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:

APPLICATIONS OF BURNETT OIL CO., INC. FOR COMPULSORY POOLING AND AN UNORTHODOX OIL WELL LOCATION, EDDYCOUNTY, NEW MEXICO.

Case Nos. 14673 and 14674

AND

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

Case Nos. 14706-14718
Order No. R-13481

ORDER OF THE DIVISION

BY THE DIVISION:

These cases came on for hearing on August 29, 2011 at 9:00 a.m. at Santa Fe, New Mexico, before Examiner Richard I. Ezeanyim.

NOW, on this 18th day of November, 2011, 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 these cases and of the subject matter.

(2) Case Nos. 14673, 14674, and 14706 through 14718 were consolidated for the purpose of testimony; however, one order will be issued for all the cases.

(3) In Case No. 14673, Burnett Oil Co., Inc. seeks an order pooling all mineral interests from 4230 feet subsurface to the base of the Glorieta-Yeso formation underlying the SE/4 SE/4 of Section 24, Township 17 South, Range 31 East, NMPM, to

form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit is to be dedicated to the proposed Nosler Federal Well No. 3, (**API No. 30-015-38635**) to be drilled at an unorthodox location 890 feet from the South line and 1190 feet from the East line of Section 24. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a 200% charge for the risk involved in drilling and completing the well.

(4) In Case No. 14674, Burnett Oil Co., Inc. seeks an order pooling all mineral interests from 4230 feet subsurface to the base of the Glorieta-Yeso formation underlying the SE/4 SE/4 of Section 13, Township 17 South, Range 31 East, NMPM, to form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit is to be dedicated to the proposed Partition Federal Well No. 2, (**API No. 30-015-39062**) to be drilled at an unorthodox location 990 feet from the South line and 1140 feet from the East line of Section 13. Also to be considered will be the cost of drilling and completing the well and the allocation of the cost thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a 200% charge for the risk involved in drilling and completing the well.

(5) In Case No. 14706, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the W/2 W/2 of Section 12, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "12" Federal Well No. 1H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "12" Federal Well No. 1H to be drilled from a surface location 75 feet from the South line and 330 feet from the West line and a bottomhole location 330 feet from the North line and 330 feet from the West line of Section 12. 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 of the well and a 200% charge for risk involved in drilling said well.

(6) In Case No. 14707, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the E/2 W/2 of Section 12, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "12" Federal Well No. 3H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "12" Federal Well No. 3H to be drilled from a surface location 75 feet from the North line and 1650 feet from the West line to a standard bottomhole location in Unit N of Section 12. 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 of the well and a 200% charge for risk involved in drilling said well.

(7) In Case No. 14708, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the W/2 E/2 of Section 12, Township 17 South, Range 31 East,

NMPM, (2) non-standard location for the Puckett "12" Federal Well No. 5H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "12" Federal Well No. 5H to be drilled from a surface location 10 feet from the North line and 1781 feet from the East line of Section 13 and a bottomhole location 330 feet from the North line and 1980 feet from the East line of Section 12. 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 of the well and a 200% charge for risk involved in drilling said well.

(8) In Case No. 14709, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the E/2 E/2 of Section 12, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "12" Federal Well No. 7H (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "12" Federal Well No. 7H to be drilled from a surface location 10 feet from the North line and 850 feet from the East line and a bottomhole location 330 feet from the South line and 990 feet from the East line of Section 12. 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 of the well and a 200% charge for risk involved in drilling said well.

(9) In Case No. 14710, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the N/2 N/2 of Section 12, Township 17 South, Range 31 East, NMPM, and (2) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "12" Federal Well No. 9H to be drilled at a standard surface and bottomhole location in Section 12. 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 of the well and a 200% charge for risk involved in drilling said well.

(10) In Case No. 14711, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the W/2 W/2 of Section 13, Township 17 South, Range 31 East, NMPM and (2) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "13" Federal Well No. 1H to be drilled from a standard surface location in Unit M and a standard bottomhole location in Unit D of Section 13. 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 of the well and a 200% charge for risk involved in drilling said well.

