

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:

APPLICATION OF COG OPERATING, LLC  
FOR A NONSTANDARD SPACING AND  
PRORATION UNIT AND COMPULSORY  
POOLING, LEA COUNTY, NEW MEXICO.

CASE NO. 15810

Consolidated with

APPLICATION OF COG OPERATING, LLC  
FOR A NONSTANDARD SPACING AND  
PRORATION UNIT AND COMPULSORY  
POOLING, LEA COUNTY NEW MEXICO.

CASE NO. 15811

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 31, 2017

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES CHIEF EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, William V. Jones,  
Chief Examiner, on Thursday, August 31, 2017, at the New  
Mexico Energy, Minerals and Natural Resources  
Department, Wendell Chino Building, 1220 South St.  
Francis Drive, Porter Hall, Room 102, Santa Fe, New  
Mexico.

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1 (9:00 a.m.)

2 EXAMINER JONES: Okay. Let's call Case  
3 Numbers 15810 and 15811, application of COG Operating,  
4 LLC for a nonstandard spacing and proration unit and  
5 compulsory pooling, in Lea County, New Mexico.

6 Call for appearances, I assume, in both  
7 cases. Tell me if I'm wrong.

8 MS. KESSLER: Correct.

9 Mr. Examiner, Jordan Kessler, from the  
10 Santa Fe office of Holland & Hart, on behalf of the  
11 Applicant.

12 MR. HALL: And Scott Hall, Montgomery &  
13 Andrews, Santa Fe, on behalf of Weldon Baird and the  
14 Beulah M. Baird Trust.

15 EXAMINER JONES: Any other appearances?

16 MS. KESSLER: We have three witnesses  
17 today, Mr. Examiner.

18 EXAMINER JONES: Any witnesses for Baird  
19 and the Trust?

20 MR. HALL: No, no witnesses.

21 EXAMINER JONES: Will the witnesses please  
22 stand, and will the court reporter swear the witnesses?

23 (Mr. Wallace, Ms. Martin and Ms. Junell  
24 sworn.)

25 EXAMINER JONES: Mr. Wallace.

1 MR. WALLACE: How are you?

2 EXAMINER JONES: How are you?

3 MR. WALLACE: Doing good. Thank you.

4 DAVID M. WALLACE,

5 after having been first duly sworn under oath, was

6 questioned and testified as follows:

7 MS. KESSLER: May I proceed?

8 EXAMINER JONES: Please.

9 DIRECT EXAMINATION

10 BY MS. KESSLER:

11 Q. Please state your name for the record and tell  
12 the Examiners by whom you're employed and in what  
13 capacity.

14 A. My name is David Michael Wallace. I work for  
15 COG Operating, LLC, and I'm a landman for the southeast  
16 Lea County area.

17 Q. Have you previously testified before the  
18 Division?

19 A. I have.

20 Q. Were your credentials as a petroleum landman  
21 accepted and made a matter of record?

22 A. Yes.

23 Q. Are you familiar with the applications filed in  
24 these consolidated cases?

25 A. Yes.

1           Q.    And are you familiar with the status of the  
2   lands in the subject area?

3           A.    Yes, I am.

4                   MS. KESSLER:  Mr. Examiner, I tender  
5   Mr. Wallace as an expert in petroleum land matters.

6                   MR. HALL:  No objection.

7                   EXAMINER JONES:  He's so qualified.

8           Q.    (BY MS. KESSLER) Mr. Wallace, what does COG  
9   seek under these two applications?

10          A.    We seek to form two 320-acre spacing units, and  
11   we seek to pool the Bone Spring Formation spacing units.

12          Q.    And these would be two nonstandard 320-acre  
13   spacing units, correct?

14          A.    That's correct.

15          Q.    Is Exhibit 1 the approved C-102 for the White  
16   Falcon 16 Federal Com 11H well?

17          A.    Yes, it is.

18          Q.    What is the spacing unit for this well?

19          A.    It is the east half of the west half of  
20   Sections 16 and 21, 25 South, 35 East, Lea County, New  
21   Mexico.

22          Q.    Is there an API number associated with this  
23   well?

24          A.    Yes, there is.

25          Q.    And it's on the C-102, correct?

1           A.     That is correct.

2           Q.     Is Exhibit 2 the approved C-102 for the White  
3 Falcon 16 State Com #12H well?

4           A.     Yes, it is.

5           Q.     What is the spacing unit for this well?

6           A.     It's the west half-west half of Sections 16 and  
7 21, 25 South, 35 East, Lea County, New Mexico.

8           Q.     Again, there is an approved APD for this well,  
9 correct?

10          A.     That is correct.

11          Q.     But the API number is not reflected on the  
12 C-102?

13          A.     Yes. That's correct.

14          Q.     Has the Division designated a pool and pool  
15 code for this area?

16          A.     Yes. It's the Wildcat Bone Spring, Pool Code  
17 97088.

18          Q.     And is that pool governed by Division statewide  
19 rules?

20          A.     Yes.

21          Q.     Will each of the two completed intervals comply  
22 with the Division statewide setbacks?

23          A.     The 11H well. The 12H is at a nonstandard  
24 location.

25          Q.     What type of land is in each of these two

1     **wells?**

2           A.     The west half-west half consists of state and  
3     fee acreage. The east half of the west half consists of  
4     state, Fed and fee.

