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

JASON KELLAHIN (RETIRED 1991)

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*

OIL CONSERVATION DIV.
98 DEC -4 PM 12:54

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

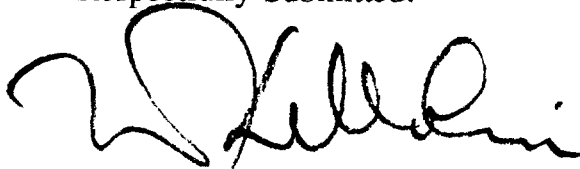
(a) has now located a surface owner in the SE/4 of Section 11 who was previously unknown to Nearburg and who is willing to allow Nearburg a surface location 460 feet FEL and 1120 feet FSL of this section which Nearburg believes will satisfy the FAA requirements; and

(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.

(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:



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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