

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

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

ORIGINAL

APPLICATION OF COG OPERATING LLC  
FOR A NON-STANDARD OIL SPACING AND  
PRORATION UNIT AND COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

CASE 15291

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

April 30, 2015

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER  
GABRIEL WADE, LEGAL EXAMINER

RECEIVED OCD  
2015 MAY 18 P 4: 01

This matter came on for hearing before the  
New Mexico Oil Conservation Division, Phillip Goetze,  
Chief Examiner, and Gabriel Wade, Legal Examiner, on  
Thursday, April 30, 2015, at the New Mexico Energy,  
Minerals, and Natural Resources Department, Wendell  
Chino Building, 1220 South St. Francis Drive, Porter  
Hall, Room 102, Santa Fe, New Mexico.

REPORTED BY: ELLEN H. ALLANIC  
NEW MEXICO CCR 100  
CALIFORNIA CSR 8670  
PAUL BACA COURT REPORTERS  
500 Fourth Street, NW  
Suite 105

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

A P P E A R A N C E S

FOR APPLICANT:

Gary W. Larson, Esq.  
Hinkle Shanor LLP  
P.O. Box 0268  
Santa Fe, New Mexico 87504  
(505) 982-4554  
glarson@hinklelawfirm.com

I N D E X

CASE NUMBER 15291 CALLED

COG OPERATING LLC CASE-IN-CHIEF:

WITNESS AARON L. MYERS, JD

	Direct	Redirect	Further
By Mr. Larson	4		

EXAMINATION BY EXAMINER WADE: Page 12

EXAMINATION BY EXAMINER GOETZE: Page 12

WITNESS DREW BERGMAN

	Direct	Redirect	Further
By Mr. Larson	13		

Examination By EXAMINER GOETZE: Page 17

Reporter's Certificate	PAGE 19
------------------------	------------

E X H I B I T I N D E X

Exhibits Offered and Admitted

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

1 (Time noted 8:24 a.m.)

2 EXAMINER GOETZE: The next case is case  
3 15291, Application of COG Operating LLC for a  
4 non-standard oil spacing and proration unit and  
5 compulsory pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MR. LARSON: Good morning, Gary Larson of  
8 Hinkle Shanor in Santa Fe for the Applicant COG  
9 Operating. I have two witnesses.

10 EXAMINER GOETZE: Will the witnesses please  
11 stand and identify yourselves to the court reporter to  
12 be sworn in.

13 MR. MYERS: Aaron Myers, Senior Landman for  
14 COG Operating LLC.

15 MR. BERGMAN: Drew Bergman, geologist for  
16 COG Operating.

17 (Whereupon, Mr. Myers and Mr. Bergman were  
18 administered the oath by the court reporter.)

19 MR. LARSON: I first call Mr. Myers.

20 AARON L. MYERS,  
21 having been first duly sworn, was questioned and  
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. LARSON:

25 Q. Good morning, Mr. Myers. Would you state your

1 full name for the record, please.

2 A. Aaron Myers.

3 Q. And where do you reside?

4 A. Midland, Texas.

5 Q. And by whom are you employed and in what  
6 capacity?

7 A. Uh-huh. I work for COG Operating LLC as a senior  
8 landman.

9 Q. And what is the focus of your responsibilities as  
10 senior landman?

11 A. All land matters pertaining to southern Eddy  
12 County, New Mexico.

13 Q. And are you familiar with the land matters  
14 pertaining to the application in this case?

15 A. Yes, I am.

16 Q. Have you previously testified at a Division  
17 hearing?

18 A. Yes, I have.

19 Q. And during those hearings, did the examiner  
20 qualify you as an expert in land matters?

21 A. Yes.

22 MR. LARSON: Mr. Examiner, I request that  
23 Mr. Myers be qualified as an expert in land matters for  
24 purposes of this case.

25 EXAMINER GOETZE: He is so qualified.

1 BY MR. LARSON (cont'd):

2 Q. Mr. Myers, I direct your attention to the  
3 document marked as COG Operating Exhibit No. 1. Could  
4 you identify that for the record.

5 A. Yes, I can. It is an NMOC form C-102, Well  
6 Location and Acreage Dedication Plat for the Graham Nash  
7 State Com, No. 6H Well.

8 Q. And is the well lateral within the Division  
9 set-back requirements?

10 A. Yes, it is.

11 Q. And has the Graham Nash Well No. 6 been drilled?

12 A. Yes, it has. It was spud October 6th, 2014.

13 Q. And what was COG's rationale for drilling the  
14 well without a pooling order?

15 A. The rationale at the time was that we had all  
16 interests covered by an operating agreement and a lease  
17 for the two parties in question today. That was part of  
18 the spacing unit.