5           **Q.     Are there any depth severances in the Bone**  
6     **Spring?**

7           A.     No.

8           **Q.     Is Exhibit 3 an approval from the Division**  
9     **authorizing a nonstandard location for the 12H well?**

10          A.     Yes.

11          **Q.     And is Exhibit 4 a lease tract map for the 11H**  
12     **well identified in COG's interest and the parties that**  
13     **you seek to pool for the 11H?**

14          A.     That is correct.

15          **Q.     Are the owners the same in the Bone Spring and**  
16     **the Wolfcamp in this area?**

17          A.     Yes, they are.

18          **Q.     And that would be in the west half of Sections**  
19     **16 and 21, correct?**

20          A.     Yes. That is correct.

21          **Q.     What types of interests does COG seek to pool?**

22          A.     We seek to pool the working interest owners,  
23     unleased mineral interest owners and the -- I'm sorry --

24          **Q.     Unmarketable title.**

25          A.     -- unmarketable title.



1           Q.    It looks like on page 2 of this exhibit, you  
2   show a unit recap showing all of the uncommitted working  
3   interests and unleased mineral interests you seek to  
4   pool?

5           A.    That is correct.

6           Q.    And then on the fourth [sic] page, you show the  
7   unmarketable title that you seek to pool?

8           A.    That is correct.

9           Q.    But you don't show a percent for each of the  
10   unmarketable title owners; is that correct?

11          A.    No, I do not.

12          Q.    Is that because they're included in COG's total  
13   interest in this section?

14          A.    That is correct.

15          Q.    What does the Baird Estate -- the Estate of  
16   Beulah Baird own? What percent do they own?

17          A.    In the west half-west half, they have ten net  
18   acres, which is 3.2 percent. And in the east half of  
19   the west half, they've got 80 net acres, which is  
20   2-and-a-half percent. That's consolidated between  
21   Weldon Baird and Norma Baird Loving.

22          Q.    And they each own approximately half?

23          A.    That is correct.

24          Q.    Is Exhibit 5 a lease tract map for the 12H  
25   well?

1           A.    Yes, it is.

2           Q.    And it shows, once again on the second page,  
3   the uncommitted working interests and unleased mineral  
4   interests that you seek to pool?

5           A.    That's correct.

6           Q.    And then on the third page -- the fourth page,  
7   this shows the unmarketable title, correct?

8           A.    Yes.  That's correct.

9           Q.    Why do you seek to pool for unmarketable title?

10          A.    Because there is unprobated estates in  
11   New Mexico.

12          Q.    Some of the folks have not completed or have  
13   not gone through ancillary proceedings in the state of  
14   New Mexico?

15          A.    That's correct.

16                   EXAMINER JONES:  Ancillary proceedings?

17                   MS. KESSLER:  Ancillary probate  
18   proceedings.

19                   EXAMINER JONES:  Probate proceedings.

20   Okay.

21                   Gabe, what is she saying?

22                   (Laughter.)

23                   EXAMINER JONES:  Okay.  Go ahead.  Go  
24   ahead.

25          Q.    (BY MS. KESSLER) Have you identified all of the

1     known heirs of the estates?

2           A.     Yes.

3           Q.     And those are all identified on pages 3 and 4;  
4     is that correct?

5           A.     That's correct.

6           Q.     So you've identified, and have you provided  
7     notice to all of the known heirs?

8           A.     Yes, we did.

9           Q.     However, you still have a title requirement to  
10    compulsory pool for unmarketable title for these  
11    interests?

12          A.     That's correct.

13          Q.     Did you send each of the unmarketable title --  
14    to cure title?

15          A.     Yes, we did.

16          Q.     Is Exhibit 6 a copy of the well-proposal  
17    letters sent both to uncommitted working interest owners  
18    and unleased mineral interest owners for the 11H well?

19          A.     Yes.

20          Q.     You sent these letters on June 15th?

21          A.     Yes, we did.

22          Q.     Did they include a copy of the AFE?

23          A.     Yes, they did.

24          Q.     And is Exhibit 7 a copy of the well-proposal  
25    letters that you sent to both the working interest --

1 uncommitted working interest owners, unleased mineral  
2 interest owners for the 12H well?

3 A. Yes.

4 Q. Again, these were sent on June 15th?

5 A. Yes.

6 Q. In addition to sending these letters, what  
7 other efforts did you undertake to reach agreement with  
8 the parties you seek to pool?

