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JASON KELLAHIN (RETIRED 1991)

August 9, 2002

HAND DELIVERED

Ms. Lori Wrotenbery, Director
Oil Conservation Division
1220 S. Saint Francis Drive
Santa Fe, New Mexico 87505

Re: **NMOCD Case 12908**
Division Nomenclature Case
August 1, 2002

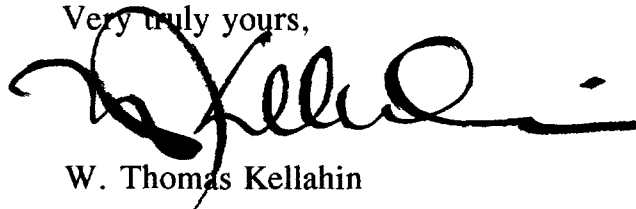
NMOCD CASE 12622 (De Novo)
Nearburg Exploration Company, L.L.C.
Application for Approval of Two Non-Standard 160-acre
Gas Proration and Spacing Units
NE/4 and SE/4, Section 34, T21S, R34E, NMPM,
East Grama Ridge-Morrow Gas Pool, Lea County, New Mexico

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OIL CONSERVATION DIV

Ms. Wrotenbery:

On behalf of Redrock Operating Ltd. Co. ("Redrock") and Raptor Natural Pipeline, LLC ("Raptor") please find enclosed our motion to dismiss or in the alternative reopen a portion of Case 12908 heard on August 1, 2001.

Very truly yours,



W. Thomas Kellahin

cfx: Michael E. Stogner, Hearing Examiner
David Brooks, Esq., OCD Attorney
Chris Williams, Supervisor (OCD-Hobbs)
J. Scott Hall, Esq.
Attorney for Raptor Natural Pipeline, LLC
William F. Carr, Esq.
Attorney for Nearburg Exploration Company, L.L.C.
Redrock Operating Ltd. Co.
Attn: Tim Cashon

**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**

**JOINT MOTION BY
REDROCK OPERATING LTD, CO.
AND
RAPTOR NATURAL PIPELINE L.L.C.
TO DISMISS, IN PART, CASE 12908
OR IN THE ALTERNATIVE TO RE-OPEN THE CASE**

Comes now Redrock Operating Ltd, Co. ("Redrock"), through its attorneys, Kellahin & Kellahin, and Raptor Natural Pipeline L.L.C., ("Raptor"), and move the New Mexico Oil Conservation Division to enter its order dismissing, or in the alternative, to reopen the following portion of Case 12908:

NOMENCLATURE

"(bb) CONTRACT the East Grama Ridge-Morrow Pool (Pool Code 77690) in Lea County, New Mexico include:

Township 22 South, Range 34 East, NMPM

Section 34: E/2

"(cc) EXTEND the Grama Ridge-Morrow Pool (Pool Code 77680) in Lea County,

New Mexico include:

Township 22 South, Range 34 East, NMPM

Section 34: E/2"

and as grounds therefore, Red Rock and Raptor state:

BACKGROUND

(1) On August 1, 2002, the Division held a hearing on the referenced case which was presented without notice to the operators in the affected pools, without the presentation of any evidence to support these proposed changes and without regard to the fact these proposed changes affect Case 12622 (DeNovo) currently pending a hearing before the New Mexico Oil Conservation Commission ("Commission") On August 30, 2002.

(2) These proposed changes were made at the request of Mr. Paul Kautz, district geologist for the Hobbs Office of the Division through the Division's nomenclature process.

(3) Mr. Kautz took this action based upon the **exparte** request of Nearburg Exploration Company, L.L.C., ("Nearburg"), the losing party appearing before the Division in Case 12622.

(4) Case 12622 is Nearburg's application seeking approval by the Division to subdivide the E/2 of Section 34 to create two non-standard 160-acre gas proration and spacing units as follows:

(a) for Nearburg's Grama Ridge "34" State Well No. 1 ("Nearburg Well") located 1548 feet from the North line and 990 feet from the East line (Unit H) of Section 34 a unit consisting of the NE/4 of Section 34, T21S R34E for production from the Grama Ridge Morrow Gas Pool; and

(b) for EOG Resources, Inc.'s Llano "34" State Com Well No. 1 ("EOG Well") located 1650 feet from the South line and 660 feet from the East line (Unit I) of Section 34 a unit consisting of the SE/4 of Section 34, T21S R34E for production from the Grama Ridge Morrow Gas Pool.

(5) Redrock is a 10% overriding royalty owner ("ORR") in the S/2 of Section 34 and would own a 5% ORR in the Nearburg well if the E/2 of Section 34 is dedicated to the Nearburg well. If Nearburg's application is granted then Redrock would be excluded from

an ORR in the Nearburg well.

(6) Raptor is the operator of the natural gas storage unit area that includes Section 34, among other lands.

(7) Order R-3006 dated December 3, 1965 created the Grama Ridge morrow Gas Pool and adopted 640-acre spacing. Order R-3080 dated July 1, 1966 extended the pool to cover all of Section 34.

