

**COPY**

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, EDDY COUNTY, NEW MEXICO.

CASE NOS.  
14851 and 14852

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Chief Examiner  
TERRY WARNELL, Technical Examiner

May 24, 2012

Santa Fe, New Mexico

This matter came on for hearing before the  
New Mexico Oil Conservation Division, DAVID K. BROOKS,  
Chief Examiner, and TERRY WARNELL, Technical Examiner,  
on Thursday, May 24, 2012, at the New Mexico Energy,  
Minerals and Natural Resources Department, 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

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1 APPEARANCES  
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1 (10:07 a.m.)

2 EXAMINER BROOKS: I believe you said,  
3 Mr. Feldewert, that Case Numbers 14851 and 14852 should  
4 be called together?

5 MR. FELDEWERT: Yes. We'd ask that they be  
6 consolidated for the presentation of evidence and also,  
7 then, for purposes of the issuance of an order.

8 EXAMINER BROOKS: Okay. At this time, we  
9 will call Case Number 14851, the application of COG  
10 Operating, LLC for a nonstandard spacing and proration  
11 unit and compulsory pooling, Eddy County, New Mexico,  
12 and Case Number 14852, application of COG Operating, LLC  
13 for a nonstandard spacing and proration unit and  
14 compulsory pooling, Eddy County, New Mexico. These  
15 cases will be consolidated for purposes of hearing.

16 At this time, call for appearances in the  
17 consolidated cases.

18 MR. FELDEWERT: Mr. Examiner, Michael  
19 Feldewert, with the Santa Fe office of the law firm of  
20 Holland & Hart, appearing on behalf of the Applicant,  
21 COG Operating, LLC.

22 I have two witnesses who have not yet been  
23 sworn.

24 EXAMINER BROOKS: Okay. Would those  
25 witnesses please stand and be sworn?

1 (Witnesses sworn.)

2 MR. FELDEWERT: Mr. Examiner, we will then  
3 call our first witness.

4 EXAMINER BROOKS: Please do so.

5 I don't believe the witnesses identified  
6 themselves, did they? I didn't hear.

7 MR. FELDEWERT: For purposes of swearing  
8 in?

9 EXAMINER BROOKS: Yeah.

10 Would you state your names, please?

11 MR. GAYNOR: I'm Brandon Gaynor.

12 MR. BROUGHTON: Harvin Broughton.

13 And you (indicating) have my card.

14 (The court reporter indicates.)

15 EXAMINER BROOKS: Okay. You may proceed.

16 BRANDON K. GAYNOR,  
17 after having been previously sworn under oath, was  
18 questioned and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. FELDEWERT:

21 Q. Would you please identify by whom you are  
22 employed and in what capacity?

23 A. Yes. I am a landman for COG Operating, LLC.

24 Q. Have you previously testified before this  
25 Division?

1 A. I have.

2 Q. And were your credentials as a petroleum  
3 landman accepted and made a matter of public record?

4 A. Yes, they were.

5 Q. And have you conducted a study of the lands  
6 that are the subject of each of these consolidated  
7 applications?

8 A. Yes.

9 Q. And are you familiar with each of these  
10 consolidated applications?

11 A. Yes.

12 MR. FELDEWERT: Mr. Examiner, I would  
13 tender Mr. Gaynor as an expert witness in petroleum land  
14 matters.

15 EXAMINER BROOKS: So accepted.

16 Q. (BY MR. FELDEWERT) Mr. Gaynor, would you then  
17 please turn to what's been marked as COG Exhibit Number  
18 1? Would you please identify it, and explain what COG  
19 seeks under each of these consolidated applications?

20 A. Yes. This is a land plat showing Section 2 of  
21 Township 17 South, Range 29 East. The north half is the  
22 area that we're calling the Ouimet. The north half of  
23 the north half would be the #2H, and the south half of  
24 the north half is the #4H. And this is just the  
25 ownership.

