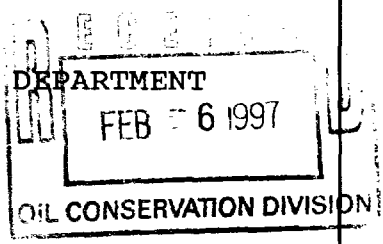


STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION



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 COMPULSORY POOLING,)
EDDY COUNTY, NEW MEXICO)

CASE NO. 11,684

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

January 23rd, 1997
Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, January 23rd, 1997, 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.

* * *

I N D E X

January 23rd, 1997
 Examiner Hearing
 CASE NO. 11,684

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* * *

A P P E A R A N C E S

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By: JAMES G. BRUCE

* * *

1 WHEREUPON, the following proceedings were had at
2 10:40 a.m.:

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7 EXAMINER CATANACH: At this time we'll call Case
8 11,684.

9 MR. CARROLL: Application of Nearburg Exploration
10 Company, L.L.C., for compulsory pooling, Eddy County, New
11 Mexico.

12 EXAMINER CATANACH: Are there appearances in this
13 case?

14 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
15 the Santa Fe law firm of Kellahin and Kellahin, appearing
16 on behalf of the Applicant.

17 I have two witnesses to be sworn.

18 EXAMINER CATANACH: Additional appearances?

19 MR. BRUCE: Mr. Examiner, Jim Bruce from the
20 Hinkle law firm in Santa Fe, representing Mewbourne Oil
21 Company.

22 I do not have any witnesses.

23 EXAMINER CATANACH: Additional appearances?

24 Will the witnesses please stand and be sworn in?

25 (Thereupon, the witnesses were sworn.)

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DUKE ROUSH,

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

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q. Mr. Roush, for the record, sir, would you please state your name and occupation?

A. Yes, my name is Duke Roush. I'm an independent land consultant, representing Nearburg Exploration Company, L.L.C.

Q. On prior occasions have you testified before the Division, Mr. Roush, and had your qualifications as an expert in petroleum land matters accepted and made a matter of record?

A. Yes, I have.

Q. Are you involved on behalf of Nearburg concerning the subject application and the proposal to consolidate the interest owners for the drilling of the subject well?

A. Yes, I am.

MR. KELLAHIN: We tender Mr. Roush as an expert witness.

EXAMINER CATANACH: He is so qualified.

Q. (By Mr. Kellahin) Let's turn to Exhibit 1 and help orient the Examiner as to where this tract is located.

A. This tract is located in Section 4, Township 18

1 South, Range 28 East, in Eddy County, New Mexico. It's
2 approximately 14 miles southeast of the city of Artesia.

3 This plat shows the proposed east-half proration
4 unit and the location, which is 1650 feet from the north
5 line, 660 feet from the east line.

6 Q. Let's turn to Exhibit 2 and look at how the
7 proposed spacing unit is divided into various tracts.

8 A. Yes, we've broken the entire east half by tracts
9 and put the individual working interest owners, along with
10 their percentages, by tract. And at the bottom of the page
11 we have consolidated this into a 320-acre working interest
12 unit, and that is their *pro rata* share of the working
13 interest.

14 Q. When we look at the northeast of the southeast,
15 the tract that says Arco and Amoco --

16 A. Yes, sir.

17 Q. -- do you have that interest divided 50-50?

18 A. That is correct.

19 Q. Prior to that division, who was the interest
20 owner that had control of the right to produce that 40-acre
21 tract?

22 A. That was Exxon.

23 Q. After you sent notification to Exxon, were you
24 advised that Exxon had transferred its interest in that
25 tract to others?

1 A. Yes, we received a letter returning the AFE and
2 JOA that we had sent them, stating that they had given a
3 term assignment to Arco.

4 Q. So that term assignment provided a split in
5 ownership where Arco would have 50 percent?

6 A. At the time it just said Arco. Subsequently we
7 have found out that Arco has, in fact, assigned a half
8 interest of that to Amoco.

9 Q. Okay. In terms of providing an opportunity to
10 Amoco to participate in the spacing units, have you been in
11 contact with them concerning this proposal?