(11) In Case No. 14712, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the E/2 W/2 of Section 13, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "13" Federal Well No. 3H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing

unit which will be the project area for the Puckett "13" Federal Well No. 3H to be drilled from a surface location 75 feet from the South line and 1480 feet from the West line and a bottomhole location 330 feet from the North line and 1650 feet from the West line of Section 13. 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 of the well and a 200% charge for risk involved in drilling said well.

(12) In Case No. 14713, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the W/2 E/2 of Section 13, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "13" Federal Well No. 5H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "13" Federal Well No. 5H to be drilled from a surface location 75 feet from the North line and 1940 feet from the East line and a bottomhole location 330 feet from the South line and 1980 feet from the East line of Section 13. 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 of the well and a 200% charge for risk involved in drilling said well.

(13) In Case No. 14714, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the E/2 E/2 of Section 13, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "13" Federal Well Nos. 7H and 8H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "13" Federal Well No. 7H to be drilled from a surface location 83 feet from the North line and 970 feet from the East line and a bottomhole location 330 feet from the South line and 990 feet from the East line of Section 13 and the Puckett "13" Federal Well No. 8H to be drilled from a surface location 232 feet from the South line and 459 feet from the East line of Section 12 and a bottomhole location 330 feet from the South line and 330 feet from the East line of Section 13. 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 of the well and a 200% charge for risk involved in drilling said well.

(14) In Case No. 14715, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the W/2 W/2 of Section 24, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "24" Federal Well No. 2H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "24" Federal Well No. 2H to be drilled from a surface location 75 feet from the North line and 990 feet from the West line and a bottomhole location 330 feet from the South line and 990 feet from the West line of Section 24. 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 of the well and a 200% charge for risk involved in drilling said well.

(15) In Case No. 14716, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the E/2 W/2 of Section 24, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "24" Federal Well No. 4H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "24" Federal Well No. 4H to be drilled from a surface location 75 feet from the South line and 1902 feet from the West line and a bottomhole location 330 feet from the North line and 1980 feet from the West line of Section 24. 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 of the well and a 200% charge for risk involved in drilling said well.

(16) In Case No. 14717, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the W/2 E/2 of Section 24, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "24" Federal Well No. 6H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "24" Federal Well No. 6H to be drilled from a surface location 75 feet from the South line and 1650 feet from the East line and a bottomhole location 330 feet from the North line and 1650 feet from the East line of Section 24. 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 of the well and a 200% charge for risk involved in drilling said well.

(17) In Case No. 14718, Concho seeks an order: (1) creating a non-standard spacing unit comprised of the E/2 E/2 of Section 24, Township 17 South, Range 31 East, NMPM, (2) non-standard location for the Puckett "24" Federal Well No. 8H and (3) pooling all mineral interests in the Glorieta-Yeso formation in the non-standard spacing unit which will be the project area for the Puckett "24" Federal Well No. 8H to be drilled from a surface location 170 feet from the North line and 440 feet from the East line of Section 25 and a bottomhole location 330 feet from the North line and 330 feet from the East line of Section 24. 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 of the well and a 200% charge for risk involved in drilling said well.

Burnett Oil Company, Inc. ("Burnett") appeared at the hearing through legal counsel and presented the following testimony.

(18) Burnett owns or controls approximately sixty-seven (67%) percent of the working interest within Sections 12, 13, and 24, Township 17 South, Range 31 East, NMPM, while COG owns or controls thirty-three (33%) percent of the working interest.

(19) After receiving two well proposals from Burnett in January 2011, COG responded by sending 47 vertical well proposals to Burnett. Burnett's applications on its

first two pooling proposals in Case Nos. 14640 and 14641 were granted by Division Order No. R-13450. COG has now abandoned its competing vertical well proposals.

(20) Subsequently, Burnett filed its applications in Case Nos. 14673 and 14674, which are the subject of this hearing. Thereafter, COG sent well proposals to Burnett for 13 triple lateral horizontal wells, with total AFE costs of approximately $123,000,000.

(21) Neither COG nor any other operator has ever drilled triple lateral horizontal wells to any formation in the State of New Mexico. The triple lateral method is replete with risks in both drilling and completion, and presents numerous possibilities for cost over-runs and production inefficiencies.

