

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

5 APPLICATION OF COG OPERATING, LLC,
6 TO AMEND ORDER R-13535 TO COMPULSORY
7 POOL ADDITIONAL MINERAL INTERESTS IN
8 THE APPROVED SPACING AND PRORATION
UNIT AND TO CHANGE THE WELL
DEDICATED TO THE UNIT, EDDY COUNTY,
NEW MEXICO.

CASE NO. 14795

ORIGINAL

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS

10 EXAMINER HEARING

11 February 6, 2014

12 Santa Fe, New Mexico

13
14 BEFORE: PHILLIP GOETZE, CHIEF EXAMINER

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18 This matter came on for hearing before the
19 New Mexico Oil Conservation Division, Phillip Goetze,
20 Chief Examiner, on Thursday, February 6, 2014, at the
21 New Mexico Energy, Minerals and Natural Resources
22 Department, 1220 South St. Francis Drive, Porter Hall,
Room 102, Santa Fe, New Mexico.

23 REPORTED BY: Mary C. Hankins, CCR, RPR
24 New Mexico CCR #20
25 Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102

1 APPEARANCES

2 FOR APPLICANT COG OPERATING, LLC:

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9 Case Number 14795 Called

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10 COG Operating, LLC's Case-in-Chief:

11 Witnesses:

12 Joseph Scott:

13 Direct Examination by Mr. Feldewert

3

Cross-Examination by Examiner Goetze

13,14

14 Redirect Examination by Mr. Feldewert

13

15 Proceedings Conclude

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16 Certificate of Court Reporter

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19 EXHIBITS OFFERED AND ADMITTED

20 COG Operating, LLC Exhibits Numbers 1 through 8

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1 (8:17 a.m.)

2 EXAMINER GOETZE: We will proceed with the
3 first case, Case 14795, which is a reopen. It is
4 application of COG Operating, LLC to amend Order R-13535
5 to compulsory pool additional mineral interests in the
6 approved spacing and proration unit and to change the
7 well dedicated to the unit, Eddy County, New Mexico.

8 Call for appearances.

9 MR. FELDEWERT: May it please the Examiner,
10 Michael Feldewert, with the Santa Fe office of Holland &
11 Hart, appearing on behalf of the Applicant, and I have
12 one witness here today.

13 EXAMINER GOETZE: Would the witness stand
14 and identify yourself?

15 MR. SCOTT: Joseph Scott.

16 EXAMINER GOETZE: Would you swear the
17 witness in, please?

18 (Mr. Scott sworn.)

19 EXAMINER GOETZE: And please proceed.

20 JOSEPH SCOTT,
21 after having been first duly sworn under oath, was
22 questioned and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FELDEWERT:

25 Q. Would you please state your name, identify by

1 whom you are employed and in what capacity?

2 A. Joseph Scott, COG Operating, LLC. I'm a
3 landman.

4 Q. Mr. Scott, have you previously testified before
5 this Division and had your credentials as a petroleum
6 landman accepted and made a matter of public record?

7 A. Yes.

8 Q. Are you familiar with the application in this
9 case?

10 A. Yes.

11 Q. And are you familiar with the status of the
12 lands in the subject area?

13 A. Yes.

14 MR. FELDEWERT: I tender Mr. Scott as an
15 expert witness in petroleum land matters.

16 EXAMINER GOETZE: He is so qualified.

17 Q. (BY MR. FELDEWERT) Mr. Scott, why don't you
18 start us off by turning to what's been marked as COG
19 Exhibit Number 1, and this is Order Number R-13535 that
20 was entered by the Division in April of 2012. Are you
21 familiar with this order?

22 A. Yes.

23 Q. If I turn to page 3 of this order, what,
24 essentially, did this order accomplish?

25 A. It created a ~~180~~ -- 160-acre spacing -- a

1 nonstandard spacing unit in the Yeso Formation
2 comprising of the east half-east half of Section 31,
3 Township 18 South, 26 East, Eddy County, New Mexico.

4 Q. And did it also then seek to -- did it pool at
5 that time the known uncommitted interest owners?

6 A. Yes, it did, and it also dedicated the
7 Falabella 31 Well #4H -- or -- excuse me. Yes, 4H to
8 the dedicated unit.

9 Q. And has the Falabella 4H been drilled?

10 A. No.

11 Q. Did the company obtain from the Division an
12 extension of time to drill the initial well in this east
13 half-east half spacing unit?

14 A. Yes.

15 Q. If I turn to what's been marked as COG Exhibit
16 Number 2, is that a letter from the Division granting
17 additional time to drill the initial well in this
18 spacing unit?