12 A. Yes, by phone.

13 Q. Okay, and what is your understanding of their
14 position with regards to this case?

15 A. We did not notice Amoco when we sent out our
16 original certified letters. I spoke with them on the phone
17 as late as yesterday, explained to them that we were having
18 a hearing.

19 And Arco and Amoco have, in this area -- It's a
20 private arrangement, and I have obviously not seen any
21 agreement, but they have formed some form of AMI in the
22 area. And normally Amoco does not assign an interest of
23 title until such time as a well has been drilled, but in
24 this instance they did, in fact, assign Amoco an interest
25 in it, so we immediately contacted them.

1 They are aware of the hearing and had no problem
2 and did not send anyone up to contest.

3 MR. KELLAHIN: Mr. Examiner, because we have not
4 resolved the issue of notice to Amoco, at the conclusion of
5 the hearing I'm going to ask you to continue this for two
6 weeks. Let me contact Amoco and see if we can obtain a
7 written waiver concerning the notice. And if not, then
8 I'll advise you of what the position is.

9 So that is an element that's unresolved today
10 concerning Amoco.

11 Q. (By Mr. Kellahin) As to the other interest
12 owners --

13 A. Yes, we --

14 Q. -- have you been in contact with all of them?

15 A. Yes, we have. OXY has elected to participate.

16 Mewbourne has not made an election. We've had
17 numerous phone calls with them. Unfortunately, their tract
18 is very badly burdened, to the point of 62.5 percent for a
19 net revenue.

20 Marathon has indicated they will probably participate
21 but could not have an answer at this time.

22 Q. Let's turn to Exhibit 3, Mr. Roush, and look at
23 the proposal concerning this well. When did you first send
24 to the interest owners, with the exception of Amoco, the
25 proposed letter, including an AFE, for the well at this

1 location?

2 A. We sent these letters out certified November
3 21st, 1996, and have received the return receipt of the
4 certified mail from all parties, with the exception of
5 Amoco.

6 Q. Each of the attachments in Exhibit 3, then,
7 represents the letter to these various interest owners that
8 would participate in the well?

9 A. That is correct.

10 Q. And those parties were provided a copy of the AFE
11 that's attached to the very end of the exhibit?

12 A. That's correct.

13 Q. There are some of these interest owners that may
14 yet still participate, but at this point there's at least
15 one, as I understand, that you're unable to reach an
16 agreement with and will have to have a compulsory pooling
17 order for?

18 A. That is correct.

19 Q. And that's the Mewbourne interest, and it's
20 because it has such a small net revenue interest, you and
21 Mewbourne are unable to arrange an agreement by which they
22 can participate on a voluntary basis?

23 A. That's correct.

24 Q. Do you have a recommendation to the Examiner for
25 an overhead rate to apply during drilling and for producing

1 of the well if it's successful?

2 A. Yes, that would be \$6000 and \$600.

3 Q. What's your basis for that recommendation, Mr.
4 Roush?

5 A. That is consistent with some recent orders in the
6 area, Order Number 10,728, which was a previous order for
7 the north half of this section, which was never taken
8 action on, and R-10,626, which was a recent Arco pooling
9 whereby they had \$6000 and \$600.

10 Q. I think you have the numbers reversed. The
11 10,626 is the Nearburg/Mewbourne order --

12 A. Okay.

13 Q. -- and the other one is the Arco order.

14 A. Okay, I apologize.

15 MR. KELLAHIN: Mr. Examiner, the Case -- Order
16 R-10,626 is a prior pooling order. It involved competing
17 pooling applications by Mewbourne and Nearburg for a well
18 in the northeast quarter of the section. However, that was
19 for the orientation of the spacing unit, so it was north
20 half.

21 This well has been repropose, because the first
22 one was never drilled. The force-pooling order was
23 entered, the parties resolved their difference by an
24 exchange of acreage and agreement to reorient the spacing
25 unit. So both parties let that pooling order expire.

1 Nearburg has repropoed the well now at a
2 slightly different location in the northeast quarter, so
3 that it's standard for a stand-up east-half spacing unit.
4 So that's why we're back again today.

