

1 STATE OF NEW MEXICO
 2 ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT
 3 OIL CONSERVATION DIVISION
 4 IN THE MATTER OF THE HEARING CALLED
 5 BY THE OIL CONSERVATION DIVISION FOR
 6 THE PURPOSE OF CONSIDERING:
 7 APPLICATION OF COG OPERATING, Consolidated Cases
 8 LLC, FOR A NONSTANDARD SPACING 1484~~5~~ AND 14850
 9 AND PRORATION UNIT AND COMPULSORY
 10 POOLING, EDDY COUNTY,
 11 NEW MEXICO

ORIGINAL

10 TRANSCRIPT OF PROCEEDINGS

11 EXAMINER HEARING
 12 BEFORE: RICHARD EZEANYIM, Technical Examiner
 13 DAVID K. BROOKS, Legal Examiner

14 June 25, 2012

15 Santa Fe, New Mexico

16 This matter came on for hearing before the New
 17 Mexico Oil Conservation Division, RICHARD EZEANYIM,
 18 Technical Examiner, and DAVID K. BROOKS, Legal
 19 Examiner, on Monday, June 25, 2012, at the New
 20 Mexico Energy, Minerals, and Natural Resources
 21 Department, 1220 South St. Francis Drive, Room 102,
 22 Santa Fe, New Mexico.

23
 24 REPORTED BY: PAUL BACA, CCR #112
 25 PAUL BACA COURT REPORTERS
 500 4th Street, NW, Suite 105

2012 JUL -3 P2:09
 RECEIVED OOD

1 A P P E A R A N C E S

2 For Applicant:

3 Adam G. Rankin
4 agrankin@hollandhart.com
5 Holland & Hart
6 110 North Guadalupe, Suite 1
7 Santa Fe, New Mexico 875012
8 505-988-4421

9 For Mewbourne Oil Company:

10 James Garrett Bruce
11 P.O. Box 1056
12 Santa Fe, New Mexico 87504
13 505-982-2043

14 I N D E X

15 WITNESS: PAGE:

16 BRANDON GAYNOR

17 Examination by Mr. Rankin 5
18 Examination by Mr. Bruce 14

19 HARVIN BROUGHTON

20 Examination by Mr. Rankin 15

21 BRANDON K. GAYNOR

22 Examination by The Examiners 24
23 Further Examination by Mr. Rankin 35

24 CERTIFICATE OF COURT REPORTER 37

25

26 EXHIBIT: DESCRIPTION

27 1-5 Mr. Gaynor's Exhibits 13

28 6-9 Mr. Broughton's Exhibits 22

29

30

1 CHAIRMAN BROOKS: We need to go back on
2 the record.

3 At this time we'll call Case Number 14849,
4 application of COG Operating, LLC, for a nonstandard
5 spacing and proration unit, Eddy County, New Mexico.

6 Call for appearances.

7 MR. RANKIN: Thank you, Mr. Examiner.
8 Adam Rankin with Holland & Hart, Santa Fe, on behalf
9 of the applicant, COG Operating.

10 And as we indicated in our prehearing
11 statement, we'd like to present this case for
12 purposes of the testimony concurrently with Case
13 Number 14850.

14 CHAIRMAN BROOKS: Okay. And then we will
15 call Case Number 14850, application of COG
16 Operating, LLC, for a nonstandard spacing and
17 proration unit, Eddy County, New Mexico.

18 Call for appearances.

19 MR. RANKIN: Thank you, Mr. Examiner.
20 Adam Rankin on behalf of COG with Holland
21 & Hart, Santa Fe.

22 I have two witnesses total for these
23 cases.

24 CHAIRMAN BROOKS: Okay. Case Numbers
25 14849 and 14850 will be consolidated for purposes of

1 hearing.

2 And have both your witnesses been sworn
3 today in previous cases?

4 MR. RANKIN: They have not.

5 CHAIRMAN BROOKS: Okay. Very good. Call
6 your witnesses.

7 MR. BRUCE: Mr. Examiner, Jim Bruce, of
8 Santa Fe, representing Mewbourne Oil Company. I
9 have no witnesses.

10 CHAIRMAN BROOKS: Okay. And you're
11 appearing in both cases, 14849 and 14850?

12 MR. BRUCE: That's correct.

13 CHAIRMAN BROOKS: Very good.

14 You may proceed and swear the witnesses.

15 (Witnesses sworn.)

