

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

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING:

ORIGINAL

APPLICATION OF NEARBURG EXPLORATION COMPANY Case 14826  
LLC, FOR A NON-STANDARD SPACING AND PRORATION  
UNIT AND COMPULSORY POOLING, LEA COUNTY, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, Technical Examiner  
DAVID K. BROOKS, Legal Examiner

June 7, 2012

Santa Fe, New Mexico

This matter came on for hearing before the  
New Mexico Oil Conservation Division, WILLIAM V. JONES,  
Technical Examiner, and DAVID K. BROOKS, Legal Examiner,  
on Thursday, June 7, 2012, at the New Mexico Energy,  
Minerals and Natural Resources Department, 1220 South St.  
Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91  
Paul Baca Professional Court Reporters  
500 Fourth Street, N.W., Suite 105  
Albuquerque, NM 87103 505-843-9241

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A P P E A R A N C E S

FOR THE APPLICANT:

HOLLAND & HART  
ADAM G. RANKIN, ESQ.  
110 N. Guadalupe, Suite 1  
Santa Fe, New Mexico 87501  
(505)988-4421

WITNESSES:

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1 EXAMINER JONES: At this time, let's call  
2 Case 14826, application of Nearburg Exploration Company,  
3 LLC, for a non-standard spacing and proration unit and  
4 compulsory pooling, in Lea County, New Mexico. Call for  
5 appearances

6 MR. RANKIN: Mr. Examiner, Adam Rankin, of  
7 Holland & Hart, on behalf of Nearburg. I have two  
8 witnesses today. One of the witnesses I'm going to call  
9 today is not on the pre-hearing statement. Keith  
10 Williams, who is identified on the pre-hearing statement  
11 is not going to make it, so Bill Elton will be testifying  
12 in his place today.

13 EXAMINER JONES: He's going to be the  
14 engineer?

15 MR. RANKIN: He's the geologist.

16 EXAMINER JONES: Any other appearances?

17 Will the witnesses please stand to be sworn.  
18 State your names first.

19 MR. WICKMAN: Russell Wickman.

20 MR. ELTON: Bill Elton.

21 (Two witnesses were sworn.)  
22  
23  
24  
25

1                                   RUSSELL WICKMAN

2           Having been first duly sworn, testified as follows:

3                                   DIRECT EXAMINATION

4   BY MR. RANKIN:

5           Q.     By whom are you employed and where do you  
6   reside?

7           A.     I'm employed by Nearburg Producing Company,  
8   and I reside in Midland, Texas.

9           Q.     Have you previously testified before the  
10   Division?

11          A.     I have not.

12          Q.     Could you briefly state for the Examiner your  
13   educational background and work experience?

14          A.     Political Science major, Southwestern  
15   University, 1984. I've been a landman for approximately  
16   25 years, both as an independent and with various company  
17   situations.

18                   I kind of started at the base doing title work  
19   and buying leases and that sort of thing. I had my own  
20   broker company that I ran and owned for about eight or  
21   nine years.

22                   In company situations, I've been the land  
23   manager of Vista Resources about 6 years. I was a  
24   district land manager for the Midland District for unit  
25   petroleum for three years. I've been with Nearburg for

1 the last two and a half years.

2 Q. And you're familiar with the application that  
3 was filed in this case?

4 A. Yes, I am.

5 Q. You're familiar with the status of the land  
6 involved in this case?

7 A. Yes.

8 Q. And you prepared exhibits; is that correct?

9 A. That's correct.

10 MR. RANKIN: Mr. Examiner, I'd like to  
11 tender Mr. Wickman as an expert in petroleum land  
12 matters.

13 EXAMINER JONES: He is so qualified.

14 Q. (By Mr. Rankin) Mr. Wickman, turning to  
15 Exhibit 1 which has been marked in this exhibit packet,  
16 can you briefly recite for the Examiners what this map  
17 depicts and what it is that Nearburg is seeking with this  
18 application?

19 A. What we're seeking is the 160-acre  
20 non-standard spacing unit in the Bone Spring Formation  
21 comprised of the west half of the west half of Section  
22 23, which is the area on the map outlined in red and  
23 covered in yellow.

24 This will be dedicated to Laguna 23 Fed Com  
25 Number 2H Well. We're seeking to pool all the mineral

1 interests within that non-standard spacing unit. You can  
2 see this map, also. I've depicted the offset owners  
3 around the spacing unit.

