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

EXAMINER HEARING

IN THE MATTER OF:

Application of Nearburg Producing  
Company for amendment of Division Case 10033  
Order No. R-9168, Lea County, New Mexico

TRANSCRIPT OF PROCEEDINGS

BEFORE: MICHAEL E. STOGNER, EXAMINER

STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

August 8, 1990

**ORIGINAL**

A P P E A R A N C E S

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FOR THE DIVISION:                   ROBERT G. STOVALL  
Attorney at Law  
Legal Counsel to the Division  
State Land Office Building  
Santa Fe, New Mexico 87501

FOR THE APPLICANT:                   WILLIAM F. CARR  
Campbell & Black, P.A.  
Post Office Box 2208  
Santa Fe, New Mexico 87504-2208

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## I N D E X

Page Number

## Appearances

2

## 1. MARK NEARBURG

Examination by Mr. Carr

6

Examination by Mr. Stovall

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Examination by The Hearing Examiner

12

## Certificate of Reporter

14

## E X H I B I T S

Exhibit No. 1

6

Exhibit No. 2

8

Exhibit No. 3

9

1 P R O C E E D I N G S

2 HEARING EXAMINER: Should we continue to the next  
3 case, Mr. Stovall?

4 MR. STOVALL: It's okay with me.

5 HEARING EXAMINER: Which is Case No. 10033.

6 MR. STOVALL: Application of Nearburg Producing  
7 Company for amendment of Division Order No. R-9168, Lea County,  
8 New Mexico.

9 HEARING EXAMINER: Call for appearances.

10 MR. CARR: May it please the Examiner, my name is  
11 William F. Carr with the law firm Campbell & Black, P.A. of  
12 Santa Fe. We represent Nearburg Producing Company and I have  
13 one witness.

14 MR. STOVALL: Is that Mr. Nearburg who has already  
15 been sworn?

16 MR. CARR: Yes, sir. I would like the record to  
17 reflect that the witness is Mr. Mark Nearburg. He's previously  
18 been sworn and his credentials as an expert witness in land  
19 matters has been accepted. I would like the record to so  
20 reflect.

21 HEARING EXAMINER: The record will so reflect,  
22 Mr. Carr.

23 MR. CARR: May it please the Examiner, on April 18,  
24 1990, an application of Nearburg Producing Company came before  
25 you. It was styled Case 9909. And it involved the approval or

1 the pooling of a standard 80-acre proration unit to be  
2 comprised of the west -- east half of the Northwest Quarter of  
3 Section 17. An order was entered in this case on May 1, 1990,  
4 pooling that acreage. What we are seeking here today is to  
5 amend that order to dedicate instead of the east half of the  
6 Northwest Quarter of 17, the north half. The testimony as you  
7 will see is virtually identical to what was presented before.  
8 The ownership has not changed, but the reorientation of the  
9 spacing unit is necessary to enable Nearburg to drill an  
10 additional well to offset recent production in the Northeast  
11 Quarter of 17. For that reason we would request that the  
12 record in Case 9909 be incorporated into the record of this  
13 case.

14 HEARING EXAMINER: Mr. Carr, it's going to offset  
15 production from where?

16 MR. CARR: A new well that has been drilled, I  
17 believe we will show you in the southwest of the northeast  
18 of 17.

19 HEARING EXAMINER: Okay, Mr. Carr.

20 MR. CARR: With your permission can we incorporate  
21 the record of the prior hearing?

22 HEARING EXAMINER: Yes, we will do that. It's case  
23 number --

24 MR. CARR: It was Case No. 9909.

25 HEARING EXAMINER: Case No. 9909 and its record in

1 its entirety will be incorporated with this hearing today.

2 MR. CARR: Thank you, Mr. Stogner.

3 MARK NEARBURG,

4 the witness herein, after having been previously sworn upon his  
5 oath, was examined and testified as follows:

6 EXAMINATION

7 BY MR. CARR:

8 Q. Mr. Nearburg, are you familiar with the application  
9 filed in this case?

10 A. Yes, I am.

11 Q. Are you familiar with the subject area and the  
12 proposed pooling of interests?

13 A. Yes.

14 Q. Could you briefly state for the Examiner what you  
15 seek with this application.

16 A. Nearburg seeks to amend Division Order R-9168 which  
17 authorized compulsory pooling in a spacing unit consisting of  
18 the east half Northwest Quarter of Section 17, Township 16  
19 South, Range 37 East in Lea County, New Mexico. We seek to  
20 change the proration unit to the north half Northwest Quarter  
21 and maintain the pooling that was authorized in the prior  
22 order.

23 Q. Would you refer to what has been marked for  
24 identification as Nearburg Exhibit No. 1 and review this for  
25 the Examiner.

