

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

**APPLICATION OF CIMAREX ENERGY
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**Case No. 14703
Case No. 14704
Case No. 14705
Case No. 14698**

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REPLY IN SUPPORT OF MOTION TO CONTINUE

COG Operating, LLC (“Concho”) has moved the Division to continue the above referenced pooling applications, currently scheduled for the August 4th Division hearing docket, to the September 1, 2011, hearing docket. These four pooling applications involved the Glorieta-Yeso formation in the SE/4 of Section 6, Township 19 South, Range 26 East. Concurrently with the filing of this reply brief, Concho has filed the attached applications with the Division for development of the Glorieta-Yeso formation underlying the entire E/2 of Section 6, with two horizontal wells, rather than the four vertical wells that Cimarex proposes to drill in just the SE/4 of Section 6.

Concho currently owns 40% of the working interest in the N/2 SE/4 and the SW/4 SE/4. Concho has reached a verbal commitment from an unleased mineral owner to acquire over 9 acres in the SE/4 SE/4 of Section 6. Other working interest owners in the SE/4 of Section 6, such as Yates Petroleum Corporation, Myco Industries, Inc., Abo Petroleum Corporation and David H. Arrington, have informed Concho that they favor development using horizontal wells rather than the vertical wells proposed by Cimarex. Granting this continuance will allow the Division to examine the competing development plans presented by the parties at a single hearing, with input from all of the

working interest owners in this acreage.¹

Cimarex has presented no evidence of prejudice if these matters are continued until the September 1st hearing date. Indeed since the filing of Cimarex's Response Brief, Concho has reviewed the SE/4 of Section 6 and found no evidenced of any well location "already built" as Cimarex represents to the Division. *See* Response at p. 2, ¶ 8. As important, Cimarex has presented no evidence that it actually met with and discussed its vertical development plans with any of the working interest owners in this acreage. Rather, it appears Cimarex merely proposed four vertical wells by letter to an undisclosed list of working interest owners (which did not include Concho) and made no further effort to consult or attempt to reach agreement with the affected working interest owners. While Cimarex apparently believes "vertical drilling results in the Yeso are superior to horizontal drilling" (Response at p. 2, fn. 1), Concho and other working interest owners clearly dispute that claim.

This development debate is precisely why a hearing on the competing well proposals is appropriate and necessary. Invoking the Division's pooling authority is not based on a "race" to hearing; rather it is based on evidence that bears on the prevention of waste and the protection of correlative rights. Given that the Division has competing development plans before it for the Glorieta-Yeso formation underlying the SE/4 of Section 6, a hearing is necessary and appropriate to determine which plan is in the best interests of ALL of the affected working interest owners. Cimarex's pooling applications should be continued until such time as these parties have conferred and sought to reach agreement on their conflicting development plans, and until such time as all necessary pooling applications can be heard at once.

¹ Yates Petroleum, Myco Industries, and Abo Petroleum have recently entered appearances in these cases.

WHEREFORE, Concho respectfully requests that the Division continue the hearing on these cases until the September 1, 2011, Examiner Docket.

Respectfully submitted,

HOLLAND & HART, LLP

By: 

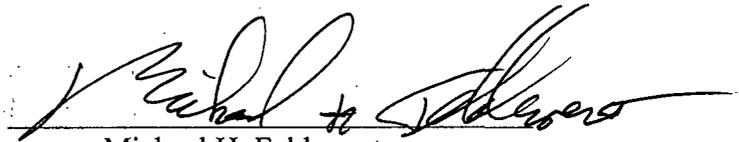
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ATTORNEYS FOR COG OPERATING, LLC

CERTIFICATE OF SERVICE

The hereby certify that on August 1, 2011, I served a copy of the foregoing **Reply in Support of its Motion to Continue** to the following counsel of record via Facsimile, and U.S. Mail, postage prepaid to:

James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043
(505) 982-2151 Facsimile


Michael H. Feldewert

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

**IN THE MATTER OF THE APPLICATION
OF COG OPERATING, LLC FOR A NON-STANDARD
SPACING AND PRORATION UNIT, NON-STANDARD
LOCATION AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

CASE NO. _____

RECEIVED OGD
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APPLICATION

COG OPERATING, LLC, (“COG”) through its undersigned attorneys, hereby makes application to the Oil Conservation Division pursuant to the provisions of N.M. Stat. Ann. § 70-2-17, for an order: (1) creating a non-standard 160-acre spacing and proration unit comprised of the W/2 E/2 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico; (2) approving a non-standard location for its proposed horizontal well, and (3) pooling all mineral interests in the Glorieta-Yeso formation underlying this acreage to form a 160-acre project area in this formation. In support of its application, COG states:

1. COG is a working interest owner in the W/2 E/2 of Section 6 and has the right to drill thereon.
2. COG proposes to dedicate the above-referenced spacing and proration unit as the project area for its proposed Arabian “6” Fee Well No. 7H, to be horizontally drilled from a non-standard surface location 150 feet from the South line and 1700 feet from the East line (Unit O) to a bottom hole location 330 feet from the North line and 1700 feet from the East line (Unit B) of Section 6.
3. COG has sought and been unable to obtain voluntary agreement for the development of these lands from all of the working interest owners in the subject spacing unit.

