

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

AMENDED APPLICATION OF COG OPERATING,  
LLC TO RE-OPEN CASE NUMBER 15023 TO  
POOL THE INTERESTS OF ADDITIONAL  
MINERAL OWNERS UNDER THE TERMS OF  
COMPULSORY POOLING ORDER R-13757,  
EDDY COUNTY, NEW MEXICO.

CASE NO. 15023  
(re-opened)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 4, 2016

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, William V. Jones,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, August 4, 2016, 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: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

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APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

JORDAN L. KESSLER, ESQ.  
HOLLAND & HART  
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Santa Fe, New Mexico 87501  
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1 (2:20 p.m.)

2 EXAMINER JONES: And let's call Case Number  
3 15023, re-opened and re-advertised, amended application  
4 of COG Operating, LLC to reopen Case Number 15203 to  
5 pool the interests of additional mineral owners under  
6 the terms of compulsory pooling Order R-13757, Eddy  
7 County, New Mexico.

8 Call for appearances.

9 MS. KESSLER: Jordan Kessler, from the  
10 Santa Fe office of Holland & Hart, on behalf of the  
11 Applicant.

12 EXAMINER JONES: Any other appearances?  
13 I guess not.

14 Let the record show the same witnesses.

15 MS. KESSLER: Just one witness today.

16 EXAMINER JONES: The same witness has been  
17 sworn.

18 MS. KESSLER: I'll call my one and only  
19 witness.

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

23 DIRECT EXAMINATION

24 BY MS. KESSLER?

25 Q. Please state your name for the record and tell

1 the Examiners by whom you're employed and in what  
2 capacity.

3 A. Joseph Scott. I'm a landman, and I work at COG  
4 Operating, LLC.

5 Q. Did you testify before the Division today in a  
6 prior case?

7 A. Yes, I did.

8 Q. And that was as a petroleum landman, correct?

9 A. Yes.

10 Q. Are you familiar with the application filed in  
11 this case?

12 A. Yes.

13 Q. Are you familiar with the status of the lands  
14 in the subject area?

15 A. Yes.

16 MS. KESSLER: Mr. Examiners, I'd once again  
17 tender Mr. Scott as an expert in petroleum land matters.

18 EXAMINER JONES: He is so qualified.

19 Q. (BY MS. KESSLER) Mr. Scott, can you please turn  
20 to Exhibit 1? Is this a copy of Order R-13757, which is  
21 a pooling order entered by the Division in February of  
22 2013?

23 A. Yes.

24 Q. Does this pooling order create a nonstandard  
25 spacing and proration unit?

1           A.    Yes, it did.  It is comprised of the east  
2 half-west half of Section 6, 19 South, 26 East, Eddy  
3 County, New Mexico, pooling all the known -- all the  
4 known uncommitted interest owners at that time as to the  
5 Yeso Formation for the Arabian 6 Fee 6H.

6           Q.    Would that have been in the Penasco Draw San  
7 Andres-Yeso Associated Pool?

8           A.    Yes.

9           Q.    Pool Code 50270?

10          A.    I believe so, yes.

11          Q.    I believe that pool and pool code are  
12 identified in this exhibit on page 2, paragraph four?

13          A.    Yes, that's correct.

14          Q.    And the API number is also provided for the  
15 Arabian 6H well?

16          A.    Yes, it is, on page 1, paragraph three.

17          Q.    Has this well already been drilled?

18          A.    Yes, it has.

19          Q.    Why has COG come back to the Division for  
20 additional action?

21          A.    This well was plugged without notifying Land.  
22 The leases expired.  The JOA then expired because of  
23 expired leases.  We have attempted to go out and  
24 re-acquire the expired leases and recommit the original  
25 working interest owners to the JOA.  We have been

1 unsuccessful acquiring all the leases and all the  
2 working interest owners, but the majority of them we  
3 have been able to get voluntarily committed to this  
4 well.

5 Q. So the remaining uncommitted interest owners  
6 you need to add to the pooling order; is that correct?

7 A. Yes.

8 Q. Are you also requesting that the Division  
9 revise the order to include the San Andres Formation?

10 A. Yes.

11 Q. Did the original pooling order only pool the  
12 interest owners in the Yeso Formation?

13 A. That's correct.

14 Q. But the pool that's identified in paragraph  
15 four, on page 2 includes the San Andres Formation; is  
16 that correct?

17 A. That's correct.

18 Q. Is ownership common between the San Andres and  
19 the Yeso?

20 A. Yes.

21 Q. And are you requesting that the Division add  
22 the San Andres Formation to the order to be consistent  
23 with the Division designated pool?

24 A. Yes.

25 Q. Is Exhibit 2 a land plat that identifies the

*Yes  
This  
one is*

1 interest owners that you seek to add to the pooling  
2 order?

3 A. Yes, it does. The plat shows the tracts, shows  
4 the tract ownership. At the end, it shows the unit  
5 recapitulation. At the end, the owners in yellow are  
6 the owners we're seeking to pool.

