

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

6 APPLICATION OF COG OPERATING, LLC  
7 FOR A NONSTANDARD SPACING AND  
8 PRORATION UNIT AND COMPULSORY  
9 POOLING, LEA COUNTY, NEW MEXICO.

CASE NO. 14945

ORIGINAL

10 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
11 EXAMINER HEARING

12  
13 BEFORE: WILLIAM V. JONES, Chief Examiner  
14 DAVID K. BROOKS, Legal Examiner

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15 January 24, 2013  
16 Santa Fe, New Mexico

17  
18 This matter came on for hearing before the  
19 New Mexico Oil Conservation Division, William V. Jones,  
20 Chief Examiner, and David K. Brooks, Legal Examiner, on  
21 Thursday, January 24, 2013, at the New Mexico Energy,  
22 Minerals and Natural Resources Department, 1220 South  
23 St. Francis Drive, Porter Hall, Room 102,  
24 Santa Fe, New Mexico.

25 REPORTED BY: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102

1 APPEARANCES

2 FOR APPLICANT COG OPERATING, LLC:

3 MICHAEL H. FELDEWERT, ESQ.  
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10 INDEX PAGE

11 WITNESSES:

12 CALEB HOPSON:

13 Direct Examination by Mr. Feldewert 4  
14 Cross-Examination by Examiner Jones 12  
15 Cross-Examination by Examiner Brooks 13  
16 Redirect Examination by Mr. Feldewert 14

17 WARD A. WHITEMAN:

18 Direct Examination by Mr. Feldewert 15

19 Proceedings Conclude 22

20 Certificate of Court Reporter 23

21

22

23 EXHIBITS OFFERED AND ADMITTED

24 COG Operating Exhibits Numbers 1 through 5 11

25 COG Operating Exhibits Numbers 6 through 8 20

1  
2  
3  
4  
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(9:52 a.m.)

EXAMINER JONES: And let's call Case 14945, application of COG Operating, LLC for a nonstandard spacing and proration unit and compulsory pooling, Lea County, New Mexico.

Call for appearances.

MR. FELDEWERT: May it please the Examiner, Michael Feldewert with the Santa Fe office of the law firm of Holland & Hart, appearing on behalf of the Applicant, COG Operating, LLC, and we have two witnesses here today.

EXAMINER JONES: Any other appearances?

Will the witnesses please stand?

And will the court reporter swear the witnesses?

(Mr. Hopson and Mr. Whiteman sworn.)

MR. FELDEWERT: Mr. Examiner, we'll call our first witness, Mr. Hopson. And he has been kind enough, in my condition, to offer to hand out the exhibits that we have here for you today.

(Mr. Feldewert on crutches today.)

CALEB HOPSON,  
after having been previously sworn under oath, was questioned and testified as follows:

DIRECT EXAMINATION

1 BY MR. FELDEWERT:

2 Q. Would you please state your name, by whom you  
3 are employed and in what capacity?

4 A. Yes. Caleb Hopson; I'm employed by COG  
5 Operating, LLC, currently employed as a landman.

6 Q. And your last name is H-O-P?

7 A. H-O-P-S-O-N.

8 Q. I think the prehearing statement had H-O-B.

9 A. Yes.

10 Q. So it's H-O-P?

11 A. Yes, sir.

12 Q. Have you previously testified before this  
13 Division as an expert in petroleum land matters?

14 A. I have.

15 Q. And were your credentials accepted and made a  
16 matter of public record?

17 A. Yes, sir.

18 Q. Are you familiar with the application that's  
19 been filed by COG in this case?

20 A. Yes.

21 Q. And are you familiar with the status of the  
22 lands in the subject area?

23 A. I am.

24 MR. FELDEWERT: Mr. Examiner, I would  
25 tender Mr. Hopson as an expert witness in petroleum land

1 matters.

2 EXAMINER JONES: He's qualified as an  
3 expert in petroleum land matters.

4 Q. (BY MR. FELDEWERT) Could you then turn to  
5 what's been marked as COG Exhibit Number 1? Identify  
6 this exhibit, and please explain to the Examiners what  
7 the company seeks under this application.

8 A. This is the Form C-102 which proposes COG's  
9 Warhawk 3 Federal Com #1H well to be located in the  
10 north half-north half of Section 3, Township 19 South,  
11 Range 32 East, Lea County, New Mexico. COG is proposing  
12 a 160-acre nonstandard spacing unit covering the north  
13 half-north half, as well as a compulsory pooling order.

