

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  
TO RE-OPEN CASE NO. 15023 TO POOL  
THE INTERESTS OF ADDITIONAL MINERAL  
OWNERS UNDER THE TERMS OF COMPULSORY  
POOLING ORDER R-13757, EDDY COUNTY,  
NEW MEXICO.

CASE NO. 15023  
(Re-opened)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 9, 2018

Santa Fe, New Mexico

BEFORE: SCOTT DAWSON, CHIEF EXAMINER  
LEONARD LOWE, TECHNICAL EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, Scott Dawson,  
Chief Examiner, Leonard Lowe, Technical Examiner, and  
David K. Brooks, Legal Examiner, on Thursday, August 9,  
2018, 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.

REPORTED BY: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

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APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

JORDAN L. KESSLER, ESQ.  
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INDEX

	PAGE
Case Number 15023 Called	3
Case Presented by Affidavit	3
Proceedings Conclude	10
Certificate of Court Reporter	11

EXHIBITS OFFERED AND ADMITTED

COG Operating, LLC Exhibit Letters A through G	6
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1 (8:31 a.m.)

2 EXAMINER DAWSON: So what we'll do now is  
3 start with Case Number 15023, which is number five on  
4 the list, and it's an application of COG Operating, LLC  
5 to re-open Case Number 15023 to pool the interests of  
6 additional mineral owners under the terms of Compulsory  
7 Pooling Order R-13757, Eddy County, New Mexico.

8 Call for appearances, please.

9 MS. KESSLER: Mr. Examiners, Jordan  
10 Kessler, from the Santa Fe office of Holland & Hart, on  
11 behalf of the Applicant. And this case will be  
12 presented by affidavit.

13 EXAMINER DAWSON: Okay. Any other  
14 appearances people involved in this case?

15 Any opposition?

16 Okay. When you're ready, Ms. Kessler.

17 MS. KESSLER: Thank you.

18 EXAMINER DAWSON: Can you have your  
19 witnesses please stand and be sworn by the court  
20 reporter?

21 MS. KESSLER: Mr. Examiner, my presentation  
22 is by affidavit.

23 EXAMINER DAWSON: Oh, just affidavit.

24 Okay.

25 MS. KESSLER: So if I may proceed, what you

1 have in front of you is -- it's a little bit confusing.  
2 Behind the cover page in front of Attachment A, I have  
3 an affidavit from Mr. Stuart Dirks, who is a landman  
4 with COG Operating, LLC. And this sets forth the fact  
5 that this case was originally pooled under Division  
6 Order R-13757 that was entered in October of 2013 and  
7 created 159.67-acre nonstandard spacing unit comprised  
8 of the east half of the west half of Section 6, Township  
9 19 South, Range 26 East in Eddy County. And the order  
10 also pooled uncommitted interest owners in the Atoka;  
11 Glorieta-Yeso Pool and dedicated the spacing unit to the  
12 Arabian Fee #6H well. And the API number and footage  
13 calls for that well are listed in paragraph two.

14 Attachment A to this order is a copy -- I'm  
15 sorry -- to this affidavit is a copy of the original  
16 order, and Attachment B is an affidavit -- is a C-102  
17 for the Arabian 6H well.

18 In 2016, this case was re-opened to pool  
19 additional mineral interest owners due to an expiration  
20 of a lease and a termination of a joint operating  
21 agreement. And that was because the well was shut in  
22 for a period of time. Those leases expired, as did the  
23 joint operating agreement.

24 So Division Order R-13757-A pooled  
25 additional mineral interest owners, and that is attached

1 as Exhibit C.

2 Now, the Arabian 6H well temporarily ceased  
3 production on December 1st of 2016, and because of that  
4 lapse in production, since the order of R-13757-A, there  
5 have been additional interest owners who are no longer  
6 committed to the well, again due to lease-expiration  
7 issues.

8 Exhibit D to this affidavit, behind Tab D,  
9 shows the nature and percentage of the interest owners  
10 that COG is now seeking to pool. If you look at the  
11 third page of Attachment D, there is a nice summary. It  
12 says "Interest in Spacing Unit," and it shows the  
13 parties that were pooled under the original orders, and  
14 those are italicized. And it also seeks -- highlighted  
15 in bold, it shows the four parties that COG seeks to  
16 pool today. That would be the Estate of Mary Ellen  
17 Taylor, Sharbro Energy, LLC, Yates Industries, LLC, and  
18 Yates Brothers.

19 And as you can see from the asterisks, COG  
20 has entered into verbal agreements with those parties  
21 but has not yet finalized an agreement and has leases  
22 expiring at the beginning of November, so it does seek  
23 to go forward with this.

24 EXAMINER DAWSON: Okay.

25 MS. KESSLER: Lease offers and well

1 proposals were sent to the unleased mineral interest  
2 owners and those are shown on Attachment E and request a  
3 term assignment.