(8) The vertical limits of the pool currently include all of the Morrow formations and have been administered by the Division as a single common source of supply ("reservoir").

(9) Order R-4491 dated March 16, 1973, authorized the injection of gas for storage into specific intervals in the Grama Ridge Morrow Gas Pool in two wells, one being the Grama Ridge Morrow Unit Well No 2 in Unit L of Section 34.

(10) Order R-5995 dated May 2, 1979, OCD found that the Grama Ridge Morrow Gas Pool is within an upthrust fault block bounded to the west by a NE-SW trending fault and on the east by a North-South trending fault. The Division further found that 320-acre stand-up spacing units were more appropriate for draining the pool.

(11) On May 2, 1979, the OCD also approved an amended acreage dedication plat which dedicated the W/2 of Section 34 to the Grama Ridge Unit #2 well

(12) By Order R-6050 dated July 17, 1979, the OCD created the East Grama Ridge Morrow Gas Pool on statewide 320-acre spacing said unit consisting of the E/2 of Section 34.

(13) On October 10, 1979, the "EOG Well" (originally drilled by Minerals, Inc. and now operated by EOG) located in Unit I (NE/4 SE/4) was completed in the East Grama Ridge Morrow Gas Pool and established the E/2 of Section 34 as the unit dedicated to the well. For some 20 years production from the well in the SE/4 was shared with the owners in the NE/4.

(14) On June 9, 2000, Nearburg completed its Grama Ridge East 34 State Well No. 1 in Unit H of Section 34 and attempted to dedicate the N/2 of Section 34 to the well instead of dedicating the 320-acre gas proration and spacing unit (GPU") consisting of the E/2 of Section 34 established by the EOG well located in the SE/4 of Section 34. The Division's Hobbs district office rejected Nearburg's proposed N/2 designation for the reason that the NE/4 is included in the East Grama Ridge Morrow Pool while the NW/4 is within the separate Grama Ridge Morrow pool. Subsequently, Nearburg sought Division approval to create a non-standard unit consisting of only the NE/4 of Section 34 for its well.

(15) On May 22, 2002, the Division entered Order R-11768 and denied Nearburg's application.

(16) On June 18, 2002, Nearburg filed an application for a De Novo hearing in Case 12622 which is currently sent for hearing before the Commission on August 30, 2002.

POINTS AND AUTHORITIES

On August 1, 2002, the Division held a hearing on the referenced case which was presented without notice to the operators in the affected pools, without the presentation of any evidence to support these proposed changes and without regard to the fact these proposed changes affect Case 12622 (DeNovo) currently pending a hearing before the Commission.

The Division order must be based upon substantial evidence. **See Fasken v. Commission**, 87 NM 292 (1975). In this case not only is there "no substantial evidence", there was no evidence submitted at all at the hearing is justify a change.

The New Mexico Supreme Court has told the Division it must give "reasonable notice" to individuals or entities if an application may affect property interests of the individual or entities. **See Johnson v. New Mexico Oil Conservation Commission**, 127 NM 120 (1999). The affect of this nomenclature case is to conclude that the gas storage unit in the W/2 and E/2 of Section 34 is now part of the same pool (common source of supply) despite decades of evidence and Division findings that the E/2 of Section 34 is separated from the W/2 of Section 34 and is not in the same pool. Such action, if approved, will adversely affect Raptor. In addition, this action, if approved, will create the opportunity for Nearburg to dedicate the N/2 of Section 34 to its Grama Ridge East "34" State Well No. 1 despite the finding contained in Order R-11768 which demonstrates the well is draining the SE/4 of Section 34 in which Redrock holds an interest.

The Division's action in docketing and hearing this nomenclature case brought at the request of Nearburg without actual notice to Redrock and Raptor denies Redrock and

Raptor due process. See *Uhden v. New Mexico Oil Conservation Comm'n*, 112 N.M. 528 (1991). See, also, 19 NMAC 15.1207.A(2). Moreover, Nearburg's surreptitious attempt to obtain administrative approval to revise the boundaries of the two pools constitutes an impermissible collateral attack on the Division's findings in Order Nos. R-5995, R-6050 and R-11611.

The Division has not yet entered an order in Case No. 12980. Accordingly, no harm will result and Nearburg will not be prejudiced if the Division grants this Motion. On the other hand, both Redrock and Raptor will suffer prejudice if this motion is not granted and the Division proceeds to issue an order revising the boundaries of the pools.

On August 9, 2002, counsel for Redrock contacted William F. Carr, Esq., attorney for Nearburg in Commission Case 12622 (De Novo) who declined to concur.

Wherefore, Redrock and Raptor request that the Division either reopen Case 12908 or, in the alternative, dismiss that portion dealing with the expansion of the Grama Ridge-Morrow Gas Pool and the contraction of the East Grama Ridge-Morrow Gas Pool.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading was transmitted by facsimile or hand delivered this 9th day of August 2002, as follows:

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