

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

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

*CASE NO. 11287*  
*ORDER NO. R-10496*

**APPLICATION OF NEARBURG EXPLORATION COMPANY FOR  
COMPULSORY POOLING, DIRECTIONAL DRILLING, AND AN  
UNORTHODOX BOTTOMHOLE OIL WELL LOCATION, LEA COUNTY, NEW  
MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on August 10 and on September 7, 1995, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 30th day of October, 1995, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Nearburg Exploration Company ("Nearburg"), seeks an order pooling all mineral interests from a subsurface depth of 5,500 feet to the base of the Atoka formation underlying the N/2 NW/4 of Section 13, Township 17 South, Range 37 East, NMPM, Lea County, New Mexico, to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the South Humble City-Strawn and Undesignated Humble City-Atoka Pools. Said unit is to be dedicated to its Shriners "13" Well No. 2 to be directionally drilled from a surface location 330 feet from the South line and 1350 feet from the West line (Unit O) of Section 12, Township 17 South, Range 37 East, NMPM, Lea County, New Mexico to an unorthodox bottomhole oil well location within 50 feet of a point 330 feet from the North line and 2130 feet from the West line (Unit C) of said Section 13.

(3) Nearburg Exploration Company, a company based in Dallas, Texas that is a sole proprietorship owned by Charles E. Nearburg, is listed as owning certain

mineral interests in the N/2 NW/4 of said Section 13 and as such has the right to drill for and develop the minerals underlying the proposed spacing unit.

(4) The subject well is located within the governing boundary of both the South Humble City-Strawn Pool and the Humble City-Atoka Pool, and as such is subject to the "*Special Rules and Regulations for the South Humble City-Strawn Pool*", as promulgated by Division Order No. R-6913, as amended by Division Order Nos. R-6913-A, R-7211, and R-7211-A, and the "*Special Rules and Regulations for the South Humble City-Atoka Pool*", as promulgated by Division Order No. R-4436, as amended, both of which provides for 80-acre spacing and proration units and limited well location requirements whereby wells can be no closer than 150 feet from the center of either quarter-quarter section or lot.

(5) The primary zone of interest for Nearburg in the drilling of this well is the shallower Strawn interval with the deeper Atoka interval being secondary.

(6) The applicant therefore concentrated his geological testimony to the Strawn formation, which indicates the presence of a small "algal reef mound" within the Strawn formation that trends in a northwesterly/southeasterly direction, is approximately one-half mile in length and approximately one-quarter mile in width, and takes in portions of the SW/4 SW/4 and SE/4 SW/4 of said Section 12 and the NW/4 NE/4, NE/4 NW/4, and NW/4 NW/4 of said Section 13.

(7) Nearburg currently has its Byers "12" Well No. 1 (**API No. 30-025-32845**), located at a previously approved unorthodox oil well location (see Division Order No. R-10306, dated January 27, 1995) 330 feet from the South line and 1300 feet from the West line (Unit M) of said Section 12, completed into and is producing South Humble City-Strawn oil production from this small mound structure.

(8) The geological evidence further indicates that a well drilled at the proposed unorthodox bottomhole oil well location should penetrate the southeastern half of this small algal mound at a more structurally advantageous position than a well drilled at the closest standard oil well location within the NE/4 NW/4 of said Section 12, thereby increasing the likelihood of obtaining commercial production.

(9) The presence of a dairy farm that covers most of the NE/4 NW/4 of said Section 13 prohibits Nearburg from building an adequate sized drilling pad on which to locate a well; therefore, Nearburg is proposing to utilize the existing pad for the Byers "12" Well No. 1 and drill directionally to its intended bottomhole location.

(10) The applicant provided further testimony that mineral interest ownership of the tract of land to the east of the subject 80-acre unit is nominally the same as those

in the proposed drilling unit.

(11) The operator should be required to determine the subsurface location of the kick-off point of the Shriner "13" Well No. 2 prior to directional drilling and should subsequently be required to conduct an accurate wellbore survey during or upon completion of drilling operations from the kick-off point to total depth to determine its true depth and course.

(12) The operator should be required to notify the supervisor of the Hobbs District Office of the Division of the date and time said directional surveys are to be conducted so that they may be witnessed. The applicant should further be required to provide a copy of said directional surveys to the Santa Fe and Hobbs District Offices of the Division upon completion.

(13) No offset operators, other interest owners, or interested party appeared at the hearing to object to the proposed directional drilling or unorthodox bottomhole oil well location.

(14) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(15) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of hydrocarbons in said pools, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit. In addition, to afford the applicant the opportunity to produce its just and equitable share of the oil in the affected pool, prevent the economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells and otherwise prevent waste and protect correlative rights, the proposed directional drilling and unorthodox bottomhole oil well location should be approved.

(16) Nearburg Producing Company should be designated the operator of the subject well and unit.

(17) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(18) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable

well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(19) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(20) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(21) \$5,664.00 per month while drilling and \$560.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(22) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(23) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before January 1, 1996, the order pooling said unit should become null and void and of no effect whatsoever.

(24) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, the forced pooling provisions of this order should thereafter be of no further effect.

(25) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, from a subsurface depth of 5,500 feet to the base of the Atoka formation underlying the N/2 NW/4 of Section 13,

Township 17 South, Range 37 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 80-acre oil spacing and proration unit for any and all formations and/or pools developed on 80-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the South Humble City-Strawn and Undesignated Humble City-Atoka Pools. Said unit shall be dedicated to the proposed Shriner "13" Well No. 2 to be directionally drilled from a surface location 330 feet from the South line and 1350 feet from the West line (Unit O) of Section 12, Township 17 South, Range 37 East, NMPM, Lea County, New Mexico to an unorthodox bottomhole oil well location within 50 feet of a point 330 feet from the North line and 2130 feet from the West line (Unit C) of said Section 13.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of January, 1996, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Undesignated South Humble City-Strawn Pool.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of January, 1996, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Nearburg Producing Company is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$5,664.00 per month while drilling and \$560.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs

and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Lea County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) Prior to commencing directional drilling operations on the Shriner "13" Well No. 2, the operator shall establish the location of the kick-off point by means of a directional survey acceptable to the Division.

PROVIDED HOWEVER THAT during or upon completion of said directional drilling operations, the applicant shall conduct an accurate wellbore survey from the kick-off point to total depth in order that the subsurface bottomhole location, as well as the wellbore's true depth and course, may be determined.

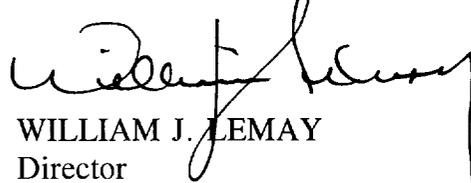
(16) The operator shall notify the supervisor of the Hobbs district office of the Division of the date and time said wellbore surveys are to be conducted so that they may be witnessed. The applicant shall further provide a copy of said wellbore surveys to the Santa Fe and Hobbs offices of the Division upon completion.

(17) Form C-105 shall be filed in accordance with Division Rule No. 1105 and the operator shall indicate thereon true vertical depth in addition to measured depths for the Shriner "13" Well No. 2.

(18) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
WILLIAM J. LEMAY  
Director

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