

Correspondence

Renovo

Case No. 12622

August 2002



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON

Governor
Betty Rivera
Cabinet Secretary

Lori Wrotenbery
Director

Oil Conservation Division

August 26, 2002

Via Facsimile and First Class Mail

William F. Carr, Esq.
Holland & Hart and Campbell & Carr
P.O. Box 2208
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W. Thomas Kellahin, Esq.
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J. Scott Hall, Esq.
Miller, Stratvert & Torgerson, P.A.
P.O. Box 1986
Santa Fe, New Mexico 87504-1986

Re: Case No. 12622, Application of Nearburg Exploration Company L.L.C. for two non-standard gas spacing units, Lea County, New Mexico, *de novo*

Dear Counsel,

As you are all aware, the Commission has agreed to hear this matter on a special docket in September, rather than during a regularly-scheduled meeting.

The hearing will commence Tuesday, September 10, 2002 and will continue through Wednesday, October 11, if necessary. The hearing will commence at 9 a.m. on September 10 and will be conducted in Porter Hall, 1st Floor, 1220 S. St. Francis Drive, Santa Fe, New Mexico. The Commission will have certified court reporter present who will stenographically record the proceedings. The Commission has worked into the evening in previous evidentiary hearings and counsel, parties and witnesses should be ready in the event they decide to do so in this case.

Please provide copies of exhibits and detailed pre-hearing statements to Florene Davidson no later than Wednesday, September 4.

Counsel of Record
August 26, 2002
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Please provide copies of exhibits and detailed pre-hearing statements to Florene Davidson no later than Wednesday, September 4.

As always, if you have any questions, please do not hesitate to give me a call at 476-3451.

Sincerely,

A handwritten signature in black ink, appearing to be 'SR', written over the word 'Sincerely,'.

Stephen C. Ross
Assistant General Counsel

Cc: Florene Davidson, Commission Secretary

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 12622 (DE NOVO)

APPLICATION OF NEARBURG EXPLORATION
COMPANY, L.L.C. FOR TWO NON-STANDARD
GAS SPACING AND PRORATION UNITS,
LEA COUNTY, NEW MEXICO

RAPTOR NATURAL PIPELINE L.L.C.'S
REPLY PURSUANT TO
MOTION TO DISMISS, IN PART, CASE 12908
OR IN THE ALTERNATIVE TO RE-OPEN THE CASE
AND
RESPONSE TO NEARBURG'S MOTION TO CONSOLIDATE

Raptor Natural Pipeline L.L.C., ("Raptor"), submits this Reply following the Response filed on behalf of Nearburg Exploration Company, L.L.C., ("Nearburg") on August 13, 2002 in this case, as well as in Case No. 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.*)

Raptor also responds to Nearburg's August 13, 2002 Motion To Consolidate For Hearing The Re-Opened Portions of Case 12908 With Case 12622 (De Novo).

In addition, Raptor is advised that Redrock Operating Ltd. intends to file a motion in Case No. 12622 and Case No. 12908 proposing to reschedule the August 30, 2002 Commission hearing pending the consolidation of Case No. 12622 and 12908.

NMOCD Case 12622 (*DE NOVO*)

Motion to Reopen or Dismiss

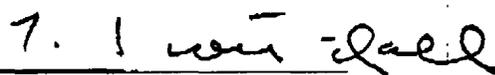
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Raptor believes that consolidation may serve to avoid a potentially duplicative hearing and would otherwise be in the interests of administrative efficiency and economy. However, immediate consolidation fails to address the previously expressed concern that the notification by publication attendant with the Division's nomenclature proceedings may be deficient in this particular circumstance. Clearly, as the interests of other parties are affected and because the effort to revise the pool boundaries of the subject pools was derived from a finding contained in Order No. R-11768, a contested case, it can readily be said that what would otherwise have been a generic nomenclature rulemaking proceeding has been transformed into an adjudicatory matter.