(22) Burnett believes that a prudent plan of development for Sections 12, 13, and 24 should initially contain vertical wells, to gather important information on which to base future horizontal drilling. Burnett's plan to drill up to six vertical wells to gather critical data, followed by a horizontal drilling program is superior technically, and less risky than COG's proposal. Drilling and stimulation methods should be monitored to allow for improvements in the drilling plan.

(23) Burnett can drill two or three single lateral wells from one wellpad. Burnett's drilling and completion methods (in both vertical and horizontal wells) have resulted in substantially higher oil rates and estimated ultimate recoveries (EUR's), and substantially lower gas-oil ratios than COG's methods. Burnett's horizontal wells produce more than two times the oil per lateral foot than COG's horizontal wells. Thus, Burnett's methods will prevent waste and protect correlative rights.

(24) Sections 12, 13, and 24 contain potentially endangered species habitat, as well as an arroyo and a highway, and the Bureau of Land Management ("BLM") wishes to minimize the surface footprint in these sections. This can be most effectively accomplished by having only one operator in these sections, avoiding redundant infrastructure, and implementing horizontal drilling in the future.

(25) Although Burnett has not filed pooling applications covering all of Sections 12, 13, and 24, it has a competing plan of development which will result in full and prudent development of these sections. There is no need to pool all well units in Sections 12, 13, and 24 at this time.

(26) Burnett and its working interest partners control eighty-four (84%) percent of the working interest in the formations above the Glorieta-Yeso formation. Thus, it is appropriate to designate Burnett the operator of the Taylor Draw Unit because shallow and deep zones can be cooperatively developed to minimize surface disturbance.

(27) Burnett has approved applications for permit to drill (APDs) from the Bureau of Land Management for its initial vertical wells in Sections 12, 13, and 24. COG has no approved APDs for its proposed triple lateral horizontal wells.

COG Operating, LLC. ("COG" or "Concho") appeared at the hearing through legal counsel and presented the following testimony:

(28) Concho operates over 1,500 Yeso wells, and has drilled five Yeso horizontal wells. In the vicinity of the subject leases, Concho has an extensive data library of the Yeso which includes 220 wells with open-hole logs, 35 wells with Formation Micro-Imaging (FMI) logs, 42 wells with sidewall cores, and five wells with whole cores.

(29) In addition to this comprehensive data library, Concho plans to drill vertical pilot holes for each cluster of surface locations to run a full suite of open-hole logs, such as spectral, gamma ray, resistivity, neutron density porosity, a mud log, and possibly FMI and sidewall cores. In the horizontal laterals, Concho plans to run a mud log and a gamma ray tool.

(30) Concho's personnel have extensive experience drilling multiple lateral horizontal wells, including dual and triple lateral wells, and believe based on their experience and research that their proposed plan of development will be successful.

(31) Because of BLM's stringent surface-use restrictions, more than 82 percent of Sections 12, 13, and 24 are off-limits to development with vertical wells. As a consequence of these stringent surface-use restrictions, horizontal wells are the only way to fully produce these properties. Given these constraints, Concho has thus far proposed and is prepared to immediately commence drilling a horizontal well plan that will fully develop Sections 12, 13, and 24, by drilling triple-lateral horizontal wells. Concho has designed its horizontal well plan to contact as much of the Yeso formation with the triple lateral well bores and subsequent fracture jobs as possible, while minimizing surface disturbances.

(32) Under Burnett's proposed development plan, Concho would be denied a reasonable and timely rate of return on its term assignments because Burnett is not willing to advance its drilling program.

(33) A vertical well program, limited to 35 approved surface locations because of BLM's habitat concerns, would produce fewer than 18% of the recoverable oil reserves. Burnett's proposed vertical wells, including the two that are the subject of Burnett's applications, will interfere with an efficient horizontal well pattern and will cause waste, resulting in unproduced reserves.

(34) The only way to fully develop the entire 1,500 vertical feet of the Yeso formation under BLM's restrictive surface-use constraints is to use three horizontal laterals to drain the reservoir, because it cannot be done with one or two laterals. Concho's proposed triple lateral horizontals, each 4,600 feet in length, will increase the chances for economic completion and development of the Yeso formation. Concho plans to drill for each proposed well, one lateral in the Paddock and two laterals in the

Blinebry. With a fracture half length of 400 to 600 feet in height, Concho's horizontal drilling plan will contact nearly all of the productive Yeso formation.