19 A. Yes.

20 Q. What does the company now seek under this
21 particular application?

22 A. The company seeks to pool additional parties
23 that have been identified as working interest owners.

24 Q. And does the company also seek to change the
25 initial well dedicated to the spacing unit?

1 A. Yes. Yes, it does.

2 Q. Currently, it's the 4H that is dedicated to the
3 spacing unit under the order?

4 A. Yes.

5 Q. And what does the company seek to change the
6 initial well to?

7 A. The 8H, which will be moved towards the eastern
8 side of the dedicated location.

9 Q. So if I turn to what's been marked as COG
10 Exhibit Number 3 is COG Exhibit Number 3 -- does it
11 identify the well that you now seek to drill as the
12 initial well in this established east half-east half
13 spacing unit?

14 A. Yes.

15 Q. And it provides the API number for that well?

16 A. Yes.

17 Q. And will the completed interval for this new
18 initial well remain within the setbacks required by the
19 Division?

20 A. Yes.

21 Q. The company obtained the 8H in November of
22 2011, according to Exhibit Number 3, correct?

23 A. Yes.

24 Q. Has the company obtained an extension of this
25 drilling authorization?

1 A. Yes, we have.

2 Q. And is that extension reflected in what's been
3 marked as COG Exhibit Number 4?

4 A. Yes, it is.

5 Q. Is this new initial well for the east-half
6 spacing unit now on the company's rig schedule?

7 A. Yes.

8 Q. In the course of preparing -- or let me ask you
9 something. Getting back to that new initial well that
10 is reflected in Exhibit Number 3, what has been changed?
11 I think you said you moved it further toward -- further
12 towards the eastern line?

13 A. Yes.

14 Q. If I look at Exhibit Number 4 -- or Exhibit
15 Number 1, the 4H, the original initial well was going to
16 be 1,040 off the east line; is that correct?

17 A. Yes.

18 Q. And under the new initial well, you've moved it
19 further east to where it's going to be 380 off the
20 eastern line?

21 A. Correct.

22 Q. In the course of preparing to drill for this
23 new initial well, did the company obtain a drilling
24 title permit? ✓

25 A. Yes, we have.

1 Q. And what did you discover when you reviewed
2 that drilling title opinion?

3 A. I discovered that there were additional parties
4 that were not detailed in the takeoffs that were
5 provided by the brokerage company that we hired.
6 Because of the faulty takeoffs, we are no longer using
7 that brokerage company.

8 Q. So your drilling title opinion revealed a
9 number of interest owners that weren't reflected?

10 A. That's correct.

11 Q. And you're here now to take care of that issue?

12 A. Yes.

13 Q. If I look at what is COG Exhibit Number 5 is
14 that an ownership plat that reflects the interests that
15 are set forth in the company's recent drilling title
16 opinion?

17 A. Yes.

18 Q. First off, on the first page, it identifies a
19 number of tracts that are included in the east half-east
20 half spacing unit; does it not?

21 A. Yes, it does.

22 Q. And if I go to the second and third pages, does
23 it identify the interests that are reflected in the
24 drilling title opinion by tract?

25 A. Yes.

1 Q. And if I then flip over to the last two pages,
2 does it identify the interests on a spacing-unit basis?

3 A. Yes. Yes, it does.

4 Q. And then this Exhibit Number 5, on the last two
5 pages, has the company identified and highlighted, both
6 in color and in italics, the additional interests the
7 company now seeks to pool?

8 A. Yes.

9 Q. Did you propose this new initial well to all of
10 the interest owners identified on the drilling title
11 opinion and reflected in Exhibit Number 5?

12 A. Yes. ✓

13 Q. Okay. And is COG Exhibit Number 6 your
14 well-proposal letter for the Falabella 8H that was sent
15 to all interest owners?

16 A. Yes.

17 Q. This was sent out in November and identifies
18 the new location for the well, correct?

19 A. Yes.

20 Q. It also provided -- did it provide, at that
21 time, then, an updated AFE?

22 A. Yes.

23 Q. Are the costs reflected on this revised AFE
24 consistent with what the company has incurred for
25 drilling similar horizontal wells?

1 A. Yes.

2 Q. Now, with respect to the additional parties
3 that you seek to pool that are highlighted on Exhibit --
4 the last two pages of Exhibit Number 5, what efforts did
5 the company undertake to obtain voluntary joinder of
6 these new interest owners aside from sending your well
7 proposal?

8 A. In addition to sending the well proposal, I
9 have followed up with most of them by either phone or
10 e-mail, some of which I have taken off my pooling list.
11 Others we are still trying to find marketable title for
12 them prior to taking them off the pooling docket. And
13 some that we were not able to locate, but I exhausted
14 all resources, such as online people search or company
15 directory, and also hired a new broker to try to find
16 the contact information as well.

17 Q. So you had an address, but you were unable to
18 find a phone number, for example?

19 A. Correct. And they did not communicate back to
20 us.

21 Q. You mentioned that you were able to take some
22 people off your pooling list as a result of your
23 efforts. I think one of those is Mr. Thomas Beall; is
24 that right?

25 A. That's correct. This week I followed up with

1 him to see where he stood on joining this well, and he
2 agreed to sign the AFE and operating agreement.

