

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

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

CASE NO. 12,073

APPLICATION OF NEARBURG EXPLORATION)
COMPANY, L.L.C., FOR COMPULSORY POOLING)
AND AN UNORTHODOX SURFACE LOCATION AND)
SUBSURFACE DRILLING WINDOW, EDDY COUNTY,)
NEW MEXICO)

ORIGINAL

OIL CONSERVATION DIV.
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN
WILLIAM J. LEMAY, COMMISSIONER
JAMI BAILEY, COMMISSIONER

January 14th, 1999

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Thursday, January 14th, 1999, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

I N D E X

January 14th, 1999
Commission Hearing
CASE NO. 12,073

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* * *

A P P E A R A N C E S

FOR THE COMMISSION:

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By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 11:40 a.m.:

3 CHAIRMAN WROTENBERY: And I think we have one
4 last matter on the agenda today. This is Case 12,073, the
5 Application of Nearburg Exploration Company, L.L.C., for
6 compulsory pooling and an unorthodox surface location and
7 subsurface drilling window, Eddy County, New Mexico.

8 This particular Application was addressed by the
9 Division in Order Number R-11,089, and that is in your
10 notebooks, Commissioners. This order was issued back in --
11 let's see -- in November of 1998.

12 And then we had a request for a hearing *de novo*
13 from Yates Petroleum Corporation.

14 Then we also had an amendment to the Application
15 from the Applicant, Nearburg Exploration Company, L.L.C.

16 Today I understand that the parties in this
17 particular case may have reached some agreement that we'll
18 be hearing about today, but I guess first let me call for
19 appearances.

20 MR. KELLAHIN: Madame Chairman, I'm Tom Kellahin
21 of the Santa Fe law firm of Kellahin and Kellahin,
22 appearing on behalf of the Applicant, Nearburg Exploration
23 Company, Inc.

24 MR. CARR: May it please the Commission, my name
25 is William F. Carr with the Santa Fe law firm Campbell,

1 Carr, Berge and Sheridan.

2 We're appearing on behalf of Yates Petroleum
3 Corporation, and I can advise the Commission that this week
4 we have reached agreement with Nearburg that our interests
5 are voluntarily committed to the well and that we therefore
6 support the Application of Nearburg in this matter.

7 CHAIRMAN WROTENBERY: Thank you.

8 Mr. Kellahin?

9 MR. KELLAHIN: May it please the Commission, this
10 matter has been resolved by the parties. We are before you
11 this morning to have you make an amendment to the Division
12 order that was entered.

13 Let me describe briefly what you're about to see.

14 Exhibit 1 is a locator map, and I will describe
15 for you what is shown on the map.

16 In addition, by agreement with Mr. Carr on behalf
17 of his client, we're submitting to you Exhibit 2, which is
18 the affidavit of Duke Roush. Mr. Roush is a petroleum
19 landman with Nearburg, and he's attesting to a change in
20 the surface location. I will describe for you what his
21 affidavit contains.

22 Following that is a proposed order that I have
23 drafted and submitted to Mr. Carr for his comment. It's an
24 order that resolves the issues in this case and allows the
25 Applicant to change the surface location and to proceed

1 with the well.

2 The third exhibit is my certification of notice
3 of mailing to the affected parties in this case.

4 And if you'll turn with me for a moment to
5 Exhibit 1, I will describe for you what this case is about.

6 Exhibit 1 is a locator map. You'll see a
7 bottomhole target, you'll see a surface hole, and when you
8 see the yellow outline, you can see that's the proposed
9 320-acre spacing unit. It's the east half of a section.

10 You can see to the west it's in very close
11 proximity to the Artesia airport. There's some difficult
12 surface-location problems in the southeast quarter of
13 Section 11. The red dot represents the proposed bottomhole
14 location.

15 The red dot to the south was the original surface
16 location. That is the location approved by Examiner
17 Catanach in Order R-11,089. That was a compulsory pooling
18 order.

19 It involuntarily committed the interests of Yates
20 and the other Yates entities into a spacing unit in the
21 east half for this Morrow well. So there's a compulsory-
22 pooling component of the order.

23 In addition, the order approved the surface
24 location. That original surface location in 14 is adjacent
25 to the pad for the Eagle Creek 14 well, and that was its

1 first location in order to satisfy the requirements of
2 being in close proximity to the airport, as well as the
3 surface limitations of houses and subdivisions in the
4 southeast quarter. Nearburg chose that as the surface
5 location.

6 Mr. Catanach approved that, and pursuant to Rule
7 111, the directional drilling rules, he gave Nearburg a
8 bottomhole target.

9 And the bottomhole target is within an interior
10 setback in the southeast quarter of Section 11. You do not
11 need to worry about the bottomhole target. We're not
12 changing that.

13 Subsequent to the issuance of the order, Yates
14 asked for a *de novo* hearing. As a result of conversations
15 between Nearburg and Yates, Nearburg believed Yates would
16 not allow this surface location to be drilled as approved.
17 It was on Yates' surface.

18 Nearburg then changed the location to the green
19 dot, obtained FAA approval for that location, obtained a
20 right of way from the surface, thus changed their plans for
21 the well, has re-AFE'd all the interest owners, and we now
22 have no opposition to the location.