16 CHAIRMAN BROOKS: Please state your names
17 for the record, please.

18 THE WITNESS: Brandon Gaynor.

19 THE WITNESS: Harvin Broughton.

20 CHAIRMAN BROOKS: Okay.

21 MR. RANKIN: Thank you, Mr. Examiner.

22 I call my first witness, Mr. Brandon
23 Gaynor.

24

25

1 BRANDON GAYNOR,
2 after having been first duly sworn under oath,
3 was questioned and testified as follows:

4 EXAMINATION

5 BY MR. RANKIN:

6 Q. Mr. Gaynor, can you please restate your
7 name for the record?

8 A. Brandon Gaynor.

9 Q. And by whom are you employed?

10 A. Concho.

11 Q. And where do you reside?

12 A. In Midland, Texas.

13 Q. And what is your job with Concho?

14 A. I'm a landman.

15 Q. And have you previously testified before
16 the division, and have your credentials as a
17 certified -- as a landman in oil and gas been
18 accepted to the record?

19 A. Yes.

20 Q. And are you familiar with the applications
21 that were filed in these two cases?

22 A. Yes, I am.

23 Q. Are you familiar with the status of the
24 lands in these two cases?

25 A. Yes.

1 MR. RANKIN: Mr. Examiner, I would move to
2 tender Mr. Gaynor as an expert in petroleum land
3 matters.

4 CHAIRMAN BROOKS: So qualified.

5 Q. (By Mr. Rankin) Mr. Gaynor, can you
6 please turn to Exhibit Number 1 that has been marked
7 in your exhibit packet, and review for the Examiners
8 the first page of that exhibit?

9 A. Yes. The first page of this exhibit is
10 sort of a broad look at the main part of the Yeso
11 shelf, which is Township 17 south, Range 27 east
12 through 32 east.

13 And towards the middle, towards the top
14 outlined in blue, is what we're calling the Hogan
15 lease. And that's what we're here about today.

16 Q. Turning to the next page of the exhibit,
17 is this an ownership plat that depicts the ownership
18 and percent interest for each owner in the south
19 half of Section 2?

20 A. Yes, it is. It shows the path -- or the
21 approximate path of the horizontal well bores for
22 the Hogan State Com Number 2H and the Hogan State
23 Com Number 4H. And it goes through these various
24 different ownership areas.

25 CHAIRMAN BROOKS: And this is Section 2 of

1 what township and range?

2 THE WITNESS: Township 17 south, Range 29
3 east.

4 CHAIRMAN BROOKS: I see.

5 Q. (By Mr. Rankin) Turning to the next page,
6 this is an actual list of each of those ownership
7 interests for each of these wells. Is that correct?

8 A. Yes. This would be the ownership of each
9 well.

10 Q. And of these owners, how many remain
11 uncommitted or noncommitted to the notices for the
12 wells -- for each well?

13 A. We have obtained voluntary agreements with
14 Rubicon, and we have picked up the interest of Maria
15 de la Luz A. Corral-Espinoza, which is fourth from
16 the bottom on this.

17 Q. But you've been unable to reach agreement
18 with the other parties. Is that correct?

19 A. That's correct.

20 Q. What is it that COG is seeking with these
21 applications?

22 A. We're seeking to create a nonstandard
23 spacing unit comprising the north half of the south
24 half of Section 2, Township 17 south, Range 29 east,
25 for the Hogan State Com Number 2H. And the same

1 exact thing for the south half of the south half for
2 the Hogan State Com Number 4H, and also to pool all
3 uncommitted mineral interests thereunder.

4 Q. Within the Yeso formation. Is that
5 correct?

6 A. Yes, that is correct.

7 Q. And you're also seeking to have COG
8 designated the operator of the well in those two
9 locations. Is that correct?

10 A. Yes, that's correct.

11 Q. And what pool is involved? Is there a
12 pool that's subject to this?

13 A. It's kind of funny. Because even though
14 the Number 4H will only be 330 feet away from the
15 northern extremity of the Dodd Glorieta upper Yeso
16 pool, that pool cannot expand in any direction as
17 part of the order creating it. So I think,
18 technically, it's a wildcat.

19 Q. Thank you, Mr. Gaynor. So that would mean
20 it would be subject to the statewide setback order.
21 Is that correct?

22 A. Yes.

23 CHAIRMAN BROOKS: You are asking to pool
24 Abo only?

25 THE WITNESS: Yeso only.

1 CHAIRMAN BROOKS: Yeso, I mean.

2 THE WITNESS: Yes.

3 Q. (By Mr. Rankin) And both of these wells
4 are on federal land. Is that correct?

5 A. State lands.

6 Q. State lands. I'm sorry. Thank you.

7 Mr. Gaynor, turning to Exhibit Number 2 in
8 the exhibit packet, this is a sample of a proposed
9 letter that was sent out to all interest owners in
10 the well. Is that correct?

11 A. Yes, that is correct.

12 Q. And this is the same as for Exhibit
13 Number 3. This is -- Exhibit Number 3 is the
14 well -- the sample letter that went to the 2H
15 interest owners. Is that correct?