In view of the prior dictates to the agency in *Johnson v. New Mexico Oil Conservation Commission*, 127 NM 120 (1999) and *Uden v. New Mexico Oil Conservation Comm'n.*, 112 N.M. 528 (1991), caution is indicated before consolidation is undertaken in this circumstance.

Redrock's proposal to reschedule any hearing in this matter is appropriate and will allow Nearburg the opportunity to address the sufficiency of existing notification or the need for additional notification by way of further briefing to the Commission and the parties.

Respectfully submitted



J. Scott Hall, Esq.
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(505) 989-9614
(505) 989-9857
Attorneys for Raptor Natural Pipeline, L.L.C.

NMOCD Case 12622 (DE NOVO)
Motion to Reopen or Dismiss
Page -3-

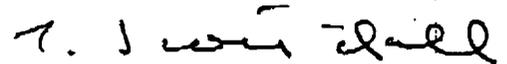
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading was transmitted by facsimile or hand delivered this 21st day of August 2002, as follows:

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Attorneys for Redrock Operating Ltd. Company



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W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

August 19, 2002

HAND DELIVERED

Ms. Lori Wrotenbery, Director
Oil Conservation Division
1220 S. Saint Francis Drive
Santa Fe, New Mexico 87505

RECEIVED

AUG 19 2002

Re: **NMOCD Case 12908**
Division Nomenclature Case
August 1, 2002

Oil Conservation Division

NMOCD CASE 12622 (De Novo)
Nearburg Exploration Company, L.L.C.
Application for Approval of Two Non-Standard 160-acre
Gas Proration and Spacing Units
NE/4 and SE/4, Section 34, T21S, R34E, NMPM,
East Grama Ridge-Morrow Gas Pool, Lea County, New Mexico

Ms. Wrotenbery:

On behalf of Redrock Operating Ltd. Co. ("Redrock") and Raptor Natural Pipeline, LLC ("Raptor") please find enclosed our motion to dismiss or in the alternative reopen a portion of Case 12908 heard on August 30, 2001.

Based upon my conversation this morning with Mr. Steve Ross concerning this joint motion, I am notifying Mr. Carr and Mr. Hall that the August 30 is to be vacated and that the Commission is considering reschedule this hearing for 2 days either the week of September 9th or 16th.

In addition, the Commission need to decide the issue of consolidation.

Very truly yours,



W. Thomas Kellahin

cfx: Michael E. Stogner, Hearing Examiner
David Brooks, Esq., OCD Attorney
Chris Williams, Supervisor (OCD-Hobbs)
J. Scott Hall, Esq.
Attorney for Raptor Natural Pipeline, LLC
William F. Carr, Esq.
Attorney for Nearburg Exploration Company, L.L.C.
Redrock Operating Ltd. Co.
Attn: Tim Cashon

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION
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 TWO NON-STANDARD
GAS SPACING AND PRORATION UNITS;
LEA COUNTY, NEW MEXICO**

CASE NO. 12622 (De Novo)

**APPLICATION OF THE OIL CONSERVATION
DIVISION FOR AN ORDER CREATING AND
EXTENDING CERTAIN POOLS,
LEA COUNTY, NEW MEXICO**

CASE NO. 12908

**JOINT MOTION BY
REDROCK OPERATING LTD, CO
AND
NEARBURG EXPLORATION COMPANY L.L.C.
TO
RESCHEDULE AND
CONSOLIDATE CASE 12622 (DeNovo)
WITH THE REOPENING PART OF CASE 12908**

Comes now Redrock Operating Ltd, Co. ("Redrock") and Nearburg Exploration Company, L.L.C. ("Nearburg") and move the New Mexico Oil Conservation Division ("Division") and the New Mexico Oil Conservation Commission ("Commission") continue Case 12622 (DeNovo) and consolidate it with the following portion of Division Case 12908 so that both cases can be heard by the Commission at the same hearing:

NOMENCLATURE

"(bb) CONTRACT the East Grama Ridge-Morrow Pool (Pool Code 77690) in Lea County, New Mexico include:

Township 22 South, Range 34 East, NMPM

Section 34: E/2

"(cc) EXTEND the Grama Ridge-Morrow Pool (Pool Code 77680) in Lea County, New Mexico include:

Township 22 South, Range 34 East, NMPM

Section 34: E/2"

and as grounds therefore, states:

SUMMARY

(1) Section 34, Township 22 South Range 34 East, NMPM, Lea County, New Mexico is divided such that the E/2 is in the East Grama Ridge-Morrow Gas Pool and the W/2 is in the Grama Ridge-Morrow Gas Pool.