4 Q. You're seeking to pool all the mineral  
5 interests within the Bone Spring formation; is that  
6 correct?

7 A. That's correct.

8 Q. Just one point, flipping through the pages,  
9 Mr. Wickman, on the second page of that exhibit, you've  
10 got it identified by tract; is that correct?

11 A. That's correct.

12 Q. And then on the following page, you've got a  
13 list of interests identified in pool; is that correct?

14 A. That is correct.

15 Q. The actual footages for the location of the  
16 proposed well are different than they were at the time  
17 this application was filed; is that correct?

18 A. That is true.

19 Q. How have they changed?

20 A. When we went out to stake the location at 330  
21 off of the south line, it turned out that we were under a  
22 power line, so obviously, we couldn't put a rig there.  
23 So we moved the location to 175 feet off of the south  
24 line and did that with the knowledge that, by the time we  
25 land the curve and started the horizontal and the

1 producing points will be beyond the 330 setback.

2 Q. And the status of these lands, these are all  
3 federal lands?

4 A. That is correct.

5 Q. Is there a designated pool that covers the  
6 proposed project area?

7 A. Yes, the Lea Bone Springs South Pool.

8 Q. And there are no special pool rules that  
9 apply?

10 A. No, sir.

11 Q. Turning to Exhibit 2, this is a copy of the  
12 sample of the well proposal letter that was sent out to  
13 the interest owners; is that correct?

14 A. That is correct.

15 Q. And how many of the interest owners that were  
16 identified on the previous exhibits have you been unable  
17 to reach agreement with?

18 A. As of today, we only have an actual agreement  
19 with one of the parties. They have executed an operating  
20 agreement at this point.

21 A number of the other owners were very close  
22 to agreements either to participate and execute an  
23 operating agreement, or a number of folks have agreed to  
24 do a term of assignment with us.

25 Q. In your opinion, have you pursued in good

1 faith to obtain the voluntary joinder of all uncommitted  
2 interests?

3 A. Yes, sir.

4 Q. Turning to Exhibit 3, this is the AFE that was  
5 sent with the proposal; is that correct?

6 A. Yes.

7 Q. Are these costs in here commensurate with what  
8 Nearburg has incurred for drilling similar horizontal  
9 wells in the area?

10 A. Yes.

11 Q. Has Nearburg made an estimate of overhead and  
12 administrative costs involved in this well?

13 A. Yes. \$6,000 a month while drilling, and \$600  
14 a month while producing.

15 Q. These costs are also commensurate with what  
16 Nearburg and other operators have charged?

17 A. Yes.

18 Q. Does Nearburg request that these figures be  
19 incorporated into any order that results from this  
20 hearing?

21 A. Yes, we do.

22 Q. Does Nearburg also request that the overhead  
23 and administrative costs be adjusted in accordance with  
24 the COPAS accounting procedures?

25 A. Yes.



1 Q. Does Nearburg request, in accordance with  
2 Division rules, the maximum risk charge of 200 percent be  
3 assessed against all non-consent interests?

4 A. Yes.

5 Q. Mr. Wickman, has Nearburg also brought a  
6 geologist to testify regarding the non-standard, the  
7 formation of a non-standard unit in this case?

8 A. Yes.

9 Q. Now, did Nearburg also identify all the  
10 interests in the surrounding 40 acres?

11 A. Yes, we did.

12 Q. Did you also provide notice to them; is that  
13 correct?

14 A. Yes.

15 Q. Turning to Exhibit 4, this is an affidavit  
16 that was prepared by your attorney indicating that notice  
17 was provided in accordance with Division rules; is that  
18 correct?

19 A. Yes.

20 Q. The second page indicates that this was  
21 advertised in the Lovington Leader?

22 A. Yes.

23 Q. The following page is a copy of the letter  
24 that was sent out as notice?

25 A. Yes.

1 Q. Behind that is a list of all the parties who  
2 were provided notice?

3 A. Yes.

4 Q. And those are the parties being pooled and the  
5 offset interests; is that correct?

6 A. Yes.

7 Q. Looking at the green cards, there are four  
8 green cards that were not returned. And those, just to  
9 be -- as I understand, those are all interests that were  
10 derived from Read & Stevens?

11 A. That's correct.

12 Q. All those interests, as I understand, did you  
13 receive a green card back from them from your AFE  
14 proposals; is that correct?

