

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

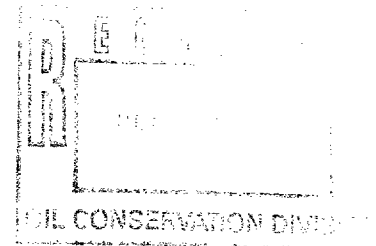
\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

December 12, 1994

HAND DELIVERED



Mr. William J. LeMay, Director  
Oil Conservation Division  
P. O. Box 6429  
Santa Fe, New Mexico 87505

Re: Request of Nearburg Exploration Company  
for Extension of Date for Commencement of  
Drilling Pursuant to Compulsory Pooling  
Order R-10191, Case 11012  
Fairchild 18 "D" State Well No. 1  
N/2 Sec 18, T19S, R26E, NMPM  
Eddy County, New Mexico

Dear Mr. LeMay:

On behalf of Nearburg Exploration Company, and in accordance with the provisions of the referenced order (copy enclosed), I am requesting a 60-day extension to the commencement date of the subject well and in support state:

(1) The order was entered effective September 21, 1994 and provides that the drilling of the subject well shall be commenced on or before December 31, 1994;

William J. LeMay  
December 12, 1994  
Page 2.

(2) The subject well is proposed to be drilled as a Strawn-Morrow test;

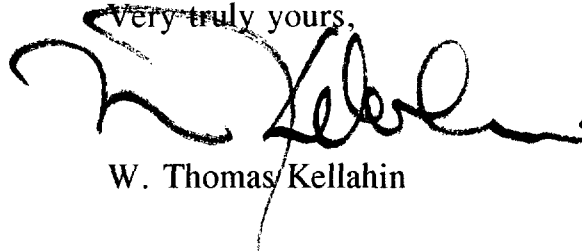
(3) Nearburg Producing Company is currently drilling its Fairchild 24 Well No. 1 in Section 24, T19S, R26E, NMPM, which is to the south-west of the subject well;

(4) Nearburg desires to await the results of the Fairchild 24 Well No. 1 before commencing to drill the subject well;

(5) The current compulsory pooling order, unless extended, will expire before Nearburg can obtain and evaluate data from the other well;

(6) An extension of the commencement date for the subject well until February 28, 1995 will provide the opportunity to obtain and evaluate that data.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over the typed name.

W. Thomas Kellahin

cc: Nearburg Exploration Company  
Attn: Bob Shelton

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. 11012  
ORDER NO. R-10191

APPLICATION OF NEARBURG EXPLORATION COMPANY FOR COMPULSORY  
POOLING AND AN UNORTHODOX GAS WELL LOCATION, EDDY COUNTY,  
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on June 23, 1994 at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 21st day of September, 1994, 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 Exploration Company, seeks an order pooling all mineral interests from the top of the Wolfcamp formation to the base of the Morrow formation underlying Lots 1 and 2, the NE/4, and E/2 NW/4 (N/2 equivalent) of Section 18, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico, thereby forming a 319.94-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated West Four Mile-Strawn Gas Pool and the Undesignated Boyd-Morrow Gas Pool and dedicating said unit to the Nearburg Producing Company's proposed Fairchild 18 "D" Well No. 1 to be drilled at an unorthodox gas well location 660 feet from the North and West lines (Unit D) of said Section 18.

(3) Nearburg Exploration Company, a company based in Dallas, Texas that is a sole proprietorship owned by Charles E. Nearburg, is listed as owning certain mineral interests in the N/2 equivalent of said Section 18 and as such has the right to drill for and develop the minerals underlying the proposed spacing unit.

(4) There are other owners of mineral interest in the proposed proration unit who have not agreed to pool their interests.

(5) At the time of the hearing the applicant, Nearburg Exploration Company, renewed its request originally sought in its application to the Division for this case to designate Nearburg Producing Company, a corporation also owned by Charles E. Nearburg that operates the various wells under which Nearburg Exploration Company is the owner, as operator of the subject well and unit.

(6) According to the testimony presented by the applicant, the primary objective for this well is the oil bearing Cisco and Canyon formations of the Upper Pennsylvanian System, which in this area is currently governed by general statewide 40-acre oil spacing. The deeper Morrow horizon is a secondary objective. Further, the proposed location is considered a standard oil well location for both the Cisco and Canyon formations; however, geologic interpretation places this well at a more favorable position within the Upper Pennsylvanian zone than the closest standard gas well location for this 319.94-acre unit 660 feet to the East.

