

HOLLAND & HART^{LLP}
and
CAMPBELL & CARR
ATTORNEYS AT LAW

DENVER • ASPEN
BOULDER • COLORADO SPRINGS
DENVER TECH CENTER
BILLINGS • BOISE • CASPER
CHEYENNE • JACKSON HOLE
SALT LAKE CITY • SANTA FE
WASHINGTON, D.C.

P.O. BOX 2208
SANTA FE, NEW MEXICO 87504-2208
110 NORTH GUADALUPE, SUITE 1
SANTA FE, NEW MEXICO 87501-6525

TELEPHONE (505) 988-4421
FACSIMILE (505) 983-6043

Michael H. Feldewert

mfeldewert@hollandhart.com

April 10, 2001

HAND-DELIVERED

Ms. Lori Wrotenbery, Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
2040 South Pacheco Street
Santa Fe, New Mexico 87505

Re: *Application of Nearburg Exploration Company, L.L.C. for
Administrative Approval of an Unorthodox Well Location for its Poco
Mesa "26" State Com Well No. 1, located 1980 feet from the South line
and 2400 feet from the West line of Section 26, Township 18 South,
Range 24 East, N.M.P.M., Eddy County, New Mexico.*

Dear Ms. Wrotenbery:

Our office has received the April 2nd letter from Gailen Hooper and the April 3rd letter from Bruce and Darlene Herberger (the conservators for Alan Edward Herberger) addressed to the Division. These parties object to Nearburg's application solely on the grounds that their overriding royalty interest has allegedly been incorrectly identified in Nearburg's Exhibit C.

Nearburg's land department has contacted Mr. Hooper and the conservators for Alan Edward Herberger and has assured them that the questions concerning their calculated overriding royalty interest will be submitted to Nearburg's title attorney for resolution. Further, Nearburg anticipates acquiring Chevron's working interest and will allocate a correctly calculated overriding royalty interest on a pro-rata basis to the proposed S/2 spacing unit.

The royalty issue Mr. Hooper and the conservators raise in their letters does not require a Division hearing in this matter. The nature and extent of the override held by these parties is a matter of contract that will be shortly sorted out. The Division does not have jurisdiction over this contractual matter and any order resulting from this application will not address the nature and extend of these overrides. In short, the contractual issue raised by these two letters

01 APR 10 PM 4:13

OIL CONSERVATION DIV.

HOLLAND & HART^{LLP}
ATTORNEYS AT LAW

Ms. Lori Wrotenbery, Director
April 10, 2001
Page 2

does not and cannot provide a basis for denying Nearburg's application for administrative approval of an unorthodox well location.

Nearburg respectfully requests that its administrative application be granted since no other party has objected and the basis for the existing objections involves a contractual matter over which the Division does not have jurisdiction.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael H. Feldewert", written in a cursive style.

Michael H. Feldewert

MHF

cc: Michael Stogner
New Mexico State Land Office
Gailen Hooper
Bruce and Darlene Herberger
Duke Roush