(35) Because Burnett's current plans have committed to drilling only vertical wells with the possibility of single laterals or possibly double laterals at some future date, Concho's full plan of development, employing triple laterals to contact all productive parts of the Yeso formation, will result in increased drainage of the reservoir relative to Burnett's preliminary plan for vertical wells and possibly single or dual horizontal wells drilled later.

(36) Burnett's preliminary plan to drill dual horizontal lateral wells across the 1,500-foot thick Yeso formation is not sufficient to contact the entire formation and is inconsistent with Burnett's vertical well completion strategy where two fracture stimulations are conducted in the Blinebry. Accordingly, one lateral is required to drain the Paddock and two laterals are required to drain the Blinebry. A plan to drill only two laterals across the entire Yeso would leave reserves in the ground, resulting in waste.

(37) Drilling triple lateral horizontal wells will avoid the drilling of unnecessary wells, prevent waste, protect correlative rights, and allow Concho and the other interest owners in the non-standard units the opportunity to produce their just and fair share of the oil and gas under the subject lands.

(38) Concho estimates that the cost of drilling three individual laterals is $11.34 million; however, drilling triple lateral wells from within the same vertical well bore is estimated to cost only $9.65 million, resulting in a cost saving of about $850,000 for each additional lateral. The cost savings result from eliminating redundant facilities at the surface, such as lift equipment, pumping units and flow lines.

(39) A single vertical well costs $1.75 million. When the cost to drill eight vertical wells for $14 million is compared with Concho's cost to drill a triple lateral horizontal well for $9.6 million, covering the same acreage, the economics of a triple lateral horizontal well is clearly favorable.

(40) Given the surface limitations, Concho believes that horizontal wells are the best way to produce the reserves underlying the subject leases. Concho anticipates that each quarter-quarter section in each of the proposed project areas contains prospective reserves and is likely to contribute significant production to the non-standard unit.

(41) The horizontal wellbores proposed by Concho will test a greater reservoir length than the vertical wellbores proposed by Burnett and increase the chances for an economic completion and development of the Yeso formation. Concho's horizontal well plan is a reasonable and prudent method for developing these units, and therefore should be approved.

The Division concludes as follow:

(42) When there are undivided interests in oil and gas minerals, which are separately owned, and the owners have not agreed to pool their interests and when one owner or owners who has the right to drill proposes to drill a well to a common source of supply, the Oil Conservation Division shall pool all or any part of such lands or interests or both in a spacing or proration unit as a unit to avoid the drilling of unnecessary wells or to protect correlative rights, or to prevent waste.

(43) All orders effecting such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner or owners of each tract or interest in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil or gas, or both.

(44) The Taylor Draw Unit is a federal exploratory unit consisting of Sections 12, 13, and 24 of Township 17 South, Range 31 East, NMPM, Eddy County, New Mexico. The Bureau of Land Management (BLM) has granted preliminary approval of this unit to Burnett Oil Company, Inc. This preliminary approval is, however, a necessary but not a sufficient condition to award operatorship of this unit to an operator.

(45) The issue to be determined by the Division is which of the competing compulsory pooling applications filed by Burnett and Concho should be granted. Both Burnett and Concho have the right to drill and develop the Taylor Draw Unit, and both seek to be named operator of their respective wells and the Taylor Draw Unit.

(46) The Taylor Draw unit contains extensive habitat for the Sand Dune Lizard, and the Lesser Prairie Chicken. As a consequence of these Habitat issues, horizontal well development is preferred to vertical well development in order to minimize surface disturbance. However, it is not unusual in the oil and gas industry for operators to first drill a few vertical wells to gather formation evaluation data and use the data to describe the local reservoir and determine horizontal well placement and orientation.

(47) Burnett Oil Company, Inc. and COG Operating LLC had enrolled in the Bureau of Land Management's (BLM) Candidate Conservation Agreement (CCA), which contains certain surface protection stipulations such as maintaining a minimum distance from the Sand Dune Lizard and other restrictions.

(48) Both Burnett and Concho are prudent operators, and are capable of drilling vertical wells as well as horizontal wells of any configuration. This should therefore not be a factor in awarding operatorship.