3 Q. And he's reflected on the first page of this --
4 I'm sorry -- the second-to-the-last page of Exhibit
5 Number 5?

6 A. Yes, he is.

7 Q. He's not highlighted; therefore, the company no
8 longer seeks to pool that interest?

9 A. Correct.

10 Q. Now, with respect to the existing Division
11 order, does the company seek to change the overhead or
12 the administrative costs imposed by that existing order?

13 A. We do not.

14 Q. You just seek to change the initial well to be
15 dedicated to the spacing unit, correct?

16 A. Correct.

17 Q. And then add additional parties to the pooling
18 order as a result of your recent drilling title opinion?

19 A. Correct.

20 Q. Is Exhibit Number 7 an affidavit with attached
21 letters providing notice of this hearing to the affected
22 parties?

23 A. Yes.

24 Q. And was there an additional interest owner that
25 the company -- for which the company was unable to

1 locate an address?

2 A. Yes. There was one party.

3 Q. Who was that?

4 A. It was Letha Hartman, heirs and devisees of
5 Letha Hartman.

6 Q. If I turn to what's been marked as COG Exhibit
7 Number 8, is that an Affidavit of Publication directed
8 to the heirs and devisees of Letha J. Hartman notifying
9 them of the hearing here today?

10 A. Yes.

11 Q. And, Mr. Scott, were Exhibits 1 through 6
12 prepared by you or compiled under your direction and
13 supervision?

14 A. Yes.

15 MR. FELDEWERT: Mr. Examiner, I would move
16 into evidence COG Exhibits 1 through 8, which includes
17 my affidavit and then also the Affidavit of Publication.

18 EXAMINER GOETZE: Exhibits 1 through 8 are
19 accepted.

20 (COG Operating, LLC Exhibits Numbers 1
21 through 8 were offered and admitted into
22 evidence.)

23 MR. FELDEWERT: And that concludes my
24 examination of this witness.

25

CROSS-EXAMINATION

BY EXAMINER GOETZE:

Q. A couple of questions. I notice in the well proposal we're quoting a rate of 5,450 and 545, for drilling and producing rates. And in our order we have 5,500 per month and 550 per month for the same respective rates. How shall we resolve this? Shall we go with what's in the AFE, since that is what we sent out?

REDIRECT EXAMINATION

BY MR. FELDEWERT:

Q. Mr. Scott, are the overhead rates reflected on Exhibit Number 6, the 5,450 and 545, are those the rates that are set forth in a governing Joint Operating Agreement?

A. Yes, they are. They're what we use entirely.

Q. And accordingly, which would the company prefer with respect to the overhead rates on the Division's order?

A. If the Division would prefer the rates as we proposed, then we would be fine with going forward with those rates.

EXAMINER GOETZE: Well, I think it would be appropriate, since we did notify these people that this is what you were going to do. And I think we'll resolve

1 it by following what you do have in your AFE and
2 proposal letter. So the rates will go at 5,450 and 545
3 for drilling and producing.

4 CONTINUED CROSS-EXAMINATION

5 BY EXAMINER GOETZE:

6 Q. My next question is, as far as your well
7 location, the surface we have at 150 and 380,
8 respectively, from the south line and east line is the
9 completed interval within the setbacks?

10 A. Yes.

11 Q. So we don't have a requirement to do anything,
12 notification to the corner there?

13 A. No, sir.

14 EXAMINER GOETZE: Okay. Very good.

15 MR. FELDEWERT: Just to clarify,
16 Mr. Examiner, I think the perforations are -- completed
17 interval will be 330 off of the line.

18 EXAMINER GOETZE: Okay. We so don't have
19 to worry about Section 5 down there in the next
20 township?

21 THE WITNESS: No, sir.

22 EXAMINER GOETZE: Very good.

23 Other than that, I have no further
24 questions.

25 Based on the information provided, we'll

1 take this case under advisement.

2 MR. FELDEWERT: Thank you, Mr. Examiner.

3 (Case Number 14795 concludes, 8:31 a.m.)

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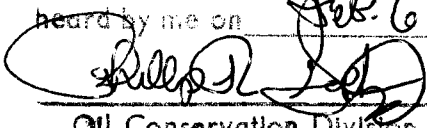
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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner's hearing of Case No. 14795
heard by me on Feb. 6, 2014
 , Examiner
Oil Conservation Division

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO
3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, New Mexico Certified
6 Court Reporter No. 20, and Registered Professional
7 Reporter, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that
9 the foregoing pages are a true and correct transcript of
10 those proceedings that were reduced to printed form by
11 me to the best of my ability.

12 I FURTHER CERTIFY that the Reporter's
13 Record of the proceedings truly and accurately reflects
14 the exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither
16 employed by nor related to any of the parties or
17 attorneys in this case and that I have no interest in
18 the final disposition of this case.

19
20 *Mary C. Hankins*
21 MARY C. HANKINS, CCR, RPR
22 Paul Baca Court Reporters, Inc.
23 New Mexico CCR No. 20
24 Date of CCR Expiration: 12/31/2014
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