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2004 JUN 16 PM 3 26

June 16, 2004

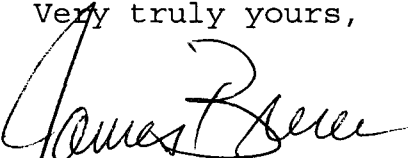
Hand Delivered

Florene Davidson  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Dear Florene:

Enclosed for filing are an original and one copy of a motion to dismiss in Case No. 13290.

Very truly yours,



James Bruce

Attorney for Unit Petroleum Company

cc: Counsel of record w/encl.

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

2001 JUN 18 PM 3 26

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. 13290

ENTRY OF APPEARANCE AND MOTION TO DISMISS

I. ENTRY OF APPEARANCE.

James Bruce enters his appearance in the above case on behalf of Unit Petroleum Company ("Unit").

II. MOTION TO DISMISS.

1. In this case, Nearburg Exploration Company, L.L.C. ("Nearburg") seeks to pool the E½ of Section 34, Township 19 South, Range 25 East, N.M.P.M., as to formations developed on 320 acre spacing. Unit is an interest owner in, and the operator of, the N½ of said Section 34.

2. Section 34 is comprised of federal land. The S½ of Section 34 is covered three federal leases, while the N½ of Section 34 is covered by federal lease NM 0504364-B. See Exhibit A.

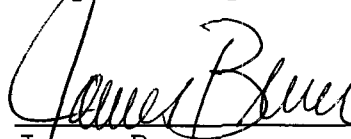
3. Federal regulations provide that when a federal lease cannot be independently developed in conformity with an established well spacing program, the BLM may communitize the lease. **43 CFR §3105.2-2 (Exhibit B).** In other words, when a 320 acre well unit is covered by a single federal lease, the well unit must be comprised of that single federal lease.

4. In this case, the N½ of Section 34 is covered by a single federal lease (NM 0504364), and thus the NE¼ of Section 34, which Nearburg seeks to pool, is unavailable for pooling. Nearburg has not shown that it can obtain an approved communitization agreement from the Bureau of Land Management (the "BLM") for the E½ of Section 34, and its application must be dismissed.

5. In addition, Unit has filed with the BLM an Application for Permit to Drill its Pan Canadian "34" Fed. Well No. 34 at a location 800 feet from the north line and 1650 feet from the from the east line of Section 34, with a N½ well unit. **Exhibit C.** Therefore, the N½ of Section 34 is unavailable for pooling by Nearburg.

**WHEREFORE,** Unit requests that the application filed herein be dismissed.

Respectfully submitted,



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James Bruce  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
(505) 982-2043

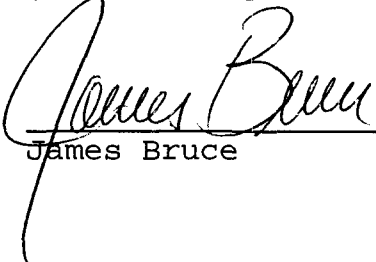
Attorney for Unit Petroleum  
Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 16<sup>th</sup> day of June, 2004 by hand delivery:

Gail MacQuesten  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

William F. Carr  
Holland & Hart LLP  
Post Office Box 2208  
Santa Fe, New Mexico 87504

  
\_\_\_\_\_  
James Bruce



## §3104.8

by such bond(s) to cancellation under the provisions of §3108.3 of this title.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17354, May 16, 1988]

### §3104.8 Termination of period of liability.

The authorized officer shall not give consent to termination of the period of liability of any bond unless an acceptable replacement bond has been filed or until all the terms and conditions of the lease have been met.

[48 FR 33662, July 22, 1983, as amended at 53 FR 17355, May 16, 1988; 53 FR 31867, Aug. 22, 1988]

## Subpart 3105—Cooperative Conservation Provisions

### §3105.1 Cooperative or unit agreement.

The suggested contents of such an agreement and the procedures for obtaining approval are contained in 43 CFR part 3180.

### §3105.2 Communitization or drilling agreements.

#### §3105.2-1 Where filed.

(a) Requests to communitize separate tracts shall be filed, in triplicate, with the proper BLM office.

(b) Where a duly executed agreement is submitted for final Departmental approval, a minimum of 3 signed counterparts shall be submitted. If State lands are involved, 1 additional counterpart shall be submitted.

#### §3105.2-2 Purpose.

When a lease or a portion thereof cannot be independently developed and operated in conformity with an established well-spacing or well-development program, the authorized officer may approve communitization or drilling agreements for such lands with other lands, whether or not owned by the United States, upon a determination that it is in the public interest. Operations or production under such an agreement shall be deemed to be operations or production as to each lease committed thereto.

## 43 CFR Ch. II (10-1-99 Edition)

### §3105.2-3 Requirements.

(a) The communitization or drilling agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of the United States. The agreement shall be signed by or on behalf of all necessary parties and shall be filed prior to the expiration of the Federal lease(s) involved in order to confer the benefits of the agreement upon such lease(s).

