Case 11233

Nearburg Producing Company

3300 North "A" Street
Building 2, Suite 120
Midland, Texas 79705

Phone: (915) 686-8235 Fax: (915) 686-78061

WE HAVE 6 PAGES TO SEND WHICH INCLUDES THIS PAGE. IF YOU NEED CONFIRMATION OR A RESEND OF ANY PAGE, PLEASE CALL (915) 686-8235 WITHIN 15 MINUTES. IF NO CALL IS RECEIVED, WE WILL ASSUME YOU HAVE RECEIVED THE PAGES SATISFACTORILY. THIS FACSIMILE IS CONFIDENTIAL AND IF THIS FAX IS SENT TO YOU BY MISTAKE, PLEASE DESTROY.

DELIVER TO: Mr. William J. LeMay, Mr. David R. Catanach, and Mr. Michael Stogner

COMPANY: New Mexico Oil Conservation Division

FROM: Bob Shelton

DATE: April 18, 1995 **TIME:**

RE:

MESSAGE:

Nearburg Exploration Company

Exploration and Production
3300 North "A" Street
Building 2, Suite 120
Midland, Texas 79705
915/686-8235
Fax 915/686-7806

April 18, 1995

Mr. William J. LeMay
State of New Mexico
Oil Conservation Division
P. O. Box 1148
Santa Fe, New Mexico 87504

VIA FAX: 505/827-8177

Re: NMOCD Cause No. 11,232; Application of Nearburg Exploration Company for Compulsory Pooling; NE/4 of Section 24, T-19-S, R-25-E, Eddy County, New Mexico

Dear Mr. LeMay:

Nearburg Exploration Company filed an application for compulsory pooling for an 8200' Cisco-Canyon test at a location of 1980' FEL and 660' FNL of Section 24, T-19-S, R-25-E, Eddy County, New Mexico on March 13, 1995. On March 24, 1995 Yates Petroleum filed a competing compulsory pooling for a well to be drilled to the same objective depth and at the same location.

By letter dated March 29, 1995, Nearburg presented Yates a proposal to settle both the SW/4 of Section 13 and the NE/4 of Section 24 pooling applications on a voluntary basis, a copy of which is attached. Our proposal was based on the ownership of the two proration units and proposed that Yates, as the majority interest owner in the NE/4 of Section 24, be designated the operator of that unit and that Nearburg, as the majority interest owner in the SW/4 of Section 13, be designated operator of that unit. Each party would voluntarily participate pursuant to the terms of a mutually acceptable operating agreement. We did not receive a response from Yates to our proposal, and as you are aware, on April 6, 1995 the compulsory pooling was held for the SW/4 of Section 13.

In the past and as represented in our April 6, 1995 pooling hearing, Nearburg has voluntarily allowed Yates to operate not less than six spacing units in the Dagger Draw area where Yates owns either the same or a larger working interest and where

facilities and services were more or less equal between the two operators.

While Yates does not operate wells in the immediate vicinity of the acreage subject to the Fairchild 24 #2 pooling, it does have a larger working interest. We believe there is merit in the party risking the largest amount of money having control over operations. In the case of the Fairchild 24 #2 well, we believe Nearburg should be the operator because of its surface facilities and salt water disposal facilities.

However, in an attempt to cooperate to see that the well is drilled as quickly as possible and to ease the burden of contested compulsory poolings before the NMOCD, Nearburg requests that our Case No. 11,232 for compulsory pooling of the NE/4 of Section 24, T-19-S, R-25-E, Eddy County, New Mexico be dismissed.

For the benefit of each of the operators and the New Mexico Oil Conservation Division, Nearburg has in the past, and especially since your visit with Charles, consistently attempted to reach a voluntary agreement with Yates on who operates disputed wells. Our experience in this regard has been disappointing as witnessed most recently by Yates' actions the SW/4 of Section 13.

In accordance with the guidelines proposed by Mr. Catanach for resolving compulsory pooling disputes and in an effort to compromise its differences with Yates, Nearburg requests that:

(A) Its case 11,232 for the compulsory pooling of the NE/4 of Section 24 for the Fairchild 24 #2 well be dismissed for the following reasons:

1) there is no dispute over well location;
2) both parties proposed wells within the same 10-day time period;
3) while Yates does not operate wells in the immediate vicinity, it does have the largest working interest percentage, and there is merit to the party risking the largest amount of money having control over operations; and
4) while Nearburg does operate in this immediate area and does have surface

facilities and salt water disposal facilities in the immediate area, it has the smaller working interest percentage.

