

3 IN THE MATTER OF THE HEARING CALLED  
4 BY THE OIL CONSERVATION DIVISION FOR  
5 THE PURPOSE OF CONSIDERING:

6 APPLICATION OF COG OPERATING, LLC  
7 FOR DESIGNATION OF A NONSTANDARD  
8 SPACING UNIT AND FOR COMPULSORY  
9 POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 14965

ORIGINAL

10 REPORTER'S TRANSCRIPT OF PROCEEDINGS

11 EXAMINER HEARING

12 BEFORE: RICHARD EZEANYIM, CHIEF EXAMINER  
13 DAVID K. BROOKS, LEGAL EXAMINER  
14 PHILLIP GOETZE, TECHNICAL EXAMINER

15 March 21, 2013

16 Santa Fe, New Mexico

17  
18 This matter came on for hearing before the  
19 New Mexico Oil Conservation Division, Richard Ezeanyim,  
20 Chief Examiner, David K. Brooks, Legal Examiner and  
21 Phillip Goetze, Technical Examiner, Thursday, March 21,  
22 2013, at the New Mexico Energy, Minerals and Natural  
Resources Department, 1220 South St. Francis Drive,  
Porter Hall, Room 102, Santa Fe, New Mexico.

23 REPORTED BY: Mary C. Hankins, CCR, RPR  
24 New Mexico CCR #20  
25 Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102

RECEIVED  
2013 APR 16 P 1:19

## 1 APPEARANCES

2 FOR APPLICANT COG OPERATING, LLC:

3 J. SCOTT HALL, ESQ.  
 4 MONTGOMERY & ANDREWS  
 5 325 Paseo de Peralta  
 6 Santa Fe, New Mexico 87501  
 7 (505) 870-7362  
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21	COG Operating, LLC Exhibit Numbers 1 through 5	10
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23

24

25

1 (8:20 a.m.)

2 EXAMINER EZEANYIM: Okay. Now we go to  
3 page 2 and call the first case, Case Number 14965. This  
4 is the application of COG Operating, LLC for designation  
5 of a nonstandard spacing unit and compulsory pooling,  
6 Eddy County, New Mexico.

7 Call for appearances.

8 MR. HALL: Mr. Examiner, Scott Hall,  
9 Montgomery & Andrews, Santa Fe, appearing on behalf of  
10 the Applicant, and I have two witnesses this morning.

11 EXAMINER EZEANYIM: Enter your appearances.  
12 Will the witnesses please stand and state your names and  
13 be sworn?

14 MR. CLARK: Greg Clark.

15 MR. DIRKS: Stuart Dirks.

16 (Mr. Clark and Mr. Dirks sworn.)

17 MR. HALL: At this time, we would call  
18 Stuart Dirks to the stand.

19 STUART DIRKS,  
20 after having been previously sworn under oath, was  
21 questioned and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. HALL:

24 Q. For the record, state your name.

25 A. Stuart Dirks.

1 Q. Mr. Dirks, where do you live and by whom are  
2 you employed?

3 A. I live in Midland, Texas. I'm employed by  
4 Concho Resources.

5 Q. In what capacity?

6 A. As a senior landman.

7 Q. And you have previously testified before the  
8 Division's examiners and had your credentials as an  
9 expert petroleum landman established; is that correct?

10 A. That's correct.

11 MR. HALL: Mr. Examiner, we re-offer  
12 Mr. Dirks as a qualified expert landman.

13 EXAMINER EZEANYIM: So qualified.

14 Q. (BY MR. HALL) Mr. Dirks, are you familiar with  
15 the application that's been filed in this case?

16 A. Yes, I am.

17 Q. And the lands that are the subject of the  
18 application?

19 A. Yes, I am.

20 Q. Would you summarize for us what COG seeks by  
21 its application?

22 A. We seek the formation of a 160-acre nonstandard  
23 spacing and proration unit, comprising the west  
24 half-west half of Section 9, Township 19 South, 26 East  
25 for our Stonewall 9 Fee #1H well, the horizontal well

1 surface location in Unit letter M and bottom hole  
2 location Unit letter D. We seek the pooling of all  
3 mineral interests in the Yeso in our proposed unit, and  
4 we seek that COG Operating be named the operator.