(b) The agreement shall be effective as to the Federal lease(s) involved only if approved by the authorized officer. Approved communitization agreements are considered effective from the date of the agreement or from the date of the onset of production from the communitized formation, whichever is earlier, except when the spacing unit is subject to a State pooling order after the date of first sale, then the effective date of the agreement may be the effective date of the order.

(c) The public interest requirement for an approved communitization agreement shall be satisfied only if the well dedicated thereto has been completed for production in the communitized formation at the time the agreement is approved or, if not, that the operator thereafter commences and/or diligently continues drilling operations to a depth sufficient to test the communitized formation or establish to the satisfaction of the authorized officer that further drilling of the well would be unwarranted or impracticable. If an application is received for voluntary termination of a communitization agreement during its fixed term or such an agreement automatically expires at the end of its fixed term without the public interest requirement having been satisfied, the approval of that agreement by the authorized officer shall be invalid and no Federal lease shall be eligible for extension under §3107.4 of this title.

[53 FR 17355, May 16, 1988]

## Bureau of Land Management

### §3105.3 Operating, drilling or development contracts.

#### §3105.3-1 Where filed.

A contract submitted for approval under this section shall be filed with the proper BLM office, together with enough copies to permit retention of copies by the Department of the Interior.

#### §3105.3-2 Purpose.

Approval of operating, drilling or development contracts ordinarily shall be granted only to permit operations of pipeline companies to enter into contracts with a number of less than sufficient to justify operations of large enough to justify the development, production or transportation of oil or gas and to fix the same.

#### §3105.3-3 Requirements.

The contract shall be accompanied by a statement showing all tracts held by the contractor in the area or field and the proposed or agreed upon development and operations in the field. All the contracts held by the same contractor in the area shall be submitted for approval at the same time and full disclosure of projects made.

### §3105.4 Combination for joint operations or for transportation

#### §3105.4-1 Where filed.

An application under this section together with sufficient copies to permit retention of 5 copies by the Department after approval shall be filed with the proper BLM office.

[48 FR 33662, July 22, 1983, as amended at 53 FR 2113, Jan. 18, 1984]

#### §3105.4-2 Purpose.

Upon obtaining approval of the authorized officer, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing as a common pipeline or lines or railroads that are operated and used by them jointly for the transportation of oil or gas from wells or from the wells of other



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

(Other instructions on reverse side)

OMB NO. 1004-0136  
Expires: February 28, 1995

APPLICATION FOR PERMIT TO DRILL OR DEEPEN

1a. TYPE OF WORK  
DRILL  DEEPEN

b. TYPE OF WELL  
OIL WELL  GAS WELL  OTHER   
SINGLE ZONE  MULTIPLE ZONE

2. NAME OF OPERATOR  
UNIT PETROLEUM COMPANY (432-685-9020) (GARY LANG)

3. ADDRESS AND TELEPHONE NO.  
407 NORTH BIG SPRING STREET SUITE 101 MIDLAND, TEXAS 79701

4. LOCATION OF WELL (Report location clearly and in accordance with any State requirements.)\*  
At surface  
800' FNL & 1650' FEL SECTION 34 T19S-R25E EDDY CO. NM  
At proposed prod. zone SAME

14. DISTANCE IN MILES AND DIRECTION FROM NEAREST TOWN OR POST OFFICE\*  
Approximately 18 miles North Northwest of Carlsbad New Mexico

15. DISTANCE FROM PROPOSED\* LOCATION TO NEAREST PROPERTY OR LEASE LINE, FT. (Also to nearest drlg. unit lbe, if any)  
800'

16. NO. OF ACRES IN LEASE  
320

17. NO. OF ACRES ASSIGNED TO THIS WELL  
320

18. DISTANCE FROM PROPOSED LOCATION\* TO NEAREST WELL, DRILLING COMPLETED, OR APPLIED FOR, ON THIS LEASE, FT.  
990'

19. PROPOSED DEPTH  
9,500'

20. ROTARY OR CABLE TOOLS  
ROTARY

21. ELEVATIONS (Show whether DF, RT, GR, etc.)  
3516' GR.

22. APPROX. DATE WORK WILL START\* WHEN APPROVED

23. PROPOSED CASING AND CEMENTING PROGRAM

SIZE OF HOLE	GRADE SIZE OF CASING	WEIGHT PER FOOT	SETTING DEPTH	QUANTITY OF CEMENT
25"	Conductor	NA	40'	Cement to surface w/Redi-mix
17 1/2"	13 3/8"	48#	400'	450 Sx. Circulate cement to surf
12 1/2"	9 5/8"	36#	1300'	650 Sx. " " " "
8 1/2"	5 1/2"	17#	9500'	400 Sx.