9 A. We discussed lease offers. We tried to do a  
10 trade with one of the parties, and we're negotiating OAs  
11 with all the parties, a majority of them.

12 Q. Were you able to locate all of the parties that  
13 you seek to pool?

14 A. Yes.

15 Q. And for the unleased mineral interest owners,  
16 did you offer leases in addition to simply proposing the  
17 wells?

18 A. Yes, we did.

19 Q. Is Exhibit 8 a copy of the 11H AFE and the 12H  
20 AFE?

21 A. Yes.

22 Q. Are the costs of these AFEs consistent with  
23 what other operators charge in the Bone Spring for  
24 horizontal wells?

25 A. Yes.

1           Q.    And do the well-proposal letters identify  
2   overhead and administrative costs for drilling and  
3   producing?

4           A.    Yes.

5           Q.    And that would be for each of the wells,  
6   correct?

7           A.    Yes.

8           Q.    What are those?

9           A.    7,000 a month for drilling and 700 for  
10   producing, per month.

11          Q.    Are those rates consistent with what other  
12   operators in the area charge for similar wells?

13          A.    Yes.

14          Q.    Do you ask that the costs be incorporated into  
15   any order resulting from this hearing?

16          A.    Yes.

17          Q.    Do you ask that the costs be adjusted  
18   periodically according to the COPAS accounting  
19   procedures?

20          A.    Yes.

21          Q.    For uncommitted working interest owners and the  
22   working interest portion of the unleased mineral owners,  
23   do you request that the Division propose a 200 percent  
24   risk penalty?

25          A.    Yes.

1           Q.    Does Concho identify the offset operators or  
2   lessees of record in the 40-acre tract surrounding the  
3   proposed nonstandard units?

4           A.    Yes, we did.

5           Q.    Were they included in the notice of this  
6   hearing?

7           A.    Yes.

8           Q.    Is Exhibit 9 an affidavit prepared by my office  
9   with attached letters providing notice of this hearing  
10   for both cases to the parties that you seek to pool, as  
11   well the offsets?

12          A.    That's correct.

13          Q.    And are Exhibits 10 and 11 Notices of  
14   Publication --

15          A.    Right.

16          Q.    -- for each of the two cases?

17          A.    Sorry. Yes.

18          Q.    Were Exhibits 1 through 8 prepared by you or  
19   compiled under your direction and supervision?

20          A.    Yes.

21                   MS. KESSLER: Mr. Examiner, I'd move  
22   admission of Exhibits 1 through 11.

23                   MR. HALL: No objection.

24                   EXAMINER JONES: Exhibits 1 through 11 are  
25   admitted.

1 (COG Operating, LLC Exhibit Number 1  
2 through 11 are offered and admitted into  
3 evidence.)

4 EXAMINER JONES: Any questions?

5 MR. HALL: I'm going to produce an exhibit.

6 CROSS-EXAMINATION

7 BY MR. HALL:

8 Q. Good morning, Mr. Wallace.

9 Could you explain to us what you're asking  
10 the Division to do with the Baird interest in this  
11 proceeding?

12 A. Well, we have a lease with the Beulah Baird  
13 Trust, and we want to pool this interest to protect  
14 Concho because we have unmarketable title per title  
15 opinion.

16 Q. If you refer to Exhibit 1, the Baird Exhibit 1  
17 in our packet I've just given you, is that the lease  
18 you're referring to?

19 A. Yes.

20 Q. And is Concho honoring and giving effect to  
21 this lease?

22 A. Yes, with the exception of the requirement in  
23 our title opinion showing unmarketable title.

24 Q. All right. And this lease calls for a 25  
25 percent royalty; is that right?

1           A.     Yes.

2           Q.     If this interest is pooled by the Division, are  
3     you asking -- will COG place into suspense 25 percent of  
4     the royalty, or one-eighth?

5           A.     Regardless, it will be in suspense until the  
6     title is cleared up.

7           Q.     What will be in suspense is my question?

8           A.     If it's pooled because it's not cleared up,  
9     once we have an order, the one-eighth will be put in  
10    suspense.

11          Q.     Does COG plan to recoup costs out of  
12    87-and-a-half percent?

13          A.     If we have to -- if we have to honor the order,  
14    yes. If ancillary probate proceedings are done, we  
15    would prefer to honor the lease.

16          Q.     And in the interim, what are the plans for COG  
17    to recoup costs?

18          A.     It would be under the order.

19          Q.     So even though the lease shows 75 percent  
20    working interest, you'd recoup costs out of  
21    87-and-a-half percent?

22          A.     Yes, under the order, due to unmarketable  
23    title.

24          Q.     Are you familiar with COG's Stove Pipe well?

25          A.     Yes.



1           Q.    Is that just to the north of this acreage?

2           A.    Yes, it is.

3                       MS. KESSLER:  Mr. Hall, there are several  
4   Stove Pipe wells.  Could you clarify which of the Stove  
5   Pipe wells you're speaking of?

