

**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. 12383
ORDER NO. R-11376**

**APPLICATION OF NEARBURG EXPLORATION COMPANY, L.L.C. FOR
COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 4, 2000, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 17th day of May, 2000, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given and the Division has jurisdiction of this case and its subject matter.

(2) The applicant, Nearburg Exploration Company, L.L.C. ("Nearburg"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 24, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico, in the following manner:

(a) the E/2 forming a standard 320-acre spacing and proration unit for any and all formations and/or pools spaced on 320 acres within this vertical extent, including but not limited to the Red Lake-Pennsylvanian Gas Pool;

(b) the SE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within this vertical extent; and

(c) the NE/4 SE/4 forming a standard 40-acre spacing and proration unit for any and all formations and/or pools spaced on 40 acres within this vertical extent.

These units are to be dedicated to the applicant's proposed Rio Pecos "24" Well No. 1 to be drilled at a standard location in the NE/4 SE/4 of Section 24.

(3) The applicant has the right to drill and proposes to drill its Rio Pecos "24" Well No. 1 at a standard location within the NE/4 SE/4 of Section 24.

(4) There are interest owners in the proposed units that have not agreed to pool their interests.

(5) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within the units.

(6) Nearburg Exploration Company, L.L.C. should be designated the operator of the subject well and units.

(7) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. Any non-consenting working interest owner should be afforded the opportunity to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production.

(8) Any non-consenting working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in drilling the well.

(9) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) Following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from

the operator any amount that paid estimated well costs exceed reasonable well costs.

(11) The applicant requested that reasonable charges for supervision (combined fixed rates) of \$5,485.00 per month while drilling and \$600.00 per month while producing be adopted in this case. The applicant testified that the proposed overhead rates are based upon the Ernst & Young Fixed-Rate Overhead Survey.

(12) The 1999-2000 Ernst & Young Fixed-Rate Overhead Survey shows mean rates of \$4,741.00 per month while drilling and \$598.00 per month while producing. The overhead rates adopted in this case should be adjusted accordingly.

(13) Reasonable charges for supervision (combined fixed rates) should be fixed at \$4,741.00 per month while drilling and \$598.00 per month while producing, provided that this rate should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedures-Joint Operations.*" The operator should be authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(14) All proceeds from production from the well that are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(15) If the operator of the pooled units fails to commence drilling the well to which the units are dedicated on or before September 1, 2000, or if all the parties to this forced pooling reach voluntary agreement subsequent to the entry of this order, this order should become of no effect.

(16) The operator of the well and units should notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Nearburg Exploration Company, L.L.C., all uncommitted mineral interests from the surface to the base of the Morrow formation underlying the E/2 of Section 24, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico, are hereby pooled in the following manner:

- (a) the E/2 forming a standard 320-acre spacing and proration unit for any and all formations and/or pools spaced on 320 acres within this vertical extent, including but not limited to the Red Lake-Pennsylvanian Gas Pool;
- (b) the SE/4 forming a standard 160-acre spacing and proration unit for any and all formations and/or pools spaced on 160 acres within this vertical extent; and
- (c) the NE/4 SE/4 forming a standard 40-acre spacing and proration unit for any and all formations and/or pools spaced on 40 acres within this vertical extent.

These units shall be dedicated to the applicant's Rio Pecos "24" Well No. 1 to be drilled at a standard location in the NE/4 SE/4 of Section 24.

(2) The operator of the units shall commence drilling the proposed well on or before September 1, 2000, and shall thereafter continue drilling the well with due diligence to test the Morrow formation.

(3) In the event the operator does not commence drilling the well on or before September 1, 2000, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause shown.

(4) Should the well not be drilled to completion or be abandoned within 120 days after commencement thereof, the operator shall appear before the Division Director and show cause why Ordering Paragraph (1) should not be rescinded.

(5) Nearburg Exploration Company, L.L.C. is hereby designated the operator of the subject well and units.

(6) After pooling, uncommitted working interest owners are referred to as non-consenting working interest owners. After the effective date of this order, the operator shall furnish the Division and each known non-consenting working interest owner in the unit an itemized schedule of estimated well costs.

(7) Within 30 days from the date the schedule of estimated well costs is furnished, any non-consenting working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out

of production, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(8) The operator shall furnish the Division and each known non-consenting working interest owner an itemized schedule of actual well costs within 90 days following completion of the well. If no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be the reasonable well costs; provided, however, that if there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(9) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator its share of the amount that estimated well costs exceed reasonable well costs.

(10) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; and
- (b) as a charge for the risk involved in drilling the well, 200 percent of the above costs.

(11) The operator shall distribute the costs and charges withheld from production to the parties who advanced the well costs.

(12) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$4,741.00 per month while drilling and \$598.00 per month while producing, provided that this rate shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*". The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(13) Any unleased mineral interest shall be considered a seven-eighths ($7/8$) working interest and a one-eighth ($1/8$) royalty interest for the purpose of allocating costs and charges under this order.

