

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

**APPLICATION OF NEARBURG EXPLORATION COMPANY,
SRO2 LLC AND SRO3 LLC FOR AN ACCOUNTING AND
LIMITATION ON RECOVERY OF WELLS COSTS, AND
FOR CANCELLATION OF APPLICATION FOR PERMIT
TO DRILL, EDDY COUNTY, NEW MEXICO.**

2011-08-19
10:00 AM
CASE NO. 15441

**APPLICATION OF COG OPERATING LLC
FOR A NON-STANDARD SPACING AND
PRORATION UNIT AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

CASE No. 15481

**APPLICATION OF COG OPERATING LLC
FOR A NON-STANDARD SPACING AND
PRORATION UNIT AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

CASE No. 15482

**COG's CONCURRENCE WITH NEX'S REQUEST FOR A PREHEARING
CONFERENCE IN THESE CONSOLIDATED CASES**

Following a one day hearing, the Division issued Order No. R-14187 addressing the subject matter raised by consolidated Case Nos. 15441, 15481, and 15482. Essentially this Order addressed whether COG Operating LLC ("COG") had a "good faith belief" that it had authority to operate on the subject acreage when it filed permits to drill the disputed wells and whether compulsory pooling is now appropriate given the recent repudiation of certain agreements by Nearburg Exploration Company, LLC, SRO2, LLC, and SRO3, LLC (collectively "NEX").

Following issuance of R-14187, NEX exercised its right to have "the matter" addressed by this Order "heard de novo before the commission...". NMSA 1978, § 70-2-14; *see also*

NMAC 19.15.4.23 (after the division enters “an order” a party may have “the matter heard de novo before the commission...”). Unlike an appeal of a Commission Order, where specific issues are identified for rehearing and appeal, the entire subject matter addressed by Division Order R-14187 must now be heard de novo by the Commission and new order entered to replace it. *Compare* NMSA 1978, § 70-2-14 (“the matter heard de novo before the commission” on appeal of a Division order) *with* NMSA 1978 § 70-2-25 (following issuance of a Commission Order, a party may request a rehearing “of any matter determined by the order” and must identify “the respect in which the order or decision is believed to be erroneous.”); *see also* Rule 1-074(J) NMRA (requiring the appellant from a Commission Order to file with the district court a statement of appellate issues).

COG concurs with NEX’s request to have “the matter” addressed by Order R-14187 heard “de novo” before the Commission on February 28, 2017, and continuing to March 1, 2017, if necessary. COG also believes the parties can stipulate to certain facts to shorten the time necessary for testimony before the Commission and agrees a prehearing conference will be helpful to accomplish the submission of a statement of stipulated facts.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2017, I served a copy of the foregoing document to the following counsel of record via electronic mail:

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A handwritten signature in black ink, appearing to read "Michael H. Feldewert", written over a horizontal line.

Michael H. Feldewert
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