(7) No interested or affected party to this matter appeared at the hearing in opposition to either the unorthodox location or the forced pooling provisions of this application.

(8) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in any pool resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(9) Nearburg Producing Company should be designated the operator of the subject well and unit.

(10) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(11) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(12) Any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(13) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(14) \$5664.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates) while drilling and \$560.00 per month should be fixed as a reasonable charge for supervision while producing, provided that this rate should be adjusted annually based upon the percentage increase or decrease in the average weekly earnings of crude petroleum and gas production workers; the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(15) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(16) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before December 31, 1994, the order pooling said unit should become null and void and of no further effect whatsoever.

(17) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(18) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the top of the Wolfcamp formation to the base of the Morrow formation underlying Lots 1 and 2, the NE/4, and E/2 NW/4 (N/2 equivalent) of Section 18, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a 319.94-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated West Four Mile-Strawn Gas Pool and the Undesignated Boyd-Morrow Gas Pool. Said unit is to be dedicated to the Nearburg Producing Company's proposed Fairchild 18 "D" Well No. 1 to be drilled at an unorthodox gas well location 660 feet from the North and West lines (Unit D) of said Section 18.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the thirty first day of December, 1994, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test from the top of the Wolfcamp formation to the base of the Morrow formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the thirty-first day of December, 1994, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Nearburg Producing Company is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him; and
- (b) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$5664.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates) while drilling, and \$560.00 per month is hereby fixed as a reasonable charge for supervision while producing, provided that this rate shall be adjusted on the first day of April of each year following the effective date of this order; the adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of crude petroleum and gas production workers for the last calendar year compared to the preceding calendar year as shown by "The Index of Average Weekly Earnings of Crude Petroleum and Gas Production Workers", as published by the United States Department of Labor, Bureau of Labor Statistics, and the adjusted rate shall be the rate currently in use, plus or minus the computed adjustment; the operator is hereby

authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

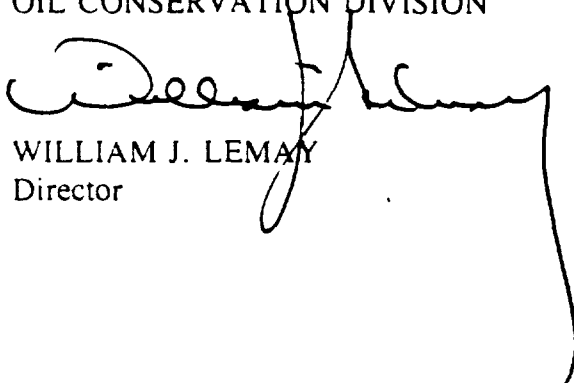
(13) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

(15) Jurisdiction of this cause is 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





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

BRUCE KING  
GOVERNOR

December 13, 1994

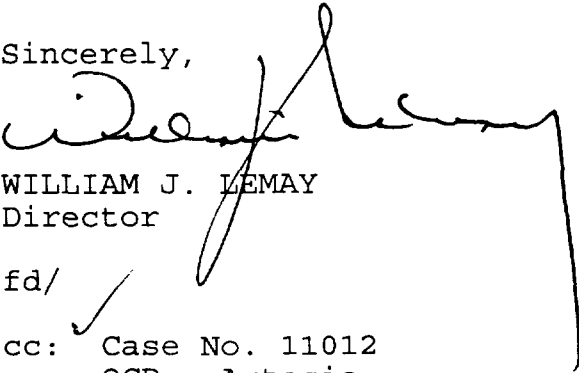
2040 S. PACHECO  
SANTA FE, NEW MEXICO 87505  
(505) 827-7131

Mr. Thomas Kellahin  
Kellahin & Kellahin  
Attorneys at Law  
Post Office Box 2265  
Santa Fe, New Mexico 87504-2265

Dear Mr. Kellahin:

Based upon the reasons stated in your letter of December 12, 1994, and in accordance with the provisions of Division Order No. R-10191, Nearburg Exploration Company is hereby granted an extension of time in which to begin the well on the unit pooled by said Order No. R-10191 until February 28, 1995.