(14) Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(15) All proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

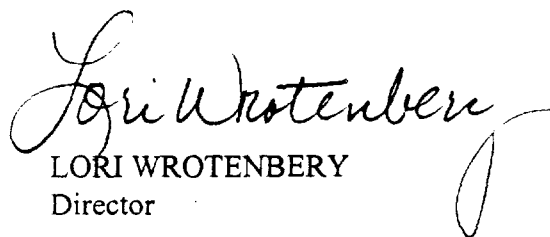
(16) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(17) The operator of the well and units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(18) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


LORI WROTENBERY
Director

SEAL

CASE 12396: **Application of Nearburg Exploration Company, L.L.C. for compulsory pooling, Eddy County, New Mexico.** Applicant seeks an order pooling all mineral interests underlying the E/2 of Section 12, Township 22 South, Range 25 East, to form a standard 320-acre gas spacing and proration unit for formations and/or pools developed on 320-acre spacing within that vertical extent, including but not limited to the undesignated Catclaw Draw-Wolfcamp Gas Pool, undesignated Hackberry Hills-Canyon Gas Pool, undesignated Hackberry Hills-Atoka Gas Pool, and Revelation-Morrow Gas Pool. Said spacing and proration unit is to be dedicated to Nearburg's proposed White Tip 12 Fed. Com. Well # 1, to be drilled at a standard location in the SE/4 (Unit P) of said Section 12. Also to be considered will be: the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision; designation of Nearburg Producing Company, L.L.C., as operator of the well; and, a charge for risk involved in drilling said well. Said area is located approximately 7 miles southwest of Carlsbad, New Mexico.

CASE 12397: **Application of Nearburg Exploration Company, L.L.C. for compulsory pooling, Eddy County, New Mexico.** Applicant in the above-styled cause seeks an order pooling all mineral interests in all formations developed on 320-acre spacing in the W/2 of Section 19 Township 17 South, Range 28 East, NMPM, which includes but is not necessarily limited to the Undesignated Logan Draw-Morrow Gas Pool. Said units are to be dedicated to its Mandalay "19" State Com Well No. 1 to be drilled at a standard location 990 feet from the North line and 1650 feet from the West line of said Section 19 to a depth sufficient to test all formations from the surface to the base of the Morrow formation. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company, L.L.C. as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 11 miles east of Artesia, New Mexico.

CASE 12382: **Continued from April 20, 2000, Examiner Hearing**

Application of Nearburg Exploration Company, L.L.C. for Compulsory Pooling, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the following described acreage in Section 21, Township 19 South, Range 28 East, and in the following manner: (a) the S/2 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within this vertical extent which presently includes the Undesignated South Millman-Atoka Gas Pool, Undesignated Winchester-Atoka Gas Pool, Undesignated South Millman-Morrow Gas Pool, Undesignated Winchester-Morrow Gas Pool, and Undesignated North Winchester-Morrow Gas Pool; (b) the SE/4 to form a standard 160-acre gas spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent; and (c) the SW/4 SE/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within this vertical extent which presently includes but is not necessarily limited to the East Millman Yates-Seven Rivers-Queen-Grayburg-San Andres Pool and the Undesignated North Winchester-Wolfcamp Pool. These units are to be dedicated to a single well to be drilled at a location considered to be standard for all three units 660 feet from the South line and 1650 feet from the East line (Unit O) of Section 21. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as the operator of the well and the three above-described units, and a charge for risk involved in drilling the well. Further, the East Millman Yates-Seven Rivers-Queen-Grayburg-San Andres Pool underlying the SW/4 SE/4 of Section 21 is currently dedicated to C.F.M. Oil Company's Monsanto State Well No. 1 (API No. 30-015-24152), located at a standard oil well location 986 feet from the South line and 1650 feet from the East line (Unit O) of Section 21. At the time of the hearing it will be necessary for the applicant to address certain issues created by the forced pooling of producing acreage currently operated by another operator. The proposed well location is approximately eleven miles east of Lakewood, New Mexico.

CASE 12383: **Continued from April 20, 2000, Examiner Hearing.**

Application of Nearburg Exploration Company, L.L.C. for Compulsory Pooling, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation, underlying the following described acreage in Section 24, Township 18 South, Range 26 East, and in the following manner: (a) the E/2 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within this vertical extent which presently includes the Red Lake-Pennsylvanian Gas Pool; (b) the SE/4 to form a standard 160-acre gas spacing and proration unit for all formations developed on 160-acre spacing within said vertical extent; and (c) the NE/4 SE/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within this vertical extent which presently includes the Dayton (Grayburg) Pool, Undesignated Atoka-San Andres Pool, Undesignated Atoka-Glorieta-Yeso Pool, and Undesignated Dayton-Abo Pool. These three units are to be dedicated to a single well, the proposed Rio Pecos "24" Well No. 1, to be drilled within the NE/4 SE/4 (Unit I) of Section 24 at a location considered to be standard for all three units. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company, L.L.C. as the operator of the well and units, and a charge for risk involved in drilling the well. The proposed well location is approximately three miles east of Dayton, New Mexico.

CASE 12384: Continued from April 20, 2000, Examiner Hearing.