16 A. Well, Number 2 is for the 2H, yes.

17 Q. And 3 is for the --

18 A. The 4H.

19 Q. -- 4H. Thank you.

20 And with these well proposals was there an
21 AFE that was included as well?

22 A. Yes, there was.

23 Q. And now, looking at the AFE, are these
24 costs consistent with what COG has incurred for
25 drilling similar horizontal wells in the area?

1 A. Yes.

2 Q. That's true for both wells?

3 A. For both of them. They're identical AFEs.

4 Q. And aside from sending the well proposal
5 letter and the AFEs to all of the interest owners,
6 what efforts has COG undertaken to acquire the
7 voluntary agreement of the noncommitted interests in
8 these wells?

9 A. It varies from party to party. There have
10 been phone calls. There have been in-person
11 meetings. E-mails. A number of different ways to
12 try to get everybody on the same page.

13 Q. Now, has COG made an estimate of the
14 overhead administrative costs while drilling this
15 well and while producing it successfully?

16 A. Yes. That's 6,000 well drilling and 600
17 well producing.

18 Q. And these costs are also consistent with
19 what has been charged for similar wells in the area.
20 Is that correct?

21 A. That's correct.

22 Q. And does COG request that these fees be
23 incorporated into any pooling order that results
24 from this hearing?

25 A. Yes, that's correct.

1 Q. And does COG also request that the maximum
2 200 percent interest rate be assessed against
3 interests not committed to this well voluntarily?

4 A. Yes.

5 Q. Mr. Gaynor, do you also intend to have a
6 geologist come present testimony regarding the
7 formation of a nonstandard unit?

8 A. Yes. Mr. Broughton is here, and he -- he
9 is going to testify with passion about the geology
10 in this area.

11 Q. Very good, Mr. Gaynor.

12 Now, has COG also then identified all the
13 lease mineral interests in the surrounding 40-acre
14 tracts of these two proposed nonstandard units?

15 A. Yes, we have.

16 Q. And have you provided notice to those
17 interests as well?

18 A. Yes, we have.

19 Q. Turning to Exhibits Number 4 and 5, this
20 is an affidavit?

21 A. Yes.

22 Q. Prepared by your attorney, indicating that
23 notice was provided in accordance with the division
24 rules. Is that correct?

25 A. Yes, that is correct.

1 Q. And on the second page of each of those
2 exhibits is a copy of the sample letter that went
3 out. Is that correct?

4 A. Yes, that is correct.

5 Q. And subsequent pages indicate the parties
6 that received notice, including the offset
7 interests --

8 A. Yes.

9 Q. -- along with the green cards indicating
10 that they received notice?

11 A. Yes, that's correct.

12 Q. And just to point out, the only party that
13 did not receive a green card was the Maria de la --

14 A. -- de luz A. Corral-Espinoza.

15 Q. Who you have since secured a lease from.
16 Is that correct?

17 A. Yes, from her heirs.

18 Q. And that's the same for both wells. Is
19 that correct?

20 A. Yes.

21 Q. Thank you.

22 MR. RANKIN: Mr. Examiner, I move to admit
23 into evidence Exhibit Numbers 1 through 5.

24 CHAIRMAN BROOKS: 1 through 5.

25 Any objection, Mr. Bruce?

1 MR. BRUCE: No objection.

2 CHAIRMAN BROOKS: 1 through 5 are
3 admitted.

4 MR. RANKIN: Mr. Examiner, I have no
5 further questions of the witness.

6 CHAIRMAN BROOKS: You said they're state
7 lands. So I assume all these interest owners listed
8 are owners of leasehold interests?

9 THE WITNESS: Yes. These are all
10 leasehold interests on state leases.

11 CHAIRMAN BROOKS: Do you have a green card
12 from everybody on your list?

13 THE WITNESS: Yes.

14 CHAIRMAN BROOKS: Okay. Except --

15 THE WITNESS: Except for the one that
16 we --

17 CHAIRMAN BROOKS: Okay. And you're
18 confident, as a professional landman, that you got
19 all the adds?

20 THE WITNESS: Yes, we are.

21 CHAIRMAN BROOKS: Very good.

22 Mr. Ezeanyim?

23 CHIEF ENGINEER EZEANYIM: Are you also
24 testifying with passion?

25 THE WITNESS: I am also testifying with

1 passion.