5 Q. All right. Let's look at your exhibits,  
6 Mr. Dirks. If you would turn to Exhibit Number 1 and  
7 explain that to the hearing examiner.

8 A. This is a plat of Section 9 in 19-26, and it  
9 shows our proposed west half-west half nonstandard  
10 spacing unit and the breakdown of each interest in each  
11 half.

12 Q. What is the primary objective for the well?

13 A. Yeso.

14 Q. Let's look at Exhibit 2. What does that show  
15 us?

16 A. These show us the parties that we are pooling.

17 Q. And would you tell us the surface and --  
18 locations of the well?

19 A. Sure. The surface location is 300 feet from  
20 the south line, 330 feet from the west line. The bottom  
21 hole location is 330 feet from the north line, 330 feet  
22 from the west line.

23 Q. And do you anticipate that the entirety of the  
24 completed interval of the well will be located fully  
25 within the producing area of the project area?

1 A. Yes, that's correct.

2 Q. And how long has COG owned its interests in the  
3 west half-west half?

4 A. We started acquiring interests here in October  
5 of 2010.

6 Q. And do you have an approved APD?

7 A. Yes, we do.

8 Q. Going back to Exhibit 2, are any of these  
9 interests lease mineral owners?

10 A. The heirs or devisees of Edith Maurie Young and  
11 the heirs or devisees of Anna Lou Home. I'm sorry. Let  
12 me rephrase that. We believe we have the heirs of Anna  
13 Lou Home leased.

14 Q. Is there an issue with respect to local probate  
15 in New Mexico for those interests?

16 A. Yes, exactly.

17 Q. So you've taken the precaution of advertising  
18 and notifying the record title interest owner?

19 A. Yes, that's correct.

20 Q. And what percentage of the wells are  
21 voluntarily committed at this point?

22 A. About 96 percent.

23 Q. And for the pool, COG seeks a 200-percent risk  
24 penalty?

25 A. Yes, that's correct.

1 Q. Let's look at Exhibit 3, if you would identify  
2 that and explain that to us.

3 A. This is just a log showing all the contacts  
4 that I've had with OXY, telephone calls, written  
5 correspondence, e-mails and Internet meetings.

6 Q. And so the first page is a chronology of those  
7 efforts; is that correct?

8 A. That's correct.

9 Q. And under that is a copy of your well proposal  
10 letter?

11 A. That's correct.

12 Q. And what is the status of OXY's interest at  
13 this point?

14 A. OXY either wants to grant us a term assignment  
15 or participate. They're still trying to decide.

16 Q. Are there any interest owners that you are  
17 unable to locate?

18 A. No.

19 Q. With respect to the Anna Lou Home heirs, tell  
20 us what you did to track those interest owners down.

21 A. We believe we found her only heirs. She had  
22 two daughters, Anna Amerson [phonetic] and Teresa  
23 Berdus [phonetic]. And we believe those are the only  
24 heirs, and we have taken leases from both of them.

25 Q. So the only enjoined interest at this point is

1 OXY Y-1's interest; is that correct?

2 A. (Indicating.)

3 Q. In your opinion, has COG made a good-faith  
4 effort to negotiate with OXY Y-1 and obtain their  
5 voluntary participation?

6 A. Yes, we have.

7 Q. Look at Exhibit 4, please, or the AFE, and I'd  
8 like for you to review the totals shown on that exhibit.  
9 But first, would you explain those two columns headed  
10 "BCP" and "ACP"? What are those?

11 A. BCP shows the before casing point costs, and  
12 ACP shows the after casing point costs, for a total well  
13 cost of \$3,524,000.

14 Q. And are these costs in line with what's being  
15 charged by other operators for similar wells in the  
16 area?

17 A. Yes. Yes, they are.

18 Q. And have you made an estimate of the overhead  
19 administrative costs while drilling and producing the  
20 well?

21 A. Yes, \$5,500 per month while drilling; \$550 per  
22 month while producing.

23 EXAMINER EZEANYIM: Can you repeat that?

24 A. \$5,500 per month while drilling, and \$550 per  
25 month, producing.



1 Q. (BY MR. HALL) And are you asking that those  
2 costs be incorporated into the Division's orders for  
3 this case?

4 A. Yes.

5 Q. And are you also asking that the Division  
6 provide for adjustment for those costs according to the  
7 current COPAS bulletin?

