

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:

ORIGINAL

APPLICATION OF NEARBURG PRODUCING COMPANY Case 14836  
FOR DESIGNATION OF A NON-STANDARD SPACING  
UNIT, A NON-STANDARD PROJECT AREA, AN  
UNORTHODOX SURFACE LOCATION AND COMPULSORY  
POOLING, EDDY COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

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BEFORE: WILLIAM V. JONES, Technical Examiner  
DAVID K. BROOKS, Legal Examiner

June 7, 2012

Santa Fe, New Mexico

This matter came on for hearing before the  
New Mexico Oil Conservation Division, WILLIAM V. JONES,  
Technical Examiner, and DAVID K. BROOKS, Legal Examiner,  
on Thursday, June 7, 2012, at the New Mexico Energy,  
Minerals and Natural Resources Department, 1220 South St.  
Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91  
Paul Baca Professional Court Reporters  
500 Fourth Street, N.W., Suite 105  
Albuquerque, NM 87103 505-843-9241

A P P E A R A N C E S

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FOR THE APPLICANT:

MONTGOMERY & ANDREWS  
J. SCOTT HALL, ESQ.  
325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
(505)982-3873

WITNESSES: PAGE

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REPORTER'S CERTIFICATE 18

1 EXAMINER JONES: Let's call Case 14836,  
2 application of Nearburg Producing Company for designation  
3 of a non-standard spacing unit, a non-standard project  
4 area, unorthodox surface location and compulsory pooling,  
5 in Eddy County, New Mexico.

6 Call for appearances.

7 MR. HALL: Mr. Examiner, Scott Hall of  
8 Montgomery & Andrews Law Firm, Santa Fe, appearing on  
9 behalf of the applicant.

10 EXAMINER JONES: Any other appearances?  
11 Do you have witnesses?

12 MR. HALL: I have two witnesses. I would  
13 note for the record that my witnesses are previously  
14 sworn and had their credentials accepted as expert  
15 petroleum landman and geologist in Case Number 14826. So  
16 if it's agreeable with you, we'll dispense with further  
17 qualifications.

18 EXAMINER BROOKS: This case was heard this  
19 morning?

20 MR. HALL: Yes, sir, just now.

21 EXAMINER BROOKS: Go ahead.

22 EXAMINER JONES: Tim Spear won't be here?

23 MR. HALL: No, sir.

24 For the record, Russell Wickman and Bill Elton  
25 are the two witnesses

1 EXAMINER JONES: Let the record show that  
2 Russell Wickman and Bill Elton have already been sworn.

3 RUSSELL WICKMAN

4 Having been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HALL:

7 Q. Mr. Wickman, would you explain to the hearing  
8 Examiner what Nearburg is seeking by its application  
9 today?

10 A. We are seeking acceptance of a non-standard  
11 location covering the south half of the southwest quarter  
12 and the southwest quarter of the southeast quarter of  
13 Section 34, 19 South, 25 East as to the Glorieta-Yeso  
14 formation. We're seeking to pool all the mineral  
15 interests therein.

16 Q. This is for your horizontal project area?

17 A. That's correct.

18 Q. You've brought certain exhibits with you  
19 today. Let me ask you something a little off script. We  
20 didn't rehearse this part. Why is this application being  
21 brought in the name of Nearburg Producing Company and not  
22 Nearburg Exploration?

23 A. Nearburg Producing Company is the operating  
24 entity, and Nearburg Exploration Company is the title  
25 holding entity.

1 Q. Let's look at Exhibit 1, if you have that in  
2 front of you.

3 A. I do.

4 Q. Would you explain that to the hearing  
5 Examiner?

6 A. This is just our Form C-102 that shows the  
7 surface location and the bottomhole location for the  
8 well. The surface location being 330 from the south line  
9 and 165 feet from the west line and the bottomhole  
10 location being 330 from the south line and 1,650 feet  
11 from the east line of the section.

12 Q. What's your target for the well?

13 A. The Yeso formation.

14 Q. And you're seeking to pool the entirety of the  
15 Glorieta-Yeso formation?

16 A. That's correct.

17 Q. Could you explain briefly to the Examiner why  
18 the southeast/southeast was not included in the project  
19 area?

20 A. The southeast/southeast was not included in  
21 the prospect area because Mewbourne currently has its own  
22 horizontal well running across the east half of the  
23 southeast quarter of that section.

24 Q. Can you tell us what percentage of the acreage  
25 in each of the 40-acre units is voluntarily committed to

1 the well or in the well overall? If you want to refer to  
2 Exhibits 2 and 3?

