

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

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

CASE NO. 15033

ORIGINAL

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS

10 EXAMINER HEARING

11 August 8, 2013

12 Santa Fe, New Mexico

13  
14 BEFORE: DAVID K. BROOKS, CHIEF EXAMINER  
15 PHILLIP GOETZE, TECHNICAL EXAMINER

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18 This matter came on for hearing before the  
19 New Mexico Oil Conservation Division, David K. Brooks,  
20 Chief Examiner, and Phillip Goetze, Technical Examiner,  
21 on Thursday, August 8, 2013, at the New Mexico Energy,  
22 Minerals and Natural Resources Department, 1220 South  
23 St. Francis Drive, Porter Hall, Room 102, Santa Fe,  
24 New Mexico.

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

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APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

MICHAEL H. FELDEWERT, ESQ.  
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1 (8:20 a.m.)

2 EXAMINER BROOKS: At this time I'll call  
3 Case 15033, the application of COG Operating, LLC for a  
4 nonstandard spacing and proration unit and compulsory  
5 pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MR. FELDEWERT: May it please the  
8 Examiners, Michael Feldewert, for the Santa Fe office of  
9 Holland & Hart, appearing on behalf of COG Operating,  
10 LLC, and I have two witnesses here today.

11 EXAMINER BROOKS: Very good.

12 Will the witnesses please stand and  
13 identify themselves?

14 MR. CLARK: Greg Clark.

15 MR. DIRKS: Stuart Dirks.

16 EXAMINER BROOKS: Swear the witnesses.

17 (Mr. Clark and Mr. Dirks sworn.)

18 MR. FELDEWERT: Call our first witness.

19 EXAMINER BROOKS: Very good.

20 STUART DIRKS,  
21 after having been first duly sworn under oath, was  
22 questioned and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FELDEWERT:

25 Q. Would you please state your name, by whom

1 you're employed and in what capacity?

2 A. My name is Stuart Dirks. I'm employed by  
3 Concho Resources as a landman.

4 Q. Have you previously testified before this  
5 Division?

6 A. Yes, I have.

7 Q. And were your credentials accepted and made a  
8 matter of public record?

9 A. Yes, they were.

10 Q. Are you familiar with the application that's  
11 been filed?

12 A. Yes, I am.

13 Q. And are you familiar with the status of the  
14 lands in the area?

15 A. Yes, I am.

16 MR. FELDEWERT: I would tender Mr. Dirks as  
17 an expert witness in petroleum land matters.

18 EXAMINER BROOKS: He is so qualified.

19 Q. (BY MR. FELDEWERT) Would you kindly turn to  
20 what's been marked as COG Exhibit Number 1? Identify it  
21 for us, and explain what COG seeks under this particular  
22 application.

23 A. This is a plat centered on Section 3 of  
24 Township 19 South, Range 26 East, in Eddy County. It  
25 shows the location of our proposed Lee 3 Fee #6H well.

1 Our acreage in Section 3 is highlighted in yellow. The  
2 horizontal wells are shown by these line segments. The  
3 black ones are producers, and our proposed well is in  
4 red. The square is our proposed surface location, and  
5 the circle is our proposed bottom-hole location.

6 We seek the formation of a 159.15-acre  
7 nonstandard spacing and proration unit comprising the  
8 east half of the west half of Section 3, 19 South, 26  
9 East for the drilling of our Lee 3 Fee #6H well. We  
10 also seek the pooling of certain mineral interests in  
11 the Yeso underneath our proposed nonstandard unit, and  
12 we ask that COG Operating, LLC be named operator.

13 Q. Turn to what's been marked as COG Exhibit  
14 Number 2. Is this a Form C-102 for the proposed well?

15 A. Yes, it is.

16 Q. And does it, therefore, identify the API number  
17 for the proposed well?

18 A. Yes, it does.

19 Q. And the surface and bottom-hole location?

20 A. Yes, it does.

21 Q. And finally, it identifies, does it not, not  
22 only the pool, but the pool code?

23 A. Yes, it does.

24 Q. And will the completed interval of this well  
25 comply with the Division setback requirements?

1 A. Yes.

2 Q. Is Section 3 all fee lands?

3 A. Yes, it is.

4 Q. If I turn to what's been marked as COG Number  
5 3, does that identify the working interest owners in the  
6 proposed spacing unit by tract?