19 Q. And who are the two parties to the lease?

20 A. Edwin Fowlkes III and Janet Renne Murrey.

21 Q. And did Mr. Fowlkes and Ms. Murrey receive  
22 payment for the lease?

23 A. Yes, they did.

24 Q. And did you subsequently discover a problem with  
25 that lease?

1 A. Yes. Following the spudding of the well, it was  
2 discovered that there were two tracks that were subject  
3 to their lease offer which was accepted that were left  
4 off the lease inadvertently.

5 Q. Would you say it was a clerical error in the  
6 lease document?

7 A. Yes.

8 Q. Next I ask you to identify the document marked as  
9 Exhibit 2.

10 A. Exhibit 2 is an offset location map showing an  
11 offsetting interest surrounding the well.

12 Q. And did you prepare this document?

13 A. Yes, I did.

14 Q. And focusing your attention on the box with the  
15 heading Graham Nash State, Com No. 6 Well, are all of  
16 the interest owners identified parties to the operating  
17 agreement except for Mr. Fowlkes and Ms. Murrey?

18 A. Yes, that is correct.

19 Q. So Mr. Fowlkes and Ms. Murrey are the only  
20 interest owners that COG seeks to pool?

21 A. Yes, they are.

22 Q. I next ask you to identify document No. 3.

23 A. Document No. 3 is our offer letter to either  
24 amend the lease or participate in the well as they were  
25 an unleased owner due to the clerical error where the

1 tracts were left off the lease.

2 Q. And did you draft and send these letters?

3 A. Yes, I did.

4 Q. And what documents did you enclose with the  
5 letters?

6 A. Enclosed with the letter were a copy of the form  
7 C-102, an AFE, and a copy of their previous offer letter  
8 which did correctly state the tracts.

9 Q. Okay. And did you also send them a lease  
10 amendment --

11 A. Yes, I did. Included therewith was a form of  
12 amendment for the oil and gas lease to amend the  
13 existing lease and add the missing tracts.

14 Q. So you offered Mr. Fowlkes and Ms. Murrey two  
15 alternatives to rectify the inadvertent error in the  
16 lease?

17 A. Yes, we did. It was an offer to either amend the  
18 lease or participate in the well.

19 Q. And have you communicated with Mr. Fowlkes and  
20 Ms. Murrey since you sent this letter on February 26th?

21 A. Yes, I have, several times.

22 Q. And in your opinion, have you made a good faith  
23 effort to rectify the lease error and obtain  
24 Mr. Fowlkes' and Ms. Murrey's voluntary joinder in the  
25 well?

1 A. Yes, we have.

2 Q. I next ask you to identify the document marked as  
3 Exhibit 4.

4 A. Exhibit 4 is the AFE covering the costs  
5 associated with the drilling of the well.

6 Q. And are the well costs identified similar to  
7 costs incurred by COG for Bone Springs wells in the  
8 area?

9 A. Yes, that is correct.

10 Q. Could you identify the document marked as  
11 Exhibit 5.

12 A. That is a letter of COG Operating LLC's  
13 application for pooling for the Graham Nash State Com  
14 6H.

15 Q. And it was notification of today's hearing as  
16 well?

17 A. Yes, it is.

18 Q. And were these letters prepared at your  
19 direction?

20 A. Yes, they were.

21 Q. And did Mr. Fowlkes and Ms. Murrey receive the  
22 letter notifying them of today's hearing?

23 A. Yes, they did.

24 Q. I am directing your attention back to Exhibit 2.  
25 Were there any offset interests you identified

1 who were entitled to notice of today's hearing?

2 A. Yes. They are all noted there in the boxes  
3 corresponding to the offsetting well bores.

4 Q. And there is an offset operator to the north of  
5 the Graham Nash No. 6?

6 A. Yes, there is.

7 Actually everything in section 21 is covered by  
8 an operating agreement. And everybody listed under the  
9 box identified as the Skein 21 State Com No. 1H received  
10 notice.

11 Q. And who is the operator of that?

12 A. Operator for section 21 to the north is Mewbourne  
13 Oil Company.

14 Q. Would you identify Exhibit 6, please.

15 A. Exhibit 6 is a notice of the pooling application  
16 sent to Mewbourne Oil Company.

17 Q. And did Mewbourne receive this letter?

18 A. Yes, they did.

19 Q. And was the letter sent at your direction?

20 A. Yes, it was.

21 Q. Do you have a recommendation for the amounts COG  
22 should be paid for supervision and administrative  
23 expenses?

24 A. Yes. We would ask for the same amounts listed in  
25 the current operating agreement, which would be \$6,000 a

1 month drilling and \$600 a month producing.

