



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON

Governor

Jennifer A. Salisbury

Cabinet Secretary

Lori Wrotenbery

Director

Oil Conservation Division

January 3, 2002

Mr. Doyle Hartman

P.O. Box 10426

Midland, TX 79702

VIA US Mail and Facsimile Transmission

FAX No. 915-682-7616

Re: Case No. 12790

**Application of Nearburg Exploration Company, LLC for Compulsory
Pooling, Lea County, New Mexico**

Dear Mr. Hartman:

The Division is in receipt of a copy of your letter to Nearburg Exploration Company and to its attorney, William F. Carr, dated January 2, 2002, wherein you discuss the referenced matter.

Be advised that this case is set for hearing before the undersigned on Thursday, January 10, 2002, at 8:15 a.m., in the Commission hearing room at 1220 South Saint Francis Drive in Santa Fe, New Mexico. We will treat the copies of correspondence received from you as constituting your entry of appearance in this case, and you will receive copies of all correspondence from the Division concerning the matter.

We remind you, however, of the requirements of NMSA 1978 Section 70-2-13, which require the Director of the Division to base her decision solely on "the transcript of testimony and record made by or under the supervision of the examiner in connection with such proceeding." Under our interpretation of this provision, the Director would be precluded from considering correspondence such as that we have received from you unless it is formally offered in evidence at the hearing.

If you have any questions about our procedures, please contact Chief Engineer, Richard Ezenayim at (505)-476-3467 or Division Administrator, Florene Davidson at (505)-476-3458.

Very truly yours,

David K. Brooks
Assistant General Counsel
Division Hearing Examiner

cc: William F. Carr