15 A. We did, with the exception of Dr. Alfred J.  
16 Rodriguez.

17 Q. He is also direct from Read & Stevens?

18 A. That is correct. And we obtained the  
19 addresses from Read & Stevens who continue to have  
20 contact and associate with all these folks.

21 Q. And there was one green card, or rather  
22 notice, that was returned from Phillip G. Huey, and as I  
23 understand, you've been in contact with him?

24 A. That's correct. And we are working on a term  
25 assignment with Mr. Huey.

1 Q. Were Exhibits 1 through 4 prepared by you or  
2 under your supervision?

3 A. Yes.

4 MR. RANKIN: Mr. Examiner, I move to admit  
5 Exhibits 1 through 4.

6 EXAMINER JONES: Exhibits 1 through 4 will  
7 be admitted.

8 (Exhibits 1 through 4 were admitted.)

9 MR. RANKIN: I have no further questions.

10 EXAMINATION

11 BY EXAMINER JONES:

12 Q. Did you say 6,000 for drilling and 600 for  
13 producing?

14 A. That's correct

15 Q. You've got \$19,000 a day for your rig costs?

16 A. It's a deeper rig.

17 Q. Amazing. This is going to be a federal well,  
18 so you probably have no API number yet?

19 A. I'm not aware that we do.

20 EXAMINER JONES: David, do you have  
21 questions?

22 EXAMINATION

23 BY EXAMINER BROOKS:

24 Q. It amazes me that Nearburg is trying to pool  
25 Cimarex and Cimarex is not here to complain.

1           A.     And we've been in contact with Cimarex, and  
2     we're very close to agreeing to an operating agreement.

3           Q.     Is this also a Yeso prospect?

4           A.     No.   This is Bone Spring.

5           Q.     Okay.   And are you asking for any uphole unit,  
6     or are you just asking for this non-standard -- 160  
7     acres?

8           A.     160 acres covers the entire Bone Spring.

9           Q.     That makes things a lot simpler.

10          A.     Yes.

11          Q.     Do you have any unlocated interests?

12          A.     Nobody that has not been located.

13          Q.     Have you indicated here who the people are  
14     that -- I see.   You have no response here, so we can go  
15     down this list --

16          A.     We do have green cards back even from those  
17     folks.

18          Q.     Yeah.   But we can go through this -- when you  
19     have this page where you have, "Status of interest  
20     owners," we can go through this list and see who the pool  
21     parties are?

22          A.     That is correct.

23          Q.     You put "Agreed to" where you've gotten  
24     agreement with them?

25          A.     That's correct.   And most of those, we don't

1 yet have papers and signed up to an agreement, but we've  
2 got verbal agreements.

3 Q. So you expect to get an agreement?

4 A. That's correct.

5 Q. Actually, that doesn't make any difference  
6 because of the way we write our orders, because we put  
7 all interests, whatever they are anyway, but we like to  
8 know what we're looking at.

9 A. Sure

10 EXAMINER BROOKS: That's all I have.

11 MR. RANKIN: Okay. Thank you,  
12 Mr. Examiner. No further questions of the witness.

13 I'd like to call my second witness, Mr. Bill  
14 Elton.

15 BILL ELTON

16 Having been first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. RANKIN:

19 Q. Mr. Elton, can you please state for the  
20 Examiners by whom you're employed and where you reside?

21 A. I'm employed by Nearburg Producing Company,  
22 and I reside in Midland, Texas.

23 Q. Have you previously testified before the  
24 Division?

25 A. No, I have not.

1 Q. Can you please review for the Examiners your  
2 educational background and work experience as a petroleum  
3 geologist?

4 A. Yes. I have a Bachelor's in Geology from  
5 Muskegon College in 1972. I have a Master's in Geology  
6 from Eastern Kentucky University in 1974. I was employed  
7 by Marathon for 29 years, worked numerous basins in the  
8 U.S. In the last eight years, I've been employed with  
9 Nearburg, working primarily in Eddy and Lea County, New  
10 Mexico. I'm also a professional geoscientist licensed in  
11 Texas.