2 EXAMINATION

3 BY MR. BRUCE:

4 Q. Mr. Gaynor, one of the parties you're
5 pooling is Mewbourne Oil Company, correct?

6 A. Yes, that's correct.

7 Q. And has Concho been in touch -- in contact
8 with Mewbourne regarding their enjoiner in some
9 fashion or another?

10 A. Yes. Perhaps more than any other party in
11 here.

12 Q. And after this hearing, will you continue
13 to negotiate with Mewbourne?

14 A. Yes, we will.

15 MR. BRUCE: That's all I have.

16 CHAIRMAN BROOKS: Okay. Is either party
17 requesting that -- our orders generally say "all
18 interests whatever they may be are pooled." Is
19 either party requesting that Mewbourne be excluded
20 from the reach of the order?

21 MR. BRUCE: No.

22 CHAIRMAN BROOKS: Very good.

23 I have nothing further from this witness.

24 CHIEF ENGINEER EZEANYIM: No questions.

25 MR. RANKIN: Nothing further from myself.

1 Thank you, Mr. Gaynor.

2 THE WITNESS: Thank you.

3 CHAIRMAN BROOKS: Now, we will get to call
4 the passionate geologist.

5 MR. RANKIN: Mr. Examiner, I call my
6 second witness, Mr. Harvin Broughton, to testify
7 about the geology.

8 HARVIN BROUGHTON,
9 after having been first duly sworn under oath,
10 was questioned and testified as follows:

11 EXAMINATION

12 BY MR. RANKIN:

13 Q. Mr. Broughton, would you please state your
14 name for the record.

15 A. Harvin Broughton.

16 Q. Thank you, Mr. Broughton.

17 By whom are you employed?

18 A. Concho Resources.

19 Q. And in what capacity?

20 A. I am a senior geologist.

21 Q. And where do you reside?

22 A. I live in Midland, Texas.

23 Q. And have you testified before before the
24 division and had your credentials as a petroleum
25 geologist accepted?

1 A. Yes, I have.

2 Q. Are you familiar with the applications
3 that are filed in these two cases?

4 A. I am.

5 Q. Have you conducted a geologic study of the
6 area?

7 A. I have.

8 MR. RANKIN: Mr. Examiner, I would move to
9 tender Mr. Broughton as an expert in petroleum
10 geology.

11 CHAIRMAN BROOKS: So qualified.

12 MR. RANKIN: Thank you, Mr. Examiner.

13 Q. (By Mr. Rankin) Turning to Exhibit
14 Number 6, Mr. Broughton, can you please review for
15 the Examiners what this map depicts?

16 A. Okay. This is a zoomed-in view of what
17 we're calling the Hogan lease, which is the south
18 half of Section 2, 17/29.

19 The yellow -- well, the blue box around it
20 is obviously the Hogan lease. There's a number of
21 wells on this map. You'll notice the black dots.
22 Those are all shallow wells.

23 Towards the bottom of the map there are
24 some colored dots. There's some red, some blue, and
25 then some half and half. Those are Yeso wells.

1 The red dots are the Paddock wells, which
2 is the upper part of the Yeso.

3 The blue dot -- well, I guess there's just
4 one of them there by itself -- is a Blinebry
5 exclusive. And then the half and halves are combos.

6 The A to A prime is the cross-section that
7 we're going to see in the next exhibit. So the four
8 circles in the pink color there on the A to A prime
9 are the four wells that will be depicted in the
10 cross-section.

11 Please pay attention to the second well in
12 the cross-section, the second-from-the-left, the one
13 that's -- actually falls on the Hogan lease. It's
14 a -- it's Well Number 1 with a TB of 10,000. And
15 so -- or so. It's a deep Morrow well.

16 The reason I use these four wells is that
17 these are the only wells in the area that go deep
18 enough to show the entire Yeso section. So the rest
19 of the wells up in the Section 2 area are all
20 San Andres wells. None of them make it to the Yeso,
21 so that's why I've selected these four wells.

22 Q. Thank you, Mr. Broughton.

23 Moving right on to the cross-section on
24 the next exhibit, Number 7, there's a pullout map in
25 the plastic sleeve. If you could, review for the

1 Examiners the cross-section for this.

2 A. Okay.

3 And we -- we produced this at this size to
4 make it easier to read the numbers and the depths.
5 8-and-a-half-by-11 sheets, it's very difficult to
6 read.

7 But this is the cross-section that we just
8 referred to from the other exhibit. And it shows
9 four different well logs, and those are from the
10 four wells that we have shown you.

11 And from the top down we have marked the
12 formations here. So you'll notice in yellow, the
13 yellow band is the Glorieta. That's the sand
14 interval that is the upper boundary of the producing
15 Yeso carbonate.

16 The top of the Paddock, in that green
17 band, that's the Paddock interval.

18 Then you move down to the Blinebry, which
19 is the top of the Blinebry there in the middle of
20 the page and that pink band, which indicates the
21 entire Blinebry interval.