8 A. Yes.

9 Q. Let's look at Exhibit 5. Does this identify  
10 the offset lease owners surrounding the project area?

11 A. The table on the bottom half does, yes.

12 Q. And were all those interest owners notified of  
13 this application?

14 A. Yes.

15 Q. And did you receive any objections to the  
16 application from them?

17 A. No. No.

18 Q. Mr. Dirks, in your opinion, would granting  
19 COG's application be in the interest of conservation and  
20 the prevention of waste and the protection of  
21 correlative rights?

22 A. Yes.

23 Q. Were Exhibits 1 through 5 prepared by you?

24 A. Yes.

25 MR. HALL: Move the admission of Exhibits 1

1 through 5.

2 EXAMINER EZEANYIM: Exhibits 1 through 5  
3 will be admitted.

4 (COG Operating Exhibit Numbers 1 through 5  
5 were offered and admitted into evidence.)

6 EXAMINER EZEANYIM: Do you have any  
7 questions?

8 EXAMINER BROOKS: No questions.

9 EXAMINER EZEANYIM: Do you have any  
10 questions?

11 EXAMINER GOETZE: No questions.

12 CROSS-EXAMINATION

13 BY EXAMINER EZEANYIM:

14 Q. What's the API number?

15 A. I've got the permit in my briefcase. I don't  
16 have it with me. I'm sorry. Can I give that to you  
17 after?

18 Q. Yeah.

19 Anyway, for the name of the well, the land  
20 fee [sic]?

21 A. Fee lands, yes, sir.

22 Q. Fee land.

23 And you said you notified everybody that is  
24 supposed to get notice?

25 A. Yes, sir.

1 Q. Everybody?

2 A. Yes, sir.

3 Q. So there is no need for escrow requirements?

4 A. I'm sorry?

5 Q. There is no need for escrow funds, because --

6 A. Oh, escrow. I'm sorry. I'm sorry. No, I  
7 don't --

8 Q. What is your answer?

9 A. No, no need for escrow.

10 Q. I don't have the API. I'll get it -- or you'll  
11 e-mail it to me or whatever?

12 A. Oh, yes, sir, sure will.

13 EXAMINER EZEANYIM: Okay. You may step  
14 down.

15 THE WITNESS: Thank you.

16 MR. HALL: At this point, Mr. Examiner, we  
17 would call Mr. Greg Clark to the stand.

18 EXAMINER EZEANYIM: Mr. Clark, you have  
19 been sworn, so you're still under oath.

20 THE WITNESS: Yes, sir.

21 GREG CLARK,  
22 after having been previously sworn under oath, was  
23 questioned and testified as follows:

24

25

1 DIRECT EXAMINATION

2 BY MR. HALL:

3 Q. For the record, please state your name.

4 A. Greg Clark.

5 Q. Mr. Clark, where do you live and by whom are  
6 you employed?

7 A. Midland, Texas; COG.

8 Q. What do you do for COG?

9 A. Senior geologist.

10 Q. Are you familiar with the lands that are the  
11 subject of this application?

12 A. I am.

13 Q. And have you previously testified before the  
14 Division's examiners and had your credentials as an  
15 expert geologist accepted as a matter of record?

16 A. I have.

17 MR. HALL: At this point, Mr. Examiner, we  
18 would re-offer Mr. Clark as an expert petroleum  
19 geologist.

20 EXAMINER EZEANYIM: So qualified.

21 Q. (BY MR. HALL) Mr. Clark, if you would, you  
22 prepared exhibits for this hearing?

23 A. Yes.

24 Q. Let's look at, first, Exhibit 6, if you would  
25 explain that to the hearing examiner, what that shows.

1           A.    This is a regional structure map showing  
2    overall dip in a northeast to southwest direction, basin  
3    work. This is on the shelf edge. We've outlined in  
4    blue the different producing fields in the area, and  
5    then the wells themselves that are colored red and/or  
6    blue are Paddock and/or Blinbry producers.