12 Q. Are you familiar with the application that was  
13 filed in this case?

14 A. Yes, I am.

15 Q. Have you conducted a study of the lands  
16 involved in this application?

17 A. Yes.

18 MR. RANKIN: Mr. Examiner, I would tender  
19 Mr. Elton as an expert petroleum geologist.

20 EXAMINER JONES: How do you spell your  
21 last name?

22 THE WITNESS: E-l-t-o-n.

23 EXAMINER JONES: He is so qualified.

24 MR. RANKIN: Thank you, Mr. Examiner.

25 Q. (By Mr. Rankin) Mr. Elton, can you please

1 turn to Exhibit Number 6 and review -- or rather 5, and  
2 review for the Examiners what this structure map shows?

3 A. Yes. This is a structure map on -- a marker  
4 towards the base of the third Bone Spring formation. The  
5 contour interval on this map is 25 feet. We go from a  
6 sub C value at the north end of Section 23 minus 7,350 to  
7 about 7,450 at the south end of 23.

8 So it basically just shows a general 1- to  
9 2-degree dip across Section 23. There's no apparent  
10 faulting or other impediments to drilling a horizontal  
11 well.

12 Q. Mr. Elton, turning to Exhibit Number 6, this  
13 is a cross-section map; is that correct?

14 A. Yes, that's correct.

15 Q. Can you review for the Examiners the inset and  
16 what the cross-section shows?

17 A. This is a cross-section that runs across  
18 Section 23. There's an index map in the upper right-hand  
19 corner for reference.

20 The cross-section starts from the Mewbourne  
21 Marathon Road Well in the section to the north. It is  
22 projected then through our location in the  
23 southwest/southwest of 23, and it goes over to the east,  
24 to the Nearburg Rett well located in the  
25 southeast/southeast of Section 23.

1           What's depicted here is not the entire Bone  
2     Spring. It's the third bone sand. You can see the  
3     correlation at the top of the third bone, as well as a  
4     number of good correlative markers within the base of the  
5     third bone interval.

6           I might also point out on the next map that  
7     we'll look at here what has been isopached is that green  
8     bracketed interval, so it's the low resistivity part of  
9     the third bone, less than 10 ohms that's been isopached  
10    on the next map.

11          Q.     Turning to the next exhibit, that's the  
12    isopach you were referencing; is that correct?

13          A.     Exhibit Number 7 is an isopach map of the  
14    Third Bone Spring Sand pay. It shows that we should  
15    encounter between 200 and 225 feet of the third bone pay  
16    across the west half of Section 23.

17                By the way, the contouring on this map is 25  
18    feet. And the wells located to the northeast with the  
19    green circles just indicate overall Bone Spring  
20    production from vertical wells up in the Lea South Unit.

21          Q.     Now, Mr. Elton, you've been depicting -- your  
22    exhibits have shown the target interval for the proposed  
23    well, which is restricted to the Third Bone Spring; is  
24    that correct?

25          A.     That's correct.



1 Q. But Nearburg is also interested in the entire  
2 Bone Spring Formation; is that correct?

3 A. We are. Again, on Exhibit 7, I'd say the  
4 majority of those vertical wells produce either out of  
5 the First or the Second Bone Spring.

6 As a point of reference, the Nearburg Rett  
7 Well in the southeast/southeast of 23 produced  
8 approximately 12,000 barrels of oil from the Second Bone  
9 Spring.

10 So in addition to the third, which is our  
11 target, we do see other potential within the bone  
12 interval.

13 Q. That's also the point of Exhibit Number 8; is  
14 that correct?

15 A. Right. Exhibit Number 8 is an isopach map of  
16 the lower member of the second bone. The contour  
17 interval here is 10 feet. There's not a lot of well  
18 control to the west. However, we're anticipating some 60  
19 feet of second bone pay to be developed on the west half  
20 of Section 23.

21 Q. So while the target interval for this initial  
22 proposed well is for the Third Bone Spring, Nearburg is  
23 looking at potentially developing all the Bone Spring?

24 A. We're evaluating other potential horizons in  
25 the bone.

1           Q.     What conclusions have you drawn based on your  
2     analysis and geological review of the area within the  
3     unit?

4           A.     Based on the structure map, there doesn't  
5     appear to be any geological impediment, i.e. faults, to  
6     develop in this area with full-section horizontal wells.  
7     We think the entire Bone Spring Formation can be  
8     effectively and economically developed with horizontal  
9     wells. And we expect that the proposed project area will  
10    contribute equally to the well's overall production.