22 And then the lower boundary of the
23 producing carbonate in the Yeso is the Tubb. So the
24 Tubb sand is marked in the yellow band below.

25 And I've shown this in a structural

1 cross-section to show -- really, to show two things:
2 It's the consistency of the thickness of these units
3 and the relative position of them to one another.
4 So you have a slightly downdipping to the east and
5 south/southeast of the formations across these four
6 wells.

7 Q. Looking at your next exhibit, Number 8,
8 these are also in a sleeve.

9 What does that reflect?

10 A. Okay. As I have mentioned before, the
11 second well in the cross-section -- the second
12 well -- I'm using this well because it actually
13 falls in Section 2, so it would be the closest well
14 bore to any of the lands that we are discussing.

15 So this is a depiction of the possible
16 complete development of the Yeso formation with
17 three laterals.

18 There's a lower lateral you will notice at
19 5200 feet. That would be the first well bore that's
20 drilled.

21 Then after completion, testing, and
22 production for a designated amount of time we would
23 propose to come up, and from the same well bore,
24 exit at a depth of approximately 4800 and drill a
25 second full-section lateral.

1 The same process with that: Completion,
2 testing and production.

3 Then at a later date, as determined by our
4 reservoir engineers, come up and out of the same
5 well bore, drill a third lateral up in the Paddock
6 formation doing the same things: Another
7 full-section lateral, where we would complete it,
8 test it, produce it, to get the productivity of it.
9 And then we would pull all of the plugs out of the
10 rest of it and produce the entire three-leg lateral
11 together as one.

12 That would be the possible future
13 development for that entire -- for that thick
14 interval.

15 Q. Now, Mr. Broughton, based on your analysis
16 and your study of the geology of the area and of the
17 proposed portions, what conclusions have you drawn
18 about producing within the proposed areas?

19 A. We believe -- I believe that the -- both
20 the Paddock and the Blinbry formations in this area
21 are potentially productive and should be drilled,
22 completed, and tested.

23 We do have some offset productions very
24 early in that, that suggests that horizontal is a
25 good way to develop -- develop this. So we don't

1 have a whole -- long-term data on this, but we --
2 but early indications are very good that the
3 horizontal wells in the Blinebry and the Paddock
4 are -- are ways to economically develop this
5 formation.

6 Q. So based on your analysis and your look at
7 the cross-section and so forth, you've determined
8 that there's no impediment to developing these areas
9 horizontally?

10 A. No, there would be no impediment. It
11 looks similar to Yeso formations in adjacent and
12 nearby areas.

13 Q. And full-section horizontals, in your
14 opinion, can effectively and efficiently produce
15 these proposed areas?

16 A. Yes.

17 Q. And you also expect that -- based on your
18 analysis -- that each well will -- each 40-acre unit
19 will contribute roughly equally to the production of
20 each well?

21 A. I believe that to be true, yes.

22 Q. Now, Mr. Broughton, turning to the final
23 exhibit, Exhibit Number 9. This is a well bore
24 diagram schematic, is that correct, and it basically
25 indicates what?

1 A. I put this particular schematic together
2 to show the setbacks. And this -- the red
3 horizontal well here is just depicting the lower
4 lateral, so this would be the first one that's
5 drilled. But the surface and bottom hole location
6 and all completion would be within our 330-foot
7 setbacks off the section lines.

8 Q. Now, Mr. Broughton, in conclusion, in your
9 opinion, would the granting of COG's application in
10 both of these cases be in the interest of
11 conservation, prevention of waste, and the
12 protection of correlative rights?

13 A. Yes, I believe it will.

14 Q. Mr. Broughton, were Exhibits 6 through 9
15 either prepared by you or under your supervision?

16 A. Yes, they were.

17 MR. RANKIN: Mr. Examiner, I have no
18 further questions, and I move to admit to the record
19 Exhibits 6 through 9.

20 MR. BRUCE: No objection.

21 CHAIRMAN BROOKS: 6 through 9 are
22 admitted.

23 MR. BRUCE: I have no questions.

24 CHAIRMAN BROOKS: Well, I do.

25 How much of this three-lateral project is

1 \$4,229,000 supposed to buy?

2 THE WITNESS: I believe that is for all
3 three legs of it, for the complete.

4 CHAIRMAN BROOKS: Okay. So a gentleman in
5 the audience held up one finger.

6 THE WITNESS: Oh, for the low -- for the
7 first part, for the lower lateral.

8 CHAIRMAN BROOKS: Okay. Do you propose to
9 offer the pooled parties a separate election for the
10 second and third laterals?

