



STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING
GOVERNOR

ANITA LOCKWOOD
CABINET SECRETARY

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October 19, 1993

HINKLE, COX, EATON,
COFFIELD & HENSLEY
Attorneys at Law
P. O. Box 2068
Santa Fe, New Mexico 87501

RE: CASE NO. 10823
ORDER NO. R-9992

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

Sally E. Martinez
Sally E. Martinez
Administrative Secretary

cc: BLM - Carlsbad
Steve Keene
Ernest Carroll

Nearburg Producing Company

Exploration and Production
3300 North "A" Street
Suite 8100
Midland, Texas 79705
915/686-8235
Fax: 915/686 7806

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 23, 1993

Ms. Janet Richardson
Yates Petroleum Corporation
105 South Fourth Street
Artesia, New Mexico 88210

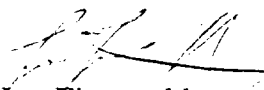
Re: Big Walt State 2 #2 Well
Eddy County, New Mexico
M-H Area

Dear Janet:

Pursuant to New Mexico Oil Conservation Division's Order #R-9964, Nearburg Producing Company hereby requests your joining the drilling of the Big Walt State 2 #2 well. Enclosed is Nearburg Producing Company's AFE covering the subject well located 1980' FEL and 1650' FSL of Section 2, T-22-S, R-24-E, Eddy County, New Mexico.

Should you have any questions or need any additional information, please advise.

Very truly yours,


Joe Fitzgerald
Senior Landman

JF:kg

joe-2\yatesbw2.afs

SENDER: <ul style="list-style-type: none">• Complete items 1 and/or 2 for additional services.• Complete items 3, and 4a & b.• Print your name and address on the reverse of this form so that we can return this card to you.• Attach this form to the front of the mailpiece, or on the back if space does not permit.• Write "Return Receipt Requested" on the mailpiece below the article number.• The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): <ul style="list-style-type: none">1. <input type="checkbox"/> Addressee's Address2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: MS JANET RICHARDSON YATES PETROLEUM CORPORATION 105 SOUTH FOURTH STREET ARTESIA, NM 88210		4a. Article Number P 804 675 856	
4b. Service Type <ul style="list-style-type: none"><input type="checkbox"/> Registered<input type="checkbox"/> Insured<input type="checkbox"/> Certified<input type="checkbox"/> Express Mail<input type="checkbox"/> Return Receipt for Merchandise		7. Date of Delivery SEP 24 1993	

Big Walt State 2 #2

Thank you for using Return Receipt Service.

Nearburg Producing Company

Page 1 of 2

Exploration and Production

Dallas, Texas

AUTHORITY FOR EXPENDITURE

LEASE: Big Walt State 2

WELL NUMBER: 2

PROPOSED TOTAL DEPTH: 8,100'

LOCATION: 1980' FEL & 1650' FSL, Section 2, T22S, R24E, Eddy County, New Mexico

FIELD: Indian Basin Upper Penn Assoc.

PROSPECT: Big Walt

EXPLORATORY, DEVELOPMENT, WORKOVER: D

DESCRIPTION OF WORK: Drill and complete as a pumping Cisco/Canyon oil producer.

