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STATE OF NEW MEXICO
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

NEW MEXICO
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

EXHIBIT 11

CASE NO. 10823

CASE NO. 10747
Order No. R-9933

APPLICATION OF NEARBURG PRODUCING
COMPANY FOR SALT WATER DISPOSAL,
EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 17 and July 15, 1993, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 9th day of August, 1993, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Nearburg Producing Company, seeks authority to utilize its M. H. Federal Well No. 1-1N located 660 feet from the South line and 1650 feet from the West line (Unit N) of Section 1, Township 22 South, Range 24 East, NMPM, Eddy County, New Mexico, to dispose of produced salt water into the Cisco-Canyon formation through the perforated interval from approximately 8,219 feet to 8,380 feet.

(3) Division records indicate that the subject well was originally drilled by Morris R. Antweil in 1979 to a total depth of 7,952 feet. The well was subsequently plugged and abandoned in March, 1979. The applicant re-entered the subject well in July, 1988 and drilled to a total depth of 10,504 feet. The well tested non-productive in several prospective horizons, including the proposed injection interval from 8,219 feet to 8,380 feet.

(4) The subject well is located approximately 2-3 miles east of the Indian Basin-Upper Pennsylvanian Gas Pool.

(5) Applicant testified that it believes that the proposed injection interval is located below the oil-water contact within the Cisco-Canyon reservoir as evidenced by the production test run on the subject interval which recovered water with no oil or gas shows.

(6) No offset operator and/or interest owner appeared at the hearing in opposition to the proposed injection.

(7) Injection should be accomplished through 2 7/8-inch plastic-lined tubing installed in a packer located at approximately 8,200 feet; the casing-tubing annulus should be filled with an inert fluid; and a pressure gauge or approved leak detection device should be attached to the annulus in order to determine leakage in the casing, tubing or packer.

(8) The subject well currently has a cast iron bridge plug set at a depth of 10,210 feet.

(9) The applicant should be required to plug back the subject well to a reasonable depth below the lowermost injection perforations prior to commencing injection operations in accordance with a procedure approved by the supervisor of the Artesia district office of the Division.

(10) Prior to commencing injection operations, the casing in the subject well should be pressure-tested throughout the interval from the surface down to the proposed packer setting depth, to assure the integrity of such casing.

(11) The injection well or system should be equipped with a pressure limiting switch or other acceptable device which will limit the surface pressure on the injection well to no more than 1644 psi.

(12) The Director of the Division should be authorized to administratively approve an increase in the injection pressure upon a proper showing by the operator that such higher pressure will not result in migration of the injected fluid from the Cisco-Canyon formation.

(13) The operator should notify the supervisor of the Artesia district office of the Division of the date and time of the installation of disposal equipment and of the conductance of the mechanical integrity pressure test in order that the same may be witnessed.

(14) The operator should take all steps necessary to ensure that the injected water enters only the proposed injection interval and is not permitted to escape to other formations or onto the surface.

(15) Approval of the subject application will prevent the drilling of unnecessary wells and otherwise prevent waste and protect correlative rights.

(16) The injection authority granted herein should terminate one year after the effective date of this order if the applicant has not commenced injection operations into the subject well, provided however, the Division, upon written request by the applicant, may grant an extension thereof for good cause shown.

IT IS THEREFORE ORDERED THAT:

(1) The applicant, Nearburg Producing Company, is hereby authorized to utilize its M. H. Federal Well No. 1-1N located 660 feet from the South line and 1650 feet from the West line (Unit N) of Section 1, Township 22 South, Range 24 East, NMPM, Eddy County, New Mexico, to dispose of produced salt water into the Cisco-Canyon formation through the perforated interval from approximately 8,219 feet to 8,380 feet.

(2) Injection shall be accomplished through 2 7/8-inch plastic-lined tubing installed in a packer set at approximately 8,200 feet; the casing-tubing annulus shall be filled with an inert fluid and a pressure gauge or approved leak detection device shall be attached to the annulus in order to determine leakage in the casing, tubing or packer.

(3) The applicant shall plug back the subject well to a reasonable depth below the lowermost injection perforations prior to commencing injection operations in accordance with a procedure approved by the supervisor of the Artesia district office of the Division.

(4) Prior to commencing injection operations, the casing in the subject well shall be pressure-tested throughout the interval from the surface down to the proposed packer setting depth, to assure the integrity of such casing.

(5) The injection well or system shall be equipped with a pressure limiting switch or other acceptable device which will limit the surface pressure on the injection well to no more than 1644 psi.

