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October 28, 2010

Ms. Florene Davidson
New Mexico Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

Hand Delivered

Re: NMOCC Case No. 14472 (De Novo): Application of COG Operating LLC for Cancellation of Operator's Authority and Termination of Spacing Units, Yeso Energy, Inc. Dow "B" 28 Federal Well No. 1, Eddy County, New Mexico

and

NMOCC Case No. 14547; Application of the NMOCD, through the Compliance and Enforcement Manager, for an Order Authorizing the Division to Recognize an Operator of Record for Wells Currently Operated by Yeso Energy, Inc.; Lea, Eddy and Chaves Counties, New Mexico

Dear Ms. Davidson

Attached are six binders of Exhibits for COG Operating LLC in the above-consolidated matters.

Very truly yours,

Karen Williams
Assistant to J. Scott Hall

JSH:kw

Enclosure

cc: Gail MacQuesten, Esq.
Phillip T. Brewer, Esq.
Michael H. Feldewert, Esq.

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

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APPLICATION OF COG OPERATING LLC FOR
CANCELLATION OF OPERATOR'S AUTHORITY
AND TERMINATION OF SPACING UNITS, YESO
ENERGY, INC. DOW "B" 28 FEDERAL WELL NO.
1, EDDY COUNTY, NEW MEXICO

CASE NO. 14472 De Novo

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION, THROUGH THE
COMPLIANCE AND ENFORCEMENT MANAGER,
FOR AN ORDER AUTHORIZING THE DIVISION
TO RECOGNIZE AN OPERATOR OF RECORD
FOR WELLS CURRENTLY OPERATED BY YESO
ENERGY, INC.; LEA, EDDY AND CHAVES
COUNTIES, NEW MEXICO

CASE NO. 14547

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by COG Operating LLC as required by the Oil Conservation Commission.

APPEARANCES

APPLICANT: Case 14472

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APPLICANT: Case 14547

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APPLICANT'S ATTORNEY

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OPPONENT: Case 14472

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OPPONENT'S ATTORNEY

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OPPONENT: Case 14547

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OPPONENT'S ATTORNEY

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STATEMENT OF THE CASE

APPLICANT: CASE NO. 14472

COG Operating, LLC ("COG"), the operator of numerous wells in the vicinity of Township 17 South, Range 31 East, seeks to drill several more, and has the need for additional salt water disposal capacity. Earlier this year, COG learned that the Dow "B" 28 Federal Well No.1, located in Section 28 T17S R31E, had been abandoned by its former operator, Yeso Energy, Inc., and was scheduled for plugging by the Oil Conservation Division in a matter of days. For the reason that the well is located on federal lands, no state financial assurance applies and the cost of plugging would be borne solely by the State of New Mexico. COG then inquired of the Division of the steps that should be taken to delay plugging of the well so it could be utilized for injection operations.

On April 9, 2010, after conferring with the Division, COG filed its original Application in this matter seeking an order canceling the authority of Yeso Energy, Inc. as operator of the Dow "B" 28 Federal Well No. 1 and terminating all Division permits and spacing and proration units that were at any time dedicated to the well preparatory to COG's application to utilize the well for injection.

Yeso Energy, Inc. is a scofflaw operator and it is not in good standing with the State of New Mexico. Yeso Energy has a long history as a chronic violator of the Division's rules, regulations and orders. Yeso Energy has been involved in numerous notices of violation and subsequent compliance proceedings brought against it by the Division. By Order No. R-12930-A issued by the Division in case No. 14924, Yeso Energy was ordered to bring all its wells into compliance or show cause why all its wells shouldn't be plugged and abandoned or transferred to another operator. Yeso Energy "*wholly failed*" to appear at the hearing directing it to show cause and on September 15, 2009, the Division entered Order No. R-12930-B ordering Yeso to plug all its wells or transfer them to another operator no later than March 15, 2010. Yeso Energy did not appeal this order and it is now final. Neither did it honor the order issued by the Division and correspondingly, the Division moved forward with its plans to plug the Yeso Energy wells, including the Dow "B" 28 Federal Well No. 1.

