

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 NONSTANDARD SPACING AND
PRORATION UNIT AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

CASE NO. 15764

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 3, 2017

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

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This matter came on for hearing before the New Mexico Oil Conservation Division, Phillip Goetze, Chief Examiner, and David K. Brooks, Legal Examiner, on Thursday, August 3, 2017, 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
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1 APPEARANCES

2 FOR APPLICANT COG OPERATING, LLC:

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1 (10:04 a.m.)

2 EXAMINER GOETZE: Back on the regular
3 docket, Case Number 15764, application of COG Operating,
4 LLC for a nonstandard spacing and proration unit and
5 compulsory pooling, Eddy County, New Mexico.

6 Call for appearances.

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

10 EXAMINER GOETZE: Any other appearances?

11 MS. KESSLER: Two witnesses today.

12 EXAMINER GOETZE: Would the witnesses
13 please stand and state your name for the court reporter,
14 and she shall swear you?

15 MR. BACON: Cody Bacon.

16 MR. REKER: Adam Reker, R-E-K-E-R.

17 (Mr. Bacon and Mr. Reker sworn.)

18 MS. KESSLER: I'll call my first witness.

19 EXAMINER GOETZE: Please.

20 ADAM REKER,
21 after having been first duly sworn under oath, was
22 questioned and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. KESSLER:

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

1 the Examiner by whom you are employed and in what
2 capacity.

3 A. I'm Adam Reker. I'm a landman for COG
4 Operating, LLC.

5 Q. Have you previously testified before the
6 Division?

7 A. Yes.

8 Q. Were your credentials as a petroleum landman
9 accepted and made a matter of record?

10 A. Yes, ma'am.

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

13 A. Yes, ma'am.

14 Q. And are you familiar with the status of the
15 lands in the subject area?

16 A. Yes.

17 MS. KESSLER: Mr. Examiners, I would tender
18 Mr. Reker as an expert in petroleum land matters.

19 EXAMINER GOETZE: He is so qualified.

20 Q. (BY MS. KESSLER) Mr. Reker, please turn to
21 Exhibit 1 and explain what COG seeks under this
22 application.

23 A. This is the C-102 plat for the Malco 23 Fed Com
24 #13H well. It's in an unorthodox location in the east
25 half of the west half of Section 23, Township 17 South,

1 Range 28 East, in Eddy County, New Mexico.

2 Q. Are you seeking to pool all of the uncommitted
3 interest owners in the entire Glorieta-Yeso Pool?

4 A. Yes, we are.

5 Q. And that pool and pool code are both identified
6 on the C-102; is that correct?

7 A. Yes. It's Pool Code 96210. It's the entire
8 Glorieta-Yeso Pool.

9 Q. Has an APD been approved for this well?

10 A. Yes, ma'am. The API number is 30-015-44297.

11 Q. And what is the character of the lands that
12 make up this spacing unit?

13 A. The entire spacing unit is all federal land.

14 Q. For the entire Glorieta-Yeso Pool, do the
15 Division statewide setbacks apply?

16 A. Yes, 330-foot spacing.

17 Q. This completed interval will not comply with
18 the Division statewide setbacks?

19 A. It will not. We are applying for an unorthodox
20 location administratively.

21 Q. And I understand that that application has been
22 submitted but not yet approved?

23 A. Correct. We have a sundry from the BLM that
24 has been approved for that unorthodox -- unorthodox
25 location, but the OCD has not approved it yet.

1 Q. Are there any depth severances in this area?

2 A. No.

3 Q. Let's turn to Exhibit 2. Is this an ownership
4 outline showing ownership by tract in the proposed
5 spacing unit?

6 A. Yes.

7 Q. What interests are you seeking to pool?

8 A. So on this exhibit, all of the owners in bold
9 have not committed to the spacing unit. So all of the
10 owners in bold on my exhibit, Exhibit 2, are the owners
11 we're seeking to pool, the working interest owners.