5 Q. (By Mr. Kellahin) Let me turn now, Mr. Roush, to
6 Exhibit Number 4. Would you identify this exhibit?

7 A. Yes, this is the Application that was mailed out
8 to the parties.

9 Q. All right. And again, with the exception of
10 Amoco, all the interest owners notified of the hearing are
11 the same parties that you were dealing with when you
12 originally proposed the well?

13 A. That's correct.

14 MR. KELLAHIN: That concludes my examination of
15 Mr. Roush.

16 We move the introduction of his Exhibits 1, 2, 3
17 and 4.

18 EXAMINER CATANACH: Exhibits 1, 2, 3 and 4 will
19 be admitted as evidence.

20 EXAMINATION

21 BY EXAMINER CATANACH:

22 Q. What is the status of the Arco interest within
23 the unit?

24 A. They will elect to participate, or grant us a
25 term assignment.

1 Q. So you have been in discussions with Amoco,
2 trying to get them to voluntarily join in the unit?

3 A. Yes, but unfortunately we didn't do it till the
4 latter stages. And I spoke with Mr. Jerry West with Amoco.
5 He is aware of what's going on.

6 We're going to attempt to try and get him --
7 There's an arrangement of the Arco agreement, and I'm not
8 privy to that agreement, but should they not elect -- The
9 way I understand it, should they elect not to participate,
10 then I believe Arco would have the right to take their
11 percentage or their interest in the unit.

12 But having not seen the agreement, I can't give
13 you any details.

14 EXAMINER CATANACH: If you can't get Amoco to
15 waive the notice, will you anticipate having to notice
16 them, continue the case?

17 MR. KELLAHIN: Yes, sir, then we'll have to have
18 a further continuance and see where it goes from there.

19 But we're going to try to see if we can get them
20 to waive notice and provide them an opportunity to
21 participate. If that's not successful, then we'll advise
22 you.

23 EXAMINER CATANACH: We have nothing further. The
24 witness may be excused.

25 MR. KELLAHIN: My next witness, Mr. Examiner, is

1 Jerry Elger.

2 JERRY B. ELGER,

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

5 DIRECT EXAMINATION

6 BY MR. KELLAHIN:

7 Q. Mr. Elger, for the record, sir, would you please
8 state your name and occupation?

9 A. Jerry Elger. I'm an exploration geologist for
10 Nearburg Producing Company in Midland, Texas.

11 Q. On prior occasions, Mr. Elger, have you testified
12 and qualified before the Division as an expert in petroleum
13 geology?

14 A. Yes, I have.

15 Q. As part of your responsibilities, have you
16 prepared geologic displays concerning the opportunity
17 Nearburg sees for drilling of a deep Morrow gas test well
18 in this spacing unit?

19 A. Yes, I have.

20 MR. KELLAHIN: We tender Mr. Elger as an expert
21 witness.

22 EXAMINER CATANACH: He is so qualified.

23 Q. (By Mr. Kellahin) Let's take a moment, Mr.
24 Elger. I have marked as Exhibit 5 the production map that
25 shows cum production in this area as of 1996. Take a

1 moment and describe for us what you see to be the
2 offsetting productivity to the east half of 4.

3 A. Exhibit 5 is a production map. It identifies the
4 gas production in the immediate area of the prospect. The
5 spacing unit, the east half of Section 4, has been shaded
6 yellow. The proposed location has been identified.

7 The legend at the bottom of the map explains what
8 has been identified by each well. The field name has been
9 identified, the cumulative gas production and oil
10 production, as well as the daily rate as of May of 1996.

11 The blue wells and the orange wells identify the
12 Wolfcamp and Atoka production in offset wells. You'll see
13 there's not a very significant number of wells that have
14 produced from this particular gas reservoir. The
15 production from these two reservoirs is basically, in our
16 opinion, not commercial. Those are considered secondary
17 objectives.

18 Q. When you're targeting the reservoir that has the
19 greatest probability for potential production, which one
20 are you looking at?

21 A. Primarily the Morrow.

22 Q. And is there a particular portion of the Morrow
23 that you see to be better potential than the others?

24 A. Yes, there is, and that's the lower Morrow.

25 Q. And you've identified that as the lower "C"

1 Morrow zone when we look at the isopachs?

2 A. That's correct. The yellow symbolism by each
3 well, the yellow shaded areas in each well, represents
4 those wells which have been identified as producing from
5 the Morrow pay, but it has not been separated as to whether
6 it's been upper, middle or lower Morrow.

