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W. THOMAS KELLAHIN*

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION
RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

May 16, 1994

HAND DELIVERED

Mr. Michael E. Stogner
Chief Hearing Examiner
Oil Conservation Division
310 Old Santa Fe Trail, Room 219
P. O. Box 2088
Santa Fe, New Mexico 87501

109911

Re: Morris 26 G Well No. 1
N/2 Section 26, T19S, R25E, NMPM
Application of Nearburg Exploration Company for
Compulsory Pooling and an Unorthodox Gas Well Location,
Eddy County, New Mexico

RECEIVED
OIL CONSERVATION DIVISION
MAY 17 1994 8 50

Dear Mr. Stogner:

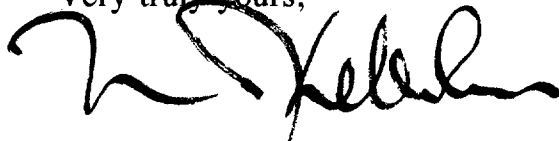
On behalf of Nearburg Exploration Company, please find enclosed our application for compulsory pooling and an unorthodox gas well location which we request be set for hearing on the Examiner's docket now scheduled for June 9, 1994. Also enclosed is our proposed notice of publication for this case.

By copy of this letter, including the application, to all affected parties, we are notifying them by certified mail-return receipt requested, that they have the right to appear at the hearing, to make a statement to the Division, to present evidence and cross-examine witnesses either in support of or in opposition to the application.

Oil Conservation Division
May 16, 1994
Page 2.

Pursuant to the Division's Memorandum 2-90, all interested parties are hereby informed that if they appear in the case, then they are requested to file a Pre-Hearing Statement with the Division not later than 4:00 pm on Friday, June 3, 1994, with a copy delivered to the undersigned.

Very truly yours,



W. Thomas Kellahin

Enclosure

cc: Nearburg Producing Company

cc: BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED
to all parties listed in application

16997

CASE ____: Application of Nearburg Exploration Company for compulsory pooling, Eddy County, New Mexico. Applicant seeks an order pooling all non-participating royalty interests for any production from the surface to the base of the Morrow formation and all mineral interests from the top of the Wolfcamp formation to the base of the Morrow formation underlying the N/2 of Section 26, T19S, R25E, NMPM, Eddy County, New Mexico, forming a standard 320-acre spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Cemetery-Morrow Gas Pool. Said unit is to be dedicated to a well to be drilled and completed at an unorthodox gas well location within said unit. 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 drilling said well. Said unit is located approximately 9 miles west-northwest from Lakewood, 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
FOR COMPULSORY POOLING AND AN
UNORTHODOX GAS WELL LOCATION
EDDY COUNTY, NEW MEXICO.

CASE NO. 10997

A P P L I C A T I O N

Comes now NEARBURG EXPLORATION COMPANY, 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 non-participating royalty interests for any production from the surface to the base of the Morrow formation and all mineral interests from the top of the Wolfcamp formation to the base of the Morrow formation underlying the N/2 of Section 26, T19S, R25E, NMPM, Eddy County, New Mexico, forming a standard 320-acre spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Cemetery-Morrow Gas Pool. Applicant proposes to dedicate this pooled unit to its Morris 26 G Well No. 1 to be drilled and completed at an unorthodox gas well location 1450 feet from the East line and 1450 feet from the North line (Unit G) of said Section 26. 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 drilling said well.

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

1. Nearburg has a 93.653% working interest ownership in the oil and gas minerals from the top of the Wolfcamp formation to the base of the Morrow formation underlying the N/2 of Section 30, T19S, R25E, NMPM, Eddy County, New Mexico.

2. The subject tract is located within one-mile of the current boundaries of the Cemetery-Morrow Gas Pool, said pool being spaced on 320-acre gas spacing and proration units pursuant to Division Order R-3194 issued effective February 15, 1967.

3. The subject well is to be drilled at an unorthodox gas well location 1450 feet from the East line and 1450 feet from the North line (Unit G) of Section 26 to test any and all formations in the pooled interval from the top of the Wolfcamp formation to the base of the Morrow formation.

4. The unorthodox location is based upon an effort to minimize the geologic risk involved in drilling this well and is at a location preferable to a standard location in the spacing unit.