6                       MR. HALL:  The one to the north.  Hang on,  
7   Jordan.

8                       The Stove Pipe Federal Com 2H in Section 6.

9           Q.    (BY MR. HALL) If you'd look at our last  
10   exhibit, Exhibit Number 6, do you recognize Exhibit 6 as  
11   a check stub from COG for the Stove Pipe Federal Com 2H  
12   well?

13          A.    Yes.

14          Q.    And any reason to disagree that this is not a  
15   check that's been delivered to the Baird Trust?

16          A.    I don't see the royalty owner's entity ID on  
17   there or name, but yes, it could.

18          Q.    All right.  If you'll just accept it, I'll  
19   represent to you it is.

20                       Can you say whether the Baird Trust  
21   interest in Section 6 derives from the same chain of  
22   title as it does in Section 21?

23          A.    Yes.

24          Q.    All right.  So COG regards that title as  
25   marketable, correct?

1           A.     We did when we drilled the well.   Yes.

2           Q.     And has that changed?

3           A.     Well, we have since received updated opinions  
4 with new title requirements showing that ancillary  
5 probate proceedings should have been done.

6           Q.     Let's look at Exhibit 2 -- Baird Exhibit 2.  
7 Now, is that a letter authored by you, dated June 15th,  
8 2017, to Weldon Baird?

9           A.     Yes, it is.   Under my supervision, yes.

10          Q.     I'm sorry?

11          A.     Under my supervision, yes.

12          Q.     Okay.   And is that letter a transmittal of the  
13 title curative requirements you've been discussing this  
14 morning?

15          A.     Yes.

16          Q.     If you look at the second page of that exhibit,  
17 is that an excerpt from your title opinion?

18          A.     Yes.   That is correct.

19          Q.     And if you look at comment 17, it refers to "a  
20 Domiciliary Foreign Personal Representative from Norma  
21 Baird Loving as Domiciliary Foreign Personal  
22 Representative of the Estate of Beulah M. Baird to Norma  
23 Baird Loving and Weldon Baird as Trustees of the Beulah  
24 M. Baird Trust."   If you read on below that, the title  
25 examiner gives effect to that instrument.   Do you agree

1     **with that?**

2                   MS. KESSLER:  Mr. Examiner, I would say  
3     that that calls for a legal conclusion.

4                   MR. HALL:  He's a landman.

5                   MS. KESSLER:  But he's not a lawyer.

6                   THE WITNESS:  I'm not an attorney.

7           **Q.     (BY MR. HALL) Are you a landman?**

8           A.     I am a landman.

9           **Q.     A CPO?**

10          A.     No.

11          **Q.     Are you qualified to make determinations as to**  
12     **what is marketable title and what is not?**

13          A.     Yes.

14          **Q.     And do you disagree that this title is**  
15     **marketable according to that comment?**

16                   EXAMINER JONES:  Mr. Hall, can you remind  
17     me where you're at on page 2 of --

18                   MR. HALL:  It's comment number 17.

19                   EXAMINER JONES:  Of page -- of Exhibit 2?

20                   MR. HALL:  Page 2 of Exhibit 2, right.

21                   EXAMINER JONES:  Okay.

22                   THE WITNESS:  What was the question again?  
23     I'm sorry.  I had to read through this.  What was the  
24     question again?

25          **Q.     (BY MR. HALL) Do you agree that the title**

1     referred to in comment 17 is marketable title?

2           A.     I don't think so, no, because further down, it  
3     says it requires probate proceedings in New Mexico.

4           Q.     All right. And further in comment 17, the  
5     examiner says, "We have given effect to this instrument,  
6     notwithstanding the fact that we have not reviewed  
7     Letters Testamentary, Letters of Administration or the  
8     authenticated proof of authority referenced in the deed  
9     as being in Lea County District Court, Number  
10    PB-2006-133 Mc."

11                   And following that is a drilling  
12    requirement for COG to provide the probate materials  
13    from the Lea County District Court. Did you do that?  
14    Did you satisfy that requirement?

15           A.     Okay. So did we provide -- I'm sorry. Repeat  
16    that, please.

17           Q.     Well, the drilling requirement asks COG to  
18    provide copies of the authenticated proof of authority  
19    referenced in the deed from the Lea County probate  
20    proceeding. The question is: Did you provide that to  
21    the examiner?

22           A.     I don't -- I'm not sure. I don't think we  
23    have. No.

24           Q.     And if you look at the next-to-the-last  
25    paragraph of that same page, in the title opinion

1     excerpt, it refers to whether the domiciliary foreign  
2     personal representative can qualify under New Mexico  
3     Statutes Annotated 45-4-204. Do you see that?

4           A.     Yes.

5           Q.     And if you look to our Exhibit 6, I'll  
6     represent to you that that is a copy of Section  
7     45-4-205. Are you familiar with that statute?