1                   The second page shows what the ownership is  
2 consolidated in each of the north half of the north half  
3 and the south half of the north half.

4                   What we're seeking is the formation of two  
5 nonstandard spacing units, one for the north half/north  
6 half, one for the south half/north half, and the pooling  
7 of all the uncommitted interests in the Yeso Formation  
8 as to each of those two spacing units.

9           Q.     Mr. Gaynor, have you attempted to ascertain  
10 what pool is involved with this application?

11          A.     Yes, we have. The problem is, this is a mile  
12 north of the Dodd, Glorieta-Upper Yeso pool, which  
13 cannot be expanded, and it is further than a mile from  
14 any other existing Yeso pool. So it may be that this is  
15 a wildcat.

16          Q.     Is Section 2, Mr. Gaynor, comprised of state  
17 lands?

18          A.     Yes, it is.

19          Q.     How many of the interest owners that are shown  
20 on pages 1 and 2 of each of these 160-acre nonstandard  
21 units remain uncommitted to the proposed nonstandard  
22 well?

23          A.     Only ConocoPhillips.

24          Q.     If I then turn to what's been marked as COG  
25 Exhibit Number 2, is this the well proposal letter that

1 was submitted to ConocoPhillips?

2 A. Yes, it is.

3 Q. For each of these two proposed wells?

4 A. It is.

5 Q. And it contains, then, an AFE for each one of  
6 these wells, correct?

7 A. Yes, it does.

8 Q. In addition to accepting this letter, what  
9 additional efforts has the company taken to obtain  
10 voluntary joinder with ConocoPhillips in this proposed  
11 project?

12 A. On the 23rd, which is the Monday after this  
13 letter was sent out, I followed up with a phone call and  
14 an e-mail letting them know that we were going to have  
15 to follow up with compulsory pooling in order to protect  
16 our leasehold interest.

17 Q. Did you receive a response to those telephone  
18 calls and the e-mail?

19 A. I did not. I received a read receipt, but I  
20 didn't get any other communication back.

21 Q. Did either your telephone call or your e-mail  
22 identify the reason for filing your compulsory pooling  
23 application when you did?

24 A. Yes. We informed them that we had -- our  
25 interest terminates at the end of the year. And we

1 can't file for an APD until after we receive the order  
2 back, and we wanted to make sure we would be able to  
3 protect our interest.

4 Q. But you haven't heard anything back from  
5 ConocoPhillips?

6 A. No.

7 Q. If we turn now to the AFE attached to these --  
8 AFE attached to this proposal letter, they show  
9 identical costs associated with these wells, correct?

10 A. Yes.

11 Q. Are these costs consistent with what the  
12 company has incurred for drilling similar horizontal  
13 wells?

14 A. Yes.

15 Q. And has the company made an estimate of  
16 overhead and administrative costs for the drilling of  
17 these wells and also producing, if you are successful?

18 A. Yes, we have.

19 Q. And what are those figures for this particular  
20 area?

21 A. It's 6,000 for drilling and 600 for producing.

22 Q. Are these costs consistent with what COG and  
23 other parties in this area charge for similar wells?

24 A. Yes.

25 Q. And do you request these figures be



1 incorporated into any order and then adjusted in  
2 accordance with the COPAS accounting procedures?

3 A. Yes, we do.

4 Q. And do you likewise then ask that the Division  
5 impose the 200 percent risk penalty that's provided by  
6 the Division's rules?

7 A. Yes, we do.

8 Q. If we then turn briefly to the two nonstandard  
9 units, first off, has the company brought a geologist to  
10 provide technical testimony in support of these  
11 nonstandard units?

12 A. Yes, we have.

13 Q. And secondly, did the company identify the  
14 leased mineral interests of the 40-acre tract  
15 surrounding each of these proposed nonstandard spacing  
16 units?

