

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

RECEIVED OOD
2011 AUG -2 A 7 47

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

APPLICATIONS OF BURNETT OIL CO., INC. FOR
COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO.

Case Nos. 14640, 14641, 14673, 14674, and 14691

APPLICATIONS OF COG OPERATING LLC FOR
NON-STANDARD OIL SPACING AND PRORATION
UNITS AND COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO.

Case Nos. 14649, 14650, and 14706-14718

**RESPONSE IN OPPOSITION TO MOTION
FOR CASES TO BE HEARD ON THE COMMISSION DOCKET**

Burnett Oil Co. Inc. and Hudson Oil Company of Texas (collectively, "Burnett") submit this response in opposition to the motion filed by COG Operating LLC ("COG") requesting that the above cases be heard directly by the Oil Conservation Commission (the "Commission"), and state:¹

1. Division Examiners have already heard several of the pooling cases cited by COG, and Burnett's and COG's pending pool rules/allowable cases, in none of which an order has been entered. There are many common issues of law and fact in these cases, and the Commission would benefit from having the guidance of their expert technical and legal staff's opinions on these issues before making a decision in a *de novo* appeal. Resort to a special hearing before the Commission, bypassing the Division hearing process, should be reserved for

¹ The motion also requests consolidation of the cases. Burnett does not object to consolidation before the Division.

rulemaking or other extraordinary policy matters of statewide or regional importance, not these typical private pooling disputes.

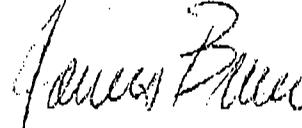
2. Any timing problems are solely caused by COG's delay in filing its applications, and its decision to enter into an imprudent private contract to receive a partial lease assignment, and have the "tail" wag the dog. The lease in question is not in jeopardy of termination -- it is held by production; only COG's term assignment of a small fractional working interest in the Yeso rights is subject to termination. Moreover, had COG agreed with the drilling plans of the parties owning the large majority of the working interest, rather than trying to force its own plans for development on the majority by forced pooling, it would have no problem even now in meeting its own self-created deadline. This is a problem solely of COG's creation, affecting only a portion of its minority working interest, and is unworthy of the extraordinary remedy it seeks.

3. In the Burnett pooling hearings already heard by the Division, Burnett submitted its complete technical and economic strategy to COG. A day before that hearing, COG submitted six (6) well proposals for triple lateral wells, and Burnett has yet to hear testimony on the economic and technical feasibility of these proposals. A hearing before an Examiner is necessary, so that Burnett is not placed at a disadvantage when preparing for any possible *de novo* appeal.

4. The deadline for placing the cases on the Commission docket was July 26th, and thus the motion (filed July 27th) was not timely for the August 25th Commission docket. In any event, there are two cases on the August 25th docket that will no doubt take up the full day. Thus, as a practical matter, the Commission cannot hear these cases on August 25th.

WHEREFORE, Burnett asks that the motion to hear these cases by the Commission be denied.

Respectfully submitted,



James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Burnett Oil Co., Inc. and
Hudson Oil Company of Texas

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 2nd day of August, 2011 by facsimile transmission:

Ocean Munds-Dry
Holland & Hart LLP
P.O. Box 2208
Santa Fe, New Mexico 87504
fax: (505) 982-6043



James Bruce