11          Q.     Now, Mr. Elton, just one other point that the  
12    Division has been requesting of us. Turning to Exhibit  
13    Number 9, you've got here a wellbore schematic diagram  
14    showing the approximate path of the horizontal well?

15          A.     Yes, that's correct. Exhibit Number 9 is  
16    basically a cross-section view of the horizontal we  
17    intend to drill. It shows the kick-off point roughly  
18    around a little below 10-5. We'll land the lateral at a  
19    TDD of about 1,150.

20                 For reference, the red lines, the one on the  
21    far left is a lease line. And the next red line on the  
22    other side of the surface location is a 330-stand-off. I  
23    refer you to the two large green arrows on there. At  
24    both the heel and the toe of the well, our perforations  
25    will not exceed that overall area. Our perforations will

1 be within the 330 stand-offs.

2 Q. So even though the surface location was moved  
3 back 175 feet from the south line, all the standard --  
4 well, the entire completed interval and all perfs will  
5 remain within the standard setbacks?

6 A. That's correct.

7 Q. In your opinion, will the granting of this  
8 application be in the best interest of conservation and  
9 the prevention of waste and the protection over  
10 correlative rights?

11 A. Yes.

12 Q. Did you review and approve Nearburg Exhibits 6  
13 through 9?

14 A. Yes, I did.

15 MR. RANKIN: Mr. Examiner, I move to admit  
16 into evidence Nearburg Exhibits 6 through 9.

17 EXAMINER JONES: Exhibits 6 through 9 will  
18 be admitted.

19 MR. RANKIN: I'm sorry. Let me correct  
20 that, 5 through 9, I believe.

21 EXAMINER JONES: Exhibit 5 will also be  
22 admitted.

23 (Exhibits 5 through 9 were admitted.)

24 MR. RANKIN: I'll pass the witness.

25

1 EXAMINATION

2 BY EXAMINER JONES:

3 Q. How thick is the Bone Spring here, did you  
4 say?

5 A. Overall?

6 Q. Overall.

7 A. I didn't bring a cross-section to demonstrate  
8 that. Roughly, maybe 2,050.

9 Q. Why is the Bone Spring so thick in the Permian  
10 Basin?

11 A. It's basically a unit that was deposited more  
12 in a basinal setting, so there was a lot of accommodation  
13 space. You obviously have the upper bone lime, which  
14 includes the Avalon, which you're familiar with, as well  
15 as the first, second and third Bone Spring sand.

16 Q. It had a lot of depositional issues?

17 A. Yes, sir.

18 Q. So it's really thick.

19 You're asking to pool the entire Bone Spring.  
20 I assume this Bone Spring -- Lea Bone Spring South Pool  
21 means the entire Bone Spring anyway, so -- but there's  
22 not a chance you're going to drill anything different  
23 than this 11,150 feet TDD?

24 A. Not right now. We're basically patterning our  
25 well on what Cimarex has done in east half.

1 Q. No pilot well here?

2 A. We're still talking about that. But right  
3 now, we are leaning towards not drilling a pilot well.

4 Q. It would affect the cost a little?

5 A. It would affect the costs.

6 EXAMINER JONES: I don't have any more  
7 questions. Thank you.

8 EXAMINER BROOKS: No questions.

9 MR. RANKIN: Thank you, Mr. Examiner. I  
10 have nothing further.

11 EXAMINER JONES: Thanks for coming up.  
12 We'll take Case 14826 under 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. \_\_\_\_\_,  
heard by me on \_\_\_\_\_.

\_\_\_\_\_, Examiner  
Oil Conservation Division

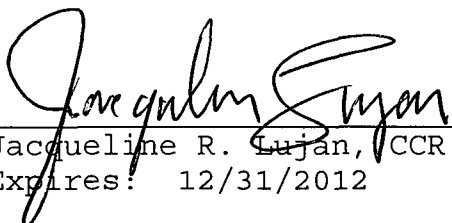
## REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO  
HEREBY CERTIFY that on June 7, 2012, proceedings in the  
above captioned case were taken before me and that I did  
report in stenographic shorthand the proceedings set  
forth herein, and the foregoing pages are a true and  
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by  
nor related to nor contracted with any of the parties or  
attorneys in this case and that I have no interest  
whatsoever in the final disposition of this case in any  
court.

WITNESS MY HAND this 19th day of June, 2012.

  
Jacqueline R. Lujan, CCR #91  
Expires: 12/31/2012