Sincerely,

  
WILLIAM J. LEMAY  
Director

fd/

cc: Case No. 11012  
OCD - Artesia

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

June 28, 1994

HAND DELIVERED

Mr. Michael E. Stogner  
Chief Hearing Examiner  
Oil Conservation Division  
310 Old Santa Fe Trail  
Santa Fe, New Mexico 87501

Re: Nearburg Exploration Company's Proposed Orders  
NMOCD Case 11010 for the B&B Well No. 2  
NMOCD Case 11012 for Fairchild "18" Well No. 1

Dear Mr. Stogner:

On behalf of Nearburg Exploration Company please find enclosed for your consideration two draft orders, one for each of the referenced cases. Also enclosed is a floppy disk (Wordperfect 5.1) on which these orders appear.

In addition, I have enclosed Revised Exhibit 2 for Case 11012 which correctly collates the offset operator notice list with the plat.

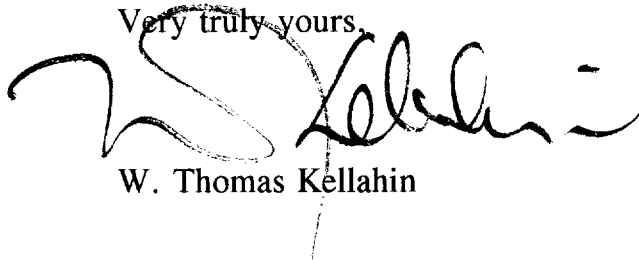
Finally, you will note that I have proposed a commencement date for these two wells of not later than December 1, 1994. Nearburg Producing Company proposed to use the same rig to drill these two wells and two other wells in this area with an estimated 30-45 days per well activity. Usually the pooling orders provide for a commencement date within 90 days of the date of an order.

Mr. Michael E. Stogner  
June 28, 1994  
Page 2.

However, in these two cases we are asking for an additional period ending December 1, 1994 in order to provide the operational flexibility to use a single rig for this project.

Please call me if you have any questions or need anything else

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', is written over the typed name. The signature is fluid and cursive, with a large initial 'W' and a long horizontal stroke extending to the right.

W. Thomas Kellahin

cc: Nearburg Producing Company  
Attn: Bob Shelton

**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. 11012  
Order No. R-

APPLICATION OF NEARBURG EXPLORATION  
COMPANY FOR COMPULSORY POOLING  
AND AN UNORTHODOX GAS WELL LOCATION,  
EDDY COUNTY, NEW MEXICO.

**NEARBURG EXPLORATION COMPANY'S  
PROPOSED  
ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on June 23, 1994 at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this \_\_\_\_\_ day of June, 1994, the Division Director, having considered the testimony, the recorded 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, the parties herein and the subject matter thereof.

(2) The applicant, Nearburg Exploration Company, seeks an order pooling all mineral interests from the top of the Wolfcamp formation to the base of the Morrow formation underlying the N/2 of Section 18, T19S, R26E, NMPM, Eddy County, New Mexico forming a standard 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Undesignated Cemetery-Morrow Gas Pool, or the Undesignated Four Mile Draw-Morrow Gas Pool and dedicating said unit to the Nearburg Producing Company's Fairchild East "18" Well No. 1 to be drilled and completed at an unorthodox gas well location 660 feet from the North and West lines (Unit D) of said Section 18.

(3) The applicant further seeks the designation of Nearburg Producing Company as the operator and for a compulsory pooling order which, among other things, provides for establishment of estimated reasonable well costs, overhead rates and the allocation of the costs thereof and a charge of 200 % for the risk involved in drilling and completing said well.

(4) The applicant is an interest owner in the N/2 of said Section 18 and has the right to develop the minerals underlying the proposed spacing unit.

(5) No party appeared in opposition to the applicant's request for compulsory pooling or for approval of the unorthodox well location.

(6) The proposed location is unorthodox if gas production is established in the well in any formation from the top of the Wolfcamp to the base of the Morrow but is standard if that production should be oil production.

(7) The applicant submitted geologic evidence which demonstrates that:

(a) the closest existing Cisco production is some 5 miles to the west in the North Dagger Draw-Upper Pennsylvanian Pool;

(b) the Cisco dolomite in this spacing unit has a significant risk of being wet and not productive at a standard gas well location in the spacing unit; and

(c) the proposed location is the optimum location in the spacing unit at which to locate a well for purposes of testing from production from the Cisco formation.