11 THE WITNESS: That would be a question for
12 our land department. I'm not sure how that would
13 be.

14 CHAIRMAN BROOKS: I will have to recall
15 Mr. Gaynor, then.

16 Then in that case, I have no further
17 questions for this witness.

18 Mr. Ezeanyim?

19 CHIEF ENGINEER EZEANYIM: No, I have no
20 questions for you.

21 CHAIRMAN BROOKS: Could you recall
22 Mr. Gaynor again, please?

23 MR. RANKIN: Yes. Absolutely.

24 Mr. Gaynor.

25

1 BRANDON K. GAYNOR,
2 after having been previously duly sworn under oath,
3 was questioned and testified further as follows:

4 CHAIRMAN BROOKS: Mr. Gaynor, this AFE, I
5 gather from the nonverbal declaration made by a
6 gentleman in the audience, that this AFE is for only
7 the first lateral?

8 THE WITNESS: That's correct. It's just
9 for the lowest leg, which is also the most expensive
10 leg.

11 CHAIRMAN BROOKS: Okay. Do you propose
12 that we provide for a separate election for the
13 subsequent laterals or do you propose that we not
14 make such a provision?

15 THE WITNESS: Well, the way that we have
16 been looking at it is that once it's pooled, it's
17 pooled.

18 In particular, if you nonconsent the first
19 lateral, coming back into the second lateral poses a
20 number of real serious problems for us in terms of
21 being able to allocate what's coming from where and
22 so on.

23 CHAIRMAN BROOKS: But if you consent to
24 the first lateral and you don't come forward with
25 your money at the time you propose the second

1 lateral, what effect does that have?

2 THE WITNESS: Well, what we have proposed
3 to parties is that if you want out -- we propose the
4 first one and we drill it. And then we -- you know,
5 all the consenting parties get another election.
6 And that if they choose to nonconsent, then they're
7 back out of production until that second part has
8 paid out of the production coming from both legs.

9 CHAIRMAN BROOKS: Okay. Now, I didn't
10 follow your line testimony, because it's not
11 necessary -- this portion of it's not necessary to
12 write the order. Are there some of these parties
13 that -- do you have independent parties with whom
14 you have a joint operating agreement in this
15 prospect?

16 THE WITNESS: We have a joint operating
17 agreement with Rubicon.

18 CHAIRMAN BROOKS: Okay. And is that the
19 way you have it provided in your joint operating
20 agreement?

21 A. When we originally did our operating
22 agreement with them it was structured differently.
23 But we have since given them our new form, and they
24 have agreed to sign it, though it's not yet signed.

25 CHAIRMAN BROOKS: What you're saying is

1 that the parties that consent get the opportunity
2 for a second election?

3 THE WITNESS: Yes.

4 CHAIRMAN BROOKS: Which would -- yeah.
5 That would -- okay.

6 I guess that's all -- all my questions.

7 I assume, from the way you studied it,
8 that you're proposing that we structure the
9 compulsory pooling order similarly.

10 THE WITNESS: Right. Or, you know, what I
11 think had come out with our -- from our discussions
12 with Gabrielle, you know, when we came up to talk
13 about this, was you're pooling the entire thing and
14 it's one well. So how do you get into part of a
15 well and out of part of a well? So it's -- you have
16 to be all in or all out at any given time.

17 CHAIRMAN BROOKS: Well, despite the rule
18 provision that this is one well, we can structure --
19 we have -- the division has considerable flexibility
20 in the terms -- in terms of the way it structures a
21 compulsory pooling order. And -- you know.

22 The proposed -- what I'm trying to
23 understand, first off, is what you're proposing.

24 THE WITNESS: Uh-huh.

25 CHAIRMAN BROOKS: And then I'll ask

1 Mr. Bruce if he agrees with it. And then since
2 there are other parties, we'll still have to
3 exercise our judgment.

4 But are you going to -- this estimate is
5 only for the first line, right, the estimate that's
6 Exhibit 3?

7 THE WITNESS: Yes, that is correct.

8 CHAIRMAN BROOKS: Now, our typical force
9 pooling order says that after the entry of the order
10 you will then -- you will then make an estimate.
11 This estimate is not binding for purposes of -- the
12 estimate that you make in your initial proposal is
13 never binding for purposes of -- on the operator --
14 for purposes of the election provided in the forced
15 pooling order.

16 THE WITNESS: Right.

17 CHAIRMAN BROOKS: That is the estimate
18 that you will furnish to the people -- to the
19 pooling parties after the pooling order is issued.

20 Now, is that estimate going to be for the
21 first lateral only or do you propose that that
22 estimate be for the entire --

23 THE WITNESS: That estimate will be for
24 the first lateral only. Because at this time it's
25 hard to guess when we're going to do a second

1 lateral, if it will happen at all. That all just
2 kind of depends on the performance of the well.