(6) The Director of the Division shall be authorized to administratively approve an increase in the injection pressure upon a proper showing by the operator that such higher pressure will not result in migration of the injected fluid from the Cisco-Canyon formation.

(7) The operator shall notify the supervisor of the Artesia district office of the Division of the date and time of the installation of disposal equipment and of the conductance of the mechanical integrity pressure test in order that the same may be witnessed.

(8) The operator shall take all steps necessary to ensure that the injected water enters only the proposed injection interval and is not permitted to escape to other formations or onto the surface.

(9) The operator shall immediately notify the supervisor of the Division's Artesia district office of the failure of the tubing, casing, or packer in said well or the leakage of water from or around said well and shall take such steps as may be timely and necessary to correct such failure or leakage.

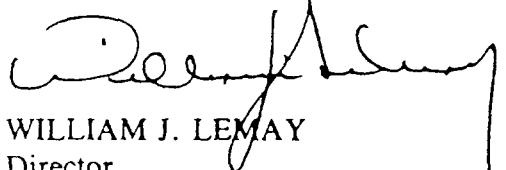
(10) The applicant shall conduct disposal operations and submit monthly reports in accordance with Rules 702 through 706, 708 and 1120 of the Division Rules and Regulations.

(11) The injection authority granted herein shall terminate one year after the effective date of this order if the applicant has not commenced injection operations into the subject well, provided however, the Division, upon written request by the applicant, may grant an extension thereof for good cause shown.

(12) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY
Director

S E A L

09/02/93 15:16

505 397 3998

NEARBURG PROD CO --- NPC Midland

003

09/02/93 15:15

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NEARBURG PROD CO --- NPC Midland

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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Carlsbad Resource Area Headquarters

P.O. Box 1778

Carlsbad, New Mexico 88221-1778

TAKE
PRIDE IN
AMERICA

2800(067)dh
NM-90793(NE)

NEW MEXICO OIL CONSERVATION DIVISION

SEP 02 1993

EXHIBIT 12CASE NO 10823

DECISION

Nearburg Producing Company
Right-of-Way Department
3300 North "A" Street, Suite 8100
Midland, TX 79705

Right-of-Way
NM-90793
M-H Federal 1N No.1 SWD Well,
Access Road and Pipeline

Right-of-Way Amendment Approved

At the August 26, 1993, meeting between BLM and Nearburg Producing Company a request to authorize right-of-way NM-90793 (M-H Federal 1N No.1 SWD Well, Access Road and Pipeline) in two actions was considered and accepted. The state lease access road portion was granted August 27, 1993.

The modification is the addition of the Federal lease access road (4.596 miles), the SWD pipeline (0.350 miles), and the M-H Federal "1N" No.1 SWD well site (4 acres requested, actual site is 200 feet by 300 feet, 1.377 acres).

The new legal land description is:

T. 21 S., R. 24 E., NMPM

Section 25: SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Section 26: NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Section 35: Lots 2, 3, & 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$.

T. 21 S., R. 25 E., NMPM

Section 09: SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Section 16: W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;

Section 20: E $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Section 21: NW $\frac{1}{4}$ NW $\frac{1}{4}$;

Section 29: W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Section 30: SE $\frac{1}{4}$ SE $\frac{1}{4}$;

T. 22 S., R. 24 E., NMPM

Section 01:

EXHIBIT A.2
August 27, 1993

BLM Serial Number: NM-90793
Company Reference: Nearburg Prod.
M H 1-N Federal No. 1 SWD Line

SURFACE INSTALLED PIPELINE STIPULATIONS FOR THE ROSWELL DISTRICT, BLM

The holder agrees to comply with the following stipulations to the satisfaction of the Authorized Officer, BLM.

1. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant.
2. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, *et. seq.*) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized by this grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
3. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et. seq.* or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et. seq.*) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
4. The holder shall be liable for damage or injury to the United States to the extent provided by 43 CFR Sec.2803.1-4. The holder shall be held to a standard of strict liability for damage or injury to the United States resulting from fire or soil movement (including landslides and slumps as well as wind and water caused movement of particles) caused or substantially aggravated by any of the following within the right-of-way or permit area:

A. Activities of the holder, including but not limited to, construction, operation, maintenance, and termination of the facility.

Exhibit A.2
NM-90793

B. Activities of other parties including but not limited to:

- (1). Land clearing.
- (2). Earth-disturbing and earth-moving work.
- (3). Blasting.
- (4). Vandalism and sabotage.