(8) The Applicant also submitted geologic evidence which demonstrates that:

(a) it is too risky to drill a well at any location within the proposed spacing unit only for potential Morrow production

(b) out of some 15 wells drilled in this area in an attempt to establish commercial Morrow gas production only one well is productive of gas within this Morrow channel and it was proven to be sub-economic and four other wells were wet in this Morrow channel

(c) there is no location within the proposed spacing unit in which to locate a gas well to be drilled only to the Morrow formation

(d) The optimum location within the proposed spacing unit in which to locate a Morrow gas well is at the proposed unorthodox gas well location.

(9) There is significant geologic risk involved with an attempt to drill and complete an economic Cisco/Morrow well in this spacing unit at the unorthodox location justifying the maximum 200 % risk factor penalty

(10) The proposed unorthodox location does not sufficiently lessen the risk of the well and therefore the maximum 200 % risk factor penalty should apply in this case;

(11) The applicant presented expert testimony from its petroleum landman which demonstrates that:

(a) Applicant has consolidated on a voluntary basis approximately 99.61 % of the working interest;

(b) Applicant has made a good faith diligent effort to identify and locate the remaining interest owners for the subject spacing unit and drilling of the subject well but despite that effort is unable to locate the heirs of Lucy A. Robinson, deceased, or Ernest Koen;

(c) Applicant has located but has been unable to obtain the voluntary agreement of Buena Barker;

(d) That the estimated total costs of \$683,345 for the subject well is fair and reasonable;

(e) the proposed overhead rates of \$5,664 and \$560/per month are fair and reasonable;

**Case No. 11012**

**Order No. R-**

**Page 5**

(12) In accordance with Section 70-2-17(C) the applicant, as an owner of the right to drill can propose that Nearburg Producing Company, a non-owner, be designated by the Division as operator pursuant to this order.

(13) That Nearburg Producing Company operates some 150 wells in New Mexico and Texas and is recognized by the Division as a competent and prudent operator and has on file with the Division the required plugging bonds.

(14) That Nearburg Producing Company should be designated as operator.

(15) The Applicant has satisfied the requirement of the Division, has made a good faith effort to reach a voluntarily agreement with the appropriate parties and is entitled to a compulsory pooling order in this matter.

(16) Approval of this application as set forth in the above findings and in the following order will avoid the drilling unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, which have not voluntarily committed their respective interest in this matter, including but not limited to:

Lucy A. Robinson, deceased, and her heirs, grantees  
successors or assignees;



**Case No. 11012**

**Order No. R-**

**Page 6**

Ernest Koen, if living and if deceased then his heirs,  
grantees, successors or assignees; and

Buena Barker, and her grantee, heirs, successors or  
assignees,

from the top of the Wolfcamp to the base of the Morrow formation underlying the N/2 of Section 18, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico, are hereby pooled to form an 320-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent to be dedicated to the Fairchild East "18" Well No. 1 to be drilled at an unorthodox gas well location 660 feet from the North line and 660 feet from the West line (Unit D) of said Section 18.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of December, 1994, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of October, 1994, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(3) Nearburg Producing Company is hereby designated the operator of the subject well and unit.

(4) After the effective date of this order and prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(5) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(6) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well cost is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(7) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(8) The operator is hereby authorized to withhold the following costs and charges from production:

- A. The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well

costs within 30 days from the date of schedule of estimated well costs is furnished to him; and

- B. As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated costs is furnished to him.

(9) \$5,664 per month while drilling and \$560 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest. The operator is hereby authorized to make annual adjustments of said combined fixed rates as of the first day of April each year in accordance with the COPAS accounting schedule utilized by the industry.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand

and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all the parties to this compulsory-pooling reach voluntary agreement subsequent to the entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the subject well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory-pooling provisions of this order.

(15) Jurisdiction of this cause is 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

SEAL



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



BRUCE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

September 23, 1994


KELLAHIN AND KELLAHIN  
Attorneys at Law  
P. O. Drawer 2265  
Santa Fe, New Mexico 87504

RE: CASE NO. 11012  
ORDER NO. R-10191

Dear Sir:

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

Sincerely,

  
Sally E. Martinez  
Administrative Secretary

cc: BLM - Carlsbad  
Taxation & Revenue Dept.