DATE PREPARED: 9/23/93

EST. SPUD DATE: OOB 12/31/93

EST. COMPLETION DATE: 2/15/94

ACCOUNTING WELL NUMBER: 535036

COMMUNICATIONS ACCOUNT NUMBER: 5036

<u>INTANGIBLE COSTS:</u>	CODE	TO CSG PT	CODE	COMPLETION	TOTAL WELL
Drilling Footage 8,100 Ft @ 18.00 \$/Ft	1514.101	145,800	NA		145,800
Drilling Daywork D/C\$/day 3 2 4500	1514.105	13,500	1515.105	9,000	22,500
Drilling Turnkey	1514.110		1515.110		0
Rig Mobilization and Demobilization	1514.115		1515.115		0
Road & Location Expense	1514.120	50,000	1515.123	1,000	51,000
Damages	1514.125	5,000	1515.125		5,000
Directional Drilling - Tools and Service	1514.130		1515.130		0
Drilling Fluids	1514.135	16,000	NA		16,000
Fuel, Power, and Water	1514.140	12,000	1515.140	1,500	13,500
Supplies - Bits	1514.145		1515.145	750	750
Supplies - Casing Equipment	1514.150	1,200	1515.150	4,600	5,800
Supplies - Liner Equipment	1514.155		1515.155		0
Supplies - Miscellaneous	1514.160	500	1515.160	500	1,000
Cement and Cmt. Services - Surface Csg	1514.165	12,000	NA		12,000
Cement and Cmt. Services - Int. Csg	1514.170		NA		0
Cement and Cmt. Services - Prod. Csg	NA		1515.172	20,000	20,000
Cement and Cmt. Services - Other	1514.175		1515.175		0
Rental - Drilling Tools and Equipment	1514.180	500	1515.180	1,000	1,500
Rental - Miscellaneous	1514.185	4,000	1515.185	1,000	5,000
Testing - Drill Stem / Production	1514.195	9,000	1515.195		9,000
Open Hole Logging	1514.200	25,000	NA		25,000
Mudlogging Services	1514.210	7,500	NA		7,500
Special Services	1514.190		1515.190		0
Plug and Abandon	1514.215	10,000	1515.215	(10,000)	0
Pulling and/or Swabbing Unit	NA		1515.217	12,000	12,000
Reverse Equipment	NA		1515.219	1,100	1,100
Wireline Services	1514.205		1515.205	5,000	5,000
Stimulation	NA		1515.221	20,000	20,000
Pump / Vacuum Truck Services	1514.220	1,000	1515.220	1,000	2,000
Transportation	1514.225	1,500	1515.225	2,000	3,500
Tubular Goods - Inspection & Testing	1514.230	500	1515.230	6,000	6,500
Unclassified	1514.245		1515.245		0
Telephone and Radio Expense	1514.240	1,000	1515.240	500	1,500
Engineer / Geologist	1514.250	3,150	1515.250	900	4,050
Company Labor - Field Supervision	1514.255	11,250	1515.255	4,500	15,750
Contract Labor / Roustabout	1514.265	500	1515.265	7,000	7,500
Legal and Professional Services	1514.270	5,000	1515.270	500	5,500
Insurance	1514.275	10,000	1515.275		10,000
Overhead	1514.280	5,000	1515.280	2,000	7,000
SUBTOTAL		350,900		91,850	442,750
Contingencies (10%)		35,090		9,185	44,275
ESTIMATED TOTAL INTANGIBLES		385,990		101,035	487,025

Nearburg Producing Company
Exploration and Production
Dallas, Texas

AUTHORITY FOR EXPENDITURE

LEASE: Big Walt State 2 WELL NUMBER: 2 PROPOSED TOTAL DEPTH: 8,100'
LOCATION: 1980' FEL & 1650' FSL, Section 2, T22S, R24E, Eddy County, New Mexico
FIELD: Indian Basin Upper Penn Assoc. PROSPECT: Big Walt EXPLORATORY, DEVELOPMENT, WORKOVER: D
DESCRIPTION OF WORK: Drill and complete as a pumping Cisco/Canyon oil producer.

DATE PREPARED: 9/23/93 EST. SPUD DATE: OOB 12/31/93 EST. COMPLETION DATE: 2/15/94
ACCOUNTING WELL NUMBER: 535036
COMMUNICATIONS ACCOUNT NUMBER: 5036

TANGIBLE COSTS:	CODE	TO CSG PT	CODE	COMPLETION	TOTAL WELL
Conductor Casing	1522.305		NA		0
Surface Csg 1,300 Ft @ 17.41 \$/Ft	1522.310	22,633	NA		22,633
Intermediate Csg Ft @ \$/Ft	1522.315	0	NA		0
Protection Csg	1522.320	0	NA		
Production Csg 8,100 Ft @ 12.50 \$/Ft	NA		1522.325	101,250	101,250
Protection Liner	1522.330		NA		
Production Liner	NA		1522.335		
Tubing 8,000 Ft @ 3.10 \$/Ft	NA		1522.340	24,800	24,800
Rods Ft @ \$/Ft	NA		1522.345	0	0
Artificial Lift Equipment	NA		1522.350	80,000	80,000
Tank Battery	NA		1522.355	15,000	15,000
Separators/Heater Treater/Gas Units/FWKO	NA		1522.360	10,000	10,000
Well Head Equipment & Christmas Tree	1522.365	1,500	1522.365	10,500	12,000
Subsurface Well Equipment	NA		1522.370		0
Flow Lines	NA		1522.375	7,500	7,500
Saltwater Disposal Pump	NA		1522.381		0
Gas Meter	NA		1522.385	3,000	3,000
Lact Unit	NA		1522.387		0
Vapor Recovery Unit	NA		1522.389		0
Other Well Equipment	NA		1522.390		
ROW and Damages	NA		1522.393		
Surface Equipment Installation Costs	NA		1522.395	10,000	10,000
Elect. Installation	NA		1522.397	25,000	25,000
ESTIMATED TOTAL TANGIBLES		24,133		287,050	311,183
ESTIMATED TOTAL WELL COSTS		410,123		388,085	798,208