C. Acts of God.

The maximum limitation for such strict liability damages shall not exceed one million dollars (\$1,000,000) for any one event and any liability in excess of such amount shall be determined by the ordinary rules of negligence of the jurisdiction of in which the damage of injury occurred.

This section shall not impose strict liability for damage or injury resulting primarily from the negligent acts of the United States.

5. If, during any phase of the construction, operation, maintenance, or termination of the pipeline or related facilities, any oil, brine, or other pollutant should be discharged from the pipeline or from containers or vehicles impacting Federal lands, the control and total removal, disposal, and cleanup of such oil, brine, or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the Authorized Officer may take such measures as deemed necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the holder. Such action by the Authorized Officer shall not relieve the holder of any liability or responsibility.

6. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized right-of-way width of 30 feet.

7. No blading or clearing of any vegetation will be allowed unless approved in writing by the Authorized Officer.

8. The holder shall install the pipeline on the surface in such a manner that will minimize suspension of the pipeline across low areas in the terrain. In hummocky or dune areas, the pipeline will be "snaked" around hummocks and dunes rather than suspended across these features.

9. The pipeline shall be buried a minimum of 32 inches under all roads, including "two-tracks" and trails. Burial will continue for 20 feet on each side of each crossing. The condition of the road, upon completion of the construction, shall be returned to at least its former state, with no bumps, dips, or soft spots remaining in the road surface.

Exhibit A.2
NM-90793

10. The holder shall minimize disturbance to existing fences and other improvements on public lands. The holder is required to promptly repair impacted improvements to at least their former state. The holder shall contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence will be braced on both sides of the passageway prior to cutting of the fence. No permanent gates will be allowed unless approved by the Authorized Officer.

11. In those areas where erosion control structures are required to stabilize soil conditions, the holder shall install such structures as are suitable for the specific soil conditions being encountered and which are in accordance with sound management practices. Any earth work will require prior approval by the Authorized Officer.

12. Excluding the pipe, all above-ground structures not subject to safety requirements shall be painted by the holder to blend with the natural color of the landscape. The paint used shall be a color which simulates "Standard Environmental Colors" designated by the Rocky Mountain Five-State Interagency Committee. The color selected for this project is Carlsbad Canyon (formerly sandstone brown), Munsell Soil Color Chart Number 2.5Y 6/2.

13. The holder shall post signs designating the BLM serial number, NM-90793, assigned to this right-of-way grant at the following locations: the points of origin and completion, or entry to and exit from public lands, of the right-of-way and at all major road crossings. These signs will be posted in a permanent, conspicuous manner, and will be maintained in a legible condition for the term of the right-of-way.

14. The holder shall not use the right-of-way as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in consultation with the holder. The holder shall take whatever steps are necessary to ensure that the right-of-way is not used as a roadway.

15. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on the holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

Exhibit A.2
NM-90793

16. Special Stipulations:

A. For protection against flooding, the pipeline will be buried at least 48 inches below the natural surface to the top of the pipe through all stream channels where soil depth permits. In stream channels where the soil is bed rock, the pipe will be buried to a depth of one foot.

B. The BLM, Carlsbad Resource Area, will be informed immediately if any subsurface drainages, channels, or voids are penetrated during construction and no further construction will be done at that point until clearance has been issued by the Authorized Officer. Special restoration stipulations or a realignment may be required at such intersections, if any.

EXHIBIT A.3
August 27, 1993

BLM Serial Number: NM-90793
Company Reference: Nearburg Producing Co.
Well Name: M H 1-N No. 1 SWD Well
Legal Description: T. 22 S., R. 24 E., NMPM
Section 1: SE $\frac{1}{4}$ SW $\frac{1}{4}$.

STANDARD STIPULATIONS FOR SALT WATER DISPOSAL SITES
IN THE ROSWELL DISTRICT, BLM

Holder agrees to comply with the following stipulations to the satisfaction of the Authorized Officer:

1. This permit is subject to all terms, conditions, and stipulations of the NMOCD approval and applicable Roswell District General Requirements for Oil and Gas Operations on Federal Leases (copy attached).
2. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant and for all response costs, penalties, damages, claims, and other costs arising from the provisions of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Chap. 82, Section 6901 *et. seq.*, from the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Chap. 109, Section 9601 *et. seq.*, and from other applicable environmental statutes.
3. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, *et. seq.*) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized by this grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
4. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et. seq.* or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et. seq.*) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

Exhibit A.3
NM-90793

5. The holder shall be liable for damage or injury to the United States to the extent provided by 43 CFR Sec. 2803.1-4. The holder shall be held to a standard of strict liability for damage or injury to the United States resulting from fire or soil movement (including landslides and slumps as well as wind and water caused movement of particles) caused or substantially aggravated by any of the following within the right-of-way or permit area:

A. Activities of the holder, including but not limited to, construction, operation, maintenance, and termination of the facility.

