

**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:**

**CASE NO. 15970
ORDER NO. R-14653**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on February 8, 2018, at Santa Fe, New Mexico, before Examiner Phillip R. Goetze.

NOW, on this 20th day of April, 2018, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.

(2) COG Operating, LLC (the "Applicant") seeks approval of a non-standard 240-acre oil spacing and proration unit and project area (the "Unit") in the Yeso formation [Maljamar; Yeso, West Pool (Pool code 44500)] consisting of the S/2 S/2 of Section 4 and the S/2 SW/4 of Section 3, both in Township 17 South, Range 32 East, NMPM, in Lea County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Paddock and Blinbry intervals of the Yeso formation.

(3) The Unit will be dedicated to Applicant's Shovel Head Federal Com Well No. 18H (the "proposed well"; API No. 30-025-44518), a horizontal well to be drilled from a surface location 330 feet from the South line and 200 feet from the East line (Unit P) of Section 5 to a standard terminus 330 feet from the South line and 2630 feet from the West line (Unit N) of Section 3. The completed interval of the proposed well in the Yeso formation will be unorthodox.

(4) The proposed well is within the Maljamar;Yeso, West Pool (Pool code 44500). Spacing in this pool is governed by statewide Rule 19.15.15.9A. NMAC, which provides for standard 40-acre units, each comprising a governmental quarter-quarter section. The proposed Unit and project area consists of six adjacent quarter-quarter sections.

(5) Since the location of the perforated interval of the wellbore will be closer than 330 feet to the west boundary of the governmental quarter-quarter section (Unit M) within Section 4, the Applicant will seek an administrative order approving the unorthodox location of the proposed well.

(6) Applicant appeared at the hearing through counsel and presented land and geologic evidence to the effect that:

- (a) the Yeso formation inclusive of the Paddock and Blinebry members in this area is suitable for development by horizontal drilling;
- (b) the proposed orientation of the horizontal well West to East is appropriate for the Unit;
- (c) all quarter-quarter sections to be included in the Unit are expected to be productive in the Yeso formation, so that formation of the Unit as requested will not impair correlative rights;
- (d) Applicant identified the SE/4 SE/4 of Section 4 as containing working interests with depth severance between the upper Yeso formation (Paddock and Blinebry members) and the lower Yeso formation (Tubb member);
- (e) Applicant provided a correspondence by Este Limited, the working interest owner of the lower Yeso formation in the SE/4 SE/4 of Section 4, supporting the depth severance of mineral interest in the tract and the completion of the proposed well;
- (f) notice by certified mail was provided to all uncommitted interest owners in the proposed Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant when the Application was filed; and
- (g) Applicant provided notice of this application to affected parties in the quarter-quarter sections surrounding the Unit area by certified mail and by publication as provided in Rule 19.15.4.12(B) NMAC.

(7) Mr. Philip White made application to appear at hearing, but subsequently withdrew his opposition to the granting of this application. No other party appeared at the hearing, or otherwise opposed the granting of this application.

The Division concludes as follows:

(8) Commission Order No. R-14023-A concerned COG Operating, LLC's Sneed 9 Federal Com Well No. 23H (API No. 30-025-41410), whose project area was the S/2 N/2 of Section 9 and the SW/4 NW/4 of Section 10, Township 17 South, Range 32 East, NMPM, Lea County New Mexico, directly south of the Unit. The Commission Order permitted compulsory pooling from the top of the Paddock member to the base of the Blinebry member of the Yeso formation, excluding the Tubb member of the Yeso formation, within the Maljamar; Yeso, West Pool.

(9) The Commission Order required the operator to provide, within one year of commencing production, evidence demonstrating that the final fracture configuration for the completion of the well subject to that order has remained within the vertical limits of the specific compulsory pooled interval. If the operator is unable to provide sufficient information for the Division to determine the limits of fracturing, the operator shall appear before the Commission to demonstrate continuing justification for the vertical segregation of the Yeso formation in the Maljamar; Yeso, West Pool. The Division should impose similar requirements for the Unit in this case.