3 A. Okay. We have -- Nearburg has an interest  
4 throughout the section. Nearburg has 100 percent in the  
5 southwest quarter of the southwest quarter and also in  
6 the southwest quarter of the southeast quarter.

7 And in the southeast quarter of the southwest  
8 quarter of the section, there are a handful -- I can't  
9 remember exactly what it is -- 8 or 10 people that have a  
10 small interest therein, and those are the folks we're  
11 seeking to pool.

12 Q. Are those interest owners listed on Exhibit 3?

13 A. That's correct, yes.

14 Q. And is Nearburg also seeking the imposition of  
15 the 200 percent risk penalty?

16 A. That's correct.

17 Q. Nearburg seeks to be designated operator; is  
18 that correct?

19 A. Yes.

20 Q. Let's talk about the surface and bottomhole  
21 locations for the well. Can you explain -- first of all,  
22 is the surface location non-standard?

23 A. Yes.

24 Q. Why is that?

25 A. Well, particularly because it's -- we're not

1 able to do a 160-acre spacing unit. We wanted to maximum  
2 the effectiveness of our horizontal portion of our well  
3 by remaining in the zone as long as we could, which is  
4 why we put the surface location at 165 feet, rather than  
5 the 330-foot setback.

6 Q. Was there any surface obstructions you had to  
7 deal with?

8 A. We actually did have a surface obstruction.  
9 We originally had the well set at 10 feet off the lease  
10 line. There was a fence that the BLM did not want us to  
11 cut.

12 We were going to have that surface location,  
13 but the pad actually overlapped into the adjoining  
14 section. So because of that issue, we moved it further  
15 away from the section line.

16 Q. Let's turn to Exhibit 4. First of all,  
17 identify what Exhibit 4 is.

18 A. Exhibit 4 is the well proposal that we sent to  
19 each of the owners that we're seeking to pool.

20 Q. By reference to both Exhibits 3 and 4, would  
21 you explain to the Hearing Examiner the steps you went  
22 through to obtain the voluntary participation of these  
23 interest owners?

24 A. We sent out the letters, obviously, and we  
25 followed up with phone calls. We've actually received

1 back executed AFEs from a number of the people, and  
2 Exhibit 3 shows who those people are.

3 We've not had a JOA signed by anybody as of  
4 yet, but that will be our next step to try to do that.  
5 We've had follow-up phone calls and conversations and  
6 have had a discussion with everybody with the exception  
7 of one owner that we have not been able to get to return  
8 our phone calls.

9 Q. And can you identify that owner?

10 A. Alliance Income Fund.

11 Q. In your opinion as an expert petroleum  
12 landman, Mr. Wickman, do you feel that Nearburg has made  
13 a good-faith effort to obtain the voluntary participation  
14 of those interest owners?

15 A. Yes, I do.

16 Q. Let's look at Exhibit 5. If you could  
17 identify that please?

18 A. That is the AFE for the well.

19 Q. Could you review the well totals for us?

20 A. Yes. The dryhole cost for the well is  
21 1,010,290, with the total well cost, completed well costs  
22 at 2,987,767.

23 Q. What are the drilling and producing overhead  
24 rates that you're proposing for this well?

25 A. The drilling rate would be \$5,000 a month, and

1 the producing rate at \$500 a month.

2 Q. Are the drilling costs and overhead rates in  
3 line with what other operators are charging?

4 A. Yes, they are.

5 Q. You're recommending that these drilling and  
6 producing overhead rates be incorporated into the order  
7 entered in this hearing?

8 A. Yes.

9 Q. Are you requesting that the Division provide  
10 for an adjustment of the overhead rates in accordance  
11 with the current COPAS bulletin?

12 A. Yes.

13 Q. Would you identify the offset operators?

14 A. The offset operators are essentially just  
15 Nearburg and Mewbourne.

16 Q. I sent notice to Unit Petroleum in the belief  
17 that they were an offset operator. Is that ---

18 A. They actually are an offset operator in the  
19 north half of the section, but there's a spacing unit in  
20 between that Nearburg has.

21 Q. Okay. In your opinion, would granting  
22 Nearburg's application be in the interest of conservation  
23 and the prevention of waste and protection of correlative  
24 rights?

25 A. Yes.

1 Q. Were Exhibits 1 through 5 prepared by you?

2 A. Yes

3 MR. HALL: That concludes my direct of  
4 this witness. We move the admission of Exhibits 1  
5 through 5.

6 EXAMINER JONES: Exhibits 1 through 5 will  
7 be admitted.

8 I'll pass the witness to Mr. Brooks.

9 (Exhibits 1 through 5 were admitted.)