7 What I'd like to do is -- and what I have done is
8 transposed onto Exhibit Number 7 the -- which is an isopach
9 specifically of the lower Morrow -- the cumulative
10 production from this Exhibit Number 5.

11 What you see when you relate these two exhibits
12 is the fact that in Section 29 to the northwest of the
13 proposed spacing -- or proposed well, a well located in the
14 southeast quarter of Section 29 has been identified as a
15 well that has produced a cumulative of 34 BCF and 300,000
16 barrels of condensate.

17 To the northeast of the proposed spacing unit, in
18 Section 25 of 17 South, 28 East, two wells have previously
19 been drilled by Arco, and those wells have produced
20 prolific amounts of natural gas. One well has cum'd 12
21 BCF, one well in excess of 15 BCF.

22 Also associated in that same particular area, a
23 well in the north half of Section 36 has been identified as
24 a well that produced 7.6 BCF from the lower Morrow sand,
25 and a well in the south half of Section 35, a 2.5-BCF well.

1 Q. On this display, you've identified three areas
2 that you've shaded in green. The legend indicates they're
3 areas of clean, porous sand?

4 A. That's correct, with regards to the lower -- the
5 lower Morrow "C", what we call the lower "C" Morrow zone.

6 Q. When I look in that pod, if you will, of clean,
7 porous sand, where you've proposed the location in the
8 northeast of 4, I'm looking in that green area, and but for
9 the well in 35 that had a cum of about 2.5 BCF I don't see
10 any other well that's produced out of that pod.

11 A. That's correct. The other wells are producing
12 from other sands associated with the Morrow, either the
13 upper or middle portions of the Morrow.

14 Again, if you refer back to those wells, in the
15 Exhibit Number 5, you'll see that most of the wells, if
16 they have not encountered clean, porous sand that's been
17 identified on Exhibit Number 7, are basically for the most
18 part noncommercial or poor wells.

19 Q. Therein lies the risk, I guess, Mr. Elger?

20 A. That's correct.

21 Q. Do you have an opinion for the Examiner as to
22 what percentage risk factor penalty you would recommend
23 that he include in the pooling order, in the event none of
24 the -- in the event an interest owner elects not to
25 participate under the pooling order?

1 A. Yes, I do.

2 Q. And what is that recommendation?

3 A. That is 200 percent.

4 Q. Give us an understanding of the basis for that
5 percentage.

6 A. Again, the well in Section 3 -- The deep well
7 control immediately surrounding this particular spacing
8 unit, and that would be the well to the north in Section
9 33, a well to the east in Section 3, two wells to the west
10 in Section 5, all of the immediate offset producers are for
11 the most part noncommercial, from anywhere in the
12 Pennsylvanian.

13 Q. And as you move to the west and to the south, you
14 have an absence of control as to what's happening in
15 defining the location of any clean, porous sands?

16 A. That's correct.

17 Q. Let's turn now to the cross-section that's
18 Exhibit 6, so that we can see specifically what you're
19 characterizing to be the lower "C" Morrow sand in relation
20 to the rest of the Morrow in the area.

21 A. The proposed location has been identified in the
22 middle of the cross-section. There's two wells that tie to
23 the northwest of the proposed location.

24 The well on the far left is one of the most
25 significant wells. That particular well was drilled by

1 Stanolind Oil in 1953. It encountered very porous sand in
2 the lower portion of the Morrow "C" section. That's the
3 well that has been previously identified as the 34-BCF
4 well. That well continues to sell gas at the rate of 1.5
5 million cubic feet of gas per day.

6 The immediate south offset to that well is a more
7 recent well drilled by Arco Permian. That well did not
8 find anything more than a three- or four-foot sand interval
9 and the equivalent pay interval to the original Stanolind
10 well. In fact, it was completed in a different sand. And
11 in our opinion, it appears that that well is probably going
12 to be a noncommercial well.

