

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:) CASE NO. 12,791
)
APPLICATION OF NEARBURG EXPLORATION)
COMPANY, L.L.C., FOR COMPULSORY POOLING,)
LEA COUNTY, NEW MEXICO)
_____)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

January 10th, 2002

Santa Fe, New Mexico

02 JAN 24 PM 3:47
CLERK OF COURT

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, January 10th, 2001, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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January 10th, 2002
Examiner Hearing
CASE NO. 12,791

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A P P E A R A N C E S

FOR THE DIVISION:

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FOR THE APPLICANT:

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Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

ALSO PRESENT:

DAVID R. CATANACH
Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

* * *

1 WHEREUPON, the following proceedings were had at
2 10:57 a.m.:

3
4
5 EXAMINER BROOKS: At this time call Case Number
6 12,791, Application of Nearburg Exploration Company,
7 L.L.C., for compulsory pooling, Lea County, New Mexico.

8 Call for appearances.

9 MR. CARR: May it please the Examiner, my name is
10 William F. Carr with the Santa Fe office of Holland and
11 Hart, L.L.P. We represent Nearburg Exploration, L.L.C.,
12 and I have two witnesses.

13 EXAMINER BROOKS: Are there any other appearances
14 in this Case Number 12,791?

15 Very good, would the witnesses stand and identify
16 themselves for the record, please?

17 MR. SHELTON: I'm Robert G. or Bob Shelton from
18 Midland, Texas.

19 MR. GAWLOSKI: Ted Gawloski, also from Midland,
20 Texas.

21 EXAMINER BROOKS: Witnesses be sworn, please.

22 (Thereupon, the witnesses were sworn.)

23 MR. CARR: Mr. Examiner, at this time we call Mr.
24 Shelton.

25 EXAMINER BROOKS: Very good.

1 ROBERT G. SHELTON,
2 the witness herein, after having been first duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. CARR:

6 Q. Would you state your full name for the record,
7 please?

8 A. Robert G. Shelton.

9 Q. Mr. Shelton, where do you reside?

10 A. In Midland, Texas.

11 Q. By whom are you employed?

12 A. By Nearburg Producing Company.

13 Q. And what is your current position with Nearburg?

14 A. Land manager.

15 Q. Have you previously testified before this
16 Division?

17 A. Yes, I have.

18 Q. At that time were your credentials as an expert
19 in petroleum land matters accepted and made a matter of
20 record?

21 A. Yes, sir, they were.

22 Q. Have you appeared before Mr. Brooks before?

23 A. No, sir, I have not.

24 Q. Would you summarize your educational background?

25 A. My educational background, I have a BA degree in

1 business management from Texas Tech University in 1976, and
2 thereafter I worked for 15 years as a landman with Diamond
3 Shamrock or Maxis Exploration Company, and I've been with
4 Nearburg Producing Company for almost 12 years.

5 Q. Mr. Shelton, does the geographic area of your
6 responsibility include the portion of southeastern New
7 Mexico which is involved in this case?

8 A. Yes, sir, it does.

9 Q. Are you familiar with the Application filed in
10 this matter on behalf of Nearburg?

11 A. Yes, sir, I am.

12 Q. And are you familiar with the status of the lands
13 in the subject area?

14 A. Yes, sir.

15 Q. You testified a moment ago that you worked for
16 Nearburg Production Company.

17 A. Producing Company.

18 Q. Producing Company.

19 A. Yes.

20 Q. The Application is in the name of Nearburg
21 Exploration Company?

22 A. That is correct.

23 Q. What is the relationship of those two companies?

24 A. They are sister companies, both owned by Charles
25 Nearburg, sole proprietorship. He owns all, 100 percent of

1 both companies. Nearburg Producing Company is the
2 operating company. It employs all of the employees.
3 Nearburg Exploration Company owns the oil and gas leases
4 and therefore has the right to drill.

5 MR. CARR: Mr. Brooks, are Mr. Shelton's
6 qualifications acceptable?

7 EXAMINER BROOKS: They are accepted.

8 Q. (By Mr. Carr) Mr. Shelton, would you initially
9 summarize for the Examiner what it is that Nearburg seeks
10 with this Application?