14 Q. And what formation do you seek to pool?

15 A. The 2nd Bone Spring Sand.

16 Q. Do you seek to pool the entire Bone Spring  
17 Formation at this time?

18 A. Yes.

19 Q. Does this exhibit, then, identify the API  
20 number for the well?

21 A. It does.

22 Q. And it identifies, as well, the surface  
23 location, correct?

24 A. Yes.

25 Q. Which is what?

1 A. In the northwest-northwest quarter, Unit D.

2 Q. And where is the bottom hole location?

3 A. In the northeast-northeast quarter, Unit A.

4 Q. And does it identify the pool that's involved  
5 in this application?

6 A. It does.

7 Q. Which pool is that?

8 A. It's the Lusk-Bone Spring east pool.

9 Q. And I think we previewed this, but what is your  
10 initial target for this proposed --

11 A. The 2nd Bone Spring Sand.

12 Q. Would a completed interval for this well comply  
13 with all the setbacks required by the Division rules?

14 A. It will.

15 Q. And is the north half-north half of Section 3  
16 all federal lands?

17 A. All federal lands.

18 Q. Let's turn to what's been marked as COG Exhibit  
19 Number 2. Is this an exhibit that identifies the  
20 interest owners by tract in this area?

21 A. It does.

22 Q. And does it actually depict the interest owners  
23 by tract for the entire north half?

24 A. It does.

25 Q. And have you reached agreement with some of the

1 interest owners in the operating agreement that covers  
2 the entire north half?

3 A. Yes, I have.

4 Q. If I then turn to the second page of this  
5 exhibit, it identifies the percentage interest owners by  
6 tract in the north half; does it not?

7 A. Yes, it does.

8 Q. If I then turn to the third page of this  
9 exhibit, does this identify the percentage interest that  
10 is involved with the pooling application that's before  
11 the Examiners today?

12 A. Yes, sir.

13 Q. How many of the interest owners that are listed  
14 here remain uncommitted to this -- to this particular  
15 well?

16 A. There are ten remaining owners that are  
17 uncommitted.

18 Q. And, roughly, do you know the percentage  
19 interest that's involved? Is it less than ten percent?

20 A. Less than ten.

21 Q. Has Tritex recently agreed to participate?

22 A. Yes, Tritex Energy has agreed to participate.

23 Q. If I then turn to what's been marked as COG  
24 Exhibit Number 3, is this the well proposal letter that  
25 was sent by the company to the known working interest

1 owners?

2 A. It is.

3 Q. And the date's rather obscured, but was it  
4 October 3rd, 2012?

5 A. That is correct.

6 Q. And does it contain, with this letter, an AFE  
7 for this well?

8 A. It does.

9 Q. And your letter, then, also included your  
10 proposed joint operating agreement that covered the  
11 entire north half?

12 A. Yes, it did.

13 Q. And you also included in your letter the  
14 Division's -- for a term assignment in the event that  
15 they did not want to participate or execute the JOA?

16 A. That's correct.

17 Q. Now, in addition to sending this letter, what  
18 additional efforts has the company undertaken to obtain  
19 voluntary joinder of the working interest from those  
20 parties that you've been able to locate?

21 A. I have called the majority of the partners when  
22 I can locate a phone number. I've also visited with  
23 other companies that I am aware that they might have an  
24 interest in the well that they operate in hopes of  
25 locating a correct address or another address to send

1 the letter to them. I've also utilized Internet  
2 research, via Google, looking for additional addresses.  
3 I've used independent landmen who have done consulting  
4 work for a lot of these partners in hopes of obtaining a  
5 phone number and address to send letters.

6 Q. So there have been some parties you've been  
7 able to locate and follow up with, and some parties  
8 you've been unable to locate?

9 A. That is correct.

10 Q. Now, with respect to the parties that you've  
11 been unable to locate, if I turn to what's been marked  
12 as COG Exhibit Number 4, is this an Affidavit of  
13 Publication for this hearing that is directed by name to  
14 the parties that you have been unable to locate?

15 A. That is correct.

16 Q. If I turn now to the AFE, which was presented  
17 back in October as part of your well proposal letter  
18 that's been marked as Exhibit Number 3, are the costs  
19 reflected on this AFE consistent with what the company  
20 has incurred for drilling similar horizontal wells?