APPROVAL OF THIS AFE CONSTITUTES APPROVAL OF THE OPERATOR'S OPTION TO CHARGE THE JOINT ACCOUNT WITH TUBULAR GOODS FROM OPERATOR'S WAREHOUSE STOCK AT THE RATES STATED ABOVE, OR LESS, UNLESS THE NON-OPERATOR GIVES NOTIFICATION ON THIS FORM OF HIS INTENT TO FURNISH HIS PROPORTIONATE SHARE IN KIND. THIS AFE IS ONLY AN ESTIMATE. BY SIGNING YOU AGREE TO PAY YOUR SHARE OF THE ACTUAL COSTS INCURRED.

NPC APPROVAL	DATE
PREPARED BY: ESK/TRM	9/23/93
REVIEWED BY: TRM	9/23/93
APPROVED BY:	

WI APPROVAL: COMPANY _____
BY _____
TITLE _____
DATE _____

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

218 MONTEZUMA

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*NOT LICENSED IN NEW MEXICO

September 28, 1993

Robert G. Stovall, Esq.
Oil Conservation Division
310 Old Santa Fe Trail
Santa Fe, New Mexico 87503

David Catanach
Oil Conservation Division
310 Old Santa Fe Trail
Santa Fe, New Mexico 87503

Gentlemen:

Re: Case No. 10,823 (Nearburg Producing Company).

During closing argument in the above case, I stated that Nearburg's application should be granted because the standup $W\frac{1}{2}$ unit would include all productive acreage in the section, and that to the extent possible a spacing and proration unit should not contain unproductive acreage. This statement appeared to be greeted with skepticism, and as a result I am submitting this letter supporting Nearburg's application.

N.M. Stat. Ann. (1987 Repl.) § 70-2-17(B) provides that "The division may establish a proration unit for each pool, such being the area that can be efficiently and economically drained and developed by one well . . ." Our interpretation of this language is that it requires well units, to the extent possible, to contain only productive acreage. This position is supported by the case law. In *Cameron v. Corporation Commission*, 418 P.2d 932 (Okla. 1966), the court stated that the commission has no authority to

JGB5\93H43.c

Messrs. Stovall and
Catanach
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establish a unit not overlying a common source of supply. Accord, *Traverse Oil Co. v. Chairman, Natural Resources Comm'n*, 153 Mich. App. 679, 396 N.W.2d 498 (1986). The courts do recognize that it is often difficult to determine if all acreage under a unit is productive, and thus a decision by the regulatory body will not be overturned if the unit might overlie a common source. *Panhandle Eastern Pipe Line Co. v. Corporation Commission*, 285 P.2d 847 (Okla. 1955). In the present situation, both Nearburg's and Yates' geologists agreed that the W½ of Section 10 was productive. This is the basis for Nearburg's pooling request.

Very truly yours,

HINKLE, COX, EATON, COFFIELD
& HENSLEY


James Bruce

c: Robert Shelton
Ernest L. Carroll, Esq.

VIA HAND DELIVERY

NEW MEXICO OIL CONSERVATION DIVISION
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October 4, 1993

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Robert Stovall, Esq.
Mr. David Catanach, Hearing Examiner
New Mexico Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87501

Re: Case No. 10,823; Nearburg Producing Company's
Application for Compulsory Pooling

Gentlemen:

I am in receipt of a copy of Mr. Bruce's September 28, 1993, communication to you concerning the referenced case. I am somewhat confused as to Mr. Bruce's intended purpose in submitting that letter, and therefore am uncertain as to how to treat it with respect to the role it plays concerning the referenced application. If it is to be considered as legal argument, I would contend that, without such legal argument being requested or ordered by the Examiner, it is inappropriate for consideration at this time. If it is merely unsolicited conversation concerning a topic of interest, though not controlling in the referenced case, I am responding in like manner. Whatever the case, I ask that this response be given the same effect as Mr. Bruce's letter.