5. The subject location moves towards the offsetting operators, or in the absence of an operator, the owners as listed on Exhibit "A"

6. Nearburg has the voluntary agreement of approximately 93.653% of the working interest ownership of the oil & gas minerals from the top of the Wolfcamp to the base of the Morrow formation underlying the N/2 of Section 26.

7. Nearburg has proposed the subject well and its spacing unit to Anadarko Petroleum Corporation which owns the remaining 6.347% working interest.

8. Despite its good faith efforts, Nearburg has been unable to obtain a written voluntary agreement from Anadarko Petroleum Corporation.

9. In addition, there is a non-participating royalty interest which is entitled to a $\frac{152}{320}$ th of $\frac{1}{6}$ th of $\frac{1}{8}$ th royalty on any and all production obtained from any formation from the surface to the base of the Morrow formation.

10. Nearburg believes that the potential owners of this non-participating royalty interest are R. T Badger individually and as executor of the estate of Brandt Badger, deceased; Birdie I. Badger, wife of R. T. Badger; Bettie J. Badger, a widow, individually and as executrix of the estate of W. H. Badger, deceased; and Margaret Badger, widow of Brandt Badger, deceased.

11. Despite its good faith effort, Nearburg has been unable to locate any of these parties who may be entitled to this royalty interest and requests that the Division authorize the pooling of this interest.

12. 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.

13. In accordance with the Division's notice requirements, a copy of this application has been sent to the parties whose interest is to be pooled listed as listed in this application and to those operators towards whom the subject location encroaches 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 June 9, 1994.

WHEREFORE, Nearburg, as applicant, requests that this application be set for hearing on June 9, 1994 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 this spacing unit for the drilling of the subject well at the proposed unorthodox gas well location upon terms and conditions which include:

- (1) Nearburg Producing Company be named operator;
- (2) Approval of the unorthodox gas well location;
- (3) Provisions for applicant and all working interest owners to participate in the costs of drilling, completing, equipping and operating the well;
- (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 of \$6,000 per month drilling and \$600 per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS;
- (6) Provisions pooling any non-participating royalty interests owners; and
- (7) For such other and further relief as may be proper.

RESPECTFULLY SUBMITTED:



W. THOMAS KELLAHIN
KELLAHIN & KELLAHIN
P. O. Box 2265
Santa Fe, New Mexico 87501
(505) 982-4285

NOTICE TO PARTY TO BE POOLED

**Anadarko Petroleum Corporation
17001 Northchase Drive
Houston, Texas 77060
Attn: Mr. Pat Smith**

**NOTICE TO OFFSET OPERATORS/OWNERS
NOR UNORTHODOX GAS WELL LOCATION**

EXHIBIT "A"

**S.P. Yates
105 S. Fourth Street
Artesia, New Mexico 88210**

**Harvey E. Yates
HEYCO
P.O. Box 1933
Roswell, New Mexico 88202**

**Estate of Martin Yates, III
105 S. Fourth Street
Artesia, NM. 88210**

**S. P. Johnson III
Barbara Johnson Co-Trustees
P.O. Box 1641
Roswell, New Mexico 88202-1641**

**S.P. Johnson III
Patricia J. Cooper, Trustees of
S. P. Johnson Jr.
P.O. Box 1641
Roswell, New Mexico 88202-1641**

**Bureau of Land Management
P.O. Box 1449
Santa Fe, New Mexico 87504**

John Lodewick
3305 Westwood
Dallas, Texas 75219

Laura Patricia Lodewick
511 Newell
Dallas, Texas 75219

Richard B. Lodewick
2100 West Wadley # 21
Midland, Texas 79705

Lodewick Energy Inc.
4849 Greenville Ave
Suite 1540
Dallas, Texas 75206

Patricia J. Cooper Trustee
of the P.J.C. Revocable Trust
/Trust Agreement dated 12/30/89
1214 Avenida Del Sumbre
Roswell, New Mexico 88201

Pardue Farms
P.O. Box 2018
Carlsbad, New Mexico 88220

Iva S. Davis and
Kathryn E. Cooper
joint tenants wros
936 St. James Place
Wichita, KS 67206

First National Bank in
Wichita, Trustee of the
Iva S. Davis and Harold B. Davis
Living Trust Dated 10/21/86
P.O. Box One
Wichita, KS 67201

Kathryn E. Cooper
936 St. James Place
Wichita, Kansas 67206