10 EXAMINATION

11 BY EXAMINER BROOKS:

12 Q. This, again, is Yeso?

13 A. Yes, sir.

14 Q. And are you seeking any uphole pooling or just  
15 the Yeso formation?

16 A. The Glorieta-Yeso.

17 Q. And is this in an existing Glorieta-Yeso pool?

18 A. Yes, it is.

19 Q. What is that?

20 A. The North Seven Rivers Glorieta-Yeso pool.

21 Q. But you're not seeking any units for any other  
22 formation outside that pool?

23 A. No, sir.

24 Q. Did you have any unlocated interests in this  
25 unit?

1           A.     No, sir.

2                   EXAMINER BROOKS:  I believe that's all I  
3 have.

4                   EXAMINER JONES:  Just one question.

5                                   EXAMINATION

6 BY EXAMINER JONES:

7           Q.     Nobody has signed the JOA yet?

8           A.     Well, we've had to work with Mewbourne quite a  
9 bit.  They were an owner at this point and we made a  
10 deal.  Anyway, they're not an owner anymore.  But we kind  
11 of waited to do the JOA because they were going to be a  
12 significant interest in this that we needed to deal with.

13                   Now that that's dealt with, we'll get the JOA  
14 prepared and sent out.  They haven't had the opportunity  
15 to sign the JOA yet.

16           Q.     As far as the phone calls to this Alliance  
17 Trust, do you intend to send them something in writing?

18           A.     Yes, we will.

19                   And I do want to say that all of these owners  
20 that we're seeking to pool have been and continue to be  
21 partners in some other Nearburg wells.  They're folks  
22 that we actually brought into some of our prospects.  So  
23 we're aware that they have -- they're aware of this  
24 and -- so we don't anticipate a problem eventually  
25 getting something worked out with Alliance.

1 EXAMINER JONES: Thank you.

2 MR. HALL: I'd like to address one more  
3 issue. When we get to the notice affidavit we'll see  
4 that we've got -- we were unable to obtain green cards  
5 back from Challenger Crude and Lamar Roemer.

6 THE WITNESS: And both of those people  
7 have signed an AFE at this point.

8 MR. HALL: That's all I have.

9 EXAMINER JONES: Thank you.

10 MR. HALL: At this time, we call Mr. Bill  
11 Elton again. Mr. Elton has been sworn and qualified as  
12 an expert petroleum geologist.

13 EXAMINER JONES: Yes.

14 MR. HALL: We'll proceed directly to  
15 examination.

16 BILL ELTON

17 Having been first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. HALL:

20 Q. Mr. Elton, if you would refer back to Exhibit  
21 1? There's some notations on that land plat in red.  
22 Could you explain that to the hearing Examiner?

23 A. Yes. The red notations there just indicate  
24 the 330 standoffs from both the south line and the west  
25 line relative to our surface location.

1 Q. Does the exhibit actually show the penetration  
2 point for the top of the Yeso?

3 A. Not on this one. It's on the next exhibit.

4 Q. Let's look at Exhibit 6. If you could  
5 identify that and explain that to us, please?

6 A. The next exhibit is a horizontal view of the  
7 well plan. The vertical red line is, again, the 330  
8 standoff from the west line relative to our surface  
9 location with a notation there that the uppermost Yeso  
10 pered interval will be no closer than 330 to the north  
11 line.

12 Q. That's what we call the completed interval  
13 these days?

14 A. Yes, sir.

15 Q. Can you indicate to the Hearing Examiner, can  
16 the completed interval of the well be produced in  
17 conformity with the state's setback requirements?

18 A. Yes, it will.

19 Q. Let's look at Exhibit 7, your cross-section.  
20 If you would provide us with an overview of the geology  
21 of the Glorieta-Yeso formation in this area?

22 A. This is a west-to-east cross-section involving  
23 three wells. There's an index in the corner that shows  
24 the location of the section. It begins with a well to  
25 the southwest, a Mewbourne well, and then ties two

1 verticals, the Huber Irami and the Exxon Lakewood, which  
2 are vertical wells located in the south half/south half  
3 of Section 34.

4 Also noted on here is the upper unit, the top  
5 of the Glorieta, then the Yeso, and that last marker in  
6 red is what we call our middle Yeso marker.

7 Q. The exhibit does not reflect the top and the  
8 base of the North Seven Rivers Yeso Pool. But is  
9 Nearburg seeking to pool the entire vertical extent of  
10 that pool?

11 A. It reflects the top and the Glorieta is  
12 presented there. But in this particular area in general,  
13 the lower Yeso is tight, and we don't see it as  
14 prospective. We've just shown the Yeso and middle Yeso  
15 section below the Glorieta.