21 A. They are.

22 Q. And has the company made an estimate of the  
23 overhead and administrative costs of drilling these  
24 wells and also producing if successful?

25 A. We have. Those rates are 6500 while drilling

1 and 650 while producing.

2 Q. And, actually, are those costs reflected in the  
3 well proposal letter that's been marked as Exhibit 3?

4 A. They were.

5 Q. And are these costs accepted under the terms --  
6 at least by some interest owners under the terms of the  
7 JOA?

8 A. Yes, they were.

9 Q. Do you therefore request that these figures be  
10 incorporated into an order from this hearing and then  
11 adjusted pursuant to the COPAS accounting procedures?

12 A. I do.

13 Q. And does the company request that the customary  
14 200-percent risk penalty provided by the Division rules  
15 be imposed upon the interest owners that you have been  
16 unable to reach an agreement?

17 A. Yes, we do.

18 Q. With respect to your request for a nonstandard  
19 unit, has the company brought a geologist here today to  
20 provide technical testimony in support of the  
21 nonstandard unit?

22 A. Yes, we have.

23 Q. In the course of preparing and providing notice  
24 of this hearing, did the company identify the leased  
25 mineral interest owners in the 48 -- the tracts

1 surrounding these proposed nonstandard units?

2 A. Yes, we did.

3 Q. And are those interest owners included in the  
4 notice of this hearing today?

5 A. Yes, they were.

6 Q. If I turn to what's been marked as COG Exhibit  
7 Number 5, that is comprised of an affidavit, with  
8 attached letters, regarding notice of this hearing to  
9 all of the affected parties?

10 A. Yes.

11 Q. Mr. Hopson, were Exhibits 1 through 4 prepared  
12 by you or compiled and prepared under your direction or  
13 supervision?

14 A. They were.

15 MR. FELDEWERT: Mr. Examiner, then I would  
16 move into admission of evidence at this time COG  
17 Exhibits 1 through 5, which includes the notice and  
18 affidavit.

19 EXAMINER JONES: Exhibits 1 through 5 are  
20 admitted.

21 (COG Operating, LLC Exhibits Numbers 1  
22 through 5 were offered and admitted into  
23 evidence.)

24 MR. FELDEWERT: That concludes my  
25 examination of this witness.

## CROSS-EXAMINATION

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BY EXAMINER JONES:

Q. Well, I don't -- I don't really have any questions, except the one issue that I saw in this case. It was originally proposed as Wildcat Bone Spring, and the geologist changed it, in our district office, I assume to --

A. Lusk.

Q. -- east Lusk-Bone Spring. And I don't know when that was done, but what I saw is, the R-4994 established 660 acre -- I mean, 660 setbacks and 160-acre well space -- or spacing units out here. So that might not change the people that you contacted, but it might change -- unless you saw this. And this might have been while our district geologist was in the hospital. I don't know.

A. I'm not exactly sure. These regulatory filings are handled out of our Artesia office, and, unfortunately, the person who filed this is not here today.

Q. That would -- if the whole north half -- you've already defined the interest of the north half?

A. Yes.

Q. But the proposal for the north half-north half would be affected by this?

1 A. Okay.

2 Q. And the space -- and the offset for the well,  
3 you know, it could be NSL, but that could be done  
4 administratively, right?

5 A. (No response.)

6 EXAMINER JONES: Anyway, David, I'll turn  
7 it over to you.

8 EXAMINER BROOKS: You're saying, Mr. Jones,  
9 that there is an order providing for 160-acre spacing?  
10 Is that what you said?

11 EXAMINER JONES: That's what I saw, for the  
12 east Lusk-Bone Spring.

13 EXAMINER BROOKS: Yeah, that would change  
14 it, because with a 160-acre spacing, they would -- they  
15 would presumably -- well --

16 EXAMINER JONES: Unless you've got a  
17 nonstandard spacing unit.

18 EXAMINER BROOKS: Yeah. Well, they're  
19 asking for a nonstandard spacing unit. They're  
20 presuming 40-acre spacing --

21 THE WITNESS: Yes.

22 EXAMINER BROOKS: -- as I understand.

23 CROSS-EXAMINATION

24 BY EXAMINER BROOKS:

25 Q. Did you notice all the owners in the north

1 half?

2 A. Yes.

3 Q. Okay. So you would have complied with the  
4 notice requirements for a nonstandard 160-acre spacing  
5 even if it could be a 160-acre spacing, which would mean  
6 you could do a 320-acre project area?

