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DATE: November 18, 2002

MESSAGE: Attached is page 2 of Raptor's Reply, which was inadvertently omitted from your fax, dated November 14, 2002.

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Llano 34 State Com No. 1 well on that acreage. Additionally, Nearburg's Application represented: "*Since all of the interest owners in the E/2 of Section 34 support this application, there are no affected parties to whom notice of this application needs to be provided.*"

By letter dated February 5, 2001, Examiner Michael Stogner noted Nearburg's failure to identify the interest owners in the two 160 acre units or to provide evidence that they had been notified of the Application. (Exhibit A, attached.) Subsequently, on February 15, 2001, following notice, the Division received an objection from Redrock Operating LTD., Co., ("Redrock"), and accordingly, the Division's Examiner denied Nearburg's request for administrative approval, and instead set the matter for hearing as Case No. 12622. (See Nearburg Exhibit 15). Raptor was not provided notice of Nearburg's Application.

An Examiner hearing was held on June 28th and 29th, 2001. Redrock, the owner of an overriding royalty interest in the SE/4 of Section 34, opposed the Nearburg Application. Subsequently, on May 28, 2002 the Division entered Order No. R-11768 denying Nearburg's Application on the merits and on June 18, 2002, Nearburg filed its Application for Hearing *De Novo*.

In its *de novo* appeal, Nearburg again requests Commission approval for the dedication of an appropriately configured gas spacing and proration unit to its Grama Ridge East "34" State Well No. 1. Nearburg now owns the entirety of the E/2 of Section 34. However, Nearburg asserts, *inter alia*, that the SE/4 of Section 34 contributes no producible reserves to its well and consequently, Nearburg does not seek to create a spacing unit consisting of the E/2 of the section. Rather, Nearburg seeks only the dedication of the NE/4 to its well.

Case No. 12908-A (Severed and Reopened)

The Division, through its generic, non-adjudicatory pool nomenclature rulemaking process, made application for the extension of the boundaries of the Grama Ridge Morrow Gas Pool to include the E/2 of Section 34, with the concomitant contraction of the East Grama Ridge Morrow Gas Pool. The Division's Application was made at Nearburg's behest and neither Raptor nor Redrock were notified of the Application.¹ Although the issue was not included within the scope of the Division's Application in the matter, Nearburg has subsequently asserted that it has been prevented from dedicating the N/2 of Section 34 to its well for the reason that the NW/4 of the section is located within the horizontal boundaries of the Grama Ridge Morrow Gas Pool, while the NE/4 is located within the separate East Grama Ridge Morrow Gas Pool.

The De Novo Hearing

Pursuant to a joint motion of the parties, Case No. 12622 and Case No. 12908-A were consolidated for hearing before the Commission on October 21 and 22, 2002.

¹ Raptor raised the issue of notice in its August 21, 2002 *Reply Pursuant To Motion To Dismiss, In Part, Case 12908 Or In The Alternative To Re-Open The Case*.