

**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 HEARING:**

**APPLICATIONS OF CHESAPEAKE ENERGY CORPORATION  
FOR 160-ACRE OIL SPACING AND PRORATION UNITS AND  
FOR COMPULSORY POOLING  
CHAVES COUNTY, NEW MEXICO**

**CASE NOS.  
14222-14231**

**RECEIVED  
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**APPLICATIONS OF CHESAPEAKE ENERGY CORPORATION  
FOR CANCELLATION OF CERTAIN PERMITS TO DRILL ("APDS")  
ISSUED TO COG OPERATING LLC ("COG")  
CHAVES COUNTY, NEW MEXICO**

**CASE NOS.  
14217, 14218, 14219**

**APPLICATIONS COG OPERATING LLC FOR DESIGNATION OF  
A NON-STANDARD OIL SPACING AND PRORATION UNITS FOR  
COMPULSORY POOLING, CHAVES COUNTY, NEW MEXICO**

**CASE NOS.  
14203-14216**

**CHESAPEAKE ENERGY CORPORATION'S  
CONSOLIDATED PRE-HEARING STATEMENT  
AND MOTION FOR A SCHEDULING ORDER  
AND DELINEATING OF ISSUES FOR HEARING**

Chesapeake Energy Corporation ("CHK") submits this pre-hearing statement as required by the New Mexico Oil Conservation Division.

## **APPEARANCES OF THE PARTIES**

### **APPLICANT**

Chesapeake Operating, Inc.  
6100 N. Western Ave  
Oklahoma City, OK 73118  
Attn: Jared Boren  
405-879-7923

### **ATTORNEY**

Thomas Kellahin, Esq.  
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505-982-4285

### **OPPONENT**

COG Oil & Gas LP  
COG Operating LLC

### **ATTORNEY**

J. Scott Hall, Esq.  
Montgomery & Andrews  
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### **Appearing in Cases 14229, 14230 and 14231 (Sec 13):**

Penroc Oil Corporation  
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Merch Merchant (pro se)

## **MOTION FOR CONSOLIDATION**

The Chesapeake ("CHK") and COG cases involve competing applications that can be organized and consolidated so that the Division's Examiner can hear them in a logical manner. Chesapeake moves that the Division arrange and hear the evidence utilizing the Division's numbered system as listed for cases on the October 30, 2008 docket with the number in parenthesis taken from the locator key for cases with the corresponding case number.

## **CHK and COG competing cases**

### **Section 10:**

S/2S/2: Ownership CHK 25%; COG 25%; Cimarex 50%

(12) Case 14203-COG for Taurus Federal #1

(31) Case 14222-CHK for Perseus 10 Fed Com Well No. 1H

N/2S/2: Ownership CHK 25%; COG 25% Cimarex 50%

(13) Case 14204-COG pooling for Taurus State Com #2

(32) Case 14223-CHK's pooling for Perseus 10 Federal Com Well No. 2H

S/2N/2: Ownership CHK's 75%; COG 25%

(14) Case 14205-COG pooling for Taurus State Com #3

(33) Case 14224: CHK's pooling for Perseus 10 Federal Com Well No. 3H

N/2N/2: Ownership CHK 27% COG 25%

(13) Case 14206-COG pooling for Taurus State Com #4

(34) Case 14225: CHK's pooling for Perseus 10 Federal Com Well No. 4H

(26) Case 14217-CHK to cancel COG permits to drill in Section 10:

(a) Taurus Federal #1 (API #30-005-28000)

(b) Taurus State Com #2 (API #30-005-27995)

(c) Taurus State Com #3 (API #30-005-27996)

(d) Taurus State Com #4 (API #30-005-27997)

### **Section 13:**

S/2N/2: Ownership CHK 25% COG 25% Penroc 50%

(14) Case 14207-COG pooling for Orion Fed Com #1H

(40) Case 14231: CHK's pooling for Wrinkle 13 Federal Com Well 3

N/2S/2: Ownership CHK 37.5%; COG 37.5 % and Penroc 25%

(15) Case 14208-COG pooling for Orion Fed #2

(38) Case 14229 CHK's pooling of N/2S/2 of Sec 13 for Wrinkle 13 Fed Com 1H

S/2S/2: Ownership: CHK 25% COG 25% Penroc 50%

(16) Case 14209-COG pooling for Orion Fed Com #3

(39) Case 14230 CHK's pooling for Wrinkle 13 Federal Com Well No. 2H

(28) Case 14219-CHK to cancel COG permits to drill in Section 13:

(a) Orion Fed Com #1H (API # 30-005-27978)

(b) Orion Fed Com #2H (API # 30-005-27994)

(c) Orion Fed Com #3H (API # 30-005-28001)

## **Section 14:**

N/2N/2: Ownership CHK 25% COG 25% Chase 50%  
(19) Case 14210-COG pooling for Andromeda Fed #1  
(35) Case 14226: CHK's pooling for Draco 14 Federal Com Well No. 1H

S/2N/2: Ownership CHK 25% COG 25% Chase 50%  
(20) Case 14211-COG pooling for Andromeda Fed #2  
(36) Case 14227: CHK's pooling for Draco 14 Federal Com Well No. 2H

N/2S/2: Ownership CHK 50% COG 50%  
(21) Case 14212-COG pooling for Andromeda Fed #3  
(37) Case 14228 CHK's pooling for Draco 14 Federal Com Well No. 3H

(27) Case 14218-CHK to cancel COG permits to drill in Section 14:  
(a) Andromeda Federal #1 (API #30-005-27975)  
(b) Andromeda Federal #2 (API # 30-005-27976)

## **Section 15:**

All of Section: Ownership is CHK 25% and COG 75%

(22) Case 14213-COG pooling of S/2N/2 Sec 15 for Hercules Fed #1  
(23) Case 14214-COG pooling of N/2N/2 of Sec 15 for Hercules Fed Com #2  
(23) Case 14215-COG pooling of N/2S/2 of Sec 15 for Hercules Fed Com #3  
(24) Case 14216-COG pooling of S/2S/2 of Sec 15 for Hercules Fed Com #4H

**Note: CHK contends that COG with 75% of the WIO should be the operator. The COG permit are valid because COG has an interest in each of the 40-acre tracts of the spacing units that these wellbores will penetrate**

## **STATEMENT OF THE CASE**

### **CHESAPEAKE AS THE APPLICANT:**

Chesapeake has two types of cases to be heard (a) cancellation of COG APDs and (b) compulsory pooling cases.

(A) In support of its applications to cancel COG's APDs, Chesapeake will present evidence that will demonstrate that:

There are three cases (Case Nos. 14217-14219) filed by Chesapeake seeking the cancellations of COG's APDs in the three sections listed above. The Division's revised and modified its Form C-102 on October 12, 2005 to require that the Operator certify that:

"I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division."

Attached to each of COG's APDs was a Division Form C-102 that was improperly certified because COG Operating LLC wellbores will penetrate 40-acre tracts in which COG Oil & Gas LP (the parent ownership company for whom COG is the operating company) has no interest and has not reached a voluntary agreement with Chesapeake or the other owners of the respective tracts or obtained a Division compulsory pooling order pooling these interests.

In doing so, COG violated the "operator certification" contained in Division Form C-102 by falsely certifying that it had an interest in the surface location for each of these wellbores. Chesapeake seeks orders canceling these APDs so that Chesapeake, if it is successful with its compulsory pooling cases, will be able to file properly certified forms C-102 and obtain its own APDs.

(B) In support of its ten compulsory pooling applications (Case Nos. 14222-14231), Chesapeake will present evidence that will demonstrate that in cases where Chesapeake and COG each have the same percentage interest, that:

- (i) Chesapeake was the first to develop these prospects and the first to send a letter proposal letter, including an AFE, to COG and the other WIOs.
- (ii) COG, without first proposing its well to Chesapeake, obtained approval of an application for permit to drill ("APD") from either the BLM or NMOCD for its wells.
- (iii) COG, only after receiving Chesapeake's well proposal, did it respond to Chesapeake with a competing wellbore proposal.
- (iv) Chesapeake's AFE's are lower than those submitted by COG.
- (v) At this time, Chesapeake has not been able to obtain a written voluntary agreement from all the parties.

## **APPLICABLE PRECEDENT**

While Division Rule 111 provides that a project area for a horizontal wellbore may include a combination of complete spacing units, the New Mexico Oil and Gas Act limits compulsory pooling to the tracts of land embraced within a spacing or proration unit. See 70-2-17.C NMSA 1978. It appears that a project area for a horizontal wellbore that contains multiple 40-acre oil spacing units cannot be pooled unless a non-standard spacing unit is also approved. Therefore, Chesapeake seeks the designation of the S/2N/2 of this section as a 160-acre non-standard spacing and proration unit.

The Division decision in these cases should be controlled by precedent:

(1) Cases No. 12942 & 12956 (Order No. R-11870) was a 50-50 ownership. In this case, David H. Arrington and Great Western Drilling Company each owned 50% in an E/2 spacing unit. Arrington owned 50% outright and Great Western owned 32% outright. However, the remaining interest was owned by Davoil, Inc., who executed a JOA with Great Western naming them as the operator of the unit. The well location was the same; AFE costs were similar, etc. The case was basically decided by the following finding. "(26) Division's precedent has established that in the absence of other controlling factors, the party who first developed a prospect and first proposed a well should be designated operator."

(2) Cases No. 13537 & 13539 (R-12451) Synergy Operating, LLC vs. Lance Oil & Gas Company, Inc. The interest ownership was the ultimate factor in deciding this case. Synergy had a larger working interest, however, there were some interesting findings. "(17) The mere fact that an applicant obtained an APD first which has not been revoked does not necessarily guarantee that the applicant should be designated the operator of the wells and of the units under the compulsory pooling procedures. The Division does not want to decide this case based on a race to obtain an APD. Doing so would encourage potential operators to file for APD's strategically, to block other potential operators."

## **DELINEATION OF ISSUES FOR HEARING**

Chesapeake proposes that the relevant issues are:

- (1) Deciding which applicant will be designated the operator
- (2) Ownership status for each of the ten spacing units
- (3) Which operator was the first to propose its wells--When did Chesapeake and COG each send written well proposed including AFEs
- (4) Each operators efforts to reach a voluntary agreement
- (5) The estimated well costs of each operator's proposed wells

- (6) Which operator first developed these prospects
- (7) What to do about COG's falsely certified Form C-102s and the approved APDs.
- (8) Formation and approval of the 160-acre non-standard spacing and proration units
- (9) The corresponding compulsory pooling of each spacing unit

Chesapeake proposes that the irrelevant issues are:

- (1) There is no material difference in the well locations and/or horizontal lateral for any of these wellbores
- (2) There is no material difference in operator's ability
- (3) There is no geologic difference that matters
- (4) There is no dispute about the standard 200% risk factor or overhead rates

### **PROPOSED EVIDENCE**

#### **FOR CHESAPEAKE AS APPLICANT**

<b>WITNESSES</b>	<b>EST. TIME</b>	<b>EST. EXHIBIT</b>
<b>David A. Godsey (Geologist)</b>	<b>1 hour</b>	<b>@ 4</b>
<b>Jared Boren (Landman)</b>	<b>2-3 hours</b>	<b>@ 30</b>
<b>Todd Nance (drilling engineer)</b>	<b>1 hour</b>	<b>@ 4</b>

## PROCEDURAL MATTERS

COG's motion for dismiss and Chesapeake's response  
Chesapeake's motion to consolidate  
Chesapeake's motion for delineation of issues  
Chesapeake's motion to schedule order of cases and presentations.

**KELLAHIN & KELLAHIN**



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## CERTIFICATE OF SERVICE

I certify that on October 23, 2008, I served a copy of the foregoing documents by:

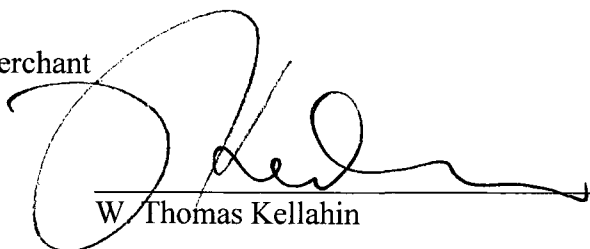
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- ☐ Email

to the following:

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