7 A. Right.

8 Q. But I guess at this point, that's -- if you've  
9 given all the notices that are required, I don't suppose  
10 it matters, if you're satisfied with 160-acre, four --  
11 four units in a line type configuration. Okay. That's  
12 all I have.

13 EXAMINER JONES: So nonstandard location  
14 would be handled administratively?

15 EXAMINER BROOKS: Well, if the NSL -- then,  
16 yeah, we can -- if we conclude that the NSL is required,  
17 put an application, apply for exception for  
18 administrative application.

19 MR. FELDEWERT: We'll certainly look at  
20 that.

21 REDIRECT EXAMINATION

22 BY MR. FELDEWERT:

23 Q. Mr. Hopson, you are anticipating that this will  
24 actually be an oil well, correct?

25 A. Yes.

1 MR. FELDEWERT: We'll look at those pools.

2 EXAMINER BROOKS: Yeah. I haven't looked  
3 at them, so I'm glad Mr. Jones brought that up.

4 EXAMINER JONES: Well, I don't have any  
5 more questions.

6 THE WITNESS: I'll look into it.

7 MR. FELDEWERT: Call our next witness.

8 WARD A. WHITEMAN,  
9 after having been previously sworn under oath, was  
10 questioned and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. FELDEWERT:

13 Q. Would you please state your name for the record  
14 and identify by whom you are employed and in what  
15 capacity?

16 A. Yes. I'm Ward Whiteman. I'm a geologist with  
17 COG Operating, LLC.

18 Q. And you've previously testified before this  
19 Division, correct?

20 A. Yes, I have.

21 Q. And have your credentials been accepted and  
22 made a matter of public record?

23 A. Yes, sir.

24 Q. Are you familiar with this application?

25 A. Yes, I am.

1 Q. Have you conducted a geologic study of the area  
2 that is the subject of this location?

3 A. Yes, I have.

4 MR. FELDEWERT: I'd tender Mr. Whiteman as  
5 an expert witness in the field of geology.

6 EXAMINER JONES: He's so qualified.

7 Q. (BY MR. FELDEWERT) Would you turn to what's  
8 been marked as COG Exhibit Number 6?

9 A. Okay.

10 Q. Would you please identify it and walk the  
11 Examiners through this exhibit?

12 A. Sure. Exhibit 6 is a Bone Spring structure map  
13 in the area of the proposed Warhawk 3 Fed Com #1H well.  
14 It's, like I said, a structure map, 100-foot contour  
15 angle on top of the Bone Spring Formation, which is what  
16 we call the Bone Spring line. The contours reflect a  
17 general dip, up-dip, to the northwest, a down-dip to the  
18 southeast, and it shows our proposed well starting out  
19 in the northwest. And we'll be drilling slightly  
20 down-dip to the east.

21 Q. Now, does this identify -- or where are the  
22 current Bone Spring wells in this area?

23 A. In this area -- there are a lot of wells on  
24 here. This area, the Bone Spring, is primarily  
25 concentrated in the western side there, Sections 33, 4

1 and 9. Those primarily are horizontal, but there are a  
2 couple of verticals that produce as well.

3 Q. So you're, essentially, stepping out to the  
4 east here?

5 A. Correct.

6 Q. This exhibit also identifies the wells that you  
7 have utilized for the cross section?

8 A. Correct. Line A, A prime there, three well  
9 cross section as shown in the next exhibit.

10 Q. And you believe that these wells selected are  
11 representative of the area?

12 A. Yes, they are.

13 Q. Let's turn to what's been marked as COG Exhibit  
14 Number 7.

15 MR. FELDEWERT: And I'll state that it's a  
16 package that has a smaller version of the cross section  
17 as a cover page. If you're interested in the larger  
18 version of the cross section or, if you'd like, you can  
19 pull it out. It's available behind the exhibit.

20 They're both the same, both marked as Exhibit Number 7.

21 Q. (BY MR. FELDEWERT) Would you please then walk  
22 the Examiners through this particular document that's  
23 been marked as Exhibit Number 7?

24 A. Okay. This is the structural cross section and  
25 from west to east, as shown on the previous exhibit, and

1 I've kind of focused in on the 2nd Bone Spring section,  
2 which is our target interval. You can see the top of  
3 that interval is marked -- shown by the orange line and  
4 marked "SBSG," 2nd Bone Spring. And you can see below  
5 the base it's marked "SBSG Sand underscore [sic] B."  
6 That's the proposed target interval there, about 150  
7 feet thick. The proposed landing point is approximately  
8 in the middle there at about 9400 feet.