11 A. We seek the ability to drill a well, the Wapiti
12 31 Federal Com Number 1, and I'll indicate that it is a
13 Federal Com. You'll see several documents in here that
14 we've done early that will refer to this as the Wapiti 31
15 State Com Number 1. It is a Federal Com well, 660 feet
16 from the east line and 1650 from the south line of Section
17 31, Township 18 South, Range 34 East, Lea County, New
18 Mexico.

19 EXAMINER BROOKS: Sir, would you go over those
20 footages again?

21 THE WITNESS: 660 feet from the east line and
22 1650 from the south line.

23 EXAMINER BROOKS: Thank you.

24 Q. (By Mr. Carr) Mr. Shelton, would you review the
25 individual spacing units that are the subject of this

1 pooling Application?

2 A. Yes, this will be a Morrow test well at
3 approximately 13,500 feet. The spacing unit for the well
4 will be the east half of Section 31, which is the 320 acres
5 we have designated on the plat for the well. It includes
6 acreage owned by Nearburg, south half, southeast quarter;
7 by Mewbourne Oil Company, which is the north half,
8 southeast quarter; and then we have ownerships in the west
9 half, northeast and the east half, northeast, which are
10 undivided ownerships by several companies that we can --
11 we'll be able to go through.

12 Q. You're also seeking the pooling of the southeast
13 quarter for formations developed on 160 acres; is that
14 correct?

15 A. That's correct, yes.

16 Q. The north half of the southeast for pools
17 developed on 80-acre spacing?

18 A. That's correct.

19 Q. And this would be governed by the Undesignated
20 EK-Bone Springs Pool rules if, in fact, you complete in
21 that interval?

22 A. That's correct.

23 Q. And for 40-acre-spaced pools it would be the
24 northeast of the southeast; is that right?

25 A. Yes, sir.

1 Q. Let's go to what has been marked as Nearburg
2 Exhibit Number 1, and I'd ask you to first identify that
3 and then review that for the Examiner.

4 A. It is a plat that indicates what acreage is
5 subject to the compulsory pooling case. The east half of
6 Section 31, it shows the ownership of Mewbourne in the
7 north half, southeast quarter and the ownership of Nearburg
8 in the south half, southeast quarter.

9 Q. And then as to the ownership in the northeast
10 quarter, those are set forth on Exhibit Number 2; is that
11 correct?

12 A. They're set forth on Exhibits -- Yes, Exhibit --
13 the last two pages, Ownership "A" and Ownership "B", of
14 Exhibit 2.

15 Q. On that exhibit, the first page shows what?

16 A. The first page is the east-half spacing unit
17 interest, and it shows the percentage interest of those
18 parties who have elected to participate and those parties
19 who are subject to the -- that we have not been able to
20 make a voluntary agreement with that are the subject of the
21 force pooling.

22 You'll notice that the three that are -- that we
23 have not made a voluntary agreement with are Kaiser-Francis
24 Oil Company, Kudo Petroleum and Mika Petroleum. Kudo and
25 Mika are sister companies represented by one person;

1 they're in Dallas, Texas. And Kaiser-Francis, of course,
2 is out of Oklahoma.

3 Q. What percentage of the working interest is
4 voluntarily committed to the proposed well?

5 A. Well, voluntarily committed to the proposed well
6 or under agreement with us is about 88 percent.

7 Q. Are there any owners who you've been unable to
8 locate?

9 A. No, we've been able to locate all the owners and
10 have made very -- have made several contacts with them and
11 had negotiations or offers made to them.

12 Q. Why don't we refer to what has been marked as
13 Nearburg Exhibit Number 3 and, using this exhibit, I'd ask
14 you to summarize the efforts made to obtain voluntary
15 participation of all working interest and mineral interest
16 in the proposed spacing units.

17 A. Exhibit Number 3 is a letter dated October 16th
18 by Curtis Smith who has sent out to the parties set forth
19 on page 2 of the letter, which are a number of the parties
20 that own ownership in the northeast quarter. At that time
21 we submitted an AFE for their consideration and asked them
22 to participate in the well or grant Nearburg either a
23 farmout or a term assignment to make a voluntary trade in
24 regard to the drilling of the well?

