

**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:**

**APPLICATION OF NEARBURG EXPLORATION
COMPANY, L.L.C. FOR TWO NON-STANDARD
GAS SPACING AND PRORATION UNITS,
LEA COUNTY, NEW MEXICO.**

CASE 12622

**APPLICATION OF THE OIL CONSERVATION
DIVISION FOR AN ORDER CREATING AND
EXTENDING CERTAIN POOLS,
LEA COUNTY, NEW MEXICO.**

CASE NO. 12908-A

**RESPONSE OF NEARBURG EXPLORATION COMPANY, L.L.C.
TO THE MOTION OF REDROCK OPERATING LTD. CO.
TO VACATE AND RESCHEDULE CONSOLIDATED CASE 12622
AND THE REOPENING PART OF CASE 12908.**

Comes now Nearburg Exploration Company, L.L.C., Great Western Drilling Company and CL&F Resources, L.P. (hereinafter collectively referred to as "Nearburg") and in response to the Motion of Redrock Operating Ltd. Co. to Vacate and Reschedule Consolidated Cases 12622 and the Reopening Portion of Case 12908 states:

BACKGROUND:

1. In March through June 2000, Nearburg drilled and completed in the Morrow formation its Grama Ridge East "34" State Well No. 1. The well is located the NE/4 of Section 34, Township 22 South, Range 34 East, NMPM, Lea County, New Mexico.

2 In July 2000, Nearburg was advised by the Oil Conservation Division that Section 34, under Division nomenclature, was divided into two pools with the W/2 being included in the Grama Ridge-Morrow Gas Pool and the E/2 included in the East Grama Ridge-Morrow Gas Pool. The Division further advised that under its rules a N/2 spacing unit could not be dedicated to the well.

3. Nearburg filed its administrative application for the creation of a 160-acre non-standard spacing unit for the well on December 13, 2000. Redrock Operating Ltd, Co. opposed the application and it was set for hearing before a Division Examiner on

June 28 and July 26, 2001. At the July 21 hearing, the Division ordered the well shut in.

4. On May 22, 2002 the Division entered Order No. R-11768 which denied the application of Nearburg and but found that Nearburg could dedicate the N/2 of Section 34 to the well "...in either the East Grama Ridge-Morrow Gas Pool or the Grama Ridge-Morrow Gas Pool, depending on the necessary adjustment to the pool boundaries to be sought through the Division's nomenclature process...." (Finding 13) Nearburg appealed this order to the Commission for de novo review. At the request of Raptor Natural Pipeline, the hearing on this appeal was continued from the July Commission hearing.

5. By Joint Motion of Redrock and Nearburg, this appeal and a portion of Division Nomenclature Case 12908 have been consolidated for hearing on September 10, 2002 before the Oil Conservation Commission. The hearing date was difficult to obtain and had to be moved several times to accommodate the schedules of the Commissioners. Pursuant to the directive of the Commission, exhibits were filed and exchanged on September 5th. Redrock now seeks a continuance so it can study Nearburg evidence. It bases its motion on claims of surprise and asserts that Nearburg has not properly responded to a Division subpoena. Nearburg opposes the Motion for vacation of the setting and continuance of the September 10th hearing date.

THE SUBPOENA:

6. Attached to Redrock's Motion is a Division subpoena issued in this case on April 27, 2001 and Nearburg's response thereto of June 18, 2002 in which Nearburg stated it had no material responsive to Redrock's request for seismic data. Redrock then suggests that Nearburg's June 18, 2001, answer was untrue because Nearburg now has seismic data which shows no fault in Section 34.

7. As will be confirmed by the Affidavit of Dean A. Horning, Vice President of Exploration and Production for Nearburg Producing Company, to be filed hereafter, the seismic lines included in Nearburg Exhibit 7 were purchased by him. One line was purchased on August 30, 2002 and the other on September 3, 2002 as part of his preparation of testimony for the September 10th hearing. These lines are the only seismic data in Nearburg's possession on Section 34. These seismic lines form the basis for Redrock's motion to continue the hearing.

8. Nearburg's June 18, 2001 response to the Division subpoena was truthful and complete. If Nearburg had owned this seismic information at that time, it would have been used in the examiner hearings in June and July 2001. It was included in exhibits that Nearburg attempted to serve on Redrock on September 4, and was provided on September 5, 2002. All seismic data obtained by Nearburg on Section 34

has been produced to Redrock. One line was produced 4 days after it was obtained and the other was produced one day after acquired by Nearburg.

9. By way of further response to Redrock's Motion, Nearburg points out that on June 7, 2001 Nearburg obtained a subpoena from the Division in Case 12662 and on the next day served it on Redrock's attorney. With this subpoena Nearburg sought all openhole logs (paragraph 2), any petroleum engineering data used or to be used to justify its position in this case (paragraph 8) and any geologic data being used by Redrock to justify its position in this case (paragraph 12).

10. The exhibits produced by Redrock on September 5, 2002, contain a mud log (Redrock Exhibit B-9). Redrock has obviously had this log for some period of time for it has used information from this log to prepare its interpretations of the Morrow formation contained in Redrock Exhibits B-4, B-5, B-6, B-7 and B-8. This log was not produced to Nearburg pursuant to the Division's subpoena.

11. Nearburg suggests that if someone is engaged in gamesmanship, if someone is trying to surprise the other side, if someone has ignored a Division subpoena, it is Redrock.

THE SEISMIC DATA:

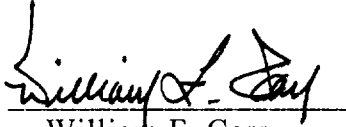
12. The seismic data included in Nearburg Exhibit 7 is neither complicated nor the type of evidence which requires additional time to review and to prepare a response. It consists of two simple seismic lines crossing Section 34. Nearburg invites the Division to look at Exhibit 7 and determine if this is the type of information that should result in a further delay of the hearing in these cases while the Nearburg well remains shut in by the Division.

13. Redrock states in its motion that "One of the critical issues in these two cases is the presence and location of a fault separating the NE/4 from the NW/4 of Section 34...." The true issue behind Redrock's motion is not that Nearburg Exhibit 7 is so technical that it requires time for study and analysis but that it consists of two simple and straightforward seismic lines that establish there is no fault traversing Section 34. Redrock's problem is that what we now know about the Morrow reservoir in Section 34 establishes that their interpretations and evidence are wrong.

14. The fact that recently acquired evidence is damaging to Redrock's case is not a reason for continuing the September 10th hearing.

Nearburg Exploration Company, L.L.C., Great Western Drilling Company and CL&F Resources, L.P. request that the Motion of Redrock Operating Ltd, Co. to vacate the September 10 and 11 hearing dates be denied and the consolidated hearing in Cases 12622 and 12908-A proceed as scheduled.

Respectfully submitted,
HOLLAND & HART LLP

By: 
William F. Carr

ATTORNEYS FOR NEARBURG
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CL&F RESOURCES, L.P.

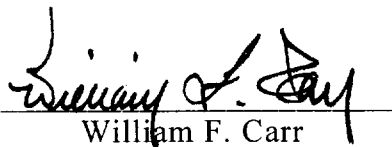
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading has been transmitted by facsimile or hand delivery this 6th day of September to the following:

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