

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                      CASE NO. 20527  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

July 25, 2019

Santa Fe, New Mexico

BEFORE:    WILLIAM V. JONES, CHIEF EXAMINER  
             KATHLEEN MURPHY, TECHNICAL EXAMINER  
             DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner; Kathleen Murphy, Technical Examiner; and David K. Brooks, Legal Examiner, on Thursday, July 25, 2019, 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  
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# APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

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FOR INTERESTED PARTIES BURLINGTON RESOURCES OIL & GAS  
COMPANY, LP; MRC PERMIAN COMPANY; JETSTREAM OIL & GAS  
PARTNERS, LP:

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# EXHIBITS OFFERED AND ADMITTED

COG Operating, LLC Exhibit Numbers 1 and 8 and 9	10
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1 (11:06 a.m.)

2 EXAMINER JONES: Okay. We're calling two  
3 cases separately?

4 MS. LUCK: Yeah. One of them is just a  
5 notice case, and then the other one is a full case by  
6 affidavit.

7 EXAMINER JONES: Okay. Can I call the  
8 notice case first? Do you mind?

9 MS. LUCK: Yeah. That's fine.

10 EXAMINER JONES: Okay. Let's call Case  
11 20527, application of COG Operating, LLC for compulsory  
12 pooling in Lea County New Mexico.

13 Call for appearances.

14 MS. LUCK: Santa Fe office of Holland &  
15 Hart.

16 EXAMINER JONES: Any other appearances?

17 MR. BRUCE: Mr. Examiner, Jim Bruce of  
18 Santa Fe.

19 At the last hearing, I entered appearances  
20 for Burlington Resources Oil & Gas Company, LP and MRC  
21 Permian Company. I'd enter them again today. And then  
22 today I'm also entering an appearance for Jetstream Oil  
23 & Gas Partners, LP.

24 No witnesses, and no objection to what's  
25 going on here.

1 MS. LUCK: Okay. We don't have an extra  
2 copy of the exhibits. I can get you one.

3 EXAMINER JONES: Okay. We had an  
4 additional entry, Jetstream Oil & Gas, LLP.

5 MR. BRUCE: LP.

6 EXAMINER JONES: Oh, LP.

7 Any other appearances?

8 Okay.

9 MS. LUCK: This case was continued for  
10 purposes of perfecting notice, and you'll find that  
11 information behind Tabs 8 and 9.

12 There is an affidavit from my office  
13 showing that we provided notice to all of the parties  
14 who have an interest in this acreage.

15 And then Exhibit 9 is an Affidavit of  
16 Publication.

17 Also behind Exhibit Number Tab 1 is an  
18 amended Exhibit 1. There have been additional  
19 agreements that COG has been unable to reach so meaning  
20 less parties to be pooled. So we just provide an  
21 updated exhibit showing the remaining working interest  
22 owners to be pooled.

23 EXAMINER JONES: That was Tab 1, the  
24 updated?

25 MS. LUCK: That's correct. It's just an

1 amended exhibit. So it can replace the previous Exhibit  
2 1, just reflecting that COG has been able to reach an  
3 agreement with more parties to be pooled, and so we  
4 removed the highlighting from their name on this  
5 exhibit.

6 EXAMINER JONES: Okay. Mine, I don't have  
7 highlighting. Oh, yes, I do.

8 MS. LUCK: So the parties that remain to be  
9 pooled are highlighted, and it should be fewer parties  
10 than were originally noted on the original Exhibit 1.

11 And Exhibits 8 and 9 are proof of notice by  
12 mailing and also proof by publication because the  
13 notices were not delivered by the time of this hearing.

14 So with that, I would move the admission of  
15 Exhibits -- amended Exhibit 1 and Exhibits 8 and 9 and  
16 request that the case be taken under advisement.

17 We're also asking for an expedited order in  
18 this case because these wells are coming up really soon  
19 on COG's drilling schedule.

20 EXAMINER JONES: Okay. Okay.

21 Mr. Brooks.

22 EXAMINER BROOKS: No. I have nothing.

23 EXAMINER JONES: Okay. This unmarketable  
24 title business, can you guys explain that to me? I  
25 forget things from day to day so -- unmarketable --

1                   EXAMINER BROOKS: That's one that's easy to  
2 forget.

3                   MS. LUCK: And this is one that our  
4 witness, Megan Tipton, answered questions about during  
5 the hearing, and so I would defer to her testimony from  
6 the record of the hearing on June 13th. But,  
7 essentially, her testimony was that unmarketable title  
8 are those persons who Concho is unsure of their interest  
9 in the property, and so out of an abundance of caution,  
10 we provided them notice to be sure that they are pooled  
11 in this proceeding if it does turn out that they do have  
12 an interest.

13                  EXAMINER JONES: All right. Is it true  
14 that the absolute quantity of the interest titled  
15 "unmarketable title" is fixed, but it's split out  
16 between these people within -- in other words, let's say  
17 20 percent is unmarketable and the split-out is just  
18 unknown between these people, but the 80 percent, you  
19 know who the 80 percent is, correct?