Application of Louis Dreyfus Natural Gas for Compulsory Pooling, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from a depth of 4,000 feet to the base of the Morrow formation, underlying the following described acreage in Section 34, Township 17 South, Range 28 East, and in the following manner: (a) the W/2 to form a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within this vertical extent which presently includes the Empire-Pennsylvanian Gas Pool; (b) the NW/4 to form a standard 160-acre gas spacing and proration unit for all formations developed on 160-acre spacing within said vertical extent; and (c) the SW/4 NW/4 to form a standard 40-acre oil spacing and proration unit for any and all formations and/or pools developed on 40-acre spacing within this vertical extent which presently includes the Undesignated Empire-Wolfcamp Pool. These three units are to be dedicated to a single well, the proposed Geronimo "34" State Com. Well No. 1, to be drilled within the SW/4 NW/4 (Unit E) of Section 34 at a location considered to be standard for all three units. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of the applicant as the operator of the well and units, and a charge for risk involved in drilling the well. The proposed well location is approximately one-quarter mile southwest of the junction of U. S. Highway No. 82 and New Mexico State Road No. 360.

CASE 12398: **Application of EOG Resources, Inc. for compulsory pooling, Eddy County, New Mexico.** Applicant seeks an order pooling all mineral interests in all formations developed on 320-acre spacing in the E/2, including but not limited to the Undesignated Crow flats-Morrow Gas Pool, in all formations developed on 160-acre spacing in the SE/4, including but not limited to the Vandygriff Keyes-Queen Gas Pool, and in all formations developed on 40-acre spacing in the SE/4 SE/4 including but not limited to the Undesignated East Red Lake Queen-Grayburg Pool, all in Section 33, Township 16 South, Range 28 East. Said units are to be dedicated to its Zephyr "33" State Com Well No. 1 to be drilled at a standard location in the SE/4 SE/4 of said Section 33 to a depth sufficient to test all formations from the surface to the top of the Mississippian formation. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of EOG Resources, Inc. as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 13 miles east of Artesia, New Mexico.

CASE 12399: **Application of EOG Resources, Inc. for approval of a Pilot Waterflood Project in the North Red Hills Unit, Lea County, New Mexico.** Applicant seeks approval of a pilot project for the injection of water into the Bone Spring formation, Red Hills-Bone Spring Pool through one injection well in its proposed North Red Hills Unit Area. The Project Area for this pilot waterflood project is the following area:

TOWNSHIP 25 SOUTH, RANGE 33 EAST, NMPM

Section 12: S/2

Section 13: N/2

This area is located approximately 21 miles west by north of Jal, New Mexico.

CASE 12329: Continued from April 6, 2000, Examiner Hearing.

Application of EOG Resources, Inc. for a Unit Agreement, Lea County, New Mexico. Applicant seeks approval of a unit agreement for its proposed Red Hills North Unit Area containing 3478.30 acres, more or less, of Federal and State lands comprising all or portions of Sections 6, 7, 8, 17 and 18, Township 25 South, Range 34 East, and all or portions of Sections 1, 12 and 13, Township 25 South, Range 33 East. The unit area is located approximately 19 miles west by north of Jal, New Mexico.

CASE 11826: Reopened. Continued from March 16, 2000, Examiner Hearing.

Application of Quay Valley, Inc. to reopen Case No. 11826 and for amendment of Division Order Nos. R-4629 and R-4629-A to authorize a tertiary recovery project by the injection of microemulsion in its North El Mar-Delaware Unit Waterflood Project Area, and to qualify this project for the recovered oil tax rate pursuant to the Enhanced Oil Recovery Act, Lea County, New Mexico. Applicant seeks approval to institute a tertiary recovery project in its North El Mar Unit Waterflood Project Area by the injection of microemulsion into the Delaware formation in the El Mar-Delaware Pool. The El Mar-Delaware Unit Waterflood Project Area encompasses portions of Sections 24, 25, 26, 27, 34, 35, and 36 of Township 26 South, Range 32 East, and Sections 19, 30, and 31 of Township 26 South, Range 33 East. Applicant also seeks to increase the approved surface injection pressure for microemulsion injection in this project area to 1160 pounds. Applicant further seeks to qualify the project area for the recovered oil tax rate pursuant to the New Mexico Enhanced Oil Recovery Act, NMSA 1978, Sections 7-29A-1 through 7-29A-5. The unit is located approximately 26 miles west-southwest of Jal, New Mexico.

CASE 12400: **Application of Yates Petroleum Corporation for special pool rules and amendment of the depth bracket allowable for the Northwest Shoe Bar-Strawn Pool, Lea County, New Mexico.** Applicant seeks an increase in the depth bracket allowable for the Northwest Shoe Bar-Strawn Pool located in portions of Section 15 of Township 16 South, Range 35 East, to 365 barrels of oil per day for each 40-acre unit to conform the depth bracket allowable to the depth from which wells in this pool are producing. Applicant also seeks the adoption of special pool rules and regulations for this pool including a limiting gas-oil ratio of 6000 cubic feet of gas per barrel of oil produced. Said pool is located approximately 5.5 miles west of Lovington, New Mexico.