7 A. Yes, it does.

8 Q. Have all of these working interest owners  
9 committed to the proposed well, Mr. Dirks?

10 A. Yes, they have.

11 Q. Is there a group of mineral interest owners in  
12 the spacing unit with title issues?

13 A. Yes, there are.

14 Q. If I turn to what's been marked as COG Exhibit  
15 Number 4, is this a list of the interest -- mineral  
16 interest in the proposed spacing unit which currently  
17 have title issues associated with them?

18 A. Yes.

19 Q. What is the circumstance associated with the  
20 first four interests on here, which are estates and a  
21 trust?

22 A. We have identified everybody we believe is an  
23 heir. However, there is a break in the chain of title,  
24 which makes this title not marketable.

25 Q. Based on the public records, is the title still

1 held in the estate itself?

2 A. Yes.

3 Q. And as a result -- and you don't have a lease  
4 with the estate. You have a lease with what you believe  
5 to be the heirs?

6 A. That's correct.

7 Q. And are you awaiting the title work necessary  
8 to transfer the interest to the heirs that you have  
9 leased?

10 A. That's correct.

11 Q. What is the circumstance associated with Pennie  
12 Mathewson's .52 percent interest?

13 A. There is a lease covering that interest.  
14 However, it is unclear if she received her interest as  
15 separate property or community property, and her husband  
16 has not ratified the lease.

17 Q. Have you been in contact with Mrs. Mathewson?

18 A. Yes, with her and her attorney.

19 Q. Are they in the process, hopefully, of  
20 resolving the issue?

21 A. Yes. They've agreed to -- for the husband to  
22 sign a quit claim of any interest he may have.

23 Q. But that has yet to occur?

24 A. We have not received that yet.

25 Q. And the concern of the company is that the

1 current lease does not address all the potential  
2 interests associated with what is listed here for Pennie  
3 Mathewson?

4 A. That's correct.

5 Q. If I turn to what's been marked as COG Exhibit  
6 Number 5, is that an affidavit of publication in the  
7 local paper directed to the potential heirs of the  
8 estates and trusts identified on Exhibit Number 4?

9 A. Yes, it is.

10 Q. If I turn to what's been marked as -- and that  
11 notice of publication is directed by name?

12 A. I'm sorry?

13 Q. It's directed by name to the estate?

14 A. Yes. Yes.

15 Q. If I turn to what's been marked as COG Exhibit  
16 Number 6, is that a well proposal letter to  
17 Ms. Mathewson explaining the circumstance and proposing  
18 the well to her?

19 A. Yes.

20 Q. And does that include an AFE?

21 A. Yes.

22 Q. Are the costs that are reflected on the AFE,  
23 which is the last page of Exhibit Number 6, are those  
24 costs consistent with what the company has incurred for  
25 drilling with similar horizontal wells in the area?

1 A. Yes.

2 Q. Has the company made an estimate of the  
3 overhead and administrative costs of drilling this well  
4 and also completing this well?

5 A. Yes.

6 Q. And what are those figures?

7 A. 5,400 -- excuse me. \$5,450 per month drilling  
8 and \$545 per month producing.

9 Q. And does the company request these figures be  
10 incorporated into an order for this hearing and provide  
11 for an adjustment in accordance with the COPAS  
12 accounting?

13 A. Yes.

14 Q. And does the company request that the customary  
15 200-percent risk penalty provided under the Division  
16 rules be imposed on whatever mineral interest is not  
17 voluntarily committed to this well?

18 A. Yes.

19 Q. Now, with respect to the nonstandard unit  
20 request, did the company identify the leased mineral  
21 interests in the 40-acre tracts surrounding the proposed  
22 nonstandard unit?

23 A. Yes.

24 Q. If I turn to what's been marked as COG Exhibit  
25 Number 7, is that an affidavit prepared by my office

1 directed to these known leased mineral interest owners  
2 surrounding the proposed spacing unit?

3 A. Yes, it is.

4 Q. Were Exhibits 1 through 6 compiled by you or  
5 prepared under your direction and supervision?

6 A. Yes, they were.

7 Q. And, Mr. Dirks, with respect to the interest  
8 held by Ms. Mathewson, there was notice of this hearing  
9 provided by publication to her interest, but was the  
10 actual pooling application sent by mail?

11 A. No, it was not.

12 Q. And is that something that the company intends  
13 to cure over the next couple of days?

14 A. Yes, it is.

15 MR. FELDEWERT: Accordingly, Mr. Examiner,  
16 at this time I think I would like to continue this --  
17 finish our presentation, but continue the matter for two  
18 weeks for two things. One, determine the status of the  
19 curative efforts for the title, because perhaps we may  
20 be able to dismiss her from this pooling application.  
21 But, secondly, it will then -- if we're not able to do  
22 that two weeks from now, then we will be in a position  
23 at the September 5th hearing, if need be.