(49) *Good faith negotiation* prior to force pooling is a factor. If the force pooling party does not negotiate in good faith, the application for compulsory pooling is denied. However, at the hearing the examiner determined that both Burnett and Concho failed to negotiate in good faith, and therefore this is not a factor in awarding operations..

(50) The Division is obligated to prevent waste and protect correlative rights. Geologic evidence is therefore one of the most important consideration or factors in awarding operations to competing working interest owners. The Division concludes that both Burnett and Concho are prudent operators and have the capacity and experience to develop the Taylor Draw Unit efficiently without waste while at the same time protecting correlative rights. Therefore geologic evidence is not a factor in awarding operations in these cases.

(51) Ownership interest is a necessary but not a sufficient sole condition or factor in awarding operations. However, Burnett owns or controls approximately sixty-seven (67%) percent of the working interest in the Taylor Draw Unit, while COG owns or controls thirty-three (33%) percent of the working interest. In addition, Burnett and its working interest partners control eighty-four (84%) percent of the working interest in the formations above the Glorieta-Yeso formation. Therefore, since all other variables are fairly constant, it would be beneficial under these circumstances to designate Burnett the operator of its proposed spacing units because it controls a larger percentage of the Taylor Draw Unit, and because shallow and deep zones can be cooperatively developed to minimize surface disturbance.

(52) The applications of Burnett Oil Company, Inc. should be approved.

(53) The applications of COG Operating, LLC should be denied.

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

(55) There are interest owners in the proposed units who have not agreed to pool their interests. There are no unlocatable parties; therefore, escrow deposits will not be required.

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

(57) Burnett should be designated the operator of the subject wells and of the spacing units for its proposed wells.

(58) 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 wells.

(59) Reasonable charges for supervision (combined fixed rates) should be fixed at $5750.00 per month while drilling and $575.00 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) Pursuant to the applications of Burnett Oil Co., Inc., all uncommitted interests in all formations from 4230 feet subsurface to the base of the Glorieta-Yeso formation are hereby pooled and in the following manner:

Case No. 14673: The SE/4 SE/4 of Section 24, Township 17 South, Range 31 East, NMPM, Eddy County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit shall be dedicated to the proposed Nosler Fed. Well No. 3 (**API No. 30-015-38635**), to be drilled at an unorthodox location 890 feet from the South line and 1190 feet from the East line of Section 24.

Case No. 14674: The SE/4 SE/4 of Section 13, Township 17 South, Range 31 East, NMPM, Eddy County, New Mexico, to form a standard 40-acre oil spacing and proration unit for all pools or formations developed on 40-acre spacing within that vertical extent. The unit shall be dedicated to the proposed Partition Fed. Well No. 2 (**API No. 30-015-39062**), to be drilled at an unorthodox location 990 feet from the South line and 1140 feet from the East line of Section 13.

(2) The unorthodox locations of the Nosler Fed. Well No. 3 and Partition Fed. Well No. 2 are approved.

(3) The applications of COG Operating LLC in Case Nos. 14706-14718 are hereby denied.

(4) Burnett Oil Co., Inc. (OGRID No. 3080) is hereby designated the operator of its proposed wells and of the spacing units (the "Units").

(5) The operator of the Units shall commence drilling at least one of the proposed wells on or before March 31, 2012 and shall thereafter continue drilling the well with due diligence to test the Glorieta-Yeso formation.

(6) In the event the operator does not commence drilling at least one of the proposed wells on or before March 31, 2012, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(7) Should the proposed wells not be drilled and completed within 120 days after commencement thereof, Ordering Paragraph (1) shall be of no further effect, and the Units created by this Order shall terminate unless the operator appears before the

Division Director and obtains an extension of time to complete the wells for good cause demonstrated by satisfactory evidence.

(8) Upon final plugging and abandonment of the proposed wells and any other well drilled on the Units pursuant to 19.15.13 NMAC, Sections 9-11, the pooled Units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(9) 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 Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units established by this Order.)

(10) After the effective date of this Order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the subject wells ("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 production:

(a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner who has not paid its share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished; 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) are hereby fixed at $5750.00 per month while drilling and $575.00 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*" The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(17) Any unleased mineral interest 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.

(18) 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.

(19) The operator of the wells and the Units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

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

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

JAMI BAILEY
Director

SEAL