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RECOGNIZED SPECIALIST IN THE AREA OF
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

October 13, 1998

HAND DELIVERED

Ms Lori Wrotenbery, Director
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

12073

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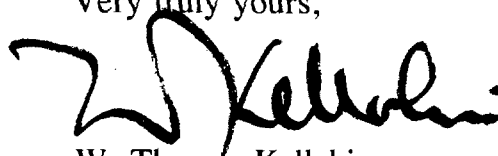
OIL CONSERVATION DIV.

Re: Eagle Creek "11" Well No. 1
E/2 Section 11, T17S, R25E, NMPM
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 referenced application which we request be set for hearing on the next available Examiner's docket now scheduled for November 5, 1998. Also enclosed is our proposed notice for the advertisement.

Very truly yours,



W. Thomas Kellahin

cc: Nearburg Producing Company
Attn: Duke Roush

12073

Proposed notification/advertisement for OCD docket

Case _____: Application of Nearburg Exploration Company, L.L.C. for compulsory pooling and an unorthodox surface location and subsurface drilling window, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section T17S, R25E, NMPM, to form a standard 320-acre gas proration and spacing unit for any and all formations and/or pools developed on 320-acre spacing within that vertical extent, including but not limited to the South Eagle Creek-Morrow Gas Pool. The unit is to be dedicated to the Eagle Creek "11" Well No. 1 to be drilled in accordance with Division General Rule 111 except this well will be at an unorthodox surface location 1070 feet FNL and 2111 feet FWL with a subsurface drilling window such that at the top of the Morrow formation, the producing interval shall not be closer than 660 feet to the southern boundary line nor closer than 660 feet to the side boundary lines of this spacing unit. Also to be considered will be the cost of drilling and completing this well and the allocation of the costs thereof, as well as actual operating costs and charges or supervision, designation of Nearburg Producing Company as operator of the well and a charge for risk involved in drilling and completing this well. This well is located at the approximate southeast corner of the Artesia airport, New Mexico.

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

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

CASE NO: 12073

APPLICATION

Comes now NEARBURG EXPLORATION COMPANY by its attorneys, KELLAHIN & KELLAHIN, and in accordance with Section 70-2-17(c) NMSA (1978), Division General Rule 104.F, General Rule 104.D(2) and General Rule 111, mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section T17S, R25E, NMPM, Eddy County, New Mexico, to form a standard 320-acre gas proration and spacing unit for any and all formations and/or pools developed on 320-acre spacing within that vertical extent, including but not limited to the South Eagle Creek-Morrow Gas Pool. The unit is to be dedicated to the Eagle Creek "11" Well No. 1 to be drilled in accordance with Division General Rule 111 except this well will be at an unorthodox surface location 1070 feet FNL and 2111 feet FWL with an unorthodox subsurface drilling window such that the producing interval at the top of the Morrow formation shall not be closer than 660 feet to the southern boundary line nor closer than 660 feet to the side boundary lines of this spacing unit. Also to be considered will be the cost of drilling and completing this well and the allocation of the costs thereof, as well as actual operating costs and charges or supervision, designation of Nearburg Producing Company as operator of the well and a charge for risk involved in drilling and completing this well. This well is located at the approximate southeast corner of the Artesia airport, New Mexico.

and in support states:

(1) Applicant, Nearburg Exploration Company, L.L.C. ("Nearburg") has a 50% working interest ownership in the oil and gas minerals in the E/2 of Section 11, T17S, R25E.

(2) Nearburg Producing Company is the proposed operator of the Eagle Creek "11" Well No 1 to be directionally drilled from an unorthodox surface location 1070 feet FNL and 2111 feet FWL of this section to the Morrow formations within an unorthodox subsurface drilling window such that at the top of the Morrow formation the producing interval of this wellbore shall not be closer than 660 feet to the southern boundary line or 660 feet to the side boundary lines of this section.

(3) The unorthodox surface location is necessitated by topographical and surface use limitations.

(4) Nearburg proposes to drill this well to a depth sufficient to test for gas production from the surface to the base of the Morrow formation.

(5) The well location is within one mile from the current boundary of the South Eagle Creek-Morrow Gas Pool.

(6) This well location is subject to the Division's General Rule 104 which provides for 320-acre spacing units and standard well locations not closer than 1650 feet to any end boundary or closer than 660 to any side boundary of a spacing unit.