3 CHAIRMAN BROOKS: Okay. What if somebody
4 puts up their money for the -- in response to the
5 estimate that you send them after the issuance of
6 the order --

7 THE WITNESS: Uh-huh.

8 CHAIRMAN BROOKS: -- and then when you get
9 ready to drill a subsequent well they don't pay up,
10 what's going to happen to them?

11 THE WITNESS: So they have consented to
12 the first lateral --

13 CHAIRMAN BROOKS: Yeah. They put up their
14 money.

15 THE WITNESS: -- and they put up their
16 money.

17 Then later on we come in and we propose
18 adding a second lateral.

19 CHAIRMAN BROOKS: Right.

20 THE WITNESS: And they do not put up their
21 money.

22 CHAIRMAN BROOKS: Right.

23 THE WITNESS: Well, then, what we've
24 proposed -- and this is what will happen with
25 Rubicon under our agreement with them, and we would

1 propose to all the other parties, is that until the
2 amount of money spent on the second lateral pays out
3 from all of the production from the well -- so
4 that's including the production from the first leg
5 that they consented in -- gets to contribute to the
6 payout of the second lateral, they're now out of
7 production from the well.

8 CHAIRMAN BROOKS: And payout is what,
9 means what?

10 THE WITNESS: Still 200 percent. The
11 same.

12 CHAIRMAN BROOKS: In other words, 200
13 percent, which means 300 percent?

14 THE WITNESS: Of only the cost of adding
15 the second lateral.

16 CHAIRMAN BROOKS: Okay. So the party that
17 doesn't consent to the second lateral is out of the
18 first lateral until you recover 300 percent of your
19 cost of the second lateral.

20 THE WITNESS: That is it.

21 CHAIRMAN BROOKS: Okay. I understand what
22 you propose now.

23 Now, I'll ask Mr. Bruce: Do you have any
24 objection to that?

25 MR. BRUCE: Well, I haven't spoken with my

1 client about it. But I suppose that under the
2 current rules -- let's just assume you've got
3 vertical wells and you're drilling an infill
4 vertical well, the pooling party participates in the
5 first vertical well. And under division rules, if
6 they do not consent in the second vertical well on a
7 40-acre well unit they're still in the first well.

8 CHAIRMAN BROOKS: That is my understanding
9 of the rules, and I participated in writing some of
10 them several years ago.

11 MR. BRUCE: So I don't know how that plays
12 with vertical wells. That's my only point at this
13 time.

14 CHAIRMAN BROOKS: Okay. Yeah. I thought
15 that might be a point of contention.

16 Would you undertake to consult your
17 clients and advise us if they're agreeable to that?
18 Because that's not necessarily controlling on us
19 because we have outside parties, and we have -- we
20 have an obligation to do what's fair and reasonable,
21 and which the legislature and the Courts have
22 indicated they have considerable confidence in us to
23 do.

24 MR. BRUCE: Right. I will ask them.

25 CHAIRMAN BROOKS: But at the same time,

1 what your client wants is a matter of consideration
2 here.

3 MR. BRUCE: I will ask them.

4 CHAIRMAN BROOKS: Okay. Did you have any
5 questions of the witness, Mr. Bruce?

6 MR. BRUCE: No. I understood what he was
7 saying.

8 CHIEF ENGINEER EZEANYIM: I have an
9 observation to make from what's being discussed.

10 In accordance with our horizontal well
11 rule, I've got three laterals, consists of one well,
12 right?

13 CHAIRMAN BROOKS: That's what the rule
14 says.

15 CHIEF ENGINEER EZEANYIM: Yeah. That's
16 what the rule says.

17 Now you come up with the first lateral,
18 which is one-third of the well I call it, because
19 I'm going to have three laterals. Okay?

20 And then I -- I'm an interest owner in
21 that one-third of the well. I am trying to relate
22 this mainly to see how we -- because this is the
23 first time we are encountering this. And we're
24 going to encounter that because of the new rule.

25 Okay. I pay my cost on the first well and

1 then decide I don't want to pay on the second well.
2 Is it that way? I don't want to use "second well."
3 It's the second lateral, which is part of the well,
4 right?

5 THE WITNESS: It's part of the same well,
6 yes.

7 CHAIRMAN BROOKS: That works good for
8 purposes of precision.

9 CHIEF ENGINEER EZEANYIM: Yes. That's
10 what I'm trying to do. Because I haven't finished
11 drilling the well. You see one well. You can have
12 hundreds of laterals, you see one well.

13 THE WITNESS: Yes.

14 CHIEF ENGINEER EZEANYIM: But now you come
15 up with only the cost of one-third of the well.

16 THE WITNESS: Yes.

17 CHIEF ENGINEER EZEANYIM: And then you are
18 anticipating that they are going to drill the other
19 two-thirds of the second well. And then at that
20 point you intend to develop an AFE and then share it
21 with all the participating interests with the
22 owners.

