

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

**IN RE APPLICATION OF COG OPERATING LLC
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO**

CASE NO. 22474

OIL CONSERVATION DIVISION'S PREHEARING STATEMENT

The New Mexico Oil Conservation Division ("OCD") submits this Pre-Hearing Statement in support of its Opposition to COG Operating, LLC's ("COG") Application for Compulsory Pooling in Lea County, New Mexico.

I. IDENTIFICATION OF PARTY AND COUNSEL

OCD intervenes, opposes the Application, and is represented by undersigned counsel.

II. STATEMENT OF THE CASE

COG proposes to compulsorily pool all uncommitted interests in the WC-025 G-09 S243522M Wolfbone Pool (98090). The proposed pool would underly a 960.16-acre spacing unit in Lea County, New Mexico. COG proposes the roughly 960-acre spacing unit as 'standard', however the acreage would be held by more than one well, each situated within 330 feet of respective quarter-quarter boundaries.

OCD does not object to COG's general proposal to develop the 960 affected acres or to any technical aspect of the application. However, approval of COG's application as a 'standard' unit would require an interpretation of rule that is inconsistent with the Oil and Gas Act. COG's application must be noticed and presented as a non-standard spacing unit.

III. LEGAL ISSUES

OCD's authority to approve standard spacing units is limited by language of the Oil and Gas Act. "The division may establish a proration unit for each pool, *such being the area that can*

be efficiently and economically drained and developed by one well, [...]". N.M.S.A. 1978, § 70-2-17 (B) (*emphasis* added). A standard spacing unit for horizontal wells is defined in rule 19.15.16.15 (B) NMAC as:

- (1) **Standard horizontal spacing units for horizontal oil wells.** In lieu of an oil spacing unit described in Subsection A of 19.15.15.9 NMAC, the operator shall dedicate to each horizontal oil well a standard horizontal spacing unit that meets the following criteria:
 - (a) The horizontal spacing unit shall comprise *one or more contiguous tracts that the horizontal oil well's completed interval penetrates*, each of which consists of a governmental quarter-quarter section or equivalent.
 - (b) In addition to tracts the horizontal oil well penetrates, the operator may include quarter-quarter sections or equivalent tracts in the standard horizontal spacing unit that are located within 330 feet of the proposed horizontal oil wells completed interval (measured along a line perpendicular to the proposed completed interval or its tangent). [...] (*emphasis* added).

19.15.16.15 NMAC was updated in 2018 in order to regularize standard spacing units, consistent with the specific language of the Oil and Gas Act. The rule is clear that a standard horizontal spacing unit must consist of tracts (as well as adjoining tracts if the well is situated within 330 feet of a quarter-quarter boundary) which are penetrated by a single well. OCD cannot interpret this rule more broadly to encompass tracts penetrated by more than one well because such interpretation would conflict with the plain language of the Oil and Gas Act.

OCD does have statutory authority to approve spacing units larger than standard spacing units, in the form of nonstandard spacing units.

Nonstandard spacing or proration units may be established by the division and all mineral and leasehold interests in any such nonstandard unit shall share in production from that unit from the date of the order establishing the said nonstandard unit. N.M.S.A 1978, § 70-2-18 (C).

In recognition of the statutory distinction between standard and nonstandard units, applicants proposing nonstandard spacing units must notice additional parties of the nonstandard unit application, as set out in 19.15.16.15(B)(5)(b) NMAC:

The operator shall give notice of any application for approval of a non-standard horizontal spacing unit, by certified mail, return receipt requested, to affected persons in all tracts that:

- (i) [...]; or
- (ii) adjoin the non-standard horizontal spacing unit, in all other cases.

Applicants for standard spacing units in compulsory pooling cases do not need to provide notice to interests in adjoining tracts. 19.15.4.12(A)(1) NMAC. Here, COG did not notice parties of the nonstandard spacing unit application and did not notice parties with interests in tracts adjoining the nonstandard spacing unit.

The plain language of the Oil and Gas Act requires that OCD and applicants treat applications such as COG's as nonstandard. Nonstandard unit applications require additional notice. The flaws in COG's application cannot be cured through hearing. COG should be required to resubmit its application for compulsory pooling consistent with nonstandard spacing unit requirements, or alternatively, submit applications which conform to standard spacing unit limitations.

IV. OCD'S WITNESS

OCD does not intend to call any witnesses.

V. EXHIBITS

Exhibit A is attached – COG's Application and Exhibits in OCD Case No. 22294.

VI. PROCEDURAL MATTERS

The OCD has not identified any procedural matters to be resolved prior to the hearing.

Respectfully submitted,

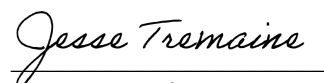
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was mailed electronically on April 7, 2022, to:

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