7                    The yellow represents Concho acreage, and  
8    it depicts the Stonewall 9 Fee #1H in which we are  
9    requesting to drill. This structure map is on top of  
10   the Paddock. It's mainly shown to represent that there  
11   is no major geologic impediments and/or faulting that  
12   would separate us from any of the analogous fields that  
13   we've shown. And it also shows that we are on strike  
14   with the already produced Dayton field, which is to the  
15   northeast.

16          Q.    Let's turn to Exhibit 7, your cross-section  
17   map. Would you explain that, please?

18          A.    Sure. This is the same regional map area with  
19   the structure taken off, and what it represents is the  
20   line of section, which will be the next exhibit, that  
21   goes from the south to the north and the east, from  
22   Cemetary field to Dayton field. We feel that these  
23   other fields are representative and correlative to the  
24   area in which we are requesting to drill the Stonewall 9  
25   Fee #1H.

1 Q. Let's look at Exhibit 8, your cross section.

2 A. Again, this is the cross section going from  
3 south to north, from the Cemetary to the Dayton field.  
4 We have a number of wells -- we have three wells in here  
5 that have been perfed and completed in the Paddock  
6 Formation. They are represented by the red rectangles  
7 that are in the depth track, so that would be the well  
8 that is in third from the left and the last well. The  
9 third well from the right is a vertical well that COG  
10 has drilled, that we are currently testing in the  
11 Blinebry. So, therefore, that's why that hasn't been  
12 produced yet.

13 And then the other two wells are deep  
14 Morrow wells that are gas wells and haven't been  
15 completed back to the Paddock.

16 But this project is also flattened on top  
17 of the Paddock. It's shown to represent that there is  
18 not any major stratigraphic differences throughout this  
19 area that would separate us from where we want to drill  
20 the proposed well. We feel that the log characteristics  
21 are very similar, so, therefore, all of these areas are  
22 pretty analogous to --

23 CROSS-EXAMINATION

24 BY EXAMINER EZEANYIM:

25 Q. Along the line, A prime, what are those red

1 dots, big red dots? What are those? You called them  
2 triangles?

3 A. Rectangles.

4 Q. Are they rectangles? I mean, I see --

5 A. The long red lines --

6 Q. Along the A, A prime.

7 A. The long red lines in the depth track of the  
8 log? Is that what you're referring to?

9 Q. No. I'm referring to along the line of A, A  
10 prime. You have those --

11 A. A, A prime, the red dots?

12 Q. Yes, the red. Yes.

13 A. Those are the wells that are on the cross  
14 section. Those represent the wells which are on the  
15 cross section in the next exhibit.

16 Q. You used red rectangles?

17 A. I'm referring to the next exhibit,  
18 Mr. Examiner, Exhibit 8.

19 Q. Oh, okay, because I see circles -- red circles.  
20 Okay.

21 A. Yes.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. HALL:

24 Q. Mr. Clark, in your opinion, are each of the  
25 40-acre tracts that comprise this project perspective

1 [sic] for the production of the well?

2 A. Yes.

3 Q. And is COG proposing that participation in the  
4 well be allocated on a 100-percent surface-acre basis?

5 A. Yes.

6 Q. In your opinion, is that a fair and reasonable  
7 basis for participation?

8 A. Yes, it is.

9 Q. And explain why. Do each of the 40-acre  
10 tracts --

11 A. I feel that each of the 40-acre tracts will  
12 contribute more or less equally to the overall  
13 production of the well.

14 Q. Let's look at Exhibit 9. Tell us what this  
15 shows.

16 A. This is a cartoon diagram showing that the  
17 completed interval will be within the setbacks of the  
18 unit boundaries.

19 Q. So no producing interval of the well will  
20 encroach beyond the setback; is that correct?

21 A. That is correct.

22 Q. And, Mr. Clark, anything further with respect  
23 to Exhibit 9?

24 A. No, sir.

25 Q. In your opinion, Mr. Clark, would the granting



1 of COG's application be in the best interest of  
2 conservation, prevention of waste and the protection of  
3 correlative rights?

