

**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. 12908

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

**RAPTOR NATURAL PIPELINE L.L.C.'S
REPLY PURSUANT TO
MOTION TO DISMISS, IN PART, CASE 12908
OR IN THE ALTERNATIVE TO RE-OPEN THE CASE
AND
RESPONSE TO NEARBURG'S MOTION TO CONSOLIDATE**

Raptor Natural Pipeline L.L.C., ("Raptor"), submits this Reply following the Response filed on behalf of Nearburg Exploration Company, L.L.C., ("Nearburg") on August 13, 2002 in this case, as well as in Case No. 12622 (*de novo Application of Nearburg Exploration Company, L.L.C. for Approval of Two Non-Standard 160-Acre Gas Spacing and Proration Units, Lea County, New Mexico.*)

Raptor also responds to Nearburg's August 13, 2002 Motion To Consolidate For Hearing The Re-Opened Portions of Case 12908 With Case 12622 (De Novo).

In addition, Raptor is advised that Redrock Operating Ltd. intends to file a motion in Case No. 12622 and Case No. 12908 proposing to reschedule the August 30, 2002 Commission hearing pending the consolidation of Case No. 12622 and 12908.

Raptor believes that consolidation may serve to avoid a potentially duplicative hearing and would otherwise be in the interests of administrative efficiency and economy. However, immediate consolidation fails to address the previously expressed concern that the notification by publication attendant with the Division's nomenclature proceedings may be deficient in this particular circumstance. Clearly, as the interests of other parties are affected and because the effort to revise the pool boundaries of the affected pools was derived from a finding contained in Order No. R-11768, a contested case, it can readily be said that what would otherwise have been a generic nomenclature rulemaking proceeding has been transformed into an adjudicatory matter.

In view of the prior dictates to the agency in *Johnson v. New Mexico Oil Conservation Commission*, 127 NM 120 (1999) and *Uhden v. New Mexico Oil Conservation Comm'n.*, 112 N.M. 528 (1991), caution is indicated before consolidation is undertaken in this circumstance.

Redrock's proposal to reschedule any hearing in this matter is appropriate and will allow Nearburg the opportunity to address the sufficiency of existing notification or the need for additional notification by way of further briefing to the Division and the parties.

Respectfully submitted



J. Scott Hall, Esq.
Miller, Stratvert & Torgerson, P.A.
Post Office Box 1986
Santa Fe, New Mexico 87504
(505) 989-9614
(505) 989-9857
Attorneys for Raptor Natural Pipeline, L.L.C.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading was transmitted by facsimile or hand delivered this 21st day of August 2002, as follows:

Michael E. Stogner, Hearing Examiner
David Brooks, Esq.
Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505
Fax: 505-476-3462
Attorney for the Division

William F. Carr, Esq.
P. O. Box 2208
Santa Fe, New Mexico 87504
Fax: 505-983-6043
Attorney for Nearburg Exploration Company, LLC

W. Thomas Kellahin, Esq.
Kellahin & Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504-2265
Attorneys for Redrock Operating Ltd. Company



J. Scott Hall