

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

ORIGINAL

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

CASE NO. 14758

AMENDED APPLICATION OF COG-OPERATING, LLC,  
TO INCREASE WELL DENSITY AND PRE-APPROVAL OF  
NON-STANDARD LOCATIONS IN THE DODD FEDERAL UNIT,  
EDDY COUNTY, NEW MEXICO,

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

DOCKET NO. 36-11

BEFORE: TERRY G. WARNELL, Hearing Examiner  
DAVID K. BROOKS, Legal Examiner

DECEMBER 15, 2011

Santa Fe, New Mexico

This matter came on for hearing before the  
New Mexico Oil Conservation Division, TERRY G. WARNELL,  
Hearing Examiner, and DAVID K. BROOKS, Legal Examiner,  
on THURSDAY, DECEMBER 15, 2011, at the New Mexico  
Energy, Minerals and Natural Resources Department, 1220  
South Street Francis Drive, Room 102, Santa Fe,  
New Mexico.

REPORTED BY: Lisa Reinicke  
PAUL BACA PROFESSIONAL COURT REPORTERS  
500 Fourth Street, NW, Suite 105  
Albuquerque, NM 87102

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A P P E A R A N C E S

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For the Applicant:

HOLLAND & HART  
110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 87501  
(505) 988-4421  
By: Michael H. Feldewert

I N D E X

PAGE

CERTIFICATE OF COMPLETION OF HEARING

8

EXHIBITS

MARKED/IDENTIFIED

1. Affidavit

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2. Affidavit

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3. Affidavit of Publication

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1                   EXAMINER WARNELL: Next we'll call case  
2     number 14758, the amended application of COG Operating,  
3     LLC to increase well density and pre-approval of a  
4     non-standard location in the Dog Federal Unit, Eddy  
5     County, New Mexico.

6                   Call for appearances.

7                   MR. FELDEWERT: Mr. Examiner, Michael  
8     Felderwert with the Santa Fe office of the law firm of  
9     Holland & Hart appearing on behalf of the applicant. We  
10    will be incorporating the record from a prior case and  
11    submitting a couple of affidavits today, so I have no  
12    witnesses.

13                  EXAMINER WARNELL: No other appearances, no  
14    witnesses. Please proceed.

15                  MR. FELDEWERT: If I just may approach.

16                  EXAMINER WARNELL: What we have here is  
17    Examiners Will Jones and Mr. David Brooks took testimony  
18    in actually the next case on the docket, 14759, back in  
19    November. It involved a Burch Keely Unit, which if you  
20    take a look at the first Attachment A to the  
21    Mr. Broughton's affidavit, what you see there, and I  
22    apologize for the size of it, but you'll see that the  
23    Burch Keely Unit, which was the subject of that case in  
24    November is outlined in red and right next door to it.

25                  EXAMINER WARNELL: Which one am I looking

1 at?

2 MR. FELDEWERT: The first affidavit, COG  
3 Exhibit Number 1, first attachment. There you go. The  
4 Burch Keely Unit, which was the subject of that case,  
5 14759, heard in November is right adjacent to the Dodd  
6 Federal Unit, which is at issue in this particular  
7 matter. What links the two cases together is that the  
8 same exceptions are sought for both of these federal  
9 units.

10 And as Mr. Brooks pointed out, rather than repeat  
11 the testimony offered in case 14759 involving the Burch  
12 Keely Unit, we ask that the record from that case and  
13 the testimony be incorporated into this particular  
14 matter because it likewise supports the identical relief  
15 that is sought for the Dodd Federal Unit. So what we  
16 have done is I provided the division as Concho Exhibit  
17 Number 1 with an affidavit of Mr. Broughton, who  
18 testified at the hearing on the Burch Keely Unit. He  
19 has provided you the Attachment A, which shows the two  
20 units next to each other, both of which are currently  
21 operated by COG.

