

MILLER, STRATVERT & TORGERSON, P. A.

LAW OFFICES

RANNE B. MILLER
ALAN C. TORGERSON
ALICE T. LORENZ
GREGORY W. CHASE
STEPHEN M. WILLIAMS
STEPHAN M. VIDMAR
SETH V. BINGHAM
TIMOTHY R. BRIGGS
RUDOLPH LUCERO
DEBORAH A. SOLOVE
GARY L. GORDON
LAWRENCE R. WHITE
SHARON P. GROSS
VIRGINIA ANDERMAN
MARTE D. LIGHTSTONE
J. SCOTT HALL
THOMAS R. MACK
TERRI S. BEACH
THOMAS M. DOMME
JEFFREY E. JONES
ROBIN A. GOBLE
JAMES R. WOOD

DANA M. KYLE
KIRK R. ALLEN
RUTH PUESS
KYLE M. FINCH
H. BROOK LASKEY
KATHERINE W. HALL
PAULA G. MAYNES
MICHAEL C. ROSS
CARLA PRANDO
KATHERINE N. BLACKETT
JENNIFER L. STONE
M. DYLAN O'REILLY
JENNIFER D. HALL
JENNIFER L. OLSON
TODD A. SCHWARZ
JULIE A. COLEMAN
TIMOTHY L. BUTLER
MICHELLE K. OSTRYE*
KELSEY D. GREEN
MARCY BAYSINGER
DAVID J. MARTIN
CAROLINE BLANKENSHIP

COUNSEL

ROSS B. PERKAL
JAMES J. WIDLAND
BRADLEY D. TEPPER
GARY RISLEY
NELL GRAHAM SALE

OF COUNSEL

WILLIAM K. STRATVERT
JAMES B. COLLINS

ALBUQUERQUE, NM

500 MARQUETTE NW, SUITE 1100
P.O. BOX 25687 (87125-0887)
ALBUQUERQUE, NM 87102
TELEPHONE: (505) 842-1950
(800) 424-7585
FACSIMILE: (505) 243-4408

FARMINGTON, NM

300 WEST ARRINGTON, SUITE 300
P.O. BOX 888 (87489-0889)
FARMINGTON, NM 87401
TELEPHONE: (505) 326-4521
FACSIMILE: (505) 325-5474

SANTA FE, NM

150 WASHINGTON AVE., SUITE 300
P.O. BOX 1988 (87504-1988)
SANTA FE, NM 87501
TELEPHONE: (505) 989-9614
FACSIMILE: (505) 989-9857

LAS CRUCES, NM

1125 SOUTH MAIN ST., SUITE 5
P.O. BOX 1208 (88004-1208)
LAS CRUCES, NM 88006
TELEPHONE: (505) 523-2481
FACSIMILE: (505) 526-2215

PLEASE REPLY TO SANTA FE

*licensed in Texas only

FACSIMILE TRANSMISSION COVER SHEET

DATE: November 18, 2002

MESSAGE: Attached is page 2 of Raptor's Reply, which was inadvertently omitted from your fax, dated November 14, 2002.

Lori Wrotenbery, Director
Oil Conservation Division
Fax: (505) 476-3462

Ms. Jami Bailey, Director
Oil, Gas and Minerals Division
Fax: (505) 827-4739

Dr. Robert Lee, Director
New Mexico Petroleum Recovery
Fax: (505) 835-6031

Stephen Ross, Esq.
Oil Conservation Division
Fax: (505) 476-3462

William F. Carr, Esq.
Holland & Hart, LLP
Fax: (505) 983-6043

W. Thomas Kellahin, Esq.
Kellahin & Kellahin
Fax: (505) 982-2047

Darren Groce, Esq.
ConocoPhillips
Fax: (281) 293-3174

FROM: J. Scott Hall

NUMBER OF PAGES INCLUDING COVER SHEET: 3

IF YOU DO NOT RECEIVE THE ENTIRE DOCUMENT, PLEASE CALL OUR SANTA FE OFFICE AS SOON AS POSSIBLE AT (505) 989-9614.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS CONFIDENTIAL AND INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, AND COPYING, OR UNAUTHORIZED USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE (COLLECT), AND RETURN THE FACSIMILE TO THE SENDER AT THE ABOVE ADDRESS VIA THE U. S. POSTAL SERVICE. THANK YOU.

Llano 34 State Com No. 1 well on that acreage. Additionally, Nearburg's Application represented: "Since all of the interest owners in the E/2 of Section 34 support this application, there are no affected parties to whom notice of this application needs to be provided."

By letter dated February 5, 2001, Examiner Michael Stogner noted Nearburg's failure to identify the interest owners in the two 160 acre units or to provide evidence that they had been notified of the Application. (Exhibit A, attached.) Subsequently, on February 15, 2001, following notice, the Division received an objection from Redrock Operating LTD., Co., ("Redrock"), and accordingly, the Division's Examiner denied Nearburg's request for administrative approval, and instead set the matter for hearing as Case No. 12622. (See Nearburg Exhibit 15). Raptor was not provided notice of Nearburg's Application.

An Examiner hearing was held on June 28th and 29th, 2001. Redrock, the owner of an overriding royalty interest in the SE/4 of Section 34, opposed the Nearburg Application. Subsequently, on May 28, 2002 the Division entered Order No. R-11768 denying Nearburg's Application on the merits and on June 18, 2002, Nearburg filed its Application for Hearing *De Novo*.

In its *de novo* appeal, Nearburg again requests Commission approval for the dedication of an appropriately configured gas spacing and proration unit to its Grama Ridge East "34" State Well No. 1. Nearburg now owns the entirety of the E/2 of Section 34. However, Nearburg asserts, *inter alia*, that the SE/4 of Section 34 contributes no producible reserves to its well and consequently, Nearburg does not seek to create a spacing unit consisting of the E/2 of the section. Rather, Nearburg seeks only the dedication of the NE/4 to its well.

Case No. 12908-A (Severed and Reopened)

The Division, through its generic, non-adjudicatory pool nomenclature rulemaking process, made application for the extension of the boundaries of the Grama Ridge Morrow Gas Pool to include the E/2 of Section 34, with the concomitant contraction of the East Grama Ridge Morrow Gas Pool. The Division's Application was made at Nearburg's behest and neither Raptor nor Redrock were notified of the Application.¹ Although the issue was not included within the scope of the Division's Application in the matter, Nearburg has subsequently asserted that it has been prevented from dedicating the N/2 of Section 34 to its well for the reason that the NW/4 of the section is located within the horizontal boundaries of the Grama Ridge Morrow Gas Pool, while the NE/4 is located within the separate East Grama Ridge Morrow Gas Pool.

The De Novo Hearing

Pursuant to a joint motion of the parties, Case No. 12622 and Case No. 12908-A were consolidated for hearing before the Commission on October 21 and 22, 2002.

¹ Raptor raised the issue of notice in its August 21, 2002 *Reply Pursuant To Motion To Dismiss, In Part, Case 12908 Or In The Alternative To Re-Open The Case*.