8           A.     Exhibit 5?

9           Q.     Yes.

10          A.     I recognize it as -- but no, I'm not familiar  
11     with it.

12          Q.     Okay. It simply calls for the personal  
13     representative to provide copies of his appointment from  
14     his home state to a New Mexico court. Is that, in  
15     essence, what it requires?

16                   MS. KESSLER: Mr. Examiner, I object. That  
17     requires a legal conclusion, and interpretation of a  
18     statute is a legal conclusion.

19          Q.     (BY MR. HALL) What's your understanding?

20          A.     I understand that that's what it says.

21          Q.     And if you look at Exhibit Number 4, does that  
22     appear to be a letter to the Lea County Clerk, dated  
23     September 4, 1995, asking that the last will and  
24     testament of Beulah M. Baird and the order admitting  
25     will to probate in the Estate of Beulah M. Baird in

1 Dallas County, Texas be recorded in Lea County?

2 A. Yes. That's what it is.

3 Q. And attached to that is a copy of the will of  
4 Beulah M. Baird attached?

5 A. Yes. That is correct.

6 Q. And if you look at Article 6 of that will --  
7 I'll give you a minute to find that, third [sic] page.

8 A. I'm sorry?

9 Q. Third page of the will, Article 6.

10 A. Okay.

11 Q. And it says, "Appointment of Independent  
12 Executor, Appointment of Spouse as Independent Executor.  
13 I hereby nominate and appoint Norma Baird Loving, Weldon  
14 Baird and Edwin Hall Baird, or any one or more of them  
15 as Independent Executors of this my Last Will and  
16 Testament." And it goes on to say, "I direct that no  
17 action be had in the probate court respecting my estate  
18 other than the probating and recording of this Will and  
19 to make, return and record an inventory and appraisalment  
20 of my estate and list of claims." Do you see that?

21 A. I see that.

22 Q. And then you'll note the recording information  
23 for the will.

24 In your opinion, as a landman, does this  
25 satisfy the requirement that evidence of an appointment

1     **be recorded in the county?**

2                   MS. KESSLER:   Mr. Examiner, once again, he  
3     is asking for an opinion on whether or not this is  
4     legally marketable title, which Mr. Wallace is not  
5     qualified to answer.

6                   EXAMINER JONES:   Would you like to continue  
7     this case until you can decide on an estate attorney to  
8     appear as a witness for the Applicant?

9                   MS. KESSLER:   Mr. Examiner, I don't believe  
10    that we need an estate attorney.   I think I have a few  
11    questions on redirect that I can ask to clear this up,  
12    but I think this is a very straightforward matter.

13                  EXAMINER JONES:   Mr. Hall, what do you  
14    think?

15                  MR. HALL:   That will be the Applicant's  
16    call --

17                  EXAMINER JONES:   Okay.

18                  MR. HALL:   -- to support in the  
19    application.

20           **Q.    (BY MR. HALL) And, Mr. Wallace, if you'll turn**  
21    **to Exhibit 3, do you recognize Exhibit 3 as being a**  
22    **docket page for the probate matter pending in Lea County**  
23    **that was referred to in the title opinion?**

24                  EXAMINER JONES:   Can you repeat that,  
25    please?

1           Q.    (BY MR. HALL) Do you recognize page 3 --  
2   Exhibit 3 as being a docket sheet from the Lea County  
3   probate proceeding that is referred to in the title  
4   opinion excerpt, which is attached to Exhibit 2?

5           A.    Yes.

6           Q.    Is that proceeding and is the recording with  
7   the Lea County Clerk's Office of these materials  
8   sufficient to establish the appointment of a personal  
9   representative?

10                   MS. KESSLER:  That calls for a legal  
11   conclusion, Mr. Examiner.  I would object.

12                   EXAMINER JONES:  I'll go with her on that.

13                   MR. HALL:  That's fine.

14                   I have no further questions.

15                   EXAMINER JONES:  Would you like to  
16   redirect?

17                   MS. KESSLER:  I'll wait until after you've  
18   asked your questions.

19                   EXAMINER JONES:  Okay.

20                                   CROSS-EXAMINATION

21   BY EXAMINER JONES:

22           Q.    The well location, is it going to change?

23           A.    No.

24           Q.    So I guess one of the -- one of the big things  
25   I saw is you did say you would only -- if the Baird



1     interests are pooled, you're going to assume a  
2     one-eighth reserve -- you're going to give 87-and-a-half  
3     percent as far as payout goes?

4           A.     Yes.

5           Q.     And is this -- is the Baird interest -- well,  
6     I'm not going to get into that.

7                     How many separately owned tracts are in  
8     these proposed --

9           A.     In all the wells we're pooling, the west half  
10    of 16 is one tract, the northwest quarter of 21 is one  
11    tract, and then the rest of it is cut up in separate  
12    tracts, fee and Fed.