B. Activities of other parties including but not limited to:

- (1). Land clearing.
- (2). Earth-disturbing and earth-moving work.
- (3). Blasting.
- (4). Vandalism and sabotage.

C. Acts of God.

The maximum limitation for such strict liability damages shall not exceed one million dollars (\$1,000,000) for any one event and any liability in excess of such amount shall be determined by the ordinary rules of negligence of the jurisdiction of in which the damage or injury occurred.

This section shall not impose strict liability for damage or injury resulting primarily from the negligent acts of the United States.

6. As a guarantee of faithful performance of the provisions of this grant, the holder agrees to deliver and maintain a surety bond, or other performance security acceptable to the Authorized Officer, in the amount of twenty-five thousand dollars (\$25,000.00). Should the sureties or bonds delivered under this grant become unsatisfactory to the Bureau, the holder shall, within thirty (30) days of demand, furnish a new bond, or other acceptable security, with surety.

The holder may deposit in a Federal depository as directed by the Bureau, and maintain therein, cash in the amounts provided for above or negotiable securities of the United States having a market value at the time of deposit of not less than the dollar amounts provided for above.

7. The holder agrees to secure the prior approval of the Authorized Officer before commencing any operations such as: drilling out cement plugs, cementing operations, perforating (using explosive or hydraulic fracturing), deepening, altering or pulling a portion of the well's casing, plugging operations, or any other operation affecting the well.

Exhibit A.3

NM-90793

8. If, during any phase of the construction, operation, maintenance, or termination of the pipeline or related facilities, any oil or other pollutant should be discharged from the pipeline or from containers or vehicles impacting Federal lands, the control and total removal, disposal, and cleanup of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the Authorized Officer may take such measures as deemed necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the holder. Such action by the Authorized Officer shall not relieve the holder of any liability or responsibility.

9. The holder agrees to use the well solely for salt water disposal. No other substance—including oil, condensates, sludge, drilling fluids, other chemicals, or any toxic pollutant (as this term is defined under the Clean Water Act 40 CFR 104-149, Section 502)—shall be injected.

10. At any time deemed necessary by the Authorized Officer, earthen dikes shall be constructed and maintained around all tanks, vessels, and storage facilities. These dikes will be designed to contain at least 150 percent of the contents of the facility.

11. In those areas where erosion control structures are required to stabilize soil conditions, the holder shall install such structures as are suitable for the specific soil conditions being encountered and which are in accordance with sound management practices. Any earth work will require prior approval by the Authorized Officer.

12. All above-ground structures not subject to safety requirements shall be painted by the holder to blend with the natural color of the landscape. The paint used shall be a color which simulates "Standard Environmental Colors" designated by the Rocky Mountain Five-State Interagency Committee. The color selected for this project is Carlsbad Canyon (formerly sandstone brown), Munsell Soil Color Chart Number 2.5Y 6/2.

13. The holder shall post a sign in a permanent, conspicuous location visible from the entrance to the site. At a minimum, the sign will state the holder's name, the well name, the BLM serial number (NM-90793), and the legal location by township, range, and quarter-quarter of section. The sign will be maintained in a legible condition for the term of the right-of-way.

14. Upon cancellation, relinquishment, or expiration of this grant, the holder shall comply with those abandonment procedures, including restoration and decontamination (if necessary) of the surface and plugging of the well bore, as prescribed by the Authorized Officer.

Exhibit A.3
NM-90793

15. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on the holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

16. A sales contract for removal of mineral material (caliche, sand, gravel, fill dirt, etc.) from an authorized pit, site, or on location must be obtained from the BLM prior to commencing construction. Contact the BLM solid minerals staff for the various options to purchase mineral material.

17. Special Stipulations:

A. All above-ground structures will be of a low profile type, with a maximum height above the ground of eight feet or less.

B. The BLM, Carlsbad Resource Area, will be informed immediately if any subsurface drainages, channels, or voids are penetrated during construction and no further construction will be done at that point until clearance has been issued by the Authorized Officer. Special restoration stipulations or a realignment may be required at such intersections, if any.