25 Q. That was your first contact?

1 A. That was the first -- That's not the first
2 contact, but that was the first with these people set forth
3 on page 2 of this letter.

4 Q. I think it would be helpful if you could just
5 briefly summarize the status of your negotiations as of
6 this time with Kaiser-Francis and with Kudo and Mika.

7 Q. With Kaiser-Francis, we've been in conversations
8 with them all along. I have some correspondence from them.
9 We also have -- I talked to them as late as this last week,
10 that at that time we were told that they had it in front of
11 their geologic department. They had not made a decision
12 yet, they knew that we were coming up here to force pool
13 them, and the statement was made that if they couldn't make
14 a decision then they would be happy to go under the force
15 pooling Application.

16 Q. If an agreement is reached with Kaiser-Francis
17 for voluntary participation in the well, will Nearburg
18 immediately notify the Oil Conservation Division?

19 A. Yes, we will.

20 Q. What about Kudo and Mika?

21 A. They have been contacted also. There's another
22 exhibit in here. Where we contacted them just recently is
23 this last week on January -- well, it was January 4th, I
24 think.

25 We got back in contact with them on the 8th of

1 January. They said they have two wells drilling in
2 Oklahoma right now, they do not have enough cash to
3 participate in this well, but they have not made any trades
4 with us yet, and that they were considering what type of
5 arrangement they might be able to make or going under the
6 order.

7 Q. Is it possible that they would also voluntarily
8 participate in the well?

9 A. Yes, it is.

10 Q. And if that occurs, will you immediately advise
11 the Oil Conservation Division --

12 A. Yes, we will.

13 Q. -- of their participation?

14 A. Yes, sir, we will.

15 Q. Would you identify what's been marked as Exhibit
16 Number 4?

17 A. Exhibit Number -- Is that the letter to --

18 Q. The AFE for the well.

19 A. Okay. Yeah, there it is, okay. The AFE for the
20 well was prepared by Nearburg Producing Company. It sets
21 for the dryhole costs, the completion cost and the total
22 cost for the Wapiti again. It's labeled Wapiti 31 State;
23 it should be Wapiti 31 Federal Com Number 1 at the location
24 I spoke of earlier.

25 Q. What are the dryhole costs?

1 A. The dryhole cost is \$1,229,688.

2 Q. And the cost for a completed well?

3 A. The total completed cost is \$1,772,441.

4 Q. Has Nearburg drilled other Morrow wells in this
5 area?

6 A. Yes. In fact, we have a Morrow well that's
7 directly east, in the west half of Section 32. It's the
8 Nearburg Producing Company Wapiti 32 State Com Number 1
9 well.

10 Q. Are the AFE costs for the proposed Wapiti well in
11 line with the costs actually incurred by Nearburg in
12 drilling other Morrow wells in the area?

13 A. Yes, as more recent Morrow wells have been
14 drilled it is in line with recent Morrow well drilling.

15 Q. Is Exhibit Number 5 an affidavit confirming that
16 notice of today's hearing has been provided to affected
17 parties in accordance with the Rules of the Oil
18 Conservation Division?

19 A. Yes, sir, it is.

20 Q. Have you made an estimate of the overhead and
21 administrative costs to be incurred while drilling the well
22 and also while producing it, if it is successful?

23 A. Yes, since this is a very deep well, almost
24 14,000, our estimate is \$6000 per month for drilling and
25 \$600 per month for producing.

1 Q. Are these costs consistent with the actual costs
2 incurred in drilling and producing other Morrow wells in
3 this area?

4 A. Yes, sir, they are. And also, those costs are
5 the agreed costs in the operating agreement that we have
6 with the other people that are participating in the well.