1           A.     Yes. Exhibit No. 1 shows in yellow outlined in red  
2 the proration unit which we seek with this hearing with the  
3 well location indicated by the red dot. Outlined in pink is  
4 the proration unit and pooling approved by the prior order.

5           Q.     What is the primary objective in the proposed well?

6           A.     Strawn formation.

7           Q.     What is the status of that well?

8           A.     That well is currently drilling.

9           Q.     Could you explain to Mr. Stogner why you were  
10 seeking to reorient this proration unit.

11          A.     Yes. All of the Northwest Quarter of Section 17 is  
12 a State lease with the exception of the 40 acres where the well  
13 is located, being the Northeast Quarter Northwest Quarter. And  
14 that is a fee tract of land. Incorporation of that tract into  
15 the unit has not changed. What has changed is the 40 acres  
16 under the State lease that is being incorporated into the unit.  
17 We're altering the unit because of the well in the Southwest  
18 Quarter Northeast Quarter which was drilled by BTA and  
19 completed in-between the time of the prior order and this  
20 date -- or the prior hearing and this date.

21                 BTA made a well that potential flowing 543 barrels  
22 of oil per day, and a significant amount of casing hit gas.  
23 The provisions of the New Mexico State lease call for the  
24 protection of correlative rights and the prevention of waste.  
25 Without reorienting this proration unit we will not be able to

1 drill an offset well to BTA's well to protect the State lease.  
2 We feel the maximum reserves will be recovered by reorienting  
3 the unit. And if our well is successful then immediately  
4 drilling an offset to BTA's well.

5 Q. If the Northwest Quarter of Section 17 is developed  
6 with two laydown 80-acre units, can you drill two wells at  
7 standard locations on that quarter section?

8 A. Yes, we can.

9 Q. Let's go to what has been marked as Exhibit No. 2  
10 and I'd ask you to review that for the Examiner.

11 A. Exhibit No. 2 just is a summary of the ownership in  
12 the north half Northwest Quarter. It has not changed in any  
13 way from the ownership in the east half Northwest Quarter.  
14 Nearburg owns 95.66 percent of the working interest after  
15 various farm-outs and industry trades. Roy G. Barton, Jr.,  
16 Trustee, has agreed to participate in our well and has agreed  
17 to the changed proration unit. Mr. Shane Spier at Rebel Oil  
18 Company has advised repeatedly that he wants to be force  
19 pooled. His interest is too small to write agreements for.  
20 Adolph Schweizer and Ann Fox we've been unable to locate. The  
21 last records of their whereabouts were in 1938 for Ann Fox and  
22 1948 for Adolph Schweizer. And that comprises 100 percent of  
23 the unit.

24 Q. So in this application you were force pooling the  
25 interest of Rebel Oil Company, Adolph Schweizer, and Ann Fox?

1 A. Yes.

2 Q. Those are the same interest owners and the same  
3 percentage ownership -- holding the same percentage ownership  
4 that were pooled in the original hearing?

5 A. Yes.

6 Q. Has an AFE been provided to Rebel Oil Company?

7 A. Yes, AFE and operating agreement.

8 Q. And you have advised Rebel of your desire to  
9 reorient the spacing of proration unit?

10 A. Yes.

11 Q. And your efforts to obtain their voluntary joinder,  
12 your letters to them are contained in the record of the  
13 previous case which is incorporated into this proceeding?

14 A. Yes.

15 Q. You drilled other Pennsylvania wells in the area?

16 A. Yes.

17 Q. Would you identify what has been marked as Exhibit  
18 No. 3.

19 A. Exhibit No. 3 is the Affidavit of Notice to all  
20 interested parties in this case.

21 Q. And the only party to whom you can give notice is  
22 Rebel Oil?

23 A. That's correct.

24 Q. The previous order contained a risk penalty. What  
25 percentage risk penalty was contained in that order?

1 A. Cost plus 200 percent.

2 Q. And you recommend that that be incorporated into  
3 this proceeding?

4 A. Yes.

5 Q. Would any of the testimony concerning risk have  
6 changed between the April hearing and today?

7 A. No.

8 Q. Do you again recommend that Nearburg Producing  
9 Company be designated operator of this well?

10 A. Yes.

11 Q. Do you have anything further to add to your  
12 testimony?

13 A. No.

14 Q. Were Exhibits 1 through 3 prepared by you or  
15 compiled under your direction?

16 A. Yes, they were.

17 MR. CARR: At this time, Mr. Stogner, we would move  
18 the admission of Nearburg Exhibits 1 through 3.

19 HEARING EXAMINER: Exhibits 1 through 3 will be  
20 admitted into evidence.

21 MR. CARR: That concludes my examination of  
22 Mr. Nearburg.

23 MR. STOVALL: I have a question of Mr. Nearburg if I  
24 might, Mr. Examiner.

25 HEARING EXAMINER: Mr. Stovall.

## 1 EXAMINATION

2 BY MR. STOVALL:

3 Q. What happens, Mr. Nearburg, if somebody comes and  
4 drills a well somewhere in the east half of Section 18, east  
5 half of the Northeast Quarter?