17 A. Yes, we did.

18 Q. And did the company include these known leased  
19 mineral owners in the notice of this hearing?

20 A. Yes, we did.

21 Q. If I then turn to what's been marked as COG  
22 Exhibit Number 3, is this an affidavit, with the  
23 attached letters, providing notice of the hearing with  
24 respect to the proposed Ouimet State Com #2H well?

25 A. Yes, it is.

1 Q. Which would involve the north half of the north  
2 half spacing unit; is that correct?

3 A. That's correct.

4 Q. Then if I turn to what's marked COG Exhibit  
5 Number 4, is this a notice affidavit for the hearing  
6 with respect to the Ouimet State Com #4H well involving  
7 the south half of the north half of the proposed spacing  
8 unit?

9 A. Yes, it is.

10 Q. Were Exhibits 1 and 2 prepared by you or  
11 compiled under your direction and supervision?

12 A. Yes, they were.

13 MR. FELDEWERT: Mr. Examiner, I would move  
14 the admission of Exhibits 1 and 2, as well as the  
15 affidavits, which are comprised of Exhibits 3 and 4.

16 EXAMINER BROOKS: Okay. Exhibits 1 through  
17 4 will be admitted.

18 (COG Exhibit Numbers 1 through 4 were  
19 offered and admitted into evidence.)

20 MR. FELDEWERT: Mr. Examiner, that  
21 concludes my examination of this witness.

22 EXAMINER BROOKS: Okay.

23 CROSS-EXAMINATION

24 BY EXAMINER BROOKS:

25 Q. ConocoPhillips' ownership is, it looks like, in

1 the northeast/northwest and the southeast of the  
2 northeast, correct?

3 A. Yes. Yes, that's correct.

4 Q. And their ownership is 100 percent of the  
5 units?

6 A. 100 percent of the tracts, correct.

7 Q. I assume that's the leasehold interest?

8 A. It is a leasehold interest.

9 Q. They are the only party to be pooled, you said?

10 A. Yes. We already have an agreement in place  
11 with Rubicon.

12 Q. Rubicon is the only other --

13 A. Only other partner in this.

14 Q. -- only working interest?

15 A. Correct.

16 Q. No unleased mineral interests in this draft?

17 A. No.

18 Q. Are you familiar -- and I didn't really get the  
19 geography of this, but both this and the previous case  
20 are in Yeso Shelf area?

21 A. Yes.

22 Q. What is different about this area that would  
23 call for a 6,600 overhead charge as opposed to a 5,500  
24 overhead charge?

25 A. Well, the real difference is that the 5,500 and

1 550 charge is a charge that was negotiated with Yates  
2 for that area. This is what we typically have been  
3 charging and also what we negotiated with Rubicon.

4 Q. Okay. So these were negotiated with -- these  
5 charges in each case were negotiated with joint  
6 operating -- parties to the joint operating agreement  
7 for these particular wells?

8 A. Yes. Yes.

9 Q. But there is no particular difference between  
10 the wells that would cause that --

11 A. No. What we always start with -- or what I  
12 always start with in my area of the shelf is 6,000 and  
13 600, and, typically, that is not an issue.

14 Q. I think that's all. Yeah. That's all I have.

15 EXAMINER BROOKS: Mr. Warnell.

16 EXAMINER WARNELL: Nothing.

17 MR. FELDEWERT: Mr. Examiner, then we will  
18 call our second witness.

19 EXAMINER BROOKS: Proceed.

20 HARVIN BROUGHTON,  
21 after having been previously sworn under oath, was  
22 questioned and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FELDEWERT:

25 Q. Would you please state your name for the record

1 and identify by whom you are employed and in what  
2 capacity?

3 A. Harvin Broughton, senior geologist, Concho  
4 Resources, in Midland, Texas.

5 Q. And have you previously testified before this  
6 Division?

7 A. I have.

8 Q. And have your credentials as a petroleum  
9 geologist been accepted and made a matter of public  
10 record?

11 A. Yes, they have.

12 Q. Mr. Broughton, have you conducted a study of  
13 the area that is subject of these consolidated  
14 applications?