13          Q.     So the rest of it is --

14          A.     There is -- the west half of southwest is fee,  
15    and the east half of the southwest is Fed.

16          Q.     Okay. Yeah. Our records are not -- sometimes  
17    not accurate. They show all state acreage -- in Section  
18    16 and Section 21, they're showing the northwest quarter  
19    is all fee and the southwest quarter is all Fed. Is  
20    that right?

21          A.     No. The west half of southwest is fee, and  
22    the --

23          Q.     So that --

24          A.     Of 21. Sorry.

25          Q.     Of 21. So the west half-southwest quarter is

1     **all fee?**

2           A.     Correct.

3                     In the east half of the southwest of the  
4     Fed portion are two different tracts, two different --

5           **Q.     And the com agreement, what stage is that?**

6           A.     We have -- I've sent out com agreements for  
7     each of the well proposals. And a good portion of the  
8     parties were pooled, and we have signed them. We're  
9     just trying to finish negotiating the operating  
10    agreements. Most of the parties will participate.

11          **Q.     So it'll require all the working interest**  
12    **owners' signatures, also?**

13          A.     (Indicating.)

14          **Q.     So you're probably not going to get all those,**  
15    **are you, because you're going through this proceeding so**  
16    **you can show --**

17          A.     We hope to get everybody.

18          **Q.     Now, the nonstandard locations, you've got one**  
19    **NSL for the west half-west half already, and the east**  
20    **half-west half is going to be standard; is that correct?**

21          A.     That is correct.

22          **Q.     Okay. Okay. It's a lot of money for a Bone**  
23    **Spring well, but I guess -- it's 12,000 feet deep, too.**

24          A.     It is.

25          **Q.     And you do have APIs for both of them; is that**

1     **correct?**

2           A.     Yes.

3           **Q.     Any other concerns from owners besides the**  
4     **Baird and Baird Trust?**

5           A.     I have -- like I said, the majority of the  
6     people we're trying to pool want to participate, so the  
7     majority of people are on board. I do have one party  
8     that doesn't want to lease or participate.

9           **Q.     And how did Concho come of their interest in**  
10    **this area?**

11          A.     We have a trade with another company in the  
12    west half of 16 that we're meeting an obligation, and  
13    then with our OGX acquisition, we acquired the fee  
14    acreage in here, and with another acquisition, we  
15    acquired the Fed.

16          **Q.     Okay. So you've got the majority of the**  
17    **acreage?**

18          A.     Yes.

19          **Q.     About how much acreage?**

20          A.     It depends on the spacing, but I think we have  
21    close to 90 percent, if I remember correctly.

22          **Q.     Okay. Okay. Thank you.**

23                   EXAMINER JONES: Do you want to redirect,  
24    Ms. Kessler?

25

1 REDIRECT EXAMINATION

2 BY MS. KESSLER:

3 Q. Let's look at the Baird Exhibit 2, Mr. Wallace.  
4 I'm looking at the second page.

5 A. Okay.

6 Q. This is a letter that you sent to the Bairs  
7 back in June; is that correct?

8 A. That is correct.

9 Q. To Mr. Weldon Baird?

10 A. Yes. That is correct.

11 Q. And this letter was to communicate that his --  
12 that title curative was necessary before the well was  
13 drilled; is that correct?

14 A. Yes. That is correct.

15 Q. On the second page of what you sent, I see a  
16 drilling requirement, and then I see "Status: Not  
17 satisfied," correct?

18 A. Yes. That's correct.

19 Q. And I see a supplemental requirement at the  
20 very bottom.

21 A. Yes. That is correct.

22 Q. And at the end of that, it says -- well, I'll  
23 just let you read it, if you could read the whole --

24 A. The "Supplemental Requirement"? "You should  
25 obtain, record and provide to this office for review,

1 authenticated copies of the Letters Testamentary issued  
2 by the County Court of Dallas County, Texas appointing  
3 Norma Baird Loving as Personal Representative of the  
4 Estate of Beulah M. Baird, deceased or undertake full  
5 informal probate proceedings in a New Mexico court of  
6 competent jurisdiction."

7 Q. So your letter on June 15th, communicated that  
8 in order to clear title either of these requirements  
9 needed to be fulfilled, correct?

10 A. Yes.

11 Q. And that is up to the Baird Estate to clear  
12 these title requirements; is that right?

13 A. That is correct.

14 Q. To your knowledge, have they performed any  
15 actions since June 15th to clear those title  
16 requirements?

17 A. No.

18 Q. Mr. Wallace, it's a title attorney's job or  
19 responsibility to decide whether title is marketable; is  
20 that correct?

21 A. Yes.

22 Q. So this was passed on to you by your title  
23 person attorney, and you sent that to the Baird Estate?

24 A. That's correct.

25 Q. And they have taken no action that you're aware

1 of to -- since June 15th of this year to file ancillary  
2 probate in New Mexico?