6 A. It would have to be I believe on an infill proration  
7 unit, or a second well on an existing proration unit from the  
8 No. 1 and 2 Pennzoil wells you see there.

9 Q. Those are currently producing wells in this pool; is  
10 that correct?

11 A. Yes. Our information does not suggest that we would  
12 drill in the west half of the Northwest Quarter.

13 Q. I guess my question -- I mean your rationale is that  
14 you need to protect the State lease from potential drainage by  
15 the well in the Northeast Quarter; is that correct?

16 A. And recover the maximum amount of reserves possible.

17 Q. In making that statement, and I am sorry, I don't  
18 recall the testimony from the original case, but are you saying  
19 that geologically speaking the east half of the northwest is  
20 more advantageous than the west half of the northwest?

21 A. Well, we won't know until we have our first well  
22 drilled. But you do have two dry holes already in the south  
23 half Northwest Quarter to the Strawn formation.

24 Q. And then do I understand you correctly to say that  
25 it is your opinion that the Northeast Quarter of Section 18 is

1 currently fully developed and therefore offsetting, the  
2 necessity for potential need to offset is not a realistic  
3 problem?

4 A. Yes. Mainly because of the Pennzoil dry hole in the  
5 Strawn in the Southwest Quarter Northwest Quarter.

6 MR. STOVALL: Okay. I have no further questions on  
7 that.

8 EXAMINATION

9 BY THE HEARING EXAMINER:

10 Q. Mr. Nearburg, do you plan to drill a well in the  
11 south half of the Northwest Quarter?

12 A. Yes, we do, if our first well is productive.

13 Q. What is the status of that first well?

14 A. It's is drilling at approximately 8,000 feet.

15 Q. Do you know when it was spud?

16 A. Approximately three weeks ago.

17 Q. Three weeks ago. That would have been about the  
18 middle of July.

19 A. Yes.

20 HEARING EXAMINER: Mr. Carr, maybe you can help me  
21 here. There is a clause or a deadline of July 1st, Order No.  
22 R-9168. Was that extended?

23 MR. CARR: Mr. Stogner, I don't know. I would have  
24 to check.

25 THE WITNESS: Mr. Examiner, we were aware of that

1 date and I feel certain that we met that date. I'll get the  
2 exact date for you.

3 HEARING EXAMINER: I believe our records should show  
4 it here.

5 THE WITNESS: Okay.

6 MR. CARR: If you would like we would be glad to  
7 check that and just confirm it for you, Mr. Stogner.

8 HEARING EXAMINER: It's going to be confirmed one  
9 way or the other. This order, that spud day will show whether  
10 this order is actually in effect or not. So are there any  
11 other questions of this witness? If not you may be excused.

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I do hereby certify that the foregoing is  
a correct record of the proceedings at  
the examiner hearing of Case No. 10033,  
heard by me on 8 August 1990.

Michael J. Stogner, Examiner  
Oil Conservation Division



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

EXAMINER HEARING

IN THE MATTER OF:

Application of Nearburg Case 10033  
Producing Company For  
Amendment of Division Order  
No. R-9168, Lea County, New Mexico

TRANSCRIPT OF PROCEEDINGS

BEFORE: MICHAEL E. STOGNER, EXAMINER

STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

September 5, 1990

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A P P E A R A N C E S

FOR THE DIVISION:        ROBERT G. STOVALL  
                                 Attorney at Law  
                                 Legal Counsel to the Divison  
                                 State Land Office Building  
                                 Santa Fe, New Mexico

1 HEARING EXAMINER: Call the next case, No.  
2 10,033.

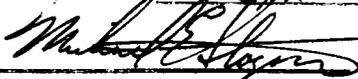
3 MR. STOVALL: Application of Nearburg  
4 Producing Company for amendment of Division Order No.  
5 R-9168, Lea County, New Mexico.

6 HEARING EXAMINER: We're just going to call  
7 for appearances at this time in this case. This will  
8 be an amendment to an existing compulsory pooling  
9 order that involves all parties in a northwest quarter  
10 of Section 17, Township 16 South, Range 37 East, Lea  
11 County, New Mexico.

12 Are there any appearances at this time?  
13 There being none, this case will be taken under  
14 advisement.

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 10033  
heard by me on 5 Sep. 1990.

  
Examiner  
Oil Conservation Division