4 A. Yes.

5 Q. And were Exhibits 6 through 9 prepared by you  
6 or at your direction?

7 A. That is correct.

8 MR. HALL: We move the admission of  
9 Exhibits 6 through 9, and that concludes my direct of  
10 this witness.

11 EXAMINER EZEANYIM: Exhibits 6 through 9  
12 will be admitted.

13 (COG Operating Exhibit Numbers 6 through 9  
14 were offered and admitted into evidence.)

15 EXAMINER EZEANYIM: David?

16 EXAMINER BROOKS: No questions.

17 EXAMINER EZEANYIM: Mr. Goetze?

18 EXAMINER GOETZE: No questions.

19 RECROSS EXAMINATION

20 BY EXAMINER EZEANYIM:

21 Q. Let's go to Exhibit Number 6. Do you have  
22 Exhibit 6 with you?

23 A. Yes.

24 Q. Let me see. What section is that? 19 South,  
25 25 southeast -- I mean southwest. I see a bunch of

1 wells. Who owns those wells?

2 A. In the south -- like Section 24 [sic]? Is that  
3 what you're referring to?

4 Q. Yes.

5 A. The best of my knowledge is that Mewbourne is  
6 the main operator in that section, and we have a little  
7 bit of interest. We are partners in some of those  
8 wells.

9 Q. -- or symmetric; do you know?

10 A. I'm not sure what the pooling order is assigned  
11 to those horizontal wells without looking at the APD.

12 Q. And you are going to be producing from the  
13 Yeso?

14 A. Yes, sir.

15 Q. Because this application is  
16 Atoka-Glorieta-Yeso?

17 A. Yes, sir. We will be landing -- if you look at  
18 Exhibit 8, the lateral interval will be within the  
19 Paddock, and it's depicted with a bracket. On Exhibit  
20 8, on the cross section, it's depicted with a bracket  
21 and labeled.

22 Q. Just north of that, if you go to Section 5,  
23 most of your wells are drilled east-west. You are going  
24 to start Section 9 with north-south. Can you tell me  
25 why you want to do that? If you look at Section 5, you

1 can see it's all east-west.

2 A. We feel that the SHmax is very minimal.

3 Q. The what?

4 A. SHmax, the horizontal maximum stress direction,  
5 is very minimal. We feel that drilling north-south or  
6 east-west would not have any preferred difference in  
7 terms of SHmax and its contribution from completion.

8 Q. Because that's -- that's the only way that  
9 Section 9 is right now, and it's not prudent to drill  
10 east-west on that section. So you have to be  
11 north-south or south-north or whatever, right? Because  
12 if you look at that, that is the well you are proposing  
13 in Section 5 [sic]?

14 A. Yes, sir.

15 Q. So it means that, you know, from what you are  
16 just explaining, all wells drilled in that section have  
17 to be north-south or south-north?

18 A. Yes, sir. That is the plan.

19 Q. All of Section 9? I think it looks like COG  
20 owns all of Section 9?

21 A. I would have to refer to our landman on that  
22 question.

23 Q. I think that's what he said. What is that  
24 color?

25 EXAMINER EZEANYIM: Mr. Hall, is that color

1 yellow?

2 A. That is yellow.

3 MR. HALL: It's yellow.

4 Q. (BY EXAMINER EZEANYIM) Yellow means that -- you  
5 color all that Section 9 --

6 A. Not necessarily. We color the whole section  
7 yellow if we own any interest in it, because we would be  
8 participating in any other wells whether we were  
9 operators or not.

10 Q. So it doesn't mean that you own all of Section  
11 9?

12 A. Again, I'd have to refer to my landman on that  
13 question.

14 MR. HALL: Mr. Examiner, the testimony from  
15 the landman earlier was that they control about 96  
16 percent of the working interest.

17 EXAMINER EZEANYIM: In that section?

18 MR. HALL: Yes.

19 Q. (BY EXAMINER EZEANYIM) What are you -- what is  
20 the horizontal portion of the well in the Yeso? You  
21 don't have anything uphole, like the used surface or the  
22 Yeso Formation? You are just pooling the Yeso?

