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RECOGNIZED SPECIALIST IN THE AREA OF
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JASON KELLAHIN (RETIRED 1991)

June 12, 1995

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Oil Conservation Division

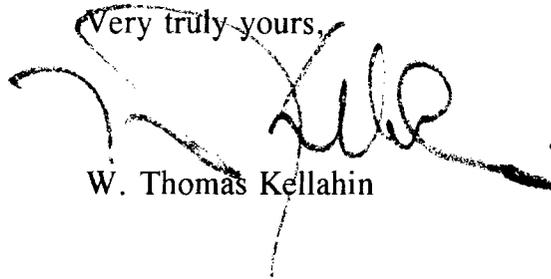
Mr. David R. Catanach
Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: NMOCD Case 11264: Application of
Yates Petroleum Corporation for
Compulsory Pooling, Eddy County, New Mexico

Dear Mr. Catanach:

On behalf of Nearburg Exploration Company, please find enclosed my Motion to Dismiss the referenced case which has been continued to the July 13, 1995 docket or, in the alternative, to Re-Instate Case 11232.

Very truly yours,



W. Thomas Kellahin

cc: Nearburg Producing Company
Attn: Bob Shelton

cc: Ernest Carroll, Esq.
Attorney for Yates Petroleum Corporation

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:

APPLICATION OF NEARBURG EXPLORATION COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO. CASE NO. 11232

APPLICATION OF YATES PETROLEUM CORPORATION FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO. CASE NO. 11264

**MOTION TO DISMISS CASE 11264
OR IN THE ALTERNATIVE
MOTION TO RE-INSTATE CASE 11232**

Comes now NEARBURG EXPLORATION COMPANY, by and through its attorneys, Kellahin & Kellahin, and hereby moves that the New Mexico Oil Conservation Division dismiss Case 11264 or, in the alternative, reinstate Case 11232 and as grounds therefore states:

(1) On March 13, 1995, Nearburg Exploration Company ("Nearburg") filed an application for compulsory pooling for its Fairchild "24" Well No. 2 to be dedicated to the NE/4 of Section 24, T19S, R25E, Eddy County, New Mexico, which was docketed as NMOCD Case 11232 and set for hearing on April 6, 1995.

(2) On March 29, 1995, Yates Petroleum Corporation ("Yates") filed an application for compulsory pooling for this same spacing unit which was docketed as NMOCD Case 11264 and set for hearing on April 20, 1995.

(3) On April 20, 1995, in an effort to compromise its differences with Yates, Nearburg voluntarily dismissed its Case 11232 and acquiesced to sign and approve Yates' as operator (Case 11264) based upon Yates' proposal to commence the subject well not later than July 1, 1995.

(4) As of May 24, 1995, Nearburg had signed and returned to Yates all necessary documents including AFE and joint operating agreement which obligated Yates to commence drilling the subject well on or before July 1, 1995.

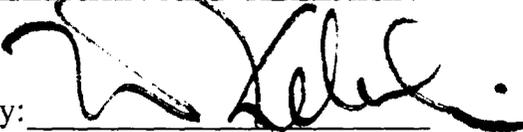
(5) Having received the voluntarily agreement of Nearburg, there is now no basis for a compulsory pooling case by Yates and Case 11264 should have been dismissed. Instead, on June 1, 1995, Yates continued Case 11264 to July 13, 1995 docket.

(6) Nearburg has made demand upon Yates to timely commence the subject well on or before July 1, 1995 but Yates has refused to advise Nearburg if and when Yates will commence the subject well.

(7) In the event Yates fails to commence the subject well on or before July 1, 1995, it will have forfeited its opportunity to drill the subject well and that opportunity should be afforded to Nearburg.

Accordingly, Nearby Exploration Company hereby requests that the Division dismiss Yates' compulsory pooling case docketed as Case 11264 and if not, then Nearburg requests that the Division reinstate Case 11232 and grant Nearburg's compulsory pooling application.

KELLAHIN AND KELLAHIN

By: 

W. Thomas Kellahin

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