

**Nearburg Producing Company**

Exploration Department  
3100 North A Street  
Building 2, Suite 110  
Mojave, Texas 79557  
915 688-8735  
Fax 915 688-7806

JUN 14 1999

CONSERVATION DIVISION

June 10, 1999

Ms. Lori Wrotenberry, Chairman  
State of New Mexico  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

Re: Proposed Changes to Rule 104.

Dear Ms. Wrotenberry:

Nearburg Producing Company has reviewed your proposed rule changes and we have the following comments regarding proposed changes to Rules 104.C. (2).

We are generally in favor of the proposed rule changes regarding well locations and the provisions for an additional infill well for 320 acre gas units in Lea, Chaves, Eddy and Roosevelt Counties. We believe that these rule changes will encourage additional drilling in southeast New Mexico and that they will assist in the prevention of waste and protection of correlative rights in some circumstances. We have concerns about the rule changes as proposed, which are set forth below:

- 1) Under revised Rule 104.C. (2)(a), the initial well in a 320 acre spacing unit may be drilled no closer than 660' to the outer boundary and 10' to any quarter quarter section line or subdivision inner-boundary, likewise; an infill well may be drilled within the same parameters. Under the new rules, two unit wells could be completed in the same reservoir within twenty feet of each other. For example, the first well in the unit could legally be drilled at a location 1,980' FNL and 2,630' FEL. The second or infill well in the unit could correspondingly be drilled 1,980' FNL and 2,630' FWL to the same common source of supply. In most circumstances two deep gas wells drilled this close to each other from the same common source of supply would be economically wasteful. We suggest that the Commission consider amending the rule to require that the infill well in a 320 acre unit be no closer than 1,320' from the initial well and that provision be made for application for unorthodox location for any infill well to be drilled within 1,320' of the initial well in the 320 acre unit.
- 2) Our other concern, is the effect that the proposed rule change will have on compulsory pooling. Under the compulsory pooling statutes, the risk taking parties are entitled to recovery of a risk penalty to be assessed against any owner in a pooled or unitized area who chooses not to pay his share of estimated well costs. Under the rules as proposed by the Division, a non-participating pooled owner could, at any time, propose an infill well in a 320-acre unit. Such a party could immediately take advantage of the risks taken by the participants in the initial unit well, and could force those participating parties to make an election whether or not to participate in a possibly wasteful infill well, and; as described in the above paragraph, force elections for a well that could be as close as twenty feet from the initial unit well. Any of these circumstances would be extremely unfair to the initial risk taking parties. We suggest that the compulsory pooling rules should be amended so that non-participating pooled parties are pooled for the