12 Q. They're all working interest owners?

13 A. Yes.

14 Q. And does the -- if they're not bolded, does
15 this indicate that they have signed an AFE?

16 A. Correct. They have signed the AFE, and they
17 are on board for this well.

18 Q. Is Exhibit 3 a copy of the well-proposal letter
19 that you sent to the working interest owners in this
20 well?

21 A. Yes.

22 Q. When did you send this letter?

23 A. May 4th, 2017. All letters went out on that
24 date.

25 Q. And on the third page of that letter, is that

1 **an AFE?**

2 A. Yes. AFEs went out with each proposal letter.

3 **Q. Are the costs on this AFE consistent with what**
4 **other operators in the area charge for similar wells?**

5 A. Yes, ma'am.

6 **Q. Please discuss the additional efforts that you**
7 **undertook to reach agreement with the parties you're**
8 **requesting to pool.**

9 A. It varied by owner. We're actually in
10 negotiations to buy three of the owners' interests.
11 Additionally, I requested that COG get a term assignment
12 from all owners. Some have been completely
13 unresponsive. Some, we have negotiated the JOA, and
14 they just haven't signed it yet. So they are on my list
15 to be pooled today, but we will get a voluntary
16 agreement by spud. But it kind of varied depending on
17 which owner it was. Some were completely unresponsive,
18 like I said. But I did make efforts to term assign
19 every owner in the spacing unit.

20 **Q. Did the well-proposal letter also offer a term**
21 **assignment --**

22 A. Additionally, the proposal letter did, as you
23 can see in that third or fourth paragraph in the
24 terms -- initial terms that I set out.

25 **Q. And if you reach agreement with any of the**

1 parties you are now requesting to pool, will you
2 identify the Division?

3 A. Yes.

4 Q. Have you estimated overhead and administrative
5 costs for drilling and producing this well?

6 A. Yes. We estimated 6,000 for drilling and 600
7 for producing.

8 Q. Is that in line with what COG and other
9 operators in the area are charging for similar Yeso
10 wells?

11 A. Yes. It's a shallower well.

12 Q. Do you request that those costs be incorporated
13 into any order resulting from this hearing?

14 A. We do.

15 Q. Do you ask that those costs be adjusted in
16 accordance with the COPAS accounting procedures?

17 A. Yes, we do.

18 Q. For uncommitted working interest owners, are
19 you requesting that the Division impose a 200 percent
20 risk penalty?

21 A. Yes.

22 Q. And did you identify the offset operators or
23 lessees of record in the 40-acre tracts surrounding the
24 proposed nonstandard spacing unit?

25 A. We did.

1 Q. Is Exhibit 4 an affidavit from my office with
2 attached letters providing notice both to the parties
3 that you seek to pool, as well as the offset operators
4 or lessees of record?

5 A. Yes, ma'am.

6 Q. And is Exhibit 5 an Affidavit of Publication in
7 Eddy County?

8 A. Yes.

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

11 A. Yes, ma'am.

12 MS. KESSLER: Mr. Examiners, I move
13 admission of Exhibits 1 through 5, which include two
14 notice affidavits from me.

15 EXAMINER GOETZE: Exhibits 1 through 5 are
16 so entered.

17 (COG Operating, LLC Exhibit Numbers 1
18 through 5 are offered and admitted into
19 evidence.)

20 MS. KESSLER: No further questions.

21 EXAMINER GOETZE: Mr. Brooks?

22 CROSS-EXAMINATION

23 BY EXAMINER BROOKS:

24 Q. The -- sorry. I haven't been listening as
25 carefully as I should have.

1 Are all of the parties to whom -- how did
2 you come up with a list of people that you served --
3 that you included on the -- on the legal notice that was
4 published in the newspaper?

5 A. So we looked at offsetting ownership as far as
6 operatorship in wells. If not, we -- if there were no
7 wells in the offsetting 40-acre tracts, we looked up
8 lessee of record.

9 Q. Now, this is for the offsetting tracts?

10 A. Yes. That's for the offsetting tracts. And
11 the owners that we are pooling, we got a title opinion
12 for it, and that's how those interest owners were
13 located.

14 Q. Did you publish as to owners that you're
15 pooling -- or did you publish legal notice directly to
16 the owners that you're pooling?