4 The working interest owner is included as  
5 Attachment F.

6 All of these parties were locatable, and  
7 COG has had discussions and negotiations with all of  
8 these parties.

9 Attachment G to this affidavit is a letter  
10 from Holland & Hart providing notice to the parties that  
11 COG seeks to pool today.

12 And, Mr. Examiners, for these reasons, COG  
13 respectfully requests the additional uncommitted  
14 interest owners be pooled pursuant to the terms of  
15 Order R-13757. And I would ask at this time that this  
16 exhibit, along with Attachments A through G, be taken  
17 into the record.

18 EXAMINER DAWSON: Okay. At this time  
19 Exhibits A through G on Case Number 15023 will be  
20 admitted to the record.

21 (COG Operating, LLC Exhibit Letters A  
22 through G are offered and admitted into  
23 evidence.)

24 EXAMINER DAWSON: Do you have any  
25 questions, Leonard?

1 EXAMINER LOWE: No, I don't.

2 EXAMINER DAWSON: David?

3 EXAMINER BROOKS: I think I may have missed  
4 something. How did these -- these interests that were  
5 not included, how did they arise?

6 MS. KESSLER: The well was temporarily shut  
7 in, Mr. Examiner, and while it was shut in and ceased  
8 production, certain leases expired and the operating  
9 agreement terminated.

10 EXAMINER BROOKS: Oh, okay. So these are  
11 minimal owners who became -- whose interests -- to whom  
12 interests reverted upon the expiration of leases that  
13 would have been kept in production -- that would have  
14 been kept in force by production if the leases -- if the  
15 well had continued -- had continuously produced?

16 MS. KESSLER: That's true for two of the  
17 owners. Two of the owners are unleased mineral interest  
18 owners. Two of the interests are working interest  
19 owners who were parties to an operating agreement that  
20 also terminated or expired due to the cessation of  
21 production.

22 EXAMINER BROOKS: So -- I'm sorry. They're  
23 working interest owners who were -- who were parties to  
24 an operating agreement. Well, why did they not have an  
25 interest before?

1 MS. KESSLER: They weren't pooled,  
2 Mr. Examiner. They weren't compulsory pooled because  
3 they had reached -- they had reached a voluntary  
4 agreement, which was the operating agreement.

5 EXAMINER BROOKS: Okay. But they did  
6 not -- what happened to the voluntary agreement?

7 MS. KESSLER: When the well temporarily  
8 ceased producing, the operating agreement terminated.

9 EXAMINER BROOKS: Okay. So those -- those  
10 interests became uncommitted because -- committed under  
11 the terms of an operating agreement, and then that  
12 operating agreement expired by its own terms?

13 MS. KESSLER: Precisely. Yes.

14 EXAMINER BROOKS: Thank you.

15 EXAMINER DAWSON: Do you know why the well  
16 ceased production?

17 MS. KESSLER: I'm sorry, Mr. Examiner, I  
18 don't.

19 EXAMINER DAWSON: Okay. And how are they  
20 going to treat the new interest owners in the new lease?

21 MS. KESSLER: They have proposed -- they  
22 have offered to lease. They have proposed a  
23 recompletion, and they've offered to term assign. So  
24 the well will be recompleted, and with respect to the  
25 recompletion, if there are any pooled parties under this

1 order, COG is seeking a 200 percent risk penalty for the  
2 recompletion order.

3 EXAMINER DAWSON: Okay.

4 EXAMINER BROOKS: I would assume that you  
5 recognize that probably they will be entitled to a new  
6 election --

7 MS. KESSLER: Correct.

8 EXAMINER BROOKS: -- since they would not  
9 be bound by the election they made under the title that  
10 they held at the time.

11 MS. KESSLER: For the recompletion work?

12 EXAMINER BROOKS: Yes.

13 MS. KESSLER: Yes.

14 EXAMINER DAWSON: Has a new JOA been  
15 executed?

16 MS. KESSLER: It's been proposed, in my  
17 understanding. And, again, as I mentioned, Attachment D  
18 to the exhibit shows that all parties have reached a  
19 verbal agreement with COG. But, again, there are  
20 lease-expiration issues, and so COG is requesting that  
21 these parties be pooled and is also requesting an  
22 expedited order.

23 EXAMINER DAWSON: Okay. Okay. So at this  
24 time --

25 Is that it?

1 MS. KESSLER: (Indicating.)

2 EXAMINER DAWSON: All right. At this time  
3 Case Number 15023 will be taken under advisement.

4 Thank you, Ms. Kessler.

5 MS. KESSLER: Thank you.

6 (Case Number 15023 concludes, 8:40 a.m.)

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COUNTY OF BERNALILLO

CERTIFICATE OF COURT REPORTER

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

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

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

DATED THIS 16th day of August 2018.

MARY C. HANKINS, CCR, RPR  
Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2018  
Paul Baca Professional Court Reporters