In the meantime, COG's Application in Case No. 14472 seeking the cancellation of the authority of Yeso Energy, Inc. as operator of the Dow "B" 28 Federal Well No. 1 was heard by one of the Division's examiners on May 13, 2010, and on July 13, 2010, the Division issued Order No. R-13294. That order (1) terminated Yeso Energy's rights to operate the Dow "B" 28 well, (2) suspended plugging of the well for six months and (3) directed COG to file an application to use the well "*without the necessity of a change of operator.*" By a separate C-108 application that has since been filed, COG is also seeking the Division's approval to convert and utilize the well for disposal operations. COG has also filed a right of way permit application with the BLM to utilize federal lands for the injection well. Both the C-108 and right of way permit application remain pending.

Yeso Energy, Inc. appealed Order No. R-13294 and filed an Application for Hearing De Novo on August 9, 2010. Subsequently, on August 19, 2010, the Division filed its Application in Case No. 14547 raising the matter of the future course of operations and administration of the Dow "B" 28 Federal Well No. 1 and a number of other wells that were abandoned by Yeso Energy. By Order No. R-13309 issued on August 23, 2010, these cases were consolidated for this hearing de novo before the Commission.

Since then, Yeso Energy has attempted to transfer ownership and operations of the Dow "B" 28 Federal Well No. 1, along with the other wells, to Chica Energy, LLC. The BLM approved the change of operator from Yeso Energy, to Chica Energy "*Subject To Like Approval By State.*" The Division did not approve the transfer because (1) the operator was not in compliance with the provisions of Part 5.9 of the Division's Compliance and Enforcement Rules and (2) Chica appeared to be an affiliated entity. Undeterred, Yeso Energy then attempted to transfer the wells to Judah Oil, LLC. The BLM subsequently approved the change of operator for the Dow "B" 28 well to Judah Oil, but the NMOC has not recognized the transfer because (1) the well information on the federal sundry notice form is incorrect, and (2) assumption of operations of the numerous non-compliant, inactive wells by Judah would place it in violation of Part 5.9 of the Division's rules. Judah Oil entered its appearance and then filed a motion to dismiss the Division's Application in Case No. 14547, contending that the BLM's approval of the change of operator on the sundry notice rendered the matter moot. The motion was denied by the Commission Chairman on September 20, 2010. It does not appear that Yeso Energy, Inc. will be represented or will otherwise appear at the Commission's hearing on these matters.

COG does not challenge Judah Oil, LLC's *ability* to operate any well. However, there remains at issue Judah's *qualification* to act as operator of the Dow "B" 28 Federal Well No. 1. The effectiveness of an attempted transfer of a regulatory permit by an operator which is not in good standing and has had its authority revoked also requires resolution by the Commission. The Commission should act to uphold the integrity of the Division's operator compliance and enforcement processes. Yeso Energy, Inc. operates in evasion of the Division's rules and orders and mocks the agency's authority. It must not be allowed to succeed.

OPPONENT:

PROPOSED EVIDENCE

APPLICANT

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
David Evans, Landman	20 minutes	8

OPPONENT

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
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PROCEDURAL MATTERS

1. Counsel for Yeso Energy, Inc. have indicated their withdrawal from representation. Although it applied for hearing de novo in Case No. 14472, Yeso Energy, Inc. is not likely to participate in this hearing. Consequently, it does not appear that Order No. R-13294 will be challenged.

2. On October 19, 2010, COG Operating obtained subpoenas duces tecum issued to Yeso Energy, Inc. and Judah Oil, LLC. The subpoenas sought documentation relating to the transfer of the Dow "B" 28 Federal Well No. 1 from Yeso Energy to Judah Oil. Responses and documents were only recently received and it may be necessary for COG to supplement its exhibits.

MONTGOMERY & ANDREWS, P.A.

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was e-mailed to counsel of record on the 28 day of October, 2010, as follows:

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