1. Drill 25" hole to 40'. Set 40' of 20" conductor pipe and cement to surface with Redi-mix.
2. Drill 17 1/2" hole to 400'. Run and set 400' of 13 3/8" 48# H-40 ST&C casing. Cement with 450 Sx. of Class "C" cement + 2% CaCl, + 1/2# Flocele/Sx. Circulate cement to surface.
3. Drill 12 1/2" hole to 1300'. Run and set 1300' of 9 5/8" 36# J-55 ST&C casing. Cement with 450 Sx. of Class "C" POZ, tail in with 200 Sx. of Class "C" cement + 2% CaCl, + 1/2# Flocele/Sx. circulate cement to surface.
4. Drill 8 1/2" hole to 9500'. Run and set 9500' of 5 1/2" 17# N-80 LT&C casing. Cement with 400 Sx. of Class "H" Premium Plus cement + additives. Top of cement at least 500' above upper most pay interval.

IN ABOVE SPACE DESCRIBE PROPOSED PROGRAM: If proposal is to deepen, give data on present productive zone and proposed new productive zone. If proposal is to drill or deepen directionally, give pertinent data on subsurface locations and measured and true vertical depths. Give blowout preventer program, if any.

24. SIGNED [Signature] TITLE Agent DATE 06/04/04

(This space for Federal or State office use)

PERMIT NO. \_\_\_\_\_ APPROVAL DATE \_\_\_\_\_

Application approval does not warrant or certify that the applicant holds legal or equitable title to those rights in the subject lease or operations thereon.  
CONDITIONS OF APPROVAL, IF ANY:



APPROVED BY \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_

\*See Instructions On Reverse Side

State of New Mexico

Energy, Minerals and Natural Resources Department

DISTRICT I  
P.O. Box 1980, Hobbs, NM 88241-1980

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88211-0719

DISTRICT III  
1000 Rio Brazos Rd., Aztec, NM 87410

DISTRICT IV  
P.O. BOX 2088, SANTA FE, N.M. 87504-2088

OIL CONSERVATION DIVISION  
P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

Form C-102  
Revised February 10, 1994  
Submit to Appropriate District Office  
State Lease - 4 Copies  
Fee Lease - 3 Copies

WELL LOCATION AND ACREAGE DEDICATION PLAT

AMENDED REPORT

API Number		Pool Code	Pool Name
		74640	CEMETARY-MORROW (GAS)
Property Code	Property Name		Well Number
	PAN CANADIAN FEDERAL		4
OGRID No.	Operator Name		Elevation
115970	UNIT PETROLEUM COMPANY		3516'

Surface Location

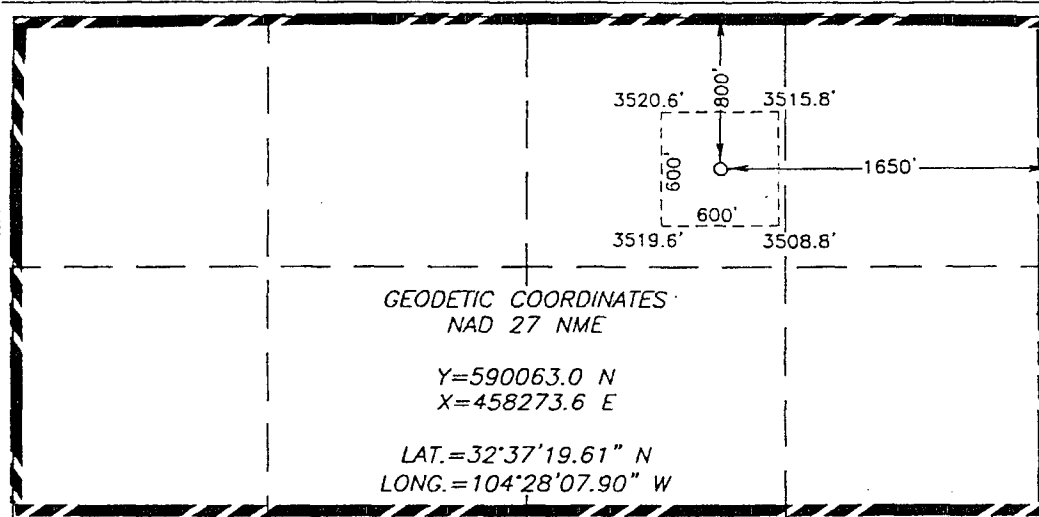
UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
B	34	19-S	25-E		800'	NORTH	1650'	EAST	EDDY

Bottom Hole Location If Different From Surface

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County

Dedicated Acres	Joint or Infill	Consolidation Code	Order No.
320			

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION



OPERATOR CERTIFICATION

I hereby certify the the information contained herein is true and complete to the best of my knowledge and belief.

*Joe T. Janica*  
Signature

Joe T. Janica  
Printed Name  
Agent

Title  
Date  
06/04/04

SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

MAY 18, 2004

Date Surveyed  
Signature & Seal of Professional Surveyor

*Gary H. Eidsen* 5/24/04  
04.11.0590

Certificate No. GARY EIDSON 12841