17 MS. KESSLER: The pooled parties, yes,
18 Mr. Examiner.

19 THE WITNESS: Yes.

20 EXAMINER BROOKS: Where is that in this?

21 MS. KESSLER: That's Exhibit 5.

22 Q. (BY EXAMINER BROOKS) And did you include all of
23 the uncommitted owners in the -- on the legal notice?

24 A. Yes.

25 Q. Even though that -- so that -- that notice

1 **duplicates the list that you made to --**

2 A. Yes.

3 Q. Now, are there some owners that you mailed to
4 **that you did not get return receipts from?**

5 A. No. We got return receipts. Actually, several
6 of these owners are in other COG-operated wells. So we
7 have good addresses, and they're currently being paid on
8 other wells. They were just unresponsive on this well.

9 Q. So did you get return receipts from everyone
10 **you mailed to?**

11 A. Yes.

12 Q. And there is nobody to whom you do not have an
13 **address?**

14 A. Correct. We have addresses on everyone.

15 Q. Okay. I don't have to worry about your
16 **publication. Thank you.**

17 A. It was just to cover our bases.

18 Q. Yes. Well, I understand that a lot of people
19 do that because at the time you send out your certified
20 mail, you do not know whether you're going to get return
21 **receipts.**

22 A. Some of them come back in a week, and some come
23 back in six weeks. It just depends.

24 Q. Return receipts has gotten so slow coming back.
25 **It didn't used to be like that. They've gotten really**

1 **slow coming back, so I can understand.**

2 MS. KESSLER: One follow-up question, if I
3 may.

4 REDIRECT EXAMINATION

5 BY MS. KESSLER:

6 **Q. Were you able to communicate with all of the**
7 **parties that you are seeking to pool?**

8 A. Yes.

9 CROSS-EXAMINATION

10 BY EXAMINER GOETZE:

11 **Q. And I only have one question. I notice in the**
12 **offset parties, we have S.P. Yates. Is this related to**
13 **the Yates as far as corporation, or is this a private**
14 **individual?**

15 A. It's a private individual associated with the
16 Yates family, and that was -- that was one that was a
17 lessee of record as opposed to being an operator. And
18 he was noticed.

19 **Q. There is no conflict with something that was**
20 **acquired by EOG?**

21 A. I don't believe so, no. Not that I'm aware of.
22 I wasn't informed by S.P. Yates.

23 **Q. I know you weren't there when they signed the**
24 **documents, but still --**

25 A. Right.

1 Q. -- there's been a lot of paperwork flying back
2 and forth, so I want to make sure everyone's properly
3 noticed.

4 A. Okay.

5 Q. I have no further questions.

6 MS. KESSLER: I'll call my next witness.

7 EXAMINER GOETZE: Please.

8 CODY BACON,

9 after having been previously sworn under oath, was
10 questioned and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. KESSLER:

13 Q. Would you please state your name for the record
14 and tell the Examiners by whom you're employed and in
15 what capacity?

16 A. My name is Cody Bacon. I'm employed by COG
17 Operating, LLC as a petroleum geologist.

18 Q. Have you previously testified before the
19 Division?

20 A. Yes, I have.

21 Q. And were your credentials as a petroleum
22 geologist accepted and made a matter of record?

23 A. They were.

24 Q. Are you familiar with the application filed in
25 this case?

1 A. Yes.

2 Q. And have you conducted a study of the lands
3 that are the subject of this application?

4 A. I have.

5 MS. KESSLER: Mr. Examiners, I would tender
6 Mr. Bacon as an expert in petroleum geology.

7 EXAMINER GOETZE: He's so qualified.

8 Q. (BY MS. KESSLER) Mr. Bacon, let's look at
9 Exhibit 6. Can you please identify this exhibit for the
10 Examiners?

11 A. Sure. This is a subsea structure map across
12 the area. It has a 100-foot contour interval. The
13 yellow shading is the proposed spacing unit. And the
14 red line within that yellow shading is the location of
15 the Malco 13H, and it shows the north-to-south
16 orientation. The circles that are blue are wells that
17 are producing from the Blinebry. The circles that are
18 red are wells producing from the Paddock.