7 Q. Do you recommend that these figures be
8 incorporated into the order which results from today's
9 hearing?

10 A. Yes, sir, we do.

11 Q. Do you have an operating agreement for this well?

12 A. Yes, sir, we do.

13 Q. And attached to that operating agreement, do you
14 have the standard COPAS accounting procedures?

15 A. Yes, sir.

16 Q. Do those procedures provide for the overhead and
17 administrative costs to be escalated --

18 A. Yes, sir, they do over a period of time.

19 Q. -- to a standard --

20 A. Yes.

21 Q. Do you request that the order entered in this
22 case also authorize that the overhead and administrative
23 costs be escalated in accordance with the standard COPAS
24 form?

25 A. Yes, sir, we do.

1 Q. Does Nearburg Production Company seek to be
2 designated operator of the proposed well?

3 A. Yes, sir, we do.

4 Q. Were Exhibits 1 through 5 either prepared by you
5 or compiled under your direction and supervision?

6 A. Yes, sir, they were.

7 MR. CARR: May it please the Examiner, at this
8 time we move the admission into evidence of Nearburg
9 Exhibits 1 through 5.

10 EXAMINER BROOKS: Exhibits 1 through 5 are
11 admitted.

12 MR. CARR: That concludes my direct examination
13 of Mr. Shelton.

14 EXAMINATION

15 BY EXAMINER BROOKS:

16 Q. Okay, let me go over the units that are being
17 requested here. The east half for 320, correct?

18 A. Correct, yes, sir.

19 Q. Southeast quarter for 160?

20 A. Yes, sir.

21 Q. And the north half of the southeast for 80?

22 A. Yes, sir.

23 Q. And is there any other unit sizes that are
24 implicated here?

25 A. 40-acre tract, which would be the northeast

1 quarter of the southeast quarter.

2 Q. That would be the northeast of the southeast?

3 A. Yes, sir.

4 Q. Can you tell me what pools are included or
5 implicated?

6 A. The pools are the Larica Pool for the 320 acres.

7 Q. How do you spell that?

8 A. Let me get it out here for you. L-i-c-a-r-i-c-a,
9 Larica.

10 Q. L-i-c-a- --

11 A. -- L-a- -- Excuse me, L-a-r-i-c-a.

12 Q. Okay. And that's the 320?

13 A. 320, yes, sir.

14 Q. And what formations?

15 A. For the Strawn-Atoka-Morrow.

16 Q. Strawn-Atoka-Morrow, okay. And are there any
17 other pools implicated?

18 A. For the Bone Springs it would be the EK-Bone
19 Springs field.

20 Q. And what is the spacing there?

21 A. That spacing can be in different areas -- It
22 would be 80 acres right now.

23 Q. Okay, the EK-Bone Springs?

24 A. Yes, sir.

25 Q. Okay. Anything else, any other pools you know of

1 that are implicated?

2 A. No, sir, I do not know of any other pools.

3 Q. Okey-doak. Then is this all federal acreage?

4 A. Yes, sir, this section is.

5 Q. Since it's a com, I guess it's --

6 A. -- several leases.

7 Q. -- several leases.

8 A. Yes. In fact, the lease Nearburg owns is a lease
9 recently purchased in the October BLM sale, and then the --

10 Q. You haven't indicated any overriding royalties.
11 Are there not any?

12 A. There is some overriding royalty interest owners
13 that burden the northeast quarter. There is none in the
14 southeast quarter.

15 Q. Okay, are there any overriding royalties on any
16 of the unleased -- or uncommitted acreage, the ones that
17 you are not including, that you are not having --

18 A. We're not having -- No, sir, I don't believe
19 there are.

20 EXAMINER BROOKS: Okay, I guess that's all I
21 have, Mr. Catanach.

22 EXAMINER CATANACH: Just one, Mr. Carr. I'm
23 having a little trouble with your notice affidavit.

24 MR. CARR: And you have the wrong notice
25 affidavit. I'm having trouble with it too. On the day we

1 filed the case we also filed an application for Nearburg
2 for the Mesquite 17 Federal Well Number 1. That was a
3 parallel pooling application. The notice affidavit nicely
4 confirms to you that we notified the parties for the
5 Mesquite 17.