22 The other aspect that he has included in this  
23 case is he has created as Attachment B a second cross  
24 section. And the reason he did that is because there  
25 was an initial cross section that was admitted into

1 evidence in the case involving the Burch Keely Unit. We  
2 wanted to include some additional wells within the Dodd  
3 Federal Unit within the cross section. And that's what  
4 he has done on Attachment B to his affidavit.

5           You'll see then on Attachment C he has a  
6 stratographic cross section. This is similar to the one  
7 that was introduced in the Burch Keely case but  
8 including additional wells, really solely for the  
9 purpose of demonstrating and establishing that the  
10 Paddock members and the Blinebry member of the formation  
11 here extend throughout both units. And he testifies in  
12 his affidavit that the thickness, the porosity, and the  
13 potential productivity of both of these members are  
14 consistent throughout both of these units so that the  
15 geology, as he testifies in his affidavit is essentially  
16 the same and therefore the testimony provided in the  
17 Burch Keely case. The evidence that was put in on the  
18 production characteristics that were seen in the Burch  
19 Keely Unit, any other reasons for the exceptions, apply  
20 equally to the Dodd Federal Unit, so that's the purpose  
21 of Mr. Broughton's affidavit.

22           We then, for purposes of the notice issues, have  
23 provided to you as COG Exhibit Number 2 the affidavit of  
24 Mr. Branden Gaynor. He was the landman who also  
25 testified in the Burch Keely Unit case heard in

1 November. And his affidavit establishes that he  
2 identified with division designated operators within the  
3 pools that were affected by this application, and we  
4 provided notice to those operators. And in addition,  
5 pursuant to the division's request at the last hearing  
6 involving the BKU, included notice to the Bureau of Land  
7 Management because of these federal units.

8 Our final exhibit to offer here today is COG  
9 Exhibit 3, which is the affidavit of publication, which  
10 is the last page of our package in the newspaper.

11 We would therefore move the admission of COG  
12 Exhibits 1 through 3. We ask that the record from case  
13 14759 involving the BKU be incorporated into this case.  
14 And just by way of suggestion here, perhaps both cases  
15 could be handled by a single order since the evidence in  
16 support of both of these applications is the same and  
17 equally supports the exceptions that are sought.

18 EXAMINER WARNELL: That's a great idea.  
19 Exhibits 1 through 3 are admitted, and case 14759 and  
20 14758 could be written by one Hearing Examiner.

21 [Exhibits 1 through 3 admitted into evidence.]

22 EXAMINER BROOKS: I think the Examiners  
23 present today should take a vote on who should write  
24 that.

25 EXAMINER WARNELL: Well, in order to

1 maintain the continuity that Mr. Feldewert and his  
2 clients have come to expect from OCD, there's no need to  
3 vote.

4 EXAMINER BROOKS: We're saying Mr. Jones  
5 should be responsible for writing that order.

6 EXAMINER WARNELL: I was looking at that  
7 yesterday, I thought they had Will listed as the legal  
8 advisor. Yes, Will Jones, Legal Advisor; David K.  
9 Brooks as Hearing Examiner. I think we can do that.

10 MR. FELDEWERT: So I think formally we just  
11 need to incorporate the prior, get the record of case  
12 from 14759 into this matter, and ask that be done as  
13 well.

14 EXAMINER WARNELL: Okay. So then we will  
15 take under advisement both cases, case 14758 and case  
16 14759.

17 EXAMINER BROOKS: And we're going to take  
18 administrative notice of the record of the previous  
19 case, right?

20 EXAMINER WARNELL: Yes. We still need to  
21 call case 14759.

22 MR. FELDEWERT: And that concludes, then, my  
23 presentation and requests in this case.

24 EXAMINER WARNELL: Case 14758 is taken under  
25 advisement.

[Case 14758 taken under advisement.]

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_  
heard by me on \_\_\_\_\_

\_\_\_\_\_, Examiner  
Oil Conservation Division