2 Q. And you also recommended those rates be adjusted  
3 periodically pursuant to the Copas accounting  
4 procedure?

5 A. Yes, we would.

6 Q. Is COG also requesting a 200 percent charge for  
7 the risk of drilling and completing the Graham Nash  
8 State Com No. 6H Well?

9 A. Yes, we are.

10 Q. And is that the same risk charge set out in the  
11 operating --

12 A. Yes, it is.

13 Q. In your opinion, would the granting of COG's  
14 application serve the interests of conservation and the  
15 prevention of waste?

16 A. Yes, it will.

17 MR. LARSON: Mr. Examiner, I move the  
18 admission of Exhibits 1 through 6.

19 EXAMINER GOETZE: Exhibits 1 through 6 are  
20 so entered.

21 (Whereupon, COG Operating LLC's Exhibits 1  
22 through 6 were offered and admitted into evidence.)

23 MR. LARSON: That is all I have for  
24 Mr. Myers.

25 EXAMINER GOETZE: Any questions, Counselor?

1 EXAMINATION BY EXAMINER WADE

2 EXAMINER WADE: What was the nature of the  
3 communications that you had with Mr. Fowlkes and  
4 Ms. Murrey?

5 THE WITNESS: It's been back and forth.  
6 There's been e-mails. There were actually e-mails as  
7 late as yesterday.

8 We kind of have been working to just resolve  
9 this with the amendment. But I did let them know, you  
10 know, because of the situation, we've got to get it on  
11 the docket and get it pooled. But that doesn't mean  
12 that that's going to be the end of it.

13 So we are actually working to get the  
14 amendment done. And I am hoping to see it next week.

15 EXAMINER WADE: Okay. No other questions.

16 EXAMINER GOETZE: Other questions?

17 MR. LARSON: That's all I have.

18 EXAMINATION BY EXAMINER GOETZE

19 EXAMINER GOETZE: So this is all the result  
20 of a clerical error in filing the lease?

21 THE WITNESS: Yes.

22 EXAMINER GOETZE: No more questions for this  
23 witness. Thank you.

24 You may call your next witness.

25 DREW BERGMAN

1 having been first duly sworn, was examined and testified  
2 as follows:

3 DIRECT EXAMINATION

4 BY MR. LARSON:

5 Q. Good morning, Mr. Bergman. Could you state your  
6 full name for the record.

7 A. Drew Bergman.

8 Q. And where do you reside?

9 A. Midland, Texas.

10 Q. And by whom are you employed and in what  
11 capacity?

12 A. COG Operating as a geologist.

13 Q. What is the focus of your responsibilities as a  
14 geologist?

15 A. My focus is geological matters in southeast New  
16 Mexico.

17 Q. And are you familiar with the geological aspects  
18 of the drilling of the Graham Nash State Com 6H --

19 A. Yes.

20 Q. -- and the matters addressed in the application?

21 A. Yes.

22 Q. Have you previously testified at a Division  
23 hearing?

24 A. Yes.

25 Q. And during those hearings, did the examiner

1 accept your qualifications as an expert in petroleum  
2 geology?

3 A. Yes.

4 MR. LARSON: Mr. Examiner, I request that  
5 Mr. Bergman be qualified as an expert petroleum  
6 geologist for purposes of this case.

7 EXAMINER GOETZE: So qualified.

8 MR. LARSON: Thank you.

9 BY MR. LARSON (cont'd):

10 Q. Directing your attention to the document marked  
11 as Exhibit No. 2 -- which you don't have in front of  
12 you.

13 (Pause.)

14 Q. Were you involved in COG's evaluation of the  
15 prospects for any of the Graham Nash wells that are  
16 identified on Exhibit 2?

17 A. Yes, I was.

18 Q. And what was your assessment of the prospects for  
19 those wells?

20 A. That it was a very productive area.

21 Q. And if you will identify the document identified  
22 as Exhibit 7.

23 A. It is a map with black contours or structure  
24 contours. And the Graham Nash 6H Well is shown in  
25 orange and our acreage is shown in yellow.

1 Q. Did you prepare this document?

2 A. Yes.

3 Q. And what role did this structure map have in your  
4 geological analysis of the prospects for the Graham Nash  
5 No. 6?

6 A. It showed us the dip of the area, the location of  
7 the basin, and that there were no geological  
8 impediments.

9 Q. I next ask you to identify the document marked as  
10 Exhibit 8.

11 A. It is a cross section through the area, with the  
12 top of the second Bone Spring Sand in the top orange and  
13 the base in the bottom orange.

