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

APPLICATION OF NEARBURG EXPLORATION COMPANY, L.L.C. FOR COMPULSORY POOLING AND AN UNORTHODOX SURFACE AND SUBSURFACE DRILLING WINDOW, EDDY COUNTY, NEW MEXICO **CASE NO. 12073**

SUPPLEMENTAL CERTIFICATE OF MAILING AND COMPLIANCE WITH ORDER R-8054

STATE OF NEW MEXICO)

SS.

COUNTY OF SANTA FE)

W. Thomas Kellahin, being first duly sworn, hereby certifies that he is an attorney for the Applicant and responsible for notification in this matter and that the notice provisions of Division Rule 1207 (Order R-8054) have been complied with, that Applicant has caused to be conducted a good faith diligent effort to find the correct addresses of all interested parties entitled to receive notice, that on December 17, 1998, he caused to be mailed by certified mail return-receipt requested the attached notice of this hearing and a copy of Nearburg's Notice of the DeNovo hearing and Request to amend order R-11089 for the above referenced case, at least twenty days prior to the hearing of this case set for January 14, 1999, to the parties shown in said application and as evidenced by the attached copies of return receipt cards and/or receipts of certified mailing, and that pursuant to Division Rule 1207, notice has been given at the correct addresses provided by such rule.

W. Thomas Kellahin

SUBSCRIBED AND SWORN to before me this 13th day of January, 1999, by W. Thomas Kellahin.

OFFICIAL SEAL Lynda Kellahin NOTARY PUBLIC

Lynda Kellahin, Notary Public

BEFORE THE

Submitted By:

Nearburg Exploration Co. Hearing Date: January 14, 1999

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Insured
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KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

December 16, 1998

TELEPHONE (505) 982-4285 TELEFAX (505) 982-2047

*NEW MEXICO BOARD OF LEGAL SPECIALIZATION RECOGNIZED SPECIALIST IN THE AREA OF NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

W. THOMAS KELLAHIN"

TO: NOTICE OF THE HEARING OF THE FOLLOWING NEW MEXICO OIL CONSERVATION DIVISION CASE:

Re: NMOCD Case 12073, Order R-11089

Application of Nearburg Producing Company for compulsory pooling and an unorthodox surface location and unorthodox subsurface drilling/producing window, Eddy County, New Mexico

Please be advised that at 9:00 AM on January 14, 1999, the New Mexico Oil Conservation Commission will hear the referenced case including Nearburg Exploration Company, L.L.C's request to amend Order R-11089 to change the surface location for this well as described in the enclosed pleading dated December 4, 1998. The hearing will be held in the Commission hearing room located at 2040 South Pacheco, Santa Fe, New Mexico.

You are one of the parties whose interest in this spacing unit is subject to this compulsory pooling order. Of all the parties whose interest has been pooled, only Yates Petroleum Corporation became a party of record in this proceeding when it entered its appearance at the Examiner hearing held on November 5, 1998. Please be advised that Nearburg Exploration Company, L.L.C. has taken the position that the balance of you have waived your right to appear and participate in this matter.

Very truly yours

W. Thomas Kellahin

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

W. THOMAS KELLAHIN"

"NEW MEXICO BOARD OF LEGAL SPECIALIZATION RECOGNIZED SPECIALIST IN THE AREA OF NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

117 NORTH GUADALUPE
POST OFFICE BOX 2265
SANTA FE. NEW MEXICO 87504-2265

TELEPHONE (505) 982-4285 TELEFAX (505) 982-2047

December 4, 1998

HAND DELIVERED

Mr. Lori Wrotenbery, Chairman Oil Conservation Commission 2040 South Pacheco Santa Fe. New Mexico 87505

Re: REQUEST FOR HEARING DENOVO

NMOCD CASE 12073

Order No. R-11089

Application of Nearburg Exploration Company, L.L.C.
for compulsory pooling and an unorthodox surface
location and subsurface drilling window,
Eddy County, New Mexico

Dear Ms. Wrotenbery:

On behalf of Nearburg Exploration Company, L.L.C., please find enclosed our request for a Hearing DeNovo of the referenced case before the New Mexico Oil Conservation Commission. We request that this matter be set for hearing on the December 16, 1998 docket. We anticipate that this case will take one-half day to hear.

