few acres of undivided minerals in the Northwest Quarter.  
3 There is an estate that owns approximately -- well, I am just  
4 not sure without looking at the takeoff. But it's the Cohn  
5 Estate.

6 Q. I've heard that name before.

7 A. The Obenshines, the Cohns, the Calls, people like  
8 that. They probably have remaining about a third interest  
9 unleased. I won't swear to that unless I could bring the  
10 takeoffs up here. Other than that Fortson and Nearburg own the  
11 entire interest.

12 Q. The Cohn et al. interest is the Northwest Quarter?

13 A. Only in the Northwest Quarter.

14 Q. And it's unleased to the best of your knowledge,  
15 recognizing you don't have the --

16 A. No, there are --

17 Q. Or are they lessees or lessors in that?

18 A. They are mineral owners.

19 Q. Okay.

20 A. The Cohns are the mineral owners. I have to go  
21 through the exact takeoff to tell you. Certain of them lease  
22 to OXY, a couple of them lease to Nearburg, a couple of them  
23 say that they'll participate in the well if and when it's  
24 drilled, or they may lease at that time. So I guess you could  
25 say that the entire Northeast Quarter and south half is owned

1 100 percent by Fortson or Nearburg, and probably 50 to 60  
 2 percent of the Northwest Quarter is owned by Fortson or  
 3 Nearburg.

4 I would say this, Cohns are well aware of our plans  
 5 out here and what we're doing. We've been in negotiations with  
 6 them for probably six months, something along that line.

7 Q. With respect to activity in Section 31, not Section  
 8 6; is that correct?

9 A. No, 6 and 31.

10 Q. Are Cohns interest owners in 6 as well?

11 A. No, they are not.

12 MR. STOVALL: Mr. Examiner, I don't have any further  
 13 questions of this witness, but I would like to leave this  
 14 record open for the moment for discussion at our next break  
 15 with respect to any concerns I might have with respect to  
 16 notice. That's not to say that I feel it's inadequate at this  
 17 point. I just need to discuss it with the Examiner and would  
 18 therefore request that we not yet take it under advisement.  
 19 But I anticipate doing so later in the course of the hearing.

20 EXAMINATION

21 BY THE HEARING OFFICER:

22 Q. While I've got you here, Mr. Nearburg, on Exhibit  
 23 No. 1 there is a large dashed line. What does that reflect?

24 A. That's the boundary limits set by the NMOCD of the  
 25 North Osudo-Morrow gas pool, which was established in 1967 when

1 the State was on 640-acre spacing. It's never been -- activity  
2 has been very limited in here since then. And it's never been  
3 amended to the 320 statewide we have now.

4 HEARING EXAMINER: Other than notification, is there  
5 any questions of this witness?

6 MR. CARR: No questions.

7 HEARING EXAMINER: You may be excused.

8 Mr. Carr, let's hold the record open on this and  
9 we'll recall this at a later time in the day's proceedings.

10 \* \* \* \* \*

11 HEARING EXAMINER: Back to order. We're going to go  
12 back to Case No. 10032.

13 Mr. Stovall.

14 MR. STOVALL: I've reviewed the notice given in case  
15 10032 regarding the unorthodox location, and because the offset  
16 acreage to the north in -- I forgot which section that is.

17 MR. CARR: 31.

18 MR. STOVALL: 31 is within the pools based on 640  
19 acres, we determined that notice is required to be given to all  
20 either operators or working interest owners within that pool,  
21 and therefore notice was not given, sufficient notice was not  
22 given. And I am going to recommend that this case be continued  
23 to the hearing set for September 5th, and that Mr. Carr be  
24 directed to properly notify those parties entitled to notice to  
25 satisfy that requirement.

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HEARING EXAMINER: 5th of November.

MR. STOVALL: November, how about September.

HEARING EXAMINER: Yes, that too.

All right. Case No. 10032 will be continued for notice purposes to the examiner's hearing scheduled for September 5, 1990.

\* \* \* \* \*

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 10032 heard by me on 8 August 1990.  
Michael E. Dupas, Examiner  
Oil Conservation Division