15 A. Yes, I have.

16 Q. And are you familiar with what is requested  
17 under these applications?

18 A. I am.

19 MR. FELDEWERT: I would then tender  
20 Mr. Broughton as an expert witness in petroleum geology.

21 EXAMINER BROOKS: So accepted.

22 Q. (BY MR. FELDEWERT) Mr. Broughton, would you  
23 then turn to what's been marked as COG Exhibit Number 5.  
24 Would you please identify that exhibit and explain to  
25 the Examiner its importance to your analysis?

1           A.   Exhibit 5 is what we consider the northwest  
2 shelf of the Delaware Basin. So my responsibility  
3 includes 1729 through 1732.

4                   Just for your geographic reference,  
5 Examiner, the red line over on the right, the  
6 north-south red line, is the Lea-Eddy County line.  
7 Okay? So further -- the small black dots that you  
8 see -- I know they're kind of difficult to see, but  
9 those represent producing Yeso wells by all operators,  
10 Concho and all others.

11                   And, of course, there at the top, we've got  
12 a red box around the subject area, the Ouimet lease, in  
13 the north half of Section 2, in 1729.

14           Q.   There was a reference to the proximity of this  
15 location to the Dodd Unit. Where is the Dodd Unit on  
16 this particular exhibit?

17           A.   If you'll look just south of the Ouimet, the  
18 Dodd Unit, the northern limit of the Dodd Unit is the  
19 northern boundary of Section 11. So Section 2 -- the  
20 entirety of Section 2 actually adjoins the Dodd Unit;  
21 lies just to the north of the Dodd Unit.

22           Q.   With that orientation, would you then turn to  
23 what's been marked as COG Exhibit Number 6, which is a  
24 larger map, correct?

25           A.   Yes.

1           Q.    Once everybody has it out, would you then  
2    please identify it for the record and go through this  
3    exhibit with the Examiners?

4           A.    Okay.  So this is a zoomed-in map of the  
5    subject area, so we've zoomed in, basically, on  
6    Section 2.  Again, we have the red outline of the Ouimet  
7    lease; Concho ownership shown in yellow.  And the reason  
8    I made the larger map in this case is to show the total  
9    depth of the wells around -- around the Ouimet lease.  
10   You'll notice they're all in the 25- to 2900-foot range.

11                   Towards the bottom of this map, there are  
12   some red dots.  Those are producing Paddock wells.  
13   There are some blue dots that are producing Blinebry  
14   wells, and then there are some half-and-half dots which  
15   are combination wells, which we sort of loosely call  
16   Yeso wells.  They're Paddock and Blinebry completions.  
17   The A to A prime, that is the cross-section that you'll  
18   be seeing in the next exhibit.

19                   So the four wells that are shown there are  
20   all deep Morrow wells.  The reason I use these wells,  
21   they were the only four in the immediate area that would  
22   allow me to show the entire Yeso section.  So that's why  
23   those four wells were selected.

24           Q.    And I think you mentioned the depth of the  
25   wells with the black dots?

1           A.    Yes.

2           Q.    What is the depth of the Yeso Formation in this  
3 particular area?

4           A.    The base of the Yeso Formation would be -- and  
5 we'll see that in the next slide, but the base of the  
6 Yeso would be about 6,000 feet. The top of the Yeso  
7 would be about 45-, 4,600 feet, but we'll see that in  
8 the next slide.

9           Q.    Then keep this exhibit out, and turn to what's  
10 been marked COG Exhibit Number 7. Once we get that  
11 pulled out, would you please first identify it for the  
12 record and then explain for the Examiners what it shows.

