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NATURAL RESOURCES-OIL AND GAS LAW

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January 5, 1994

JAN 8

HAND DELIVERED

Mr. William J. LeMay  
Oil Conservation Division  
State Land Office Building  
310 Old Santa Fe Trail, 2nd Floor  
Santa Fe, New Mexico 87501

10906

Re: Boyd "X" State #3 Well  
SE/4 Sec 29, T19S, R25E, NMPM  
Application of Nearburg Exploration Company  
for Compulsory Pooling, Eddy County, New Mexico

Dear Mr. LeMay:

On behalf of Nearburg Exploration Company, please find enclosed our Application for a Compulsory Pooling Order as referenced above, which we request be set for hearing on the next available Examiner's docket now scheduled for February 3, 1994.

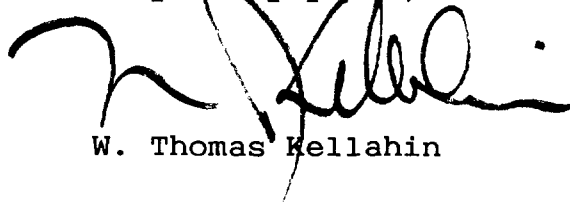
By copy of this letter and application, sent certified mail, we are notifying all interested parties of their right to appear at the hearing and participate in this case, including the right to present evidence either in support of or in opposition to the application.

Mr. William J. LeMay  
January 5, 1994  
Page Two

Our proposed advertisement to be used for the OCD docket is also enclosed.

In accordance with Division Memorandum 2-90, parties who may appear in this case are hereby requested to file a Pre-Hearing Statement with the Division, copy to the Applicant's attorney, not later than 4:00 PM on Friday, January 28, 1994.

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, sweeping line extending to the right.

W. Thomas Kellahin

WTK/mg  
Enclosure

cc: Nearburg Exploration Company

**By Certified Mail - Return Receipt**  
All Parties Listed in Application

cc: Earnest L. Carroll, Esq.

10906

**CASE \_\_\_\_:** Application of Nearburg Exploration Company for compulsory pooling, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 29, T19S, R25E, NMPM, Eddy County, New Mexico, forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool. Said unit is to be dedicated to its Boyd "X" State #3 Well to be drilled and completed at a standard well location. Also to be considered will be the costs of drilling and completing said well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of Nearburg Producing Company as the operator of the well and a charge for risk involved in drilling said well. Said unit is located approximately 8 miles west from Lakewood, New Mexico.

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

IN THE MATTER OF THE APPLICATION OF  
NEARBURG EXPLORATION COMPANY  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO

CASE NO: 10906

A P P L I C A T I O N

Comes now NEARBURG EXPLORATION COMPANY by its attorneys, KELLAHIN & KELLAHIN, and in accordance with Section 70-2-17(c) NMSA (1978) applies to the New Mexico Oil Conservation Division for an order pooling all mineral interests from the surface to the base of the Canyon formation underlying the SE/4 of Section 29, T19S, R25E, NMPM, Eddy County, New Mexico forming a standard 160-acre spacing and proration unit for any and all formations and/or pools developed on 160-acres spacing within said vertical extent, which presently includes but is not necessarily limited to the North Dagger Draw-Upper Pennsylvanian Pool. Said unit to be dedicated to Nearburg Exploration Company's Boyd "X" State #3 Well to be located at a standard well location 1980 feet FSL and 1980 feet FEL of said Section 29, and in support states:

(1) Applicant, Nearburg Exploration Company ("Nearburg") has a 50% working interest ownership in the oil and gas minerals in the SE/4 of Section 29.

(2) The other working interest owner in the SE/4 of Section 29 is as follows:

Yates Petroleum Corporation  
105 South Fourth Street  
Artesia, New Mexico 88210

(3) On December 30, 1993, Nearburg sent to Yates Petroleum Corporation ("Yates") a proposal concerning Nearburg's Boyd "X" #3 Well in the SE/4 of Section 29 in which Nearburg sought, among other things, to be designated the operator and to have Yates participate in the well, to pay its share of the AFE costs of the well.

(4) On January 3, 1994, Yates: (a) sent a compulsory pooling application to the Division seeking to pool Nearburg for the well that Nearburg has just proposed; and (b) sent a proposal to Nearburg proposing that Yates operate the Boyd "X" #3 Well.

(5) By its conduct, Yates has rejected Nearburg's proposal, has refused to discuss this matter with Nearburg, and has refused to consider Nearburg's effort to voluntarily form a spacing unit for this well.

(6) That all reasonable efforts by Nearburg to form a voluntary agreement for this well has failed and it has been unable to obtain a voluntary agreement.

(7) Pursuant to Section 70-2-17(c) NMSA (1978) and in order to obtain its just and equitable share of the potential production underlying the above tract, Nearburg needs an order pooling the mineral interest involved in order to protect Nearburg's correlative rights and prevent waste.

(8) Pursuant to the Division notice requirements, Nearburg has notified Yates of this application for compulsory pooling and the applicant's request for a hearing of this matter before the Division on the next available Examiner's docket now scheduled for February 3, 1994.

WHEREFORE, Applicant prays that this application be set for hearing before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interests described herein. Applicant further prays:

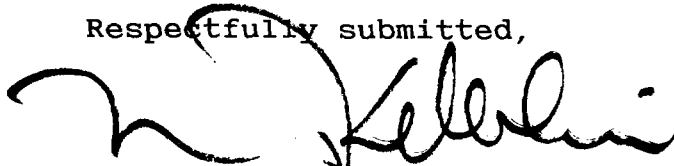
(1) that Nearburg Producing Company be named operator of the well;

(2) that the order make provisions for applicant and all working interest owners to participate in the costs of drilling, completing and equipping the well;

(3) that in the event a working interest owners fails to elect to participate, then provision be made to recover, out of production, the costs of the drilling, completing and equipping of the well including a risk factor penalty to be determined by the Division; and

(4) for such other and further relief as may be proper.

Respectfully submitted,

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

W. Thomas Kellahin  
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