9 Q. Do you see a continuity in the Bone Sand across  
10 -- do you see a continuity in the Sand across the  
11 proposed nonstandard unit?

12 A. Yes, I do. Wells from west to east look very  
13 similar as you move across the cross section.

14 Q. Have you observed any geologic impediment to  
15 developing this area using a full section of horizontal  
16 wells?

17 A. No, I have not.

18 Q. In your opinion, is this an area that can be  
19 efficiently and economically developed by a horizontal  
20 well?

21 A. Yes, it is.

22 Q. And would you expect the acreage included, on  
23 average, to contribute more or less equally to the  
24 production of the well?

25 A. Yes.

1 Q. Now, Mr. Hopson testified that the completed  
2 interval for this well would comply with all setback  
3 requirements of horizontal wells; is that correct?

4 A. That is correct.

5 Q. Turn to what's been marked as Exhibit Number 8.  
6 Is this a well diagram showing compliance with the  
7 setback requirement?

8 A. Yes, it is.

9 Q. Does it show your surface location and the  
10 angle that you intend to build to the point of your  
11 first perforation?

12 A. Yes, it does. It shows the surface hole being  
13 170 feet off the west line. So we'll drill down and  
14 build off [sic] the curve. We'll be past the 330  
15 setback, and we will perforate no closer than the 330.

16 Q. In your opinion, will the granting of COG's  
17 application be in the best interest of conservation, the  
18 prevention of waste and the protection of correlative  
19 rights?

20 A. Yes, it will.

21 Q. Were COG Exhibits 6 through 8 prepared by you  
22 or compiled under your direction and supervision?

23 A. Yes, they were.

24 MR. FELDEWERT: Mr. Examiner, at this time,  
25 I would move for the admission of Exhibits 6 through 8.

1 EXAMINER JONES: Exhibits 6 through 8 will  
2 be admitted.

3 (COG Operating, LLC Exhibits Numbers 6  
4 though 8 were offered and admitted into  
5 evidence.)

6 MR. FELDEWERT: And that concludes our  
7 examination of this witness.

8 EXAMINER JONES: I really don't have any  
9 questions. Thank you.

10 THE WITNESS: Thank you.

11 EXAMINER BROOKS: I have no questions.

12 MR. FELDEWERT: Mr. Examiner, what we'll do  
13 is take a look at the pool rules and follow up with an  
14 e-mail, perhaps?

15 EXAMINER JONES: Okay. Sure. So we'll  
16 continue for two weeks on this one?

17 MR. FELDEWERT: I don't know if we need to  
18 continue it. I'm hoping not to have to continue it.

19 EXAMINER BROOKS: Well, not unless you  
20 decide you want to do one of those -- say you don't want  
21 a nonstandard proration unit after all; you want to do a  
22 320-acre project area. But you still have to do a  
23 nonstandard -- but the thing is, you've asked for a  
24 160-acre, but you wanted to do a 320. So that would  
25 require a change.

1 MR. FELDEWERT: Correct.

2 EXAMINER BROOKS: But if you're satisfied  
3 with the 160, I don't see why it does, because you can  
4 carve a 160 out of a 320, so long as you have given  
5 notice to everybody.

6 EXAMINER JONES: As long as you think that  
7 NSL will go through.

8 MR. FELDEWERT: Why don't we proceed with  
9 the case, and if things -- we'll take a look at that,  
10 and if things change, I'll notify you and ask that the  
11 case be taken under advisement.

12 EXAMINER JONES: So take it under  
13 advisement?

14 MR. FELDEWERT: Please.

15 EXAMINER JONES: Okay. Thank you.

16 THE WITNESS: Thank you.

17 EXAMINER JONES: Take case 14945 under  
18 advisement.

19 (Case 14945 concludes, 10:12 a.m.)

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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

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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CERTIFICATE OF COURT REPORTER

I, MARY C. HANKINS, New Mexico Certified Court Reporter No. 20, and Registered Professional Reporter, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings that were reduced to printed form by me to the best of my ability.

I FURTHER CERTIFY that the Reporter's Record of the proceedings truly and accurately reflects the exhibits, if any, offered by the respective parties.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case and that I have no interest in the final disposition of this case.



MARY C. HANKINS, CCR, RPR  
Paul Baca Court Reporters  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2013