(B) Its case 11233 for the compulsory pooling of the SW/4 of Section 13 for its Fairchild 13 #2 well be granted for the following reasons:

1) there is a substantial dispute over well location with Nearburg having proposed the better location based upon seismic data obtained at Nearburg's sole risk and expense not available to Yates;
2) both parties proposed wells within the same 10-day time period;
3) Yates does not operate wells in the immediate vicinity; does not have surface facilities and salt water disposal facilities in the immediate area;
4) Nearburg does operate wells in the immediate vicinity and does have surface facilities and salt water disposal facilities in the immediate area;
5) Nearburg has the substantially larger working interest percentage.

Our attorney Mr. Tom Kellahin will furnish your office and Yates Petroleum Corporation with formal notice of dismissal of Cause No. 11,232. Thank you for your cooperation, and we look forward to seeing you soon in Santa Fe.

Yours very truly,

Bob Shelton
Consulting Landman

xc: Mr. David R. Catanach, Examiner VIA Fax 505/827-8177
Mr. Michael Stogner, Examiner VIA Fax 505/827-8177
Mr. Tom Kellahin VIA Fax 505/982-2047
Mr. Ernest Carroll VIA Fax 505/746-6316

[redacted].LTR

Nearburg Exploration Company

Exploration and Production
3300 North "A" Street
Building 2, Suite 120
Midland, Texas 79705
915/686-8235
Fax 915/686-7806

March 29, 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Douglas W. Hurlbut
S. P. Yates
Estate of Martin Yates III
105 South Fourth Street
Artesia, New Mexico 88201

FAX: 505/746-2268

Re: Fairchild 24 #2 Well, NE/4 Section 24;
Fairchild 13 #2 Well, SW/4 Section 13;
Township 19 South, Range 25 East,
Eddy County, New Mexico
Fairchild 24 Prospect

Dear Doug:

Thank you for taking the opportunity to discuss with me a possible settlement and solution to the two poolings which are currently pending before the NMOCD. As we discussed, on the April 6, 1995 docket are competing poolings for the SW/4 of Section 13, T-19-S, R-25-E, Eddy County, New Mexico. Yates has proposed a location of 660' FS&WL, and Nearburg has proposed a location of 1980' FWL and 660' FSL. Both wells will be drilled to test the Cisco-Canyon formation. As we discussed, Nearburg has 2/3 interest while Yates et al has 1/3 interest in the SW/4 of Section 13.

With regard to the Fairchild 24 #2 well, both parties have proposed the same location being 1980' FEL and 660' FNL of Section 24. S. P. Yates and the Estate of Martin Yates III own approximately 27% interest while Nearburg owns 11.25% interest.

We believe that it is advantageous to both companies to operate properties in which they have the largest interest. In the spirit of cooperation as we have done in the past, we would like to eliminate unnecessary hearings before the NMOCD. We therefore propose the following.

S. P. Yates and the Estate of Martin Yates III would designate a Yates entity as Operator of the NE/4 of Section 24, and Nearburg would agree not to oppose the compulsory pooling which would designate Yates as Operator of the 160-acre spacing unit for the Cisco-Canyon test. Yates agrees to diligently prosecute a pooling hearing and commence a Cisco-Canyon test at a location of 1980' FEL and 660' FNL of Section 24. Such well would be commenced as soon as possible under the order issued by the NMOCD or, in the event of voluntary agreement between the remaining working interest owners, would be commenced pursuant to the terms of a mutually acceptable joint Operating Agreement.

Nearburg Producing Company would be designated Operator of the SW/4 of Section 13 with the Yates companies and Nearburg entering into a mutually acceptable Operating Agreement providing for the commencement of an 8300' Cisco-Canyon test at a location of 1980' FWL and 660' FSL of Section 13. Yates would advise the district NMOCD office in Artesia that it withdraws its existing permit to drill in the SW/4 SW/4 of said Section, thereby allowing Nearburg to obtain a permit for the aforesaid location.

Nearburg has ordered disposal lines laid to our recently drilled and completed Fairchild 24 #1 well located in the NW/4 of Section 24, and is agreeable to extending these lines to wells drilled by Yates in the NE/4 of Section 24 for the purpose of disposal of produced fluid.

In the alternative of the above settlement of the two compulsory pooling cases, we request that, at a minimum, the pooling hearing set for April 6 covering the SW/4 of Section 13 be postponed by both companies to the April 20 docket so one trip can be made, and the hearing examiner will only have to see the entire geologic picture one time. We believe this would help the NMOCD and save both companies a considerable amount of time and money.

Because we are both actively preparing for the April 6 hearing, I would appreciate your immediate response to this offer.

Again, thank you for your cooperation, and we look forward to your response.

Yours very truly,

Bob Shelton
Consulting Landman

BS:kg

bcc: Mr. William J. LeMay
NMOCD