3 A. That's correct.

4 Q. And I understand that they have been asked to  
5 cure title because it's unclear, based on this  
6 requirement, whether or not they had authority to sign  
7 the lease?

8 A. That's correct.

9 Q. Now, if they do fulfill their burden of  
10 clearing this title, will Concho pay based on the lease?

11 A. Yes.

12 Q. And until that time, their interest will be  
13 held in suspense until they clear it, correct?

14 A. That's correct.

15 Q. I'd like to look at the Stove Pipe payments,  
16 which is Exhibit 6, Baird Exhibit 6. Do you know when  
17 the -- approximately when the Stove Pipe 2H well was  
18 drilled?

19 A. I don't recall. I know it was over a year,  
20 year and a half.

21 Q. 2014, 2015?

22 A. That's correct.

23 Q. Since that time, have you obtained new title  
24 opinions for the subject acreage?

25 A. I have.

1           Q.    And they did have an additional title  
2 requirement; is that correct?

3           A.    That is correct.

4           Q.    Are you aware that other wells drilled on this  
5 acreage, the payments to the Baird interest are being  
6 held in suspense due to the unclear title?

7           A.    Could you repeat that, please?

8           Q.    Yeah. Are you aware that there are other wells  
9 drilled on the Baird lease that are -- where payments  
10 are being held in suspense because they have not  
11 fulfilled their title requirement?

12          A.    Yes.

13          Q.    Once again, when the -- when Weldon Baird has  
14 cleared this title requirement, Concho will honor the  
15 lease, correct?

16          A.    That's correct.

17                   EXAMINER JONES: Are you going to move the  
18 admission of these (indicating)?

19                   MR. HALL: Yes, Exhibits 1 through 6. And  
20 actually, I'd like to tender those into the case files  
21 for Cases 15812 and 15813. Those are the Wolfcamp cases  
22 coming up. I may have to leave here in a minute.

23                   EXAMINER JONES: They're the same acreage?

24                   MR. HALL: Yes. Yes.

25                   EXAMINER JONES: Okay.

1 Any objection?

2 MS. KESSLER: No objection.

3 EXAMINER JONES: No objection.

4 (Respondents' Exhibit Number 1 through 6  
5 are offered and admitted into evidence.)

6 MR. HALL: So may I recross just briefly?

7 EXAMINER JONES: Quickly.

8 RECROSS EXAMINATION

9 BY MR. HALL:

10 Q. As I understand it, your position is that the  
11 omission here is a lack of Letters Testamentary? That's  
12 what you're looking for?

13 A. Yes.

14 Q. And if you turn to Baird Exhibit 5, again,  
15 that's the statute. Does that set forth any requirement  
16 that Letters Testamentary be delivered?

17 MS. KESSLER: Mr. Examiner, objection.  
18 This is a legal conclusion and interpretation of a  
19 statute and whether or not the requirement will be  
20 fulfilled by the statute.

21 Q. (BY MR. HALL) Let me ask it this way: Does the  
22 statute mention Letters Testamentary at all?

23 EXAMINER JONES: I would do go with -- I'm  
24 going to go with her on this.

25 MR. HALL: Well, I rephrased the question.



1 Are you objecting to that one, too?

2 MS. KESSLER: Yes.

3 Once again, I would object to the  
4 interpretation of the statute by Mr. Wallace.

5 MR. HALL: Okay. So my question is a  
6 little different. I'm asking whether Letters  
7 Testamentary are contained in that at all, so it does  
8 not call for interpretation.

9 MS. KESSLER: Mr. Examiner, the statute  
10 says what it says. To the extent he's asking him to  
11 interpret the statute, I would simply object.

12 EXAMINER JONES: I'm going to go with her.

13 MR. HALL: Okay.

14 EXAMINER JONES: Anything else in these two  
15 cases?

16 MS. KESSLER: I'd ask they be taken under  
17 advisement.

18 EXAMINER JONES: Taken under advisement?  
19 Okay. Cases 15810 and 158 --

20 MS. KESSLER: Oh, I'm sorry. We haven't  
21 done geology.

22 EXAMINER JONES: Do you want to do a  
23 geologist?

24 MS. KESSLER: I do.

25 EXAMINER JONES: Let's do geology. I'm

1     sorry.

