



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON
Governor
Betty Rivera
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September 9, 2002

Via facsimile and first class mail

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Re: Case No. 12622, Application of Nearburg Exploration Company L.L.C. for two non-standard gas spacing units, Lea County, New Mexico, *de novo*

Dear Counsel,

As everyone is aware, Redrock Operating Ltd. Co. filed a motion to vacate the hearing of September 10 after receiving copies of exhibits submitted by Nearburg Exploration Company's that included seismic data (Exhibit 7). Redrock had not been aware that Nearburg intended to rely on seismic data during the hearing and the disclosure took them by surprise. Unlike Nearburg, Redrock does not have a geophysicist on staff and was therefore unable to address the new data quickly. Redrock claims that proper interpretation of the seismic data could be critical because its technical contentions in this matter rely on the presence of a fault in Section 34.

Nearburg opposed the motion. Nearburg pointed out that its well has been shut-in by order of the Division since July and time is of the essence. Nearburg noted it had acquired the two lines of seismic data only recently (on August 30 and September 30, 2002) in connection with its preparation for the hearing and it was not its intent to surprise Redrock with the information. Nearburg stated that the Commission could

judge for itself the importance of the seismic data and the hearing should not be delayed for this reason alone.

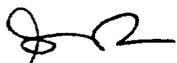
As I discussed on Friday, it is in everyone's best interest if the facts of this matter are developed to the parties' satisfaction during the hearing. It would be troubling if a party appeared before the Commission and stated it had not had time to prepare a rebuttal for a critical item of evidence.

As Redrock is apparently unable to respond to the seismic data that Nearburg intends to present, the hearing has been vacated and will be rescheduled as soon as practicable, given the Commissioner's schedules. As I warned you on Friday, the Commissioners' schedules are particularly difficult in the next two months, and it may be difficult to achieve a quick setting. Mr. Carr has indicated that he may seek interim relief from the Division's order shutting in the well if the hearing will be delayed appreciably; as you are aware we can address such issues fairly quickly if they arise. Mr. Kellahin indicated that he would determine through his clients how long it will take to analyze Nearburg's seismic data and develop a response. Mr. Kellahin indicated he would provide this information no later than Friday, September 13.

Going forward, I suggest the following: (1) I will obtain possible dates from the Commissioners and circulate them to all parties. (2) Mr. Kellahin will provide by September 13 an estimate of when Redrock can respond to Nearburg's seismic evidence. (3) One week prior to the next scheduled hearing, the parties should exchange any supplemental exhibits and provide them to the Commission through Florene Davidson. I assume that any supplemental exhibits will relate only to the seismic issue. If my assumption is incorrect, please let me know. (4) If amendments are required to the Pre-hearing Statements (such as an amendment to the witness list in the case of Redrock), I would suggest that these be submitted one week prior to the next scheduled hearing. (5) If Mr. Carr desires to address the matter of the shut-in well by way of a motion to stay the Division, that motion should be filed as soon as possible.

As always, if you have any questions, please do not hesitate to give me a call at 476-3451.

Sincerely,



Stephen C. Ross
Assistant General Counsel

Cc: Florene Davidson, Commission Secretary