

**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:**

**DE NOVO
CASE NO. 11563
Order No. R-10637-A**

**APPLICATION OF NEARBURG EXPLORATION
COMPANY, L.L.C. FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.**

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on October 30, 1996, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission".

NOW, on this 14th day of November 1996, the Commission, a quorum being present and having considered the testimony presented and the exhibits received at said hearing and being fully advised in the premises,

FINDS THAT:

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

(2) The applicant, Nearburg Exploration Company, L.L.C., seeks an order pooling all mineral interests from the surface to the base of the Mississippian formation underlying the following described acreage in Irregular Section 3, Township 16 South, Range 35 East, NMPM, Lea County, New Mexico, and in the following manner:

Lots 15 and 16 thereby forming a standard 80-acre oil spacing and proration unit for any and all formations and/or pools spaced on 80 acres within said vertical extent, which presently includes but is not necessarily limited to the West Lovington-Strawn Pool; and,

Lot 16 thereby forming a standard 40-acre oil spacing and proration unit for any and all formations and/or pools spaced on 40 acres within said vertical extent, which presently includes but is not necessarily limited to the Northeast Eidson-Mississippian Pool.

Both units are to be dedicated to the applicant's proposed Nike "3" Well No. 1 to be drilled at a standard oil well location 3070 feet from the South line and 330 feet from the East line (Unit P/Lot 16) of Section 3.

(3) The applicant has the right to drill and proposes to drill its Nike "3" Well No. 1 at the standard oil well location described in Finding No. (2) above.

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

(5) A. L. Cone Partnership, owner of 12.5% interest in the proposed well appeared at the hearing in opposition to the November 1, 1996 commencement date stated in Division Order No. R-10637 and requested an additional 30 days in which to make their election.

(6) A. L. Cone Partnership was notified on June 10, 1996 of the proposed well and could have made the election to join or farmout their interest from June 10, 1996 to the date of the Commission hearing on October 30, 1996. The 4 ½ months was more than enough time to exercise their election to join or be forced pooled, and their request for additional time should be denied.

(7) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said units the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said units.

(8) The applicant should be designated the operator of the subject well and units.

(9) 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.

(10) 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.

(11) 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.

(12) 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. Also, they should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(13) \$6,000.00 per month while drilling and \$600.00 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. 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.

(14) 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.

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

(16) 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.

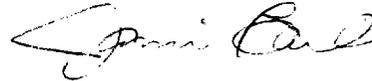
(17) The operator of the well and units shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

- (1) Division Order No. R-11563, entered July 29, 1996 is hereby affirmed.
- (2) Jurisdiction of this cause is hereby retained for the entry of such further orders as the Commission may deem necessary.

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

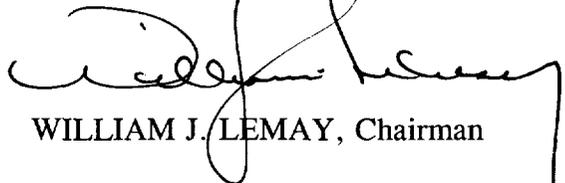
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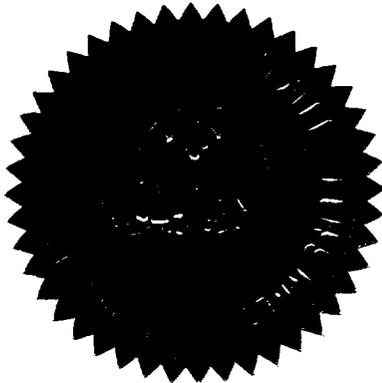
JAMI BAILEY, Member



WILLIAM W. WEISS, Member



WILLIAM J. LEMAY, Chairman



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