2                     And we'll save these exhibits for the  
3     next --

4                     MR. HALL:   Thank you.

5                     EXAMINER JONES:   I'll put them aside for  
6     the next one, also.

7                     If you want to ask questions of the  
8     geologist --

9                     MR. HALL:   I have a few minutes.   Thanks.

10                    EXAMINER JONES:   Okay.   Okay.

11                    CARRIE M. MARTIN,  
12             after having been previously sworn under oath, was  
13             questioned and testified as follows:

14                    DIRECT EXAMINATION

15     BY MS. KESSLER:

16             **Q.   Ms. Martin, can you please state your name for**  
17             **the record and tell the Examiners by whom you are**  
18             **employed and in what capacity?**

19             A.   Carrie Martin, and I'm employed by COG  
20     Operating, LLC as a geologist.

21             **Q.   Have you previously testified before the**  
22             **Division?**

23             A.   Yes.

24             **Q.   Were your credentials as a petroleum geologist**  
25             **accepted and made a matter of record?**

1           A.     Yes.

2           Q.     Are you familiar with the applications filed in  
3     these consolidated cases?

4           A.     Yes.

5           Q.     And have you conducted a study of the lands  
6     that are the subject of this hearing?

7           A.     Yes.

8           Q.     What is the targeted interval for these two  
9     wells?

10          A.     The 3rd Bone Spring Sand of the Bone Spring  
11     Formation.

12          Q.     If I turn to Exhibit 12, is this a location map  
13     showing the proposed location of the two wells?

14          A.     Yes. This is the location map. The dashed  
15     purple lines are the two wells -- proposed wells the  
16     White Falcon 16 Fed Com and the White Falcon State Com  
17     #12H. The purple solid line is an existing producing  
18     3rd Bone Spring Sand well, the Coachman Fee #4H, and the  
19     yellow area is COG's acreage.

20          Q.     Is Exhibit 13 a structure map of the 3rd Bone  
21     Spring in the area?

22          A.     Yes.

23          Q.     Can you please review this for Mr. Jones?

24          A.     This is the top of the 3rd Bone Spring Sand.  
25     The contour interval is 50 feet. The structure map

1 shows that there is no faulting in the area, no  
2 pinch-outs and no geologic impediments to drilling  
3 horizontal wells.

4 **Q. And Exhibit 14 is the same map with the same**  
5 **line of section drawn on it, correct?**

6 A. Yes.

7 This is a cross section from A to A prime  
8 from north to south, three wells that are chosen to be  
9 representative for the geology in this area.

10 **Q. And Exhibit 15 is the cross-section exhibit?**

11 A. This is a stratigraphic cross section. The top  
12 of the purple line is the top of the 3rd Bone Spring  
13 Sand. The cross section is hung on the 3rd Bone Spring  
14 Sand. The red line is the top of the Wolfcamp  
15 Formation. The green bracket shows the location of the  
16 target interval as the lower part of the 3rd Bone Spring  
17 Sand. The target was chosen because it is one of the  
18 best targets in the area and has been the same target  
19 that's producing out of the Coachman Fee #4H.

20 **Q. Anything else you'd like to point out on this**  
21 **exhibit?**

22 A. This cross section also shows that there is  
23 continuous thickness across the area of the 3rd Bone  
24 Spring Sand.

25 **Q. What conclusions have you drawn based on your**

1     **study of this area?**

2           A.     There are no geological impediments to drilling  
3     two-mile horizontal wells in this area. The proposed  
4     nonstandard unit will, on average, contribute more or  
5     less equally to the production of this well, and the  
6     area will efficiently and economically be developed by  
7     horizontal wells.

8           **Q.     Do you believe that each of the tracts will**  
9     **contribute more or less equally to production from each**  
10    **of the two wells?**

11          A.     Yes.

12          **Q.     In your opinion, is granting COG's application**  
13    **in the best interest of conservation, for the prevention**  
14    **of waste and the protection of correlative rights?**

15          A.     Yes.

16                   MS. KESSLER: Mr. Examiner, I would move  
17    admission of Exhibits 12 through 15.

18                   MR. HALL: No objection.

19                   EXAMINER JONES: Exhibits 12 through 15 are  
20    admitted.

21                           (COG Operating, LLC Exhibit Numbers 12  
22                           through 15 are offered and admitted into  
23                           evidence.)

24                   MR. HALL: I have no questions.

25                   EXAMINER JONES: I have no questions for

1 the geologist.

2 But is it true that you don't object to the  
3 admission of these in the next two cases?

4 (Examiner Wade enters the room.)

5 MS. KESSLER: That's correct.

6 EXAMINER JONES: Okay. Okay. And would  
7 you both like to give a posthearing write-up on your  
8 arguments in the case?

9 MR. HALL: Sure, if you'd like that.

10 MS. KESSLER: Sure.

11 EXAMINER JONES: Okay. Thank you.

12 That's all in this case -- these two cases?

13 EXAMINER WADE: Did I get here at a perfect  
14 time?

15 MR. HALL: Yes, you did.

16 EXAMINER JONES: Cases 15810 and 15811 are  
17 taken under advisement.

18 Don't worry. There are two more coming up.

19 Let's take a ten-minute break.

20 MR. HALL: Could you call the cases and  
21 allow me to enter my appearance, then I will leave, if  
22 that's all right?

23 EXAMINER JONES: I think that was the  
24 strategy, wasn't it?

25 (Case Numbers 15810 and 15811 conclude,

9:43 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO  
3

4 CERTIFICATE OF COURT REPORTER

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

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

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.  
20

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