7 Q. Everybody else is committed to the lease.

8 A. Everybody else is committed already.

9 Q. Have you been able to locate these interest  
10 owners?

11 A. I have not been -- yes. I have been able to  
12 locate them.

13 Q. Does Exhibit 3 contain a letter to the interest  
14 owners requesting that they either extend the operating  
15 agreement or sign a new lease?

16 A. Yes.

17 Q. And if they do either extend the operating  
18 agreement or execute a new lease, they would be released  
19 from this pooling order; is that correct?

20 A. That's correct.

21 We want to get everybody signed back up as  
22 it was. We're going continue our lease efforts. We're  
23 going to continue trying to reach out to the owners that  
24 were originally on the OA. We just want everything to  
25 be back -- put Humpty Dumpty back together again.

1 Q. And in addition to sending these letters, what  
2 other efforts did you undertake to reach an agreement  
3 with the parties?

4 A. Phone calls, emails, our brokers reaching out  
5 to some heirs. We were able to find -- there is one  
6 heir on Exhibit -- on Exhibit 3 -- or excuse me --  
7 Exhibit 2, the Glen Thompson heirs. We find the party  
8 that speaks for all of them, and they're working on  
9 getting us a lease back to us right now.

10 Q. So you've had communication with all of the  
11 parties highlighted?

12 A. Yes.

13 Q. Is Exhibit 4 an affidavit from my office with  
14 attached letters providing notice of this hearing to the  
15 parties you seek to add to the pooling order?

16 A. Yes.

17 Q. And is Exhibit 5 a Notice of Publication --

18 A. Yes.

19 Q. -- of this hearing?

20 And are you now asking the Division to  
21 bring these parties under the terms of the existing  
22 pooling order?

23 A. Yes.

24 Q. Were Exhibits 1 through 3 prepared by you or  
25 compiled under your direction and supervision?

1 A. Yes.

2 MS. KESSLER: Mr. Examiners, I move  
3 admission of Exhibits 1 through 5, including my  
4 affidavit.

5 EXAMINER JONES: Exhibits 1 through 5 are  
6 admitted.

7 (COG Operating, LLC Exhibit Numbers 1  
8 through 5 are offered and admitted into  
9 evidence.)

10 CROSS-EXAMINATION

11 BY EXAMINER JONES:

12 Q. So it was pooled and then -- it was drilled  
13 partially and then plugged?

14 A. No. It drill -- it was drilled, completed,  
15 produced, and then our technical team shut the well in,  
16 didn't tell Land. Wasn't aware that they couldn't just  
17 shut the well in because they wanted to. And, you know,  
18 after they shut it in, we lost leases. And since we had  
19 lost leases, we had struggles picking them back up, and  
20 then the OA expired, and it was just kind of a domino  
21 effect after that. And we've made every attempt to get  
22 everybody signed back up. And at this point, we need to  
23 get a pooling order, or we're going to lose more leases  
24 and be back in this boat.

25 Q. Okay. But the well was already paid for by --

1 A. Yes. By the working interest owners, yes.

2 Q. Working interest owners.

3 CROSS-EXAMINATION

4 BY EXAMINER BROOKS:

5 Q. So the well paid out before --

6 A. It did not pay out.

7 Q. Oh, it did not pay out.

8 A. It did not pay out.

9 Q. But you're not trying to go back and recover  
10 any costs from the well costs, then, or --

11 A. No. No. There is no delinquency on well  
12 costs. We just have uncommitted owners now. Mineral  
13 owners that leased to us are now unleased, uncommitted.  
14 Working interest owners that were once under the OA --  
15 there is no OA. It expired. We tried to do a reviver  
16 [sic] or extension, and we got the majority of the  
17 parties signed back up but not 100 percent.

18 Q. Like the case this morning, some of the parties  
19 have an outstanding view of what their interest is  
20 worth?

21 A. I guess I missed that part.

22 Q. Well, that's why their interest is outstanding.  
23 The landman testified they had an outstanding view of  
24 what their interests were.

25 A. Oh, when they drilled the well?

1 Q. Okay. I don't have any other questions.

2 EXAMINER JONES: The COPAS is the same?

3 MS. KESSLER: It's already outlined in the  
4 existing pooling order.

5 EXAMINER JONES: Okay. Okay. Thanks very  
6 much.

7 We'll take Case 15023, re-opened and  
8 re-advertised, under advisement.

9 (Case Number 15023 concludes, 2:29 p.m.)

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_,  
heard by me on \_\_\_\_\_.

\_\_\_\_\_, Examiner  
Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3  
4 CERTIFICATE OF COURT REPORTER

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

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

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

20 

21 MARY C. HANKINS, CCR, RPR  
22 Certified Court Reporter  
23 New Mexico CCR No. 20  
24 Date of CCR Expiration: 12/31/2016  
25 Paul Baca Professional Court Reporters