23 We now have Yates and the Yates entities in
24 agreement on a voluntary basis.

25 And so we're asking you in this order to dismiss

1 all provisions that apply to compulsory pooling. You'll
2 find that in the ordering paragraph on page 4. The rest of
3 it simply recites what I've described to you.

4 And on page 4 there's an ordering paragraph, and
5 it says Ordering Paragraph 1 is amended, and the amendment
6 simply changes the surface location to the green dot.
7 Everything else is the same.

8 In addition, you may note that the Nearburg
9 producing company is the entity that operates for Nearburg
10 Exploration Company, and that's why there's a name change.

11 Paragraph 2 of the ordering paragraph of the
12 order vacates all the compulsory-pooling provisions.
13 They're no longer necessary.

14 And 3 is our standard format to retain
15 jurisdiction.

16 The affidavit has attached to it some
17 documentations that I've just described to you.

18 Mr. Roush has attached as Exhibit 1 the FAA
19 approval of the new location.

20 You can see Exhibit 2 is the C-102 that shows the
21 change in surface location. It will be 460 from the east
22 and 1120 from the south line.

23 Exhibit 3 is the new directional profile, because
24 the amended surface location and the directional profile is
25 changed. This is the new profile.

1 Exhibit 4 is the last attachment to the
2 affidavit, and that is the voluntary agreement executed by
3 Mr. Roush on behalf of the Applicant and confirmed by Mr.
4 Patterson on behalf of all the companies, entities and
5 individuals listed on the last page.

6 With your permission, then, we would introduce
7 Exhibits 1, 2 and 3, and ask that the Commission enter the
8 order as submitted.

9 CHAIRMAN WROTENBERY: Any objection to the entry
10 of Exhibits 1, 2 and 3 into the record?

11 MR. CARR: No objection.

12 CHAIRMAN WROTENBERY: Okay, those exhibits are
13 admitted into the record.

14 We might want to take a few minutes here just to
15 read through the -- Have you had a chance to look at this?

16 MS. HEBERT: No.

17 CHAIRMAN WROTENBERY: Not beforehand.

18 Anybody have any objection to just taking a few
19 minutes to read through the order so that we can maybe go
20 ahead and dispose of the case today?

21 COMMISSIONER BAILEY: Sounds good to me.

22 CHAIRMAN WROTENBERY: Okay, let's do that here
23 for a few minutes.

24 (Off the record)

25 CHAIRMAN WROTENBERY: Okay, first thing, just to

1 make sure that we have a complete record before the
2 Commission in this *de novo* case, I would request that you
3 ask that we include the record from the Division hearing in
4 the matter.

5 MR. KELLAHIN: Yes, ma'am, I think that's
6 appropriate. Do you have any objection, Mr. Carr?

7 MR. CARR: No objection.

8 MR. KELLAHIN: Madame Chairman, on behalf of the
9 Applicant we would request that you incorporate by
10 reference the record made before Examiner Catanach at the
11 hearing back in November of this case.

12 CHAIRMAN WROTENBERY: Thank you, we will do that.

13 And I've had a chance to look at the proposed
14 order and it looks fine to me.

15 I'll just ask the other Commissioners if they've
16 had the chance to do the same. Do you have any questions
17 of Mr. Kellahin or Mr. Carr?

18 COMMISSIONER LEMAY: No.

19 COMMISSIONER BAILEY: No.

20 CHAIRMAN WROTENBERY: Then in the interest of
21 moving this thing along and going ahead and resolving the
22 case as quickly as possible, what I'd like to do is propose
23 that we go ahead and approve the proposed order as it has
24 been submitted to the Commission, and then I'd also like to
25 ask the Commission to authorize me to go ahead and sign the

1 order on behalf of the Commission once we've put it on the
2 Commission letterhead and under Commission seal.

3 COMMISSIONER BAILEY: That sounds good to me.

4 CHAIRMAN WROTENBERY: Okay. Would you like to
5 make a motion?

6 COMMISSIONER BAILEY: I'll make the motion to
7 that effect.

8 CHAIRMAN WROTENBERY: Okay. Do I hear a second?

9 COMMISSIONER LEMAY: I second.

10 CHAIRMAN WROTENBERY: Okay, all in favor say
11 "aye".

12 COMMISSIONER BAILEY: Aye.

13 COMMISSIONER LEMAY: Aye.

14 CHAIRMAN WROTENBERY: Aye.

15 Okay, that's a unanimous decision in that
16 particular case. And we can go ahead, then, and get this
17 order out.

18 MR. KELLAHIN: I'll bring this over on diskette
19 for you. We'll bring a diskette over after lunch so that
20 you don't have to retype this.

21 CHAIRMAN WROTENBERY: We'd appreciate that very
22 much. Okay, thank you very much.

23 (Off the record)

24 CHAIRMAN WROTENBERY: Okay, are there any other
25 matters before the Commission here today that I'm

1 forgetting about?

2 No, I don't believe so.

3 Okay, we will adjourn this Commission meeting.

4 Thank you very much, everybody.

5 (Thereupon, these proceedings were concluded at
6 11:57 a.m.)

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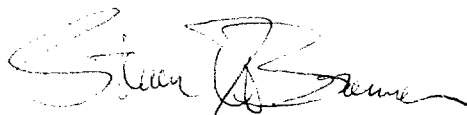
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL January 17th, 1999.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002