(2) Order R-3006 dated December 3, 1965 created the Grama Ridge Morrow Gas Pool and adopted 640-acre spacing. By Order R-3080 dated July 1, 1966 extended pool to cover all of Section 34.

(3) In past cases, the Division:

(a) authorized the injection of gas for storage into specific intervals in the Grama Ridge Morrow Gas Pool ("the gas storage pool") in two wells, one being the Grama Ridge Morrow Unit Well No 2 in Unit L of Section 34; (Order R-4491 dated March 16, 1973); and

(b) separated the E/2 of Section 34 out of the gas storage pool and from the East Grama Ridge-Morrow Gas Pool. (Order R-5995 dated May 2, 1979).

(4) Raptor is the operator of the Morrow Gas Storage Unit which includes the W/2 of Section 34 and other acreage.

(5) Nearburg is the oil & gas leases for the N/2 of Section 34.

(6) Redrock is a 10 % overriding royalty owner ("ORR") in the S/2 of Section 34 and would own a 5 % ORR in the Nearburg well if the E/2 of Section 34 is dedicated to the Nearburg well. If Nearburg's application is granted then Redrock would be excluded from an ORR in the Nearburg well.

(7) On June 9, 2000, Nearburg completed its Grama Ridge East 34 State Well No. 1 in Unit H of Section 34 and dedicate the N/2 of Section 34 which was denied subsequently by the Division because the 320-acre spacing unit would cross into 2 pools.

(8) Case 12622 (DeNovo) involves Nearburg's application seeking approval by the Division to subdivide the E/2 of Section 34 to create two non-standard 160-acre gas proration and spacing units ("the NSP Case") (Denied by Order R-11768 dated May 22, 2002).

(9) Case 12980 ("the Nomenclature Case") is an attempt to move the East boundary of the Grama Ridge-Morrow Gas Pool to the East thereby deleting the impediment to Nearburg dedicating the N/2 of Section 34 to its Grama Ridge East 34 State Well No. 1. Both Raptor and Redrock are opposed to this application.

(10) On August 9, 2002, Redrock and Raptor filed a motion to dismiss or reopen the Nomenclature Case or in the alterative to consolidate it with the NSP Case.

(11) On August 13, 2001, Nearburg filed a Response stating "that a determination of the proper pool boundaries is necessary to a full resolution of the issues" and in order to avoid multiple hearing involving the same issues, the case should be consolidate and one hearing held. **Response Paragraph (4) and (6).**

(12) Redrock concurs with Nearburg's request to continue these cases and consolidate then for a single hearing before the Commission.

(13) Raptor does not concur with Redrock and Nearburg's request to consolidate these cases for a single hearing before the Commission.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading was transmitted by facsimile or hand delivered this 19th day of August 2002, as follows:

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W. Thomas Kellahin

Wherefore,

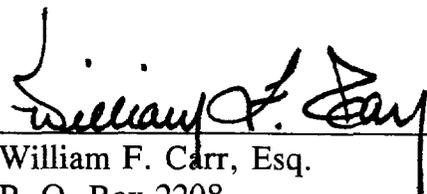
(1) Nearburg, Redrock and Raptor jointly request that the Commission hearing of Case 12622 (De Novo) set for August 30, 2002 be vacated; and

(2) And Redrock and Nearburg jointly request that the Commission consolidate Cases 12622 with the referenced portion of Case 12908 be reopened and consolidated with Case 12622 (DeNovo) to be heard before the Commission on a date acceptable to all parties.

Respectfully submitted,



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