16 Q. Ownership is the same through all depths;  
17 correct?

18 A. I believe so.

19 Q. Let's look at your Exhibit 8. If you would  
20 identify that and explain that for us?

21 A. This is an isopach map of the porosity within  
22 the middle Yeso. The contour interval here is 10 feet.  
23 It was constructed by determining a porosity grade of 8  
24 percent from neutron control logs.

25 And it basically shows a -- on the

1 northeast/southwest orientation, a thickness to the  
2 middle Yeso reservoir.

3 Q. Do each of the 40-acre units comprising the  
4 project area appear to be prospective for oil?

5 A. Yes, all 40 acres.

6 Q. In your evaluation, did you observe any  
7 discontinuities, nonconformities or faults at all?

8 A. No. We've not included a structure map, but  
9 there's no major obvious faulting, just a slight regional  
10 dip to the west.

11 Q. Can the oil when drilling the project area be  
12 efficiently and economically recovered with a single  
13 wellbore?

14 A. We believe it could.

15 Q. Does Nearburg propose participation will be  
16 allocated on a 100 percent surface acre basis?

17 A. Yes.

18 Q. Is this a fair and reasonable basis for  
19 participation in this circumstance?

20 A. I believe it is, yes.

21 Q. In your opinion, would granting Nearburg's  
22 application be in the best interest of conservation and  
23 the prevention of waste and the protection of correlative  
24 rights?

25 A. Yes.

1 Q. Were Exhibits 6 through 8 prepared by you?

2 A. Yes, they were.

3 MR. HALL: We move the admission of  
4 Exhibits 6 through 8. That concludes my direct  
5 examination of this witness.

6 EXAMINER JONES: Exhibits 6 through 8 will  
7 be admitted.

8 (Exhibits 6 through 8 were admitted.)

9 EXAMINATION

10 BY EXAMINER JONES:

11 Q. There's no breakdown of the Yeso in this area  
12 between members like there is in other --

13 A. That's an interesting question. You alluded  
14 to that earlier today.

15 Since I've been working here for the last two  
16 or three years, companies like Nearburg and Mewbourne  
17 just refer to it as the Yeso. As other operators have  
18 moved into -- not this area, but just to the northeast of  
19 here, we're starting to see the Paddock and Blinebry and  
20 some specific stratigraphy brought into this area.

21 At this point I have not tried to make that  
22 correlation. But roughly, the upper Yeso would be  
23 equivalent to the Paddock.

24 Q. The middle 40-acre tract inside this proposed  
25 project area, is it true that you could not harvest the

1 oil out of that without drilling a horizontal well and  
2 you couldn't drill it just with a 40-acre tract? Is that  
3 correct? What I mean is, you need two or three 40s put  
4 together?

5 A. Exactly. If you're looking at developing this  
6 120 acres, you're going to look at three vertical wells  
7 on 40-acre spacing. And we believe it's economic and  
8 efficiently better to drill one horizontal to capture  
9 those reserves.

10 EXAMINER JONES: Yeah I was looking at  
11 your isopach map, how it accents the middle 40-acre  
12 tract.

13 Okay. Thank you.

14 EXAMINER BROOKS: No questions.

15 MR. HALL: Mr. Examiner, I want to offer  
16 into the record Exhibit Number 9, which is our notice  
17 affidavit. Unless you have any questions, that concludes  
18 our case.

19 EXAMINER JONES: Exhibit 9 will be  
20 admitted, if it's all right.

21 (Exhibit 9 was admitted.)

22 EXAMINER BROOKS: You keep copies of all  
23 the exhibits, because I don't keep mine.

24 EXAMINER JONES: With that, Case Number  
25 14836 will be taken under advisement.

*I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. \_\_\_\_\_ heard by me \_\_\_\_\_ Examiner*

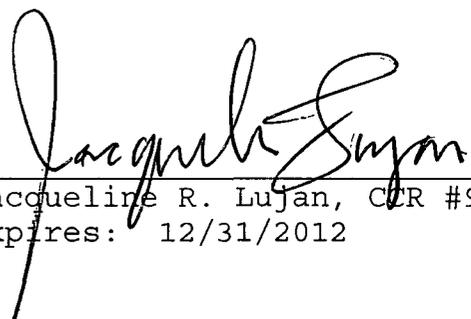
## REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO  
HEREBY CERTIFY that on June 7, 2012, proceedings in the  
above captioned case were taken before me and that I did  
report in stenographic shorthand the proceedings set  
forth herein, and the foregoing pages are a true and  
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by  
nor related to nor contracted with any of the parties or  
attorneys in this case and that I have no interest  
whatsoever in the final disposition of this case in any  
court.

WITNESS MY HAND this 19th day of June, 2012.



Jacqueline R. Lujan, CCR #91  
Expires: 12/31/2012