6 EXAMINER CATANACH: Yeah.

7 MR. CARR: With your permission, I'd like to
8 withdraw Exhibit 5 and provide you with the correct notice
9 affidavit.

10 THE WITNESS: Excuse me, I didn't notice that.

11 MR. BRUCE: I object.

12 (Laughter)

13 THE WITNESS: I will say that I did include -- If
14 you'll look on Exhibit 2, in the various offers that we
15 sent out to people I did include copies of the return
16 receipts that we got back, and they are a part of my
17 exhibits.

18 MR. CARR: But I did notify the -- Kaiser-Francis
19 and the other companies in this case, and I do have a
20 notice affidavit. We do them at the time we mail them, and
21 I have the wrong one here.

22 EXAMINER BROOKS: We will allow you to supplement
23 the record, Mr. Carr --

24 MR. CARR: Thank you, sir.

25 EXAMINER BROOKS: -- as a special favor in this

1 case.

2 MR. CARR: Thank you. That's all I have.

3 EXAMINER BROOKS: That's all I have.

4 THE WITNESS: Thank you.

5 MR. CARR: At this time we call Ted Gawloski.

6 TED GAWLOSKI,

7 the witness herein, after having been first duly sworn upon
8 his oath, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CARR:

11 Q. Would you state your name for the record, please?

12 A. My name is Ted Gawloski.

13 Q. Would you spell your last name for the reporter,
14 please?

15 A. Sure, G-a-w-l-o-s-k-i.

16 Q. Mr. Gawloski, where do you reside?

17 A. Midland, Texas.

18 Q. By whom are you employed?

19 A. Nearburg Producing Company.

20 Q. Have you previously testified before the New
21 Mexico Oil Conservation Division?

22 A. Yes, I have.

23 Q. At the time of that testimony, were your
24 credentials as an expert in petroleum geology accepted and
25 made a matter of record?

1 A. Yes, they were.

2 Q. Have you testified before Examiner Brooks?

3 A. No, I have not.

4 Q. Could you briefly summarize your educational
5 background?

6 A. I have a BS degree in geology from Baylor
7 University in 1978, and a master's in geology from Baylor
8 University in 1981.

9 Q. Could you review your work experience?

10 A. I worked for -- started out working with Amoco
11 Production Company, and then moved to Midland and worked
12 for Mitchell Energy Company, Santa Fe Energy, and now the
13 last six years for Nearburg Producing.

14 Q. Are you familiar with the Application filed in
15 this case?

16 A. Yes, I am.

17 Q. Have you made a geological study of the area
18 which is the subject of this Application?

19 A. Yes, I have.

20 Q. Are you prepared to review the results of that
21 work with the Examiner?

22 A. Yes, sir.

23 MR. CARR: Mr. Brooks, are the witness's
24 qualifications acceptable?

25 EXAMINER BROOKS: They are accepted.

1 Q. (By Mr. Carr) Mr. Gawloski, have you prepared
2 exhibits for presentation here today?

3 A. Yes, I have.

4 Q. Initially, what is the primary objective in the
5 well?

6 A. The primary objective are the sands of the Morrow
7 formation.

8 Q. Are there secondary objectives?

9 A. There are secondary uphole in the Bone Spring.

10 Q. Let's go to initially Exhibit Number 6, your
11 structural cross-section, and I'd ask you to explain what
12 this shows to the Examiner.

13 A. Okay, first of all, it's a stratigraphic cross-
14 section, and that is, it is hung on the red marker toward
15 the top, the top of the Morrow, which is also the marker
16 that the structure map is constructed on.

17 If you'll also notice along the side here, these
18 are the intervals that I've broken out in the Morrow sands,
19 going down from the top of the Morrow A, and I've
20 subdivided the middle one into an upper and lower Morrow B,
21 and then the Morrow C.

22 And I have an index map down at the bottom. This
23 cross-section essentially starts up here in Section 30 and
24 kind of zigs its way across through Sections 29 and 32,
25 across to the proposed location, which is indicated on the

1 cross-section, and down through Section 4.

2 One of the things to note is the variability of
3 the sands, and it produces out of several different
4 intervals here. You'll notice some of the wells produce
5 out of the A, some produce out of the Morrow B, and then
6 some produce out of the Morrow C.