14 Q. And did you prepare this document?

15 A. Yes.

16 Q. And what role did the cross section have in your  
17 analysis of the prospects for the Graham Nash No. 6?

18 A. It showed us that the area had consistent  
19 thickness, frosting permeability and that there were no  
20 geological impediments.

21 Q. And there are two other Graham Nash wells  
22 identified on Exhibit 2, the number 1 and the number 8.  
23 Have those wells been productive?

24 A. Yes.

25 Q. And has the Graham Nash State Com 6H performed in

1 the manner you anticipated?

2 A. Yes.

3 Q. And, finally, I ask you to identify the document  
4 marked as Exhibit 9.

5 A. This is the profile of the Graham Nash 6H with  
6 these lines on the far left and right and the setbacks  
7 and the dashed lines on the far left and right.

8 Q. And did you prepare this document?

9 A. Yes.

10 Q. And does the Graham Nash 6H Well as completed  
11 comply with Division's setback requirements?

12 A. Yes.

13 Q. And has the well been productive along the entire  
14 length of the completed lateral?

15 A. On average, yes.

16 Q. In your opinion, will the granting of COG's  
17 application serve the interests of conservation and the  
18 preservation of waste?

19 A. Yes.

20 MR. LARSON: Mr. Examiner, I move the  
21 admission of Exhibits 7, 8, and 9.

22 EXAMINER GOETZE: Exhibits 7, 8, and 9 are  
23 so entered.

24 (Whereupon, COG Operating LLC's Exhibits 7,  
25 8, and 9 were offered and admitted into evidence.)

1 MR. LARSON: And I pass the witness.

2 EXAMINER WADE: I have no questions.

3 EXAMINER GOETZE: No, questions. Very  
4 good.

5 EXAMINATION BY EXAMINER GOETZE

6 EXAMINER GOETZE: So we have a history of  
7 drilling north/ south and have been very successful in  
8 this area.

9 We have an additional well in the north half  
10 of section 28 that is east/west. Do you know what that  
11 is, the 1H, where is that completed?

12 THE WITNESS: I believe it was lower Avalon.

13 EXAMINER GOETZE: Okay. So we are looking  
14 at a different part of the Bone Springs there?

15 THE WITNESS: Yes, sir.

16 EXAMINER GOETZE: And then we do have the --  
17 the 7H has been completed?

18 THE WITNESS: No. The 7H has not been  
19 completed.

20 EXAMINER GOETZE: But the 6H is being  
21 drilled at this time?

22 THE WITNESS: It has been drilled.

23 EXAMINER GOETZE: It has been drilled. So  
24 we are waiting on authority to produce or are we  
25 producing?

1 THE WITNESS: I believe we are producing.

2 EXAMINER GOETZE: Okay.

3 MR. LARSON: Mr. Examiner, the 7H is the  
4 subject of 15292, which was continued.

5 EXAMINER GOETZE: Yes. I just want to make  
6 sure what we're going to see next. And the 8H is  
7 productive, is currently in production with no issues?

8 THE WITNESS: Yes, sir.

9 EXAMINER GOETZE: With that, I have no  
10 further questions of this witness.

11 MR. LARSON: I have nothing further.

12 EXAMINER GOETZE: Then case 15291 is taken  
13 under advisement.

14

15

16

(Time noted 8:40 a.m.)

17

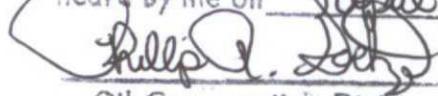
18

19

20

I do hereby certify that the foregoing is  
a complete record of the proceedings at  
the Examiner hearing of Case No. 15291  
heard by me on April 30 2015.

21

  
Phillip D. Zeh  
Oil Conservation Division

22

23

24

25

1 STATE OF NEW MEXICO )  
2 ) ss.  
3 COUNTY OF BERNALILLO )  
4  
5  
6

7 REPORTER'S CERTIFICATE

8 I, ELLEN H. ALLANIC, New Mexico Reporter CCR  
9 No. 100, DO HEREBY CERTIFY that on Thursday, April 30,  
10 2015, the proceedings in the above-captioned matter were  
11 taken before me, that I did report in stenographic  
12 shorthand the proceedings set forth herein, and the  
13 foregoing pages are a true and correct transcription to  
14 the best of my ability and control.

15 I FURTHER CERTIFY that I am neither employed by  
16 nor related to nor contracted with (unless excepted by  
17 the rules) any of the parties or attorneys in this case,  
18 and that I have no interest whatsoever in the final  
19 disposition of this case in any court.

20 

21 ELLEN H. ALLANIC, CSR  
22 NM Certified Court Reporter No. 100  
23 License Expires: 12/31/15  
24  
25