(10) The Commission stated that the Commission Order was uniquely based on the specific facts of the case. The evidence presented by the Applicant suggests that the facts in the present case are substantially identical to those described in the Commission Order; therefore, the findings in the Commission Order are applicable to the Unit.

(11) The unorthodox location of the first perforation for the proposed well has been approved under administrative order NSL-7649 issued March 5, 2018.

(12) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well.

(13) Approval of the proposed non-standard unit will enable Applicant to drill a horizontal well that will efficiently produce the reserves underlying the Unit, thereby preventing waste, and will not impair correlative rights.

(14) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(15) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common

source of supply within the Unit at the proposed location. There are interest owners in the Unit that have not agreed to pool their interests.

(16) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.

(17) COG Operating LLC should be designated the operator of the proposed well and the Unit.

(18) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well.

(19) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

IT IS THEREFORE ORDERED THAT:

(1) A non-standard 240-acre oil spacing and proration unit (the "Unit") is hereby established for the Maljamar;Yeso, West Pool (Pool code 44500) consisting of the S/2 S/2 of Section 4 and the S/2 SW/4 of Section 3, both in Township 17 South, Range 32 East, NMPM, in Lea County, New Mexico.

(2) Pursuant to the application of COG Operating, LLC, all uncommitted interests, whatever they may be, in the oil and gas in the Paddock and Blinebry intervals of the Yeso formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to the **Shovel Head Federal Com Well No. 18H** (the "proposed well"; API No. 30-025-44518), a horizontal well to be drilled from a surface location 330 feet from the South line and 200 feet from the East line (Unit P) of Section 5 to a standard terminus 330 feet from the South line and 2630 feet from the West line (Unit N) of Section 3. The completed interval of the proposed well in the Yeso formation will be unorthodox.

(4) The operator of the Unit shall commence drilling the proposed well on or before April 30, 2019, and shall thereafter continue drilling the proposed well with due diligence to test the Yeso formation.

(5) In the event the operator does not commence drilling the proposed well on or before April 30, 2019, Ordering Paragraphs (1) and (2) shall be of no effect, unless the

operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(6) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the Unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not completed in all of the spacing units included in the proposed Unit within 120 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Unit so that it includes only those spacing units in which the well is completed.

(7) The operator shall provide, within one year of commencing production, evidence demonstrating that the final fracture configuration for the completion of the proposed well has remained within the vertical limits of the specific compulsory pooled interval. If the operator is unable to provide sufficient information for the Division to determine the limits of fracturing, the operator shall appear before the Commission to demonstrate continuing justification for the vertical segregation of the Yeso formation in the Maljamar; Yeso, West Pool.

(8) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled Unit created by this Order shall terminate, unless this Order has been amended to authorize further operations.

(9) COG Operating, LLC (OGRID 229137) is hereby designated the operator of the well and the Unit.

(10) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this Order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(11) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(12) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(13) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(14) The operator is hereby authorized to withhold the following costs and charges from each non-consenting working interest owner's share of production from each well:

- (a) the proportionate share of reasonable well costs attributable to each such owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(15) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(16) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates may, at the operator's discretion, be adjusted annually pursuant to the overhead provisions of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from each pooled working interest owner's share of production from the subject well, such owner's proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable.

(17) Except as provided above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 7-8A-31, as amended).

(18) Any unleased mineral interests shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs

and charges under this Order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(19) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this Order, this Order shall thereafter be of no further effect.

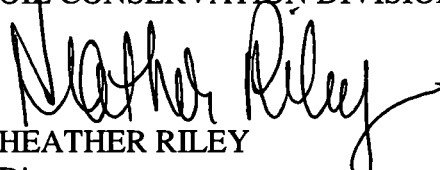
(20) The operator of the well and the Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this Order.

(21) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


HEATHER RILEY
Director