7 You'll notice that several of the lenses come and
8 go, they're very lenticular in nature. The permeability
9 and, as such, the productivity varies tremendously with
10 each one of these wells.

11 And as we go through the next exhibits, the
12 isopachs will correspond to the brackets on the cross-
13 section here.

14 Q. All right, let's go to the isopach of the Morrow
15 C sand, Exhibit Number 7.

16 A. Exhibit Number 7 is an isopach of the Morrow C,
17 which is this green sand down here on the bottom of the
18 cross-section. This is a producing -- And one thing to
19 note on these isopachs, the wells that have the red
20 coloration on them are those that produce out of that
21 horizon. And on the trend, this is a trend that
22 essentially comes down from the north, basically northwest
23 to southeast.

24 Through the well in Section 29, as you can see on
25 the cross-section, is a really thick zone. However, this

1 zone tested water through this interval here. And it's
2 going along on the cross-section, it goes through the
3 Wapiti 32 State, which is a producing well out of this
4 zone, and then through the proposed location and down
5 through Section 4, which is another well that produces out
6 of this horizon.

7 Q. The well to the north is the -- with the blue
8 shading, is the well that actually is wet; is that correct?

9 A. That's correct.

10 Q. In your opinion, is there a substantial risk
11 associated with attempting to complete a successful well in
12 the Morrow C sand?

13 A. Yes, sir, as you can see on the isopach, we're
14 basically on the fringe of this. There's four wells along
15 that western perimeter that basically don't have any pay
16 through this Section.

17 Q. Let's go now to Exhibit Number 8, the isopach of
18 the Morrow B sand.

19 A. The lower Morrow B is the interval shown on the
20 cross-section by the sands in red and in the bright yellow.
21 This is an isopach using a porosity cutoff of 8 percent,
22 and it shows some of the producing zones. Again, you have
23 a channel system oriented from the northwest to the
24 southeast coming across. So once again you can notice that
25 the variability of thickness jumps all over. Just in the

1 wells in Section 32 it goes from 41 feet to 13, and you can
2 see that illustrated on that cross-section by the two wells
3 in Section 32.

4 We're hoping to be on the flanks of this channel
5 here where it kind of is a braided part of this channel,
6 and hope to encounter some pay in that section through
7 there.

8 Q. Again, the location is on the edge of the
9 channel, correct?

10 A. That's correct.

11 Q. There is a well to the south that is produced
12 from the channel. How good a well is that?

13 A. The well in Section 5 -- it's on the cross-
14 section, the Pipeline Deep "5" Com Number 2 -- it
15 perforated this lower zone, and they got a very small
16 amount of gas out of it. The primary producing zone is the
17 A section in here. This well, this zone here, was
18 essentially just left open and is, I think, producing. It
19 doesn't really have much productivity to it. You can see
20 from the cross-section that it's really on the edge and has
21 a low porosity.

22 Q. In your opinion, is there a substantial risk
23 associated with completing a Morrow well in the lower
24 Morrow B sand?

25 A. Yes, sir.

1 Q. Let's move to Exhibit Number 8 [sic], the isopach
2 on the Morrow A sand.

3 A. This is an isopach of the Morrow A, and I've kind
4 of coined it the Pipeline Deep "5" pay, and I've done that
5 for a specific reason, because there is more than one,
6 there are two or three different sands in that low A
7 section, and I was essentially just trying to isolate that
8 particular pay.

9 It is a producing well out here in Section 5. It
10 has some remnants down to the south in Section 4, and also
11 some remnants up to the wells in Section 29 and 30, where
12 we had tested a little bit of gas condensate and water, so
13 it was essentially right on the cusp of making gas and
14 water, but it was primarily water and they did not attempt
15 production -- completion in that zone.

16 Q. Let's go now to Exhibit Number 10, the structure
17 map.

18 A. Exhibit Number 10 is a structure map on the top
19 of the Morrow, which is the red marker in the upper parts
20 of the cross-section. It's a good regional marker that
21 we've used in the area. And basically what you see is a
22 low area that cuts across Sections 29 and the very east
23 part of Section 32, and then there's two structural
24 components, one centered around Section 4 and the good
25 producing well there, and another one that's centered

1 around Section 32 and across 31.