EXHIBIT B.2

NM-90793

AZOTEA PEAK 75 Min. Topo. Quad.

T. 21 S., R. 25 E. Sections 9, 14, 20, 21, 29, 30

T. 22 S., R. 25 E. Section 6;

T. 22 S., R. 24 E. Section 1.

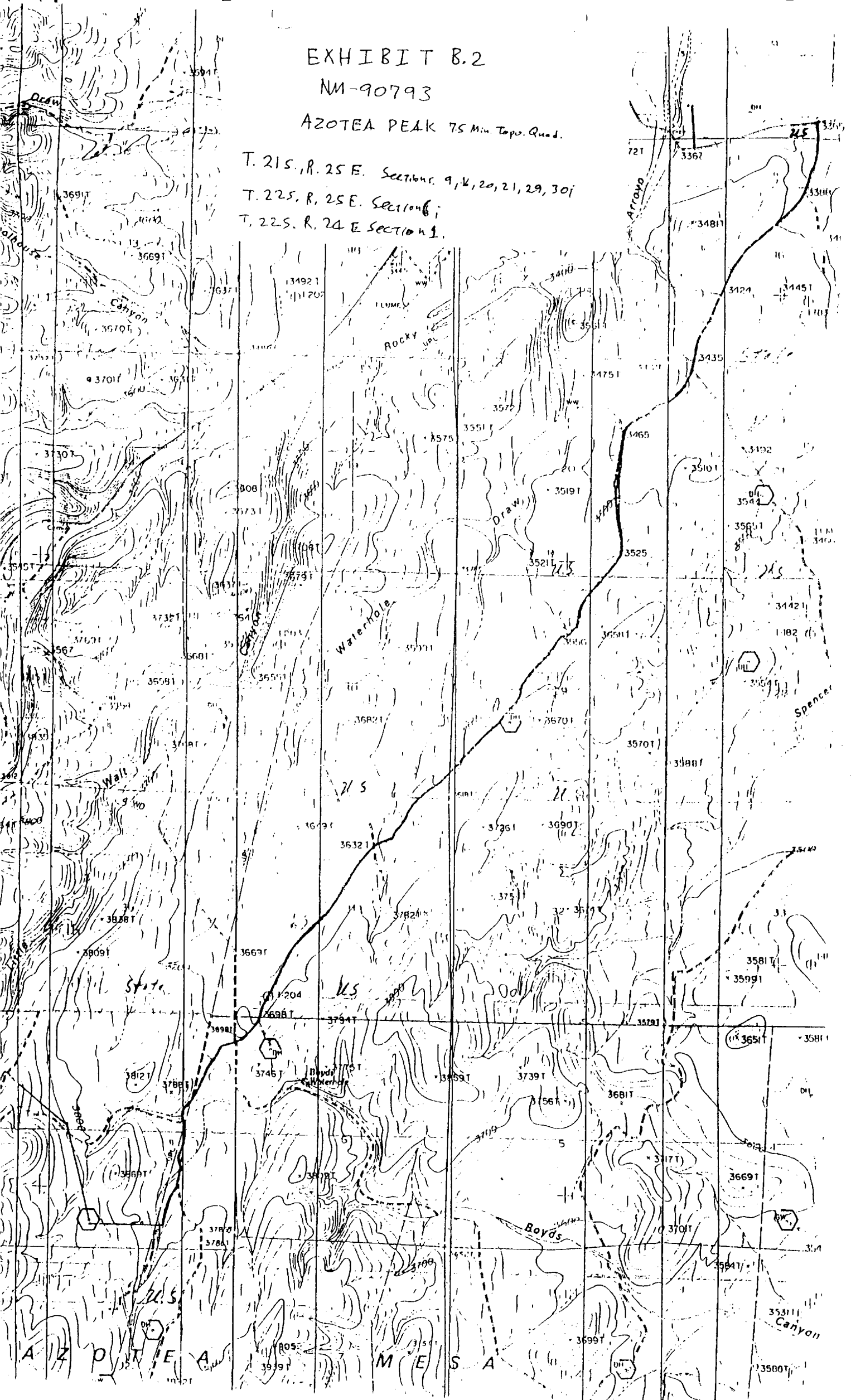


Exhibit "B"3

Attached to and made a part of that certain R-O-W APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEM AND FACILITIES ON FEDERAL LANDS, dated May 24, 1993 between Nearburg Producing Company, Applicant and the Bureau of Land Management covering lands in Sections 1 and 2, T-22-S, R-24-E, N.M.P.M., Eddy County, New Mexico.