4. Said pooling of interests will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.

5. In order to permit COG to obtain its just and fair share of the oil and gas underlying the subject lands, all mineral interests in this non-standard spacing unit should be pooled and COG Operating, LLC should be designated the operator of this proposed horizontal well and spacing unit.

WHEREFORE, COG Operating, LLC requests that this application be set for hearing before an Examiner of the Oil Conservation Division on September 1, 2011, and, after notice and hearing as required by law, the Division enter its order:

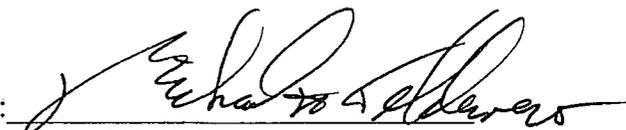
- A. creating a non-standard spacing and proration unit in the Glorieta-Yeso formation comprised of the W/2 E/2 of Section 6, Township 19 South, Range 26 East, NMPM;
- B. authorizing a non-standard location for the Arabian "6" Fee Well No. 7H;
- C. pooling all mineral interests in the non-standard spacing and proration unit,
- D. designating COG Operating, LLC operator of this non-standard spacing unit and the horizontal well to be drilled thereon,
- E. authorizing COG Operating, LLC to recover its costs of drilling, equipping and completing the well,
- F. approving the actual operating charges and costs of supervision while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures, and

- G. imposing a 200% penalty for the risk assumed by COG Operating, LLC in drilling and completing the well against any working interest owner who does not voluntarily participate in the drilling of the well.

Respectfully submitted,

HOLLAND & HART, LLP

By:



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ATTORNEYS FOR COG OPERATING, LLC

CASE _____: **Application of COG Operating, LLC for a non-standard spacing and proration unit, a non-standard location and compulsory pooling, Eddy County, New Mexico.** Applicant in the above-styled cause seeks an order: (1) creating a non-standard 160-acre spacing and proration unit comprised of the W/2 E/2 of Section 6, Township 19 South, Range 26 East, NMPM, (2) approving a non-standard location for its proposed horizontal well, and (3) pooling all mineral interests in the Glorieta-Yeso formation underlying this acreage. Said non-standard unit is to be dedicated to applicant's proposed Arabian "6" Fee Well No. 7H, to be horizontally drilled from a non-standard surface location 150 feet from the South line and 1700 feet from the East line (Unit O) to a bottom hole location 330 feet from the North line and 1700 feet from the East line (Unit B) of Section 6. 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. Said area is located approximately 17 miles North of Carlsbad, New Mexico.

**STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
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**IN THE MATTER OF THE APPLICATION
OF COG OPERATING, LLC FOR A NON-STANDARD
SPACING AND PRORATION UNIT, NON-STANDARD
LOCATION AND COMPULSORY POOLING,
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CASE NO. _____

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APPLICATION

COG OPERATING, LLC, ("COG") through its undersigned attorneys, hereby makes application to the Oil Conservation Division pursuant to the provisions of N.M. Stat. Ann. § 70-2-17, for an order: (1) creating a non-standard 160-acre spacing and proration unit comprised of the E/2 E/2 of Section 6, Township 19 South, Range 26 East, NMPM, Eddy County, New Mexico; (2) approving a non-standard location for its proposed horizontal well, and (3) pooling all mineral interests in the Glorieta-Yeso formation underlying this acreage. In support of its application, COG states:

1. COG is a working interest owner in the E/2 E/2 of Section 6 and has the right to drill thereon.
2. COG proposes to dedicate the above-referenced spacing and proration unit as the project area for its proposed Arabian "6" Fee Well No. 8H, to be horizontally drilled from a non-standard surface location 150 feet from the South line and 380 feet from the East line (Unit P) to a bottom hole location 330 feet from the North line and 380 feet from the East line (Unit A) of Section 6.
3. COG has sought and been unable to obtain voluntary agreement for the development of these lands from all of the working interest owners in the subject spacing unit.

4. Said pooling of interests will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.

5. In order to permit COG to obtain its just and fair share of the oil and gas underlying the subject lands, all mineral interests in this non-standard spacing unit should be pooled and COG Operating, LLC should be designated the operator of this proposed horizontal well and spacing unit.

WHEREFORE, COG Operating, LLC requests that this application be set for hearing before an Examiner of the Oil Conservation Division on September 1, 2011, and, after notice and hearing as required by law, the Division enter its order:

- A. creating a non-standard spacing and proration unit in the Glorieta-Yeso formation comprised of the E/2 E/2 of Section 6, Township 19 South, Range 26 East, NMPM;
- B. authorizing a non-standard location for the Arabian "6" Fee Well No. 8H;
- C. pooling all mineral interests in the non-standard spacing and proration unit,
- D. designating COG Operating, LLC operator of this non-standard spacing unit and the horizontal well to be drilled thereon,
- E. authorizing COG Operating, LLC to recover its costs of drilling, equipping and completing the well,
- F. approving the actual operating charges and costs of supervision while drilling and after completion, together with a provision adjusting the rates pursuant to the COPAS accounting procedures, and

- G. imposing a 200% penalty for the risk assumed by COG Operating, LLC in drilling and completing the well against any working interest owner who does not voluntarily participate in the drilling of the well.

Respectfully submitted,

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