2 Q. Mr. Gawloski, are you prepared to make a
3 recommendation to the Examiner as to the risk penalty that
4 should be assessed against any interest owner who doesn't
5 voluntarily participate in the well?

6 A. Yes, sir.

7 Q. And what is that?

8 A. The maximum allowed.

9 Q. The 200-percent maximum?

10 A. Yes, sir.

11 Q. Would you just summarize the reasons for that
12 recommendation?

13 A. Basically the reasons are that there's a high
14 risk in each one of these zones. There is several sands
15 that do produce out here, but they are very lenticular and
16 discontinuous in nature. There's also a structural
17 component that if you get too high, that you can actually
18 have your sand pinched out, which is a concern especially
19 for the lower horizon. And those are the main...

20 Q. Do you believe there's a chance you could drill a
21 well at this location that, in fact, would not be a
22 commercial success?

23 A. Yes, sir.

24 Q. In your opinion, will the granting of this
25 Application and the drilling of the proposed well be in the

1 best interest of conservation, the prevention of waste and
2 the protection of correlative rights?

3 A. Yes, sir.

4 Q. How soon does Nearburg hope to commence this
5 well?

6 A. In the first quarter of this year.

7 Q. Were Exhibits 6 through 10 prepared by you?

8 A. Yes, sir.

9 MR. CARR: May it please the Examiner, at this
10 time we move the admission into evidence of Nearburg
11 Exhibits 6 through 10.

12 EXAMINER BROOKS: Exhibits 6 through 10 will be
13 admitted.

14 MR. CARR: And that concludes my direct
15 examination of Mr. Gawloski.

16 EXAMINER BROOKS: Well, I have no questions. Mr.
17 Catanach?

18 EXAMINATION

19 BY EXAMINER CATANACH:

20 Q. Just one concerning uphole secondary targets. Do
21 you have anything picked out or --

22 A. I don't have anything specific. There's some
23 Bone Spring production in one of the wells in Section 32,
24 but it's not present in any of the other wells, and that
25 one well in Section 30. But other than that, there's

1 really -- it's pretty hit-or-miss until you get farther to
2 the west where that EK field is, that pool we're talking
3 about, but that's farther to the west.

4 Q. EK- --

5 A. -- -Bone Springs.

6 EXAMINER CATANACH: -- -Bone Springs. Okay, I
7 have nothing further.

8 MR. CARR: That concludes our presentation in
9 this case.

10 I will submit a new notice affidavit this
11 afternoon.

12 EXAMINER BROOKS: Okay, subject to your doing so,
13 Case Number 12,791 is taken under advisement.

14 (Off the record at 11:25 a.m.)

15 (The following proceedings had at 11:29 a.m.):

16 EXAMINER BROOKS: If you'll excuse me, Mr. Carr,
17 since you were also counsel in Case Number 12,791, there
18 was something I forgot to pick up on there, if you'll
19 squeeze this into the record for that case, Mr. court
20 reporter.

21 The testimony was that Nearburg Exploration
22 Company, LLC, was the owner of the leasehold interest in
23 that case and that some other entity was operating, and I
24 didn't get the name of that entity, but I assume that would
25 be the entity that you would be asking to be named as

1 operator.

2 MR. CARR: Yes, sir, and that's Nearburg
3 Production Company, LLC.

4 EXAMINER BROOKS: Nearburg Production Company,
5 LLC.

6 MR. CARR: Yes, sir.

7 EXAMINER BROOKS: Thank you.

8 (Thereupon, these proceedings were concluded at
9 11:30 a.m.)

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing Case No. 12796,
heard by me on Jan 10 2002.
David K. Brooks Examiner
Oil Conservation Division

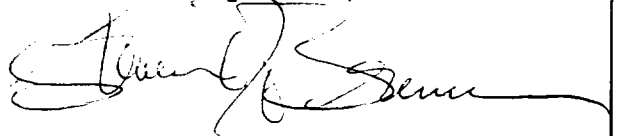
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL January 14th, 2002.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002