Very truly yours.

W. Thomas Kellahin

cc: William F. Carr, Esq.

Attorney for Yates Petroleum Corporation

cc: Nearburg Exploration Company, L.L.C.

Attn: Bob Shelton

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:

> CASE NO. 12073 Order No. R-11089

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

NEARBURG EXPLORATION COMPANY,L.L.C.'S REQUEST FOR A DE NOVO HEARING BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION IN ORDER TO AMEND ORDER R-11089

Comes now Nearburg Exploration Company. L.L.C, ("Nearburg") a party of record before the New Mexico Oil Conservation Division in Case 12073 and adversely affected by Division Order R-11089 entered November 23, 1998, by its attorneys Kellahin & Kellahin and pursuant to Section 70-2-13 NMSA-1978, hereby requests that the New Mexico Oil Conservation Commission hold a HEARING DENOVO in this matter in order to amend the previously approved unorthodox surface location and as grounds therefore states:

(1) Nearburg's proposed Eagle Creek "11" Well No 1 is to be a Morrow well to be dedicated to the E/2 of Section 11, T17S. R25E, NMPM, Eddy County, New Mexico.

- (2) The optimum subsurface location is in the SE/4 of this section which is in close proximity to the Artesia airport and the applicable FAA restrictions.
 - (3) At the time of the hearing held on November 5, 1998, Nearburg:
 - (a) had searched for a suitable surface location in the SE/4 of this section but believed no suitable location existed;
 - (b) intended to use an unorthodox surface location in adjoining section 14 at a point 1070 feet FNL and 2110 feet FWL. (Unit C):
 - (c) this surface location was located on surface tract controlled by Yates Petroleum Corporation ("Yates") whom Nearburg believed would consent to the use of their surface; and
 - (d) the proposed cost of the well ("AFE") were \$801,530.00 for a completed well to be drilled directionally to the Morrow formation at approximately 8,000 feet TVD.
- (4) At the time of the Examiner's hearing. Yates had filed a written waiver of objection to the location for this well and filed an entry of appearance but did not present any evidence or objection to the entry of this compulsory pooling order.
 - (5) After entry of this order, Yates
 - (a) filed for a DeNovo hearing in this case; and
 - (b) notified Nearburg that Yates will refuse to allow Nearburg to use Yates' surface for this well.
 - (6) As a result of Yates' actions, Nearburg
 - (a) has now located a surface owner in the SE/4 of Section 11 who was previously unknown to Nearburg and who is willing to allow Nearburg a surface location 460 feet FEL and 1120 feet FSL of this section which Nearburg believes will satisfy the FAA requirements; and

(7) Nearburg's requested subsurface drilling window will **not** change and the AFE resulting for this amended surface location will be \$812,198.00

Accordingly, Nearburg requests that this matter be incorporated into this case now pending a DeNovo hearing before the Commission and currently scheduled for hearing on December 18, 1998 and that the Commission amend only that portion of Order R-11089 necessary in order to authorize Nearburg to drill this well at an unorthodox surface location 460 feet FEL and 1120 feet FSL of Section 11.

Respectfully Submitted:

W. Thomas Kellahin Kellahin & Kellahin

P. O. Box 2265

Santa Fe, New Mexico 87501

(505) 982-4285

ATTORNEYS FOR

NEARBURG EXPLORATION COMPANY, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered to opposing counsel of record this 4th day of December, 1998.

W. Thomas Kellahin

NMOCD Application Nearburg Exploration Company, L.L.C. Page 4

EXHIBIT "A"

Yates Petroleum Corporation 105 South Fourth Street Artesia, NM 88210 Attn: Randy Patterson

ABO Petroleum Corporation 105 S. Fourth Street Artesia, NM 88210

MYCO Industries, Inc. 105 S. Fourth Street Artesia, NM 88210

S.P. Yates 105 S. Fourth Street Artesia, NM 88210

John A. Yates 105 S. Fourth Street Artesia, NM 88210

John A. Yates, P.R of the Estate of Peggy A. Yates 105 S. Fourth Street Artesia, NM 88210

Sharbro Oil Ltd. Co. P. O. Box 840 Artesia, NM 88210