20                  MS. LUCK: And that might not be true  
21 because some of these parties, their interest might be  
22 split with other heirs or devisees from an estate, or  
23 they may no longer have an interest in the property  
24 because they've assigned their interest. So I don't  
25 know that their interests are fixed. And so that's why

1 we provide notice to them, to be sure that their  
2 interests are pooled in the event that it turns out that  
3 they do have an interest in the property.

4 EXAMINER BROOKS: Well, you always have two  
5 sets -- in any unmarketable title situation, whatever  
6 created it, you have two sets of people you want to  
7 include notice to. One is the person who you think owns  
8 the property but whose title is unmarketable, and the  
9 other is the person or persons who would own it if the  
10 title to the person you think owns it fails. And there  
11 is really no point in doing it unless you're going to  
12 attempt to include both sets. But that's a detail, and  
13 I don't think we want to get involved in title details  
14 because there are too many of them.

15 EXAMINER JONES: Well, but the previous  
16 page shows additions to 100 percent in each one of the  
17 tracts. So it shows 100 percent of the interests on the  
18 previous page, but then the parties of unmarketable  
19 title -- are you saying they might -- they might bump  
20 out some of the interests on the first page?

21 MS. LUCK: Right. And So, I mean, the  
22 interests total 100 percent, but we're not sure what,  
23 you know, their percentage of ownership is or if they do  
24 have an ownership interest.

25 EXAMINER JONES: Oh. Even on the first

1 page?

2 MS. LUCK: Well, no. On the first page,  
3 that's correct, but I mean as to the parties with  
4 unmarketable title.

5 EXAMINER JONES: Okay. Mr. Brooks, can you  
6 explain that to me one more time in language that I can  
7 understand?

8 EXAMINER BROOKS: Well, the best way to  
9 explain it is by example. If the property is titled in  
10 the name of John Doe, deceased -- or if it's just titled  
11 in the name of John Doe and we know that John Doe is  
12 deceased, then his heirs own it. But we may know some  
13 of the heirs, but we don't necessarily know all of them.  
14 So if it -- if the estate has not been probated in  
15 New Mexico, then we would like to include all of the  
16 heirs or all of the persons who might claim under a  
17 will, if a will exists, if we know who they are -- and  
18 we wouldn't normally know that unless we know about the  
19 will. I'm getting into too much detail.

20 EXAMINER JONES: No, you're not.

21 EXAMINER BROOKS: But the point is that if  
22 the title of the person are people whom we think are the  
23 heirs of John Doe fails because there are other heirs  
24 who have interests, then everybody's title is  
25 unmarketable if it claims under John Doe until there is



1 a probate.

2 MS. LUCK: So returning to your example,  
3 Mr. Jones, if John Doe died with 20 percent, it's going  
4 to be the same 20 percent, but it might be split amongst  
5 five people rather than it being held by that one  
6 person, John Doe.

7 EXAMINER JONES: Right. Okay. I see, that  
8 but where's that 20 percent over on the first page? So  
9 is this not working interests you're talking about for  
10 unmarketable title? Is this just royalty?

11 EXAMINER BROOKS: Would seldom be working  
12 interests, but it might be.

13 EXAMINER JONES: Okay.

14 EXAMINER BROOKS: I mean, if a person dies  
15 owning an interest in a lease, they've got the same  
16 title problems as the person who dies owning an interest  
17 in the mineral fee estate.

18 EXAMINER JONES: Okay. So in other words,  
19 the first page, with all the interests that add up to  
20 100 percent, those interests are not necessarily  
21 correct?

22 MS. LUCK: No. The interests on this page  
23 are correct.

24 EXAMINER BROOKS: But if they add up to 100  
25 percent, they have to include some people that you think

1 own -- or you think hold the title but whose title is  
2 unmarketable, and, therefore, you don't really know if  
3 they do or don't, right?

4 MS. LUCK: And that might be true. And I'm  
5 not sure if our witness was able to answer questions  
6 specifically about this exhibit during the hearing on  
7 June 13th, but I would defer to her testimony as to the  
8 percentages and this exhibit that was prepared by our  
9 land witness, Ms. Tipton.

10 EXAMINER JONES: Okay. Basically, notice  
11 is complete, though?

12 MS. LUCK: Yes, notice has been provided to  
13 all of the parties that have an interest in the property  
14 and even those who may not, just out of an abundance of  
15 caution.

16 EXAMINER JONES: Okay. Well, revised  
17 Exhibit 1 and Exhibits 8 and 9 are admitted.

18 (COG Operating, LLC Exhibit Numbers 1, 8  
19 and 9 are offered and admitted into  
20 evidence.)

21 EXAMINER JONES: And take it under  
22 advisement?

23 MS. LUCK: Yes, please.

24 EXAMINER JONES: We'll take it under  
25 advisement.

1 MS. LUCK: Thank you.

2 (Case Number 20527 concludes, 11:17 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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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 DATED THIS 2nd day of August 2019.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2019  
Paul Baca Professional Court Reporters

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