

**JAMES E. BROWN**

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Ms. Lori Wrotenbery, Director  
Oil Conservation Division  
New Mexico Department of Energy  
Minerals and Natural Resources  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

Re: Oil Conservation Division Case No. 12622. Application of  
Nearburg Exploration Company, L.L.C. for two non-standard  
Gas spacing and proration units, Lea County, New Mexico

Dear Ms. Wrotenbery:

I am the owner of a .3% overriding royalty interest in State of New Mexico Oil and Gas Lease No. V-5683, which covers the N/2 of Section 34, Township 21 South, Range 34 East, NMPM, Lea County, New Mexico. I helped generate this geological prospect and retained this override when I sold this prospect to Great Western Drilling Company who sold a portion of the interest to Nearburg Exploration Company, L.L.C. In 2000, Nearburg drilled the Grama Ridge "34" State Well No. 1 on this lease and dedicated to the well the N/2 of Section 34. I understood that the Oil Conservation Division approved a N/2 unit for this well. The well is a good Morrow producer and I have received royalty payments from Nearburg until the well was shut-in in July of this year.

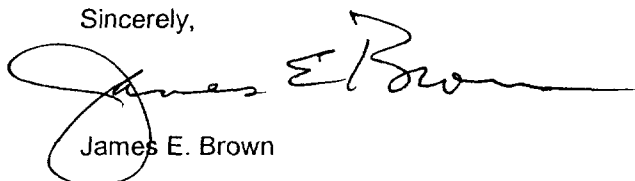
I am an independent geologist who generates prospects in the Permian Basin of Texas and Southeast New Mexico. Oil and gas production from wells like the "34" State No. 1 is currently my primary source of income. Shutting-in the subject well not only deprives me of needed income, but will very likely permanently reduce the future moneys that I should receive from this well.

I understand from discussions with Nearburg that if the Division now requires them to form a 320-acre unit for the well, which includes acreage from the SE/4 of Section 34, *my interest will be cut in half and I may not receive any more revenue from the well unless and until that proportionate part of any resulting overpayments have been paid to a third party royalty owner who apparently owns an interest in the SE/4 of the Section..* This seems unfair to me since the SE/4 of this section is not productive from the Morrow and will not contribute to the well.

Nearburg has advised me that they are requesting that the well be returned to production pending a decision to allow either a 320-acre N/2 proration unit or a 160-acre NE/4 proration unit for this well. I desire to join this request because I am concerned about offset drainage as well as likely formation damage caused by a loss of permeability in the Morrow sands due to settling of clays in the pore spaces.

Along with Nearburg, Great Western and others, I also have interests in this well. I request that you allow this well to produce so that I can receive my overriding royalty share of production while the underlying issues between Nearburg, the OCD and others are resolved. From my understanding of these issues, it seems right and proper that the NE/4 or N/2 of the section be dedicated to this well.

Sincerely,



James E. Brown