13 On the other side, to the northeast of the
14 proposed location, I've tied two wells -- or three wells, a
15 well in the south half of 35 that has produced 2.5 BCF from
16 the equivalent early lower "C" Morrow section, and then it
17 also ties the two wells in -- the well in Section 36, in
18 the northeast northeast of 36, and the two wells I've
19 identified earlier as the prolific producers in Section 25,
20 also drilled by Atlantic Richfield.

21 The character, nature of the sand can best be
22 described as a -- and our interpretation of the sand, is
23 that it represents a delta mouth bar complex that has been
24 supplied from a feeder channel system that meanders through
25 the north part of Township 17 South, 28 East, into this

1 particular area and has deposited these sands in these
2 delta-mouth, bar-type complexes.

3 There's enough well control for this particular
4 body that's been identified in the far southeast corner of
5 17 South, 28 East, to give us a sense as to the geometry of
6 how this thing lies in here, and our geological
7 interpretation is that there is another similar type of
8 clean delta mouth bar deposit that occurs in the northeast
9 quarter of Section 4, and that is the reason that we
10 propose that particular location.

11 Q. Do you see anything on the data available to you,
12 or based upon your experience, to tell you that this is
13 anything other than high-risk Morrow gas exploration?

14 A. No.

15 MR. KELLAHIN: That concludes my examination of
16 Mr. Elger.

17 We move the introduction of his Exhibits 5, 6 and
18 7.

19 EXAMINER CATANACH: Exhibits 5, 6 and 7 will be
20 admitted as evidence.

21 EXAMINATION

22 BY EXAMINER CATANACH:

23 Q. Mr. Elger, is there potential in your proposed
24 well for anything other than the lower Morrow? I mean as
25 far as different -- upper or middle Morrow potential?

1 A. Yes, there is potential. But as with the
2 Wolfcamp and the Atoka, the Atoka -- and again, I would
3 refer to Exhibit 5 of the production map -- the immediate
4 offset wells in Section 3 and in Section 5 and the wells in
5 Section 32 to the northwest are -- those three sections
6 have Morrow wells, none of which have produced from the
7 lower "C". They've produced from some other sand unit
8 developed in the Morrow. And all three of those wells, in
9 our opinion, are noncommercial, would not be targets for
10 the cost and expense that we would incur to drill this
11 particular well.

12 Q. Wolfcamp potential?

13 A. Again, the Wolfcamp and Atoka have both been
14 identified on the production map, the Wolfcamp in blue, the
15 Atoka in orange, and I believe there's a total of four --
16 in this particular area, there's a total of four Wolfcamp
17 producers. And you can see by each one what the production
18 from the Wolfcamp has been, and you're looking at a 17,000-
19 to-20,000-barrel total cumulative production range, which
20 is definitely not commercial.

21 The Atoka, a similar type of reservoir, more of a
22 gaseous reservoir than the Wolfcamp, but to date the best
23 Atoka producer in the immediate area is a well located in
24 Section 26, and it's produced slightly over half a BCF,
25 which again would be noncommercial.

1 Those are good secondary objective targets, but
2 they're not anything you would drill for as a primary
3 objective.

4 Q. Have you just used well control to identify
5 that -- the pod you're drilling for?

6 A. That's correct. We have no seismic in this area.

7 EXAMINER CATANACH: I have nothing further.

8 Anything further, Mr. Kellahin?

9 MR. KELLAHIN: No, sir.

10 EXAMINER CATANACH: There being nothing further,
11 this case will be continued to February 6th --

12 MR. KELLAHIN: Yes, sir.

13 EXAMINER CATANACH: -- at which time you'll let
14 us know what the status is?

15 MR. KELLAHIN: Yes.

16 (Thereupon, these proceedings were concluded at
17 11:06 a.m.)

18 * * *

19
20 I do hereby certify that the foregoing is
21 a complete record of the proceedings in
22 the Examiner hearing of Case No. 11686,
23 heard by me on January 23 1987.
24 David F. Catanach, Examiner
25 Oil Conservation Division

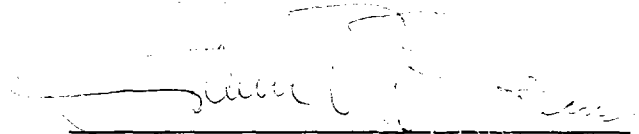
CERTIFICATE OF REPORTER

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 January 26th, 1997.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 1998