(7) Nearburg proposes to dedicate the E/2 of Section 11 to the well if it is capable of gas production from formations below the top of the Wolfcamp formation.

(8) This proposed subsurface location is the optimum geologic location in the E/2 of said Section 11 at which to drill to test for gas production.

(9) Nearburg has proposed this well to all of the interest owners in the spacing unit. All reasonable efforts by Nearburg to form a voluntary agreement for this well has failed and it has been unable to obtain a voluntary agreement.

(10) Nearburg has been unable to obtain a written voluntary agreement from all of the parties listed on Exhibit "A"

(11) Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of the potential production underlying the above tract, Nearburg needs an order pooling the mineral interest involved in order to protect Nearburg's correlative rights and prevent waste.

(12) Pursuant to the Division notice requirements, Nearburg has notified all parties to be pooled as set forth on Exhibit "A" attached.

(13) Notification of this application has been sent to all adjoining and offsetting operators/owners towards who this location encroaches as set forth on Exhibit "B" attached.

(14) Approval of this application will afford the applicant the opportunity to produce its just and equitable share of the gas underlying this unit, will prevent the economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells and will otherwise prevent waste and protect correlative rights.

WHEREFORE, Applicant prays that this application be set for hearing before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interests described herein.
Applicant further prays:

- (1) that Nearburg Producing Company be named operator of the well;
- (2) that the order make provisions for applicant and all working interest owners to participate in the costs of drilling, completing and equipping the well;
- (3) that in the event a working interest owners fails to elect to participate, then provision be made to recover, out of production, the costs of the drilling, completing and equipping of the well including a risk factor penalty to be determined by the Division; and
- (4) approval of an unorthodox surface location and subsurface drilling window;
- (5) for such other and further relief as may be proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', with a stylized flourish at the end.

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

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

EXHIBIT "B"

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

Yates Drilling Company
105 S. Fourth Street
Artesia, NM 88210

Martin Yates, III
105 S. Fourth Street
Artesia, NM 88210

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

Ricky L. & Nora C Madron
203 S. 19th Street
Artesia, NM 88210

Carl W. Bartlett
P. O. Box 1468
Artesia, NM 88210

Penasco Valley Telephone Coop, Inc.
4011 West Main
Artesia, NM 88210

Robert O. Whitted
P. O. Box 15655
Santa Fe, NM 87504

James T. Brewer
46 Colbert Road
Artesia, NM 88210

Evert L. Brewer
c/o Charles Rakes
306 S. East Henry
Bentonville, AR 72712

Bernard S. & Mary R Bordman Trust
13826 Gunwale Dr.
Corpus Christi, TX 78418

Robert O. Haynes
1601 W. Centre Ave Spt D4
Artesia, NM 88210

Fred A & Alice J. Collins
P. O. Box 1597
Artesia, NM 88210

Jim & Debra Masters
509 S. 41st Street
Artesia, NM 88210

Gerald D. & Billie F Madron
401 S 41st Street
Artesia, NM 88210

Chas H. Smith
112 S 33rd Street
Artesia, NM 88210

Franklin D. King
1512 Northgate Place
Artesia, NM 88210

City of Artesia
Artesia New Mexico 88210

George A & Jennifer Chase, Jr.
P. O. Box 1618
Artesia, NM 88210

William D. Herring
Claudie J. Cochran
Yvonne Cochran
705 S. 9th Street
Artesia, NM 88210

Daniel W. Stephenson
2719 W. Missouri
Artesia, NM 88210

Luann Beardemphl
3727 Manor Circle
Artesia, NM 88210

Warren & Patricia Marker
2603 W. Missouri Ave.
Artesia, NM 88210

James E. Wallace
2711 W. Missouri
Artesia, NM 88210

James Q. Wallace
2705 W. Missouri Avenue
Artesia, NM 88210

Nadine Tittle
1114 S. Fourth Street #34
Artesia, NM 88210

Terence P. Perkins
7501 Lynwood Dr. NW
Albuquerque, NM 87120

Armand B. Karr
2703 W. Missouri
Artesia, NM 88210

Cynthia R. Case
2622 W. Washington Ave
Artesia, NM 88210

Brewer Oil Company
P. O. Box 1347
Artesia, NM 88211

James B. Wallace
c/o Don Huber
2605 W. Missouri
Artesia, NM 88210

Darryl J. Ashe
3721 Trinidad, NE
Albuquerque, NM 87110