24 EXAMINER BROOKS: That is what I was going  
25 to say. Don't you have to continue it for four weeks?

1 MR. FELDEWERT: We will if indeed we cannot  
2 cure the title issue. My thought was, continue it for  
3 two weeks, come back, report back to you. In the  
4 meantime, we'll provide sufficient notice. In the event  
5 that does not occur, we'll be ready to ask you to take  
6 it under advisement on September 5th.

7 EXAMINER BROOKS: That will be acceptable.

8 MR. FELDEWERT: That concludes my  
9 examination of this witness, and I have one more  
10 witness.

11 EXAMINER BROOKS: Did I admit the exhibits?

12 MR. FELDEWERT: I'd move the admission of  
13 COG Exhibits 1 through 7.

14 EXAMINER BROOKS: Exhibits 1 through 7 are  
15 admitted.

16 (COG Operating Exhibit Numbers 1 through 7  
17 were offered and admitted into evidence.)

18 CROSS-EXAMINATION

19 BY EXAMINER BROOKS:

20 Q. You probably said it, but I missed the overhead  
21 amount you're requesting.

22 A. \$5,450 per month drilling, and 545 per month  
23 producing.

24 Q. I got a transcript on a case I heard several  
25 weeks ago. I realized I was not paying as much

1 attention as I should have because the witness twice  
2 testified that they were requesting \$6,000 a day and  
3 \$600 a day for --

4 (Laughter.)

5 MR. FELDEWERT: That would be a little odd.

6 EXAMINER BROOKS: Okay. That's all I have.

7 Mr. Goetze?

8 CROSS-EXAMINATION

9 BY EXAMINER GOETZE:

10 Q. Just one question. Are there any deadlines as  
11 far as lease or drilling obligations? We see a  
12 September 1st date for starting or spudding.

13 A. Yes, sir, there is. We have -- it's 60 days  
14 from the -- oh, the date escapes my mind. I'm sorry.  
15 We have approximately 60 days.

16 Q. Okay. That's all the questions I have.

17 EXAMINER BROOKS: Very good. Case Number  
18 15033 --

19 EXAMINER GOETZE: We have one more witness  
20 to go.

21 EXAMINER BROOKS: Oh, that's right; we have  
22 to have a geologist.

23 Go ahead.

24 MR. FELDEWERT: We'll call our second  
25 witness.

1 THE WITNESS: Thank you.

2 GREG CLARK,

3 after having been previously sworn under oath, was  
4 questioned and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. FELDEWERT:

7 Q. Would you please state your name and identify  
8 by whom you're employed and in what capacity?

9 A. Greg Clark, geologist for Concho Resources.

10 Q. Mr. Clark, you have previously testified before  
11 this Division, correct?

12 A. Yes, I have.

13 Q. And have your credentials as a petroleum  
14 geologist been accepted and made a matter of record?

15 A. Yes.

16 Q. Are you familiar with the application filed in  
17 this case?

18 A. I am.

19 Q. And have you conducted a geologic study of the  
20 lands that are the subject of this application?

21 A. Yes, I have.

22 MR. FELDEWERT: I would tender Mr. Clark as  
23 an expert witness in petroleum geology.

24 EXAMINER BROOKS: He is so qualified.

25 And I can understand why Mr. Goetze is so

1 serious [sic]. We can't forget about geologists.

2 You may proceed.

3 (Laughter.)

4 Q. (BY MR. FELDEWERT) If we then turn to what's  
5 been marked as COG Exhibit Number 8, would you please  
6 identify that for the Examiner and explain to us what it  
7 demonstrates?

8 A. Yes. This is a regional structure map on top  
9 of the Paddock. The contour interval is 25 feet. It  
10 shows the relationship to offset fields that are  
11 producing fields in the Yeso, in which we feel the  
12 drilling of the Lee 3 Fee #6H is analogous in terms of  
13 structural trend. The overall structural trend is  
14 dipping basinward from the northwest to the southeast.  
15 You'll see that the Concho acreage is highlighted in  
16 yellow, and it will be a south-to-north horizontal well,  
17 with the surface location outlined in red, a red box.  
18 You'll see that the Paddock producers are highlighted in  
19 red, and the Blinebry producers are highlighted in blue.

20 This map shows that there is no geologic  
21 faulting or major structures that would keep us  
22 separated from the analogous fields and/or impede us  
23 from drilling this well in a horizontal fashion.

24 Q. