



**MONTGOMERY  
& ANDREWS**  
LAW FIRM

J. SCOTT HALL

Cell: (505) 670-7362

Email: shall@montand.com

Reply To: Santa Fe Office

www.montand.com

May 13, 2010

Ms. Florene Davidson  
NM Oil Conservation Commission  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

**Hand Delivered**

**Re: NMOCC Case No. 14323 De Novo: Application of Chesapeake Energy Corporation for Cancellation of a Permit to Drill Issued to COG Operating LLC, Eddy County, New Mexico**

**NMOCC Case No. 14365 De Novo: Application of Cog Operating LLC For Designation of a Non-Standard Spacing Unit And For Compulsory Pooling, Eddy County, New Mexico**

**NMOCC Case No. 14366: Application of Cog Operating LLC For Designation of a Non-Standard Spacing Unit, Unorthodox Well Location, And For Compulsory Pooling, Eddy County, New Mexico**

**NMOCC Case No. 14382: Application of Chesapeake Energy Corporation For Cancellation of a Permit to Drill Issued to Cog Operating LLC, Eddy County, New Mexico**

Dear Ms. Davidson:

On behalf of COG Operating LLC, enclosed are six copies of exhibits to COG Operating LLC's Consolidated Pre-Hearing Statement in the above-captioned matters.

Very truly yours,

J. Scott Hall

JSH:kw

Enclosures

cc w/enc.: Thomas Kellahin, Esq., Earl E. DeBrine, Jr., Esq., James Bruce, Esq.

---

**REPLY TO:**

325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
Telephone (505) 982-3873 • Fax (505) 982-4289

Post Office Box 2307  
Santa Fe, New Mexico 87504-2307

---

6301 Indian School Road NE, Suite 400  
Albuquerque, New Mexico 87110  
Telephone (505) 884-4200 • Fax (505) 888-8929

Post Office Box 36210  
Albuquerque, New Mexico 87176-6210

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

RECEIVED OCD

2010 MAY 13 P 4: 55

APPLICATION OF CHESAPEAKE ENERGY  
CORPORATION FOR CANCELLATION OF A PERMIT  
TO DRILL ISSUED TO COG OPERATING LLC, EDDY  
COUNTY, NEW MEXICO

DE NOVO  
CASE NO. 14323

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

DE NOVO  
CASE NO. 14365

APPLICATION OF COG OPERATING LLC FOR  
DESIGNATION OF A NON-STANDARD SPACING  
UNIT, UNORTHODOX WELL LOCATION, AND FOR  
COMPULSORY POOLING, EDDY COUNTY, NEW  
MEXICO

CASE NO. 14366

APPLICATION OF CHESAPEAKE ENERGY  
CORPORATION FOR CANCELLATION OF A PERMIT  
TO DRILL ISSUED TO COG OPERATING LLC, EDDY  
COUNTY, NEW MEXICO

CASE NO. 14382

COG OPERATING LLC'S CONSOLIDATED PRE-HEARING STATEMENT

This pre-hearing statement is submitted by COG Operating LLC as required by the rules of the Division and Commission.

**APPEARANCES**

APPLICANT

Chesapeake Energy Corporation

APPLICANT'S ATTORNEY

W. Thomas Kellahin, Esq.  
Kellahin & Kellahin  
706 Gonzales Road  
Santa Fe, NM 87501  
(505) 982-4285

Earl E. DeBrine, Jr., Esq.  
Modrall, Sperling, Roehl, Harris &  
Sisk, P.A.  
P.O. Box 2168  
Albuquerque, NM 87103-2168

OPPONENT

COG Operating LLC  
550 W. Texas Ave.  
Suite 1300  
Midland, TX 79701

OPPONENT'S ATTORNEY

J. Scott Hall  
Montgomery & Andrews  
P.O. Box 2307  
Santa Fe, New Mexico 87504-2307  
(505) 986-2646

OTHER PARTIES

Devon Energy Corporation  
20 N. Broadway  
Oklahoma City, OK 73102

OTHER PARTY'S ATTORNEY

James Bruce, Esq.  
P.O. Box 1056  
Santa Fe, NM 87504-1056

**STATEMENT OF THE CASE**

**CASE NOS. 14323 AND 14382**

APPLICANT

Applicant, Chesapeake Energy Corporation, seeks an order canceling APD'S for two horizontal wells planned by COG Operating LLC.

OPPONENT

The APD's for the two wells have been withdrawn. Consequently, Chesapeake's Applications are moot and should be dismissed.

In Case Nos. 14323 and 14382, Chesapeake filed Applications that seek rescission of APDs previously approved by the BLM for COG's Blackhawk "11" Fed Com Well No. 1-H and Blackhawk "11" Fed Com Well No. 2-H. COG had accomplished the permitting work necessary to horizontally drill these wells to the Abo/Wolfcamp formation on adjoining non-standard spacing units and special project areas comprising (1) 160-acres in the S/2 S/2 (the "1-H" well) and (2) 120

acres in the NE/4 SW/4 and N/2 SE/4 (the "2-H" well), both in Section 11 T16S R28E, Eddy County, New Mexico. No drilling has commenced.

In the case of the 1-H well, COG owns or controls 100% of the working interest in the S/2 SE/4 of Section 11 and since this dispute began, has obtained the participation of at least one other working interest owner in the S/2 SW/4. Chesapeake also owns a working interest in the S/2 SW/4 of Section 11, as does Devon Energy. Chesapeake has not committed its interest to the well. A substantially identical situation exists on the acreage dedicated to the 2-H well.

Chesapeake's Applications assert that the APD's for the two wells were improperly certified by COG and should not have been approved by the BLM because portions of the proposed wellbores will traverse acreage where, at the time, COG had no interest. Chesapeake's Applications contain no allegations that obtaining approvals of the APD's results in waste or the violation of correlative rights. Chesapeake is not asserting a competing right to operate these wells. It does not seek approval of its own APD's and has no plans or proposals drill on the subject acreage. Instead, Chesapeake's Applications focus on the operator certification language reflected on the Division's C-102 acreage dedication forms:

"I hereby certify...that the organization either owns a working interest or unleased mineral interest in the land, including the proposed bottomhole location, or has a right to drill this well at this location pursuant to a contract with an owner of such mineral or working interests or in a voluntary pooling agreement or compulsory pooling order hereto entered by the Division"

This language resulted from a 2007 Commission case decided against Chesapeake which involved the actual drilling of a vertical well.<sup>1</sup> Chesapeake did not further appeal that case.

It is COG's position that this issue is better suited for a rulemaking proceeding. With the voluntary withdrawal by COG of the two federal APD's at issue, there is no longer a controversy for the Commission to resolve. There are no APD's to rescind. Further, the consolidation via compulsory pooling of the interests in the two non-standard units of those parties who have not agreed to voluntarily participate in the wells also eliminates the issue that Chesapeake seeks to force the Commission to decide. New APD's will be filed with the BLM after the un-joined interests are force-pooled. Consequently, Chesapeake's Applications are rendered moot.

---

<sup>1</sup> NMOCC Case No. 13492 (De Novo): Application of Samson Resources Company, Kaiser-Francis Oil Company and Mewborne Oil Company for Cancellation of Two Drilling Permits and Approval of a Drilling Permit, Lea County, New Mexico; Order No. R-12343-E.

For the reason that Chesapeake made application to the Division for the rescission of the APD's, COG reasonably concluded that Chesapeake did not wish to voluntarily participate in the drilling of the two Blackhawk wells. Accordingly, COG made separate applications in Case Nos. 14365 and 14366 for the force-pooling of Chesapeake's interests.

#### DEVON ENERGY CORPORATION

Devon has indicated that it is taking no position on the Applications.

#### **PROPOSED EVIDENCE**

##### APPLICANT

##### WITNESSES

##### EST. TIME

##### EXHIBITS

##### OPPONENT

##### EST. TIME

##### EXHIBITS

##### WITNESSES

None. However, COG reserves the right to present rebuttal evidence.

N/A

N/A

#### **PROCEDURAL MATTERS**

COG has two motions pending before the Commission: (1) *Motion To Stay Or Continue Pending Rulemaking*; and (2) *Motion To Dismiss Case Nos. 14323 and 14382 For Failure To Provide Notice of New Issues*. The first motion was amended on February 12, 2010 to request dismissal of the Applications. The second motion was filed on February 12, 2010. Chesapeake failed to file any response to the motion.

**STATEMENT OF THE CASE**  
**CASE NOS. 14365 AND 14366**

APPLICANT

These are unexceptional compulsory pooling cases. It is believed that there are no disputes over geology, operations, well costs or risk-penalty.

Case No. 14365: Applicant seeks an order consolidating the 40-acre spacing units within the S/2 S/2 of Section 11, Township 16 South Range 28 East, NMPM and designating the consolidated units as a 160-acre $\pm$  non-standard oil spacing and proration unit in the Abo/Wolfcamp formation (Crow Flats Wolfcamp Pool) for Applicant's horizontal drilling project area. Applicant further seeks the compulsory pooling of all interests in the Abo/Wolfcamp formation underlying the S/2 S/2 of said Section 11 to be dedicated to its Blackhawk "11" Fed Com No. 1-H to be drilled horizontally from a surface location 430' from the South line and 430' from the West line to a bottom hole location 330' from the South line and 330' from the East line to a depth sufficient to test the Abo/Wolfcamp formation. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of COG Operating LLC as operator and a charge for risk involved in drilling the well.

Case No. 14366: Applicant seeks an order consolidating the 40-acre spacing units within the NE/4 SW/4, N/2 SE/4 of Section 11, Township 16 South Range 28 East, NMPM and designating the consolidated units as a 120-acre $\pm$  non-standard oil spacing and proration unit for an unorthodox well location in the Abo/Wolfcamp formation (Crow Flats Wolfcamp Pool) for Applicant's horizontal drilling project area. Applicant further seeks the compulsory pooling of all interests in the Abo/Wolfcamp formation underlying the NE/4 SW/4, N2 SE/4 of said Section 11 to be dedicated to its Blackhawk "11" Fed Com No. 2-H to be drilled horizontally from an unorthodox surface location 1880' from the South line and 1590' from the West line to a bottom hole location 1650' from the South line and 330' from the East line to a depth sufficient to test the Abo/Wolfcamp formation. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of COG Operating LLC as operator and a charge for risk involved in drilling the well.

OPPONENT

OTHER PARTIES

**PROPOSED EVIDENCE**

APPLICANT

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
Jan Spradlin-Land	20 minutes	Approx. 6
Ted Galowski-Geology	15 minutes	3
Gayle Burleson-Engineering	20 minutes	

OPPONENT

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
------------------	------------------	-----------------

OTHER PARTIES

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
------------------	------------------	-----------------

**PROCEDURAL MATTERS**

None.

MONTGOMERY & ANDREWS, P.A.

By: \_\_\_\_\_



J. Scott Hall, Esq.

Post Office Box 2307

Santa Fe, New Mexico 87504

(505) 982-3873

Attorneys for COG Operating LLC

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was e-mailed to counsel of record on the 13th day of May, 2010, as follows:

W. Thomas Kellahin  
Kellahin & Kellahin  
706 Gonzales Road  
Santa Fe, NM 87501  
(505) 982-2047 fax

Earl E. DeBrine, Jr., Esq.  
Modrall, Sperling, Roehl, Harris & Sisk, P.A.  
P.O. Box 2168  
Albuquerque, NM 87103-2168

James Bruce, Esq.  
P.O. Box 1056  
Santa Fe, NM 87504-1056



---

J. Scott Hall

00180906