Mr. Bruce's arguments are incorrect. Mr. Bruce begins his statement by turning to Section 70-2-17(B) NMSA (1978 Repl.) and concludes that this language requires well units to the extent possible to contain only productive acreage. He then cites several cases. The language cited by Mr. Bruce has nothing to do with compulsory pooling. In fact, that provision deals exclusively with the Commission having the power to set proration unit size for the various pools within the State. Section 70-2-17(C), which is the compulsory pooling statute, is applicable only after the Commission has determined the proration unit size for a particular pool. Mr. Bruce's interpretation of paragraph (B) language to require well units to the extent possible to contain only productive language is made out of whole cloth, and not supported by any language in Section 70-2-17.

Mr. Stovall/Mr. Catanach
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The source of the problem with Mr. Bruce's analysis is his use of the language "unproductive acreage". Nowhere in our statute is that language found. Nor, when you look at Cameron vs. Corporation Commission, 418 P.2d 932 (Okla. 1966), the case cited by Mr. Bruce, do you find that language used. Upon examining that case, it is found that that appeal:

...involves well spacing by this State's Corporation Commission of an alleged common source of natural gas and gas condensate, supply in a 2,720-acre area of Comanche, Grady and Stevens Counties at and in the vicinity of the point where these three counties join each other not far from the towns of Marlow and Sterling...

The matter came before the Corporation Commission, (hereinafter referred to merely as the Commission) upon an application filed therein in September, 1963 by the defendant in error,... he therein prayed the Commission to designate as 160-acre well spacing units in the area indicated on the plat...and the controlling question in his present appeal from the Commission's order granting Milford's application and purporting to create 160-acre well spacing units under the entire area is whether or not said order can stand on the basis of the evidence and the law applicable to such cases.

As one can see from the quoted material, Mr. Bruce's citation of this case is totally inappropriate, for it does not even remotely deal with any issue presented by Nearburg's application. Again, the problem is that Mr. Bruce is taking the word "pool", which is used synonymously with the phrase "common source of supply" (Section 70-2-33(B) NMSA (1978)) as used in determining applicable spacing rules and is interpreting that to mean productive acreage. That is not the law in New Mexico, nor the interpretation the Oklahoma Supreme Court has given their similar statute. In Panhandle Eastern Pipeline Company v. Corporation Commission, 285 P.2d 847 (Okla. 1955), the other case cited by Mr. Bruce, the issue there was likewise the creation of 640-acre spacing units in a area of 16,000 acres of land near the Kansas-Oklahoma line. Here, the only thing the Oklahoma Supreme Court referred to

...which might be termed a "productive acreage" determination is the Commission's finding of an order that each 640-acre unit shall be allowed one producing well (which, as we have seen, is supported by evidence that each well will drain that large an area) and that each owner in the unit shall participate in its production

Mr. Stovall/Mr. Catanach
October 4, 1993
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in the same ratio as his acreage bears to the acreage of the whole unit. Such a formula of participation is a reasonable and logical one (if perhaps not the most complete or accurate one that may be used when more subsurface information becomes available) and the orders in this case, like the well spacing Act, therefore cannot be said to be invalid or unconstitutional on the ground that said formula bears no reasonable relation to the purpose of protecting correlative rights - a purpose which is no longer open to dispute as a constitutional ground for the exercise of the state's police power.

The bottom line is that the statute referred to by Mr. Bruce imposes no obligation upon the division or commission to only force pool productive acreage, nor do the cases cited by Mr. Bruce even remotely deal with the issue of the relationship of unproductive or productive acreage to a forced pooling application.

I must also take issue with the Mr. Bruce's last statement, wherein he commented: "In the present situation, both Nearburg's and Yates' geologists agreed that the W 1/2 of Section 10 was productive." First of all, there is no current production from Section 10. Yates' geologist, Brent May, testified that all of Section 10 was prospective for production, and that the determinative factor was going to be the actual location of the oil/water contact point which no one knows for sure of until further drilling is accomplished in the area.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.



Ernest L. Carroll

ELC:kth

xc: Randy Patterson
Brent May