13          A.    Okay. Again, the reason that I made it in a  
14 large scale like this was because, in the  
15 eight-and-a-half by eleven format, the numbers and depth  
16 were too small to see. So these are the four wells from  
17 the previous exhibit, so this cross-section goes from A,  
18 on the left, to A prime, on the right.

19                   Starting at the top, we have color-coded  
20 the formations. So we go to the Glorieta, which is  
21 color-coded in a light yellow; then the Paddock, which  
22 is in a light green; then the thicker Blinebry section,  
23 which is in a pink color; and then at the base of the  
24 Blinebry, kind of a bounding lower formation, is called  
25 the Tubb. And that is, again, a sandstone, and we have



1 that color-coded in yellow. And, of course, the  
2 formation names are noted on there.

3 Let's see. It looks like on most of these  
4 wells, the top of the -- the top of the Yeso -- the top  
5 of the Paddock, which is the top of the Yeso, is at,  
6 roughly, 4,000 to 4,100 feet. This cross-section also  
7 shows the structural picture, the structure going down  
8 to the east, which is what we see across the entire  
9 shelf.

10 Q. Based on your analysis, is the reservoir  
11 consistent across the area that has been the subject of  
12 your analysis?

13 A. It is.

14 And another point to be made by this -- by  
15 this exhibit is that the Blinebry and Paddock intervals  
16 are roughly the same thickness throughout this entire  
17 area.

18 Q. Now, Mr. Broughton, has the company settled  
19 definitively yet on a target zone for this proposed  
20 horizontal well?

21 A. Well, we're hoping to drill a lower Blinebry  
22 well here, down towards the base of this cross-section  
23 here (indicating). Because we don't have any other Yeso  
24 wells or, specifically, Blinebry wells, you know,  
25 immediately near here, this would be a test.

1                   We do have an application -- or are working  
2   on a deal for the south half of Section 2 that would  
3   connect us back up to our Section 11, the Dodd Unit.  
4   And we also have plans to drill horizontal Blinebry  
5   wells in the Dodd Unit. So we would, at some point,  
6   hope to get some information that would allow us to have  
7   the confidence to drill the lower part of the Blinebry  
8   here (indicating).

9           Q.    Turn to what's been marked as COG Exhibit  
10   Number 8. Does this exhibit depict the potential target  
11   zones for this particular well? I should say: For the  
12   wells in these consolidated cases?

13          A.    Yes. We would -- at some point, we would hope  
14   to have development in all three portions of the Yeso.  
15   So we would hope to develop the Blinebry with two  
16   laterals, one at, roughly, 5,200 to 5,250 feet; another  
17   in the range of about 4,800 feet; and then a subsequent  
18   lateral up in the Paddock interval. So, optimally, that  
19   would be the way we would exploit the entire interval.

20                   EXAMINER BROOKS: What is covered by the  
21   AFE?

22                   THE WITNESS: The AFE covers a lower  
23   Blinebry well at a depth of 5,250. That's what we're  
24   seeking.

25                   EXAMINER BROOKS: Only one lateral?

1 THE WITNESS: Only one lateral, yes, sir.  
2 That is correct.

3 EXAMINER BROOKS: Thank you.

4 Q. (BY MR. FELDEWERT) Mr. Broughton, what  
5 conclusions have you drawn with respect to the geology  
6 in this area and the ability of these wells to  
7 efficiently and economically develop the targeted  
8 reserves [sic]?

9 A. Well, based on my experience in and around this  
10 area, the uniform thickness, the porosity, the  
11 similarity that it has to those other areas would lead  
12 me to believe that we need to do some testing in this  
13 area to determine, you know, the viability of a  
14 horizontal well here. The Yeso, Paddock and Blinebry is  
15 a heterogenous dolomite formation. And the porosity in  
16 the Blinebry is low but has not impeded production --  
17 commercial production in other areas, and I believe the  
18 same thing to be true here.