23 THE WITNESS: Yes, that's right.

24 CHIEF ENGINEER EZEANYIM: Well, if the
25 well is already pooled, they really don't care, you

1 know, what you're going to do. You are going to
2 have to pay 900 percent before -- according to what
3 you are proposing.

4 THE WITNESS: They're already out of the
5 well until it pays out.

6 CHIEF ENGINEER EZEANYIM: Yeah, until it
7 pays out.

8 And then when you talk about the well,
9 what do you mean by "the well"? One lateral or two
10 laterals or three laterals?

11 THE WITNESS: When I'm talking about the
12 well, I mean however many laterals are in the well.
13 That's the well for payout purpose.

14 CHIEF ENGINEER EZEANYIM: Okay. So in
15 that case I didn't want to participate in the well,
16 and then I do a nonconsent.

17 THE WITNESS: Okay.

18 CHIEF ENGINEER EZEANYIM: So if you drill
19 three wells I'm going to be out 900 percent.

20 THE WITNESS: If I'm -- if I'm drilling
21 three laterals.

22 CHIEF ENGINEER EZEANYIM: Yes. I am going
23 to be out 900 percent?

24 THE WITNESS: Well, you're out 200 percent
25 of the total cost of drilling all three laterals. I

1 don't know if it adds up to --

2 CHAIRMAN BROOKS: 300 percent.

3 THE WITNESS: Well, 300 percent of the
4 cost of drilling all three laterals.

5 CHIEF ENGINEER EZEANYIM: Okay.

6 THE WITNESS: You know, each subsequent
7 lateral will be a little bit less expensive because
8 it's not as deep and other things, and you don't
9 have to drill the vertical hole again. I don't know
10 if there's much of a difference, but...

11 CHIEF ENGINEER EZEANYIM: Do I have that
12 300 percent, not 900 percent, because it's one well?

13 THE WITNESS: It's one well. It's 300
14 percent of the total cost of drilling the whole
15 thing.

16 CHIEF ENGINEER EZEANYIM: Of the three?

17 THE WITNESS: Yes.

18 CHIEF ENGINEER EZEANYIM: Okay. See,
19 that's what I wanted to examine this guy about.

20 CHAIRMAN BROOKS: Is that all?

21 CHIEF ENGINEER EZEANYIM: Yes.

22 CHAIRMAN BROOKS: Okay. I have nothing
23 further from this witness.

24 Did you have anything to follow up?

25 MR. RANKIN: I maybe have one follow-up,

1 Mr. Examiner.

2 CHAIRMAN BROOKS: Okay.

3 MR. RANKIN: I just want to make sure,
4 just for clarification purposes.

5 FURTHER EXAMINATION

6 BY MR. RANKIN:

7 Q. Mr. Gaynor, you explained to the Examiners
8 how COG has arranged its operating agreement with
9 the parties.

10 Can you explain also -- I think you may
11 have touched on it with Mr. Examiner. But can you
12 explain what COG's purpose is for a party that's
13 originally nonconsent, to see that in the order?
14 You know, what is COG's preference for an order
15 where the party is a nonconsent from the start?

16 A. If you're nonconsent from the start you're
17 out until however many laterals they add into the
18 well have paid out.

19 You know, if you leave that first lateral
20 producing for so long that it pays out, and then you
21 propose to add the second lateral, well, that person
22 is back in.

23 But if it hasn't paid out yet they're
24 still out, even when we come back in and add the
25 second lateral or the third lateral or however many.

1 Q. So your preference would be that there
2 wouldn't be an opportunity for a second -- an
3 election after the first of the second lateral?

4 A. No. If you're a nonconsenting party and
5 the well has not paid out you do not receive a
6 subsequent election.

7 MR. RANKIN: Nothing further,
8 Mr. Examiner.

9 CHAIRMAN BROOKS: Very good. The witness
10 may stand down.

11 And if there is nothing further in regards
12 to these cases, Case Numbers 14849 and 14850 will be
13 taken under advisement.

14 (Proceedings concluded.)

15
16
17
18
19
20
21
22
23
24
25

I hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 14849 & 50
heard by me on 6-25-12
David K. B... Examiner
Oil Conservation Division

CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, Paul Baca, RPR, CCR in and for the State of New Mexico, do hereby certify that the above and foregoing contains a true and correct record, produced to the best of my ability via machine shorthand and computer-aided transcription, of the proceedings had in this matter.



PAUL BACA, RPR, CCR
Certified Court Reporter #112
License Expires: 12-31-12