19 As you can see from the structure map, it
20 demonstrates a very gentle west-to-east dip. It's very
21 consistent. It shows no faulting. And when you look
22 further to the south where your contour interval is --
23 excuse me -- where the contours are getting closer
24 together, that is approximately where you begin to go
25 from the shelf down into the Delaware Basin.

1 **Q. Is Exhibit 7 a zoomed-in map of the line of**
2 **section drawn on it?**

3 A. Yes, it is.

4 **Q. What is the line labeled A to A prime?**

5 A. The pink line labeled "A to A prime" is the
6 line of section across the area, and the pink dots are
7 the wells that make up that line of section.

8 **Q. Do you consider the wells used on this**
9 **cross-section line representative of Yeso wells in the**
10 **area?**

11 A. Yes.

12 **Q. Is Exhibit 8 a corresponding cross-section**
13 **exhibit?**

14 A. It is.

15 **Q. Can you please walk us through this?**

16 A. This is a structural cross section, A to A
17 prime, from the previous exhibit. Looking at the very
18 base of the cross section is the bold red line. That
19 indicates the top of the Blinebry. The bold red line
20 above that one is the top of the Paddock, and above that
21 is the top of the Glorieta. The green shading is the
22 Paddock Formation, which is the target interval for this
23 well, and on the far left side is the approximation of
24 the landing zone. It demonstrates that the thickness
25 across the area is very consistent. There is no major

1 structural change. There is no faulting, no pinch-outs
2 or any other geologic impediments.

3 Q. No impediments or hazards to drilling a
4 horizontal well?

5 A. Correct.

6 Q. In your opinion, can the area be efficiently
7 and economically developed by horizontal wells?

8 A. Yes.

9 Q. And in your opinion, will each quarter-quarter
10 section contribute more or less equally to production
11 from the well?

12 A. Yes.

13 Q. And finally, in your opinion, will granting
14 this application be in the best interest of
15 conservation, for the prevention of waste and the
16 protection of correlative rights?

17 A. Yes.

18 Q. Were Exhibits 6 through 8 compiled by you or
19 prepared under your direction or supervision?

20 A. They were.

21 MS. KESSLER: Mr. Examiner, I move
22 admission of Exhibits 6 through 8.

23 EXAMINER GOETZE: Exhibits 6 through 8 are
24 so entered.

25 (COG Operating, LLC Exhibit Numbers 6

1 through 8 are offered and admitted into
2 evidence.)

3 MS. KESSLER: Thank you.

4 EXAMINER GOETZE: Any questions?

5 EXAMINER BROOKS: I have no questions for
6 this witness.

7 CROSS-EXAMINATION

8 BY EXAMINER GOETZE:

9 Q. I must congratulate you that you have found 160
10 acres in a straight line that doesn't have a vertical
11 well in this area.

12 A. Thank you.

13 Q. So on that note, the preexisting wells in this
14 area in production, you feel will not affect your
15 completion of this well?

16 A. I don't believe so.

17 Q. And I notice that we have both Paddock and
18 Blinebry production. The current target is the
19 shallower zone or shallower producer. Are there any
20 plans or interest in going to the lower?

21 A. Interest, yes. As far as plans, I am not sure.

22 Q. Okay. So we are looking at just going for the
23 shallower for now?

24 A. That's correct.

25 EXAMINER GOETZE: I have no further

1 questions for this witness.

2 MS. KESSLER: Thank you. I'd ask this case
3 be taken under advisement.

4 EXAMINER GOETZE: Very good.

5 Then Case Number 15764 is taken under
6 advisement.

7 Thank you very much.

8 (Case Number 15764 concludes, 10:19 a.m.)

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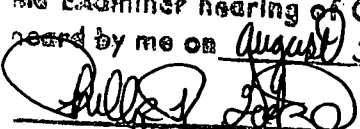
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I hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 15764
heard by me on August 3 2017

_____, 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.

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Mary C. Hankins

MARY C. HANKINS, CCR, RPR
Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2017
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