

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

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

**APPLICATION OF NEARBURG EXPLORATION CASE NO. 12073 DeNovo
COMPANY, L.L.C. FOR COMPULSORY POOLING, Order No. R-11089
AND AN UNORTHODOX SURFACE LOCATION
AND SUBSURFACE DRILLING WINDOW
EDDY COUNTY, NEW MEXICO.**

OIL CONSERVATION DIV
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PRE-HEARING STATEMENT

This pre-hearing statement is submitted by NEARBURG EXPLORATION COMPANY, L.L.C., as required by the Oil Conservation Division.

APPEARANCE OF PARTIES

APPLICANT

Nearburg Exploration Company
3300 North "A" Street
Midland, Texas 79705
(915) 686-8235
attn: Bob Shelton

ATTORNEY

W. Thomas Kellahin
KELLAHIN & KELLAHIN
P.O. Box 2265
Santa Fe, NM 87504
(505) 982-4285

OPPONENT

Yates Petroleum Corporation

ATTORNEY

William F. Carr, Esq.

STATEMENT OF CASE

(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) This well is to be directionally drilled because the optimum subsurface location is in the SE/4 of this section where surface use is limited by existing houses in a subdivision and by the close proximity of the Artesia airport and the applicable FAA restrictions.

(3) Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of potential production underlying this E/2 of Section 11, T17S, R25E, NMPM, Eddy County, N.M. and to protect correlative rights and prevent waste, Nearburg Exploration Company, L.L.C. obtained Division Order R-11089 which pooled the following interests:

Yates Petroleum Corporation
ABO Petroleum Corporation
MYCO Petroleum Corporation
S.P. Yates
John A. Yates
John A. Yates, PR for estate of Peggy A. Yates
Sharbro Oil Ltd. Co.

(4) Order R-11089 approved Nearburg requests for the drilling of its Eagle Creek "11" Well No. 1 as a directional well ("topographical exception") to an unorthodox subsurface gas well location for potential production from the Morrow and other formations. Yates, et al. have waived any objection to the unorthodox subsurface drilling window.

(5) 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) which is adjacent to an existing well and which would minimize the need to build additional location facilities.

(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 costs 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.

(6) 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.

(7) After entry of this order, only Yates Petroleum Corporation:

(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.

(8) Because only Yates Petroleum Corporation filed for a DeNovo hearing, this compulsory pooling order, including the risk factor penalty, is final as to all of the other parties pooled by this order.

(9) 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

(b) has obtained an FAA permit for this new surface location;
and

(b) has notified all of the parties pooled by Order R-11089 of
this change in surface location and has afforded them an
opportunity to elect to participate in this well as revised.

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

(11) Accordingly, Nearburg has requested 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.

PROPOSED EVIDENCE

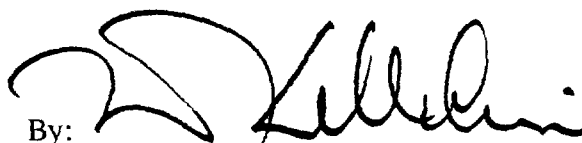
APPLICANT:

WITNESSES	EST. TIME	EXHIBITS
Bob Shelton (landman)	30 min.	@ 6 exhibits
Duke Roush (landman)	30 min.	@ 5 exhibits
Jerry Elger (geologist)	20 Min.	@ 4 exhibits
Clyde Findlay (PE)	15 Min.	@ 2 exhibits

PROCEDURAL MATTERS

Nearburg requests that the Commission declare that Order R-11098 is final as to the interests of ABO Petroleum Corporation, MYCO Petroleum Corporation, S.P. Yates, John A. Yates, John A. Yates, PR for estate of Peggy A. Yates, Sharbro Oil Ltd. Co. because they each failed to timely entered appearances in this case and, in accordance with Division Rule 1220 and NMSA 1978 Section 70-2-13, are not parties of record.

KELLAHIN AND KELLAHIN

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over a horizontal line.

By: _____
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