19 Q. So you don't see any geologic impediment to  
20 developing this area using full-section horizontal  
21 wells?

22 A. I do not.

23 Q. Now, do you think that those analysis in this  
24 area efficiently developed for this area using  
25 full-section horizontal wells?

1           A.    Yes, I believe it is.

2           Q.    Now, taking into account the setbacks that are  
3    required by the Division rules, would you expect that  
4    the proposed project areas in each of these consolidated  
5    cases will contribute relatively equally to the wells'  
6    production?

7           A.    Yes, I do believe that.

8           Q.    If I then turn to what's been marked as COG  
9    Exhibit Number 9, does the company intend to -- or will  
10   the completed interval for each of these proposed wells  
11   comply with all the setback requirements under the  
12   Horizontal Well Rule?

13          A.    Yes, they will.

14          Q.    Does COG Exhibit Number 9 reflect the well  
15   diagram that would show compliance with the setback  
16   requirements?

17          A.    Yes, it would.

18          Q.    And does it reflect how the company intends to  
19   drill and complete these two proposed horizontal wells?

20          A.    Yes. This is a depiction of that.

21          Q.    In your opinion, would the granting of COG's  
22   applications be in the best interest of conservation,  
23   the prevention of waste and the protection of  
24   correlative rights?

25          A.    Yes, it will.

1           Q.    Were COG Exhibits 5 through 9 prepared by you  
2           or compiled under your direction and supervision?

3           A.    They were.

4                   MR. FELDEWERT:  Mr. Examiner, I would move  
5           for the admission of COG Exhibits 5 through 9.

6                   EXAMINER BROOKS:  5 through 9 will be  
7           admitted.

8                   (COG Exhibit Numbers 5 through 9 were  
9           offered and admitted into evidence.)

10                  MR. FELDEWERT:  That concludes my  
11          examination of this witness.

12                  EXAMINER BROOKS:  I don't have any  
13          questions for this witness.  I'll let Mr. Warnell  
14          question this witness, but in lieu of this witness'  
15          testimony, I would like to ask supplemental questions of  
16          the land witness.

17                  Mr. Warnell, any questions for this  
18          witness?

19                  EXAMINER WARNELL:  I don't have any  
20          questions, but your cross-section here should become the  
21          benchmark.  Great size!  I can see what's going on.

22                  THE WITNESS:  Super.  Well, we made it on  
23          the small paper, and I couldn't read it; so I knew you  
24          weren't going to be able to read it.

25                  MR. FELDEWERT:  Would you like for us to

1 recall the land witness?

2 EXAMINER BROOKS: Yes, recall the land  
3 witness briefly.

4 THE WITNESS: I'm going leave all this out.

5 EXAMINER BROOKS: Okay. This will be very  
6 simple.

7 BRANDON K. GAYNOR (Recalled),  
8 after having been previously sworn under oath, was  
9 questioned and testified as follows:

10 CROSS-EXAMINATION

11 BY EXAMINER BROOKS:

12 Q. The ownership that is reflected on Exhibit  
13 Number 1, is that ownership identical for all depths  
14 within the Glorieta-Yeso interval?

15 A. Yes, it is.

16 Q. That's all I have.

17 MR. FELDEWERT: Mr. Examiner, then that  
18 completes our presentation of this case.

19 EXAMINER BROOKS: Very good. If there is  
20 nothing further, then Case Number -- Cases Numbers 14851  
21 and 14852 will be taken under advisement.

22 MR. FELDEWERT: Mr. Warnell, we will miss  
23 you.

24 EXAMINER BROOKS: The docket is adjourned.

25 (The hearing concluded, I do hereby certify that the foregoing is  
a complete and correct report of the testimony in  
the Examiner hearing of Case No. 14851-52  
heard by me on David K. Brooks)

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

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

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

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

19

20


21

22

23

24

25

  
MARY C. HANKINS, CCR, RPR  
Paul Baca Professional Court Reporters  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2012