23 MR. HALL: We just applied for the Yeso.

24 EXAMINER EZEANYIM: I just want to make  
25 sure.

1 MR. HALL: Yeah.

2 EXAMINER EZEANYIM: If you guys can get me  
3 the API number.

4 MR. HALL: Ready? 230 --

5 EXAMINER EZEANYIM: Oh, do you have it?  
6 Okay.

7 MR. HALL: -- 01540925.

8 EXAMINER EZEANYIM: Okay. Thank you.  
9 You may be excused.

10 MR. HALL: And at this time, Mr. Examiner,  
11 we'd offer Exhibit 10, which is the Affidavit of  
12 Publication for the deceased mineral interest owners in  
13 the Carlsbad newspaper, as well as our affidavit and  
14 notice to --

15 EXAMINER EZEANYIM: What did you do to show  
16 that you found everybody?

17 MR. HALL: There were some unprobated  
18 interests that didn't appear. It didn't appear that  
19 probates had been conducted in New Mexico for two  
20 interest owners. So out of precaution, they were --

21 EXAMINER EZEANYIM: Mr. Brooks, what is a  
22 probate?

23 EXAMINER BROOKS: It's a legal proceeding  
24 for the transfer of property upon the death of a person  
25 from the estate of the deceased to the heirs.

1                   EXAMINER EZEANYIM: Okay. Depends on what  
2 I understand.

3                   So you did this public notice because  
4 somebody -- the owner is dead. Nobody has inherited, or  
5 what is going on there?

6                   MR. HALL: There was no evidence of probate  
7 in New Mexico, so in the event that there were some  
8 heirs that happened to be reading the Carlsbad Argus and  
9 saw this --

10                  EXAMINER BROOKS: To explain somewhat in  
11 detail, title does not -- ownership passes from the  
12 deceased to the heirs automatically. It's not  
13 necessarily -- probate is not necessary for the heirs to  
14 have ownership. But in New Mexico, it is considered  
15 necessary for them to have what's called "marketable  
16 title," because, unless a court determines who the heirs  
17 are, there is always a possibility that we're mistaken  
18 about who they are. So in the absence of a court  
19 determination, there is some uncertainty about whether  
20 or not the people who claim to be heirs or are believed  
21 to be heirs actually are the heirs.

22                  EXAMINER EZEANYIM: Okay. I can  
23 understand, because, you know, whenever I see this  
24 notice, I think you have to do an escrow, since, you  
25 know -- which I understand you did. Which exhibit do

1 you want to do?

2 MR. HALL: Which do I want?

3 EXAMINER EZEANYIM: Which exhibits do you  
4 want to be admitted?

5 MR. HALL: Well, all of them. The last  
6 ones were 10 and 11.

7 EXAMINER EZEANYIM: 10 and 11?

8 MR. HALL: Yes.

9 EXAMINER EZEANYIM: Okay. Exhibits 10 and  
10 11 will also be admitted.

11 (COG Operating Exhibit Numbers 10 and 11  
12 were offered and admitted into evidence.)

13 MR. HALL: That's all we have,  
14 Mr. Examiner.

15 EXAMINER EZEANYIM: Thank you, Mr. Hall.

16 (Case Number 14965 concludes, 8:44 a.m.)

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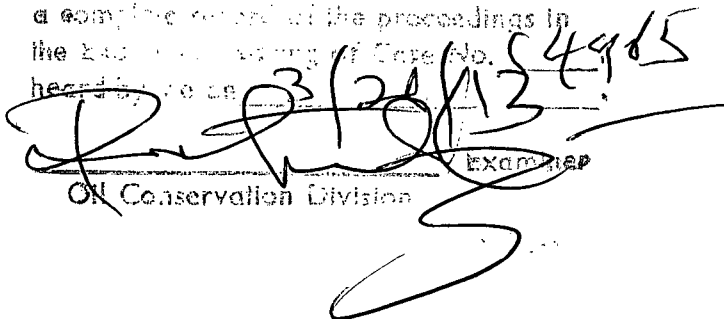
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24

25

I do hereby certify that the foregoing is  
a complete and correct report of the proceedings in  
the above-captioned case of Case No. 14965  
heard by me on 3/20/13.

  
Examiner  
Oil Conservation Division

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*

MARY C. HANKINS, CCR, RPR  
Paul Baca Court Reporters  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2013