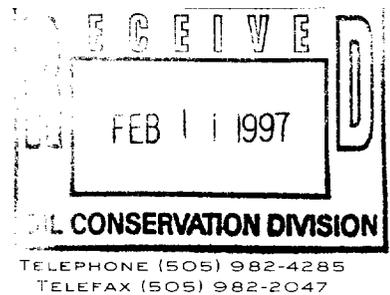


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RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)



February 11, 1997

**HAND DELIVERED**

Mr. William J. LeMay, Director  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

**Re: NMOCD CASE 11722**  
**Tomahawk "28" Federal Com Well No. 1**  
**First Amended Application of Nearburg**  
**Exploration Company, L.L.C. for Compulsory Pooling**  
**Lea County, New Mexico**

Dear Mr. LeMay:

On behalf of Nearburg Exploration Company, L.L.C., please find enclosed our referenced first amended application which we request be set for hearing on the Examiner's docket now scheduled for March 6, 1997. Also enclosed is our proposed advertisement of this case for the NMOCD docket.

Very truly yours,

W. Thomas Kellahin

cc: Nearburg Exploration Company  
Attn: Bob Shelton

**CASE 11722:** First Amended Application of Nearburg Exploration Company, L.L.C. for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 28, T20S, R33E, NMPM, Lea County, New Mexico, forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre gas spacing within said vertical extent, which presently may include but is not necessarily limited to the Halfway-Atoka Gas Pool and the South Salt Lake-Morrow Gas Pool, and forming a standard 160-acre gas spacing and proration unit underlying the SE/4 of said Section 28 for any and all formations/pools developed on 160-acre gas spacing. Said unit is to be dedicated to its Tomahawk "28" Federal Com Well No. 1 to be drilled and completed at a standard well location in Unit I of said Section 28. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as the operator of the well and a charge for risk involved in said well. In addition, applicant seeks an order reducing the overriding royalty burdens on the SW/4SE/4 of said Section 28 so that the net revenue interest for that tract is not less than 75%.

Said unit is located approximately 3 miles east <sup>of</sup> from the intersection of State Highway 176/FAS 1217 and U. S. Highway 180 (Laguna Gatuna Area), New Mexico.

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

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

CASE NO. 11722

**FIRST AMENDED APPLICATION**

Comes now NEARBURG EXPLORATION COMPANY, L.L.C. by its attorneys, Kellahin & Kellahin, and in accordance with Section 70-2-17(c) (1978) applies to the New Mexico Oil Conservation Division for an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 28, T20S, R33E, NMPM, Lea County, New Mexico, forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre gas spacing within said vertical extent, which presently may include but is not necessarily limited to the Halfway-Atoka Gas Pool and the South Salt Lake-Morrow Gas Pool Empire-Morrow Gas Pool, and forming a standard 160-acre gas spacing and proration unit underlying the SE/4 of said Section 28 for any and all formations/pools developed on 160-acre gas spacing. Said unit is to be dedicated to its Tomahawk "28" Federal Com Well No. 1 to be drilled and completed at a standard well location in Unit I of said Section 28. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as the operator of the well and a charge for risk involved in said well. In addition, applicant seeks an order reducing the overriding royalty burdens on the SW/4SE/4 of said Section 28 so that the net revenue interest for that tract is not less than 75%.

In support of its application, Nearburg Exploration Company, ("Nearburg") states:

1. Nearburg has a working interest ownership in the oil and gas minerals from the surface to the base of the Morrow formation underlying the E/2 of Section 28, T20S, R33E, NMPM, Lea County, New Mexico.

2. The subject tract is located within one-mile of the current boundaries of the South Lake-Morrow Gas Pool and the Halfway-Atoka Gas Pool.

3. The subject well is to be drilled at a standard well location 660 feet from the east and 1980 feet from the south line (Unit I) of Section 28 to test any and all formations in the pooled interval from the surface to the base of the Morrow formation and to be dedicated to the appropriate sized spacing unit for the appropriate pool.

4. Nearburg has proposed the subject well and its appropriate spacing unit to the working interest owners in the spacing unit as identified on Exhibit "A."

5. The SW/4SE/4 of Section 28 is subject to overriding royalty burdens which reduce the net revenue interest for this 40-acre tract to 46%. Such a burden is excessive and adversely affects the applicant's ability to form a voluntary unit

6. Applicant seeks provisions in this compulsory pooling order to reduce the overriding royalty burdens on the SW/4SE/4 of said Section 28 so that the net revenue interest for that tract is not less than 75%.

7. Despite its good faith efforts, Nearburg has been unable to obtain a written voluntary agreement from all of the parties listed on Exhibit "A."

8. Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this spacing unit, Nearburg needs an order of the Division pooling the identified and described mineral interests involved in order to protect correlative rights and prevent waste.

9. In accordance with the Division's notice requirements, a copy of this first amended application has been sent to the parties whose interest is to be pooled as listed on Exhibit "A" notifying each of this case and of the applicant's request for a hearing of this matter before the Division on the next available Examiner's docket now scheduled for March 6, 1997.

WHEREFORE, Nearburg, as applicant, requests that this first amended application be set for hearing on March 6, 1997 before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interest described in the appropriate spacing unit for the drilling of the subject well at a standard well location upon terms and conditions which include:

- (1) Nearburg Producing Company be named operator;
- (2) Provisions for applicant and all working interest owners to participate in the costs of drilling, completing, equipping and operating the well;
- (3) Provisions to reduce the overriding royalty burdens on the SW/4SE/4 of said Section 28 so that the net revenue interest for that tract is not less than 75 %
- (4) In the event a working interest owner fails to elect to participate, then provision be made to recover out of production, the costs of the drilling, completing, equipping and operating the well, including a risk factor penalty of 200 %;
- (5) Provision for overhead rates per month drilling and per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;
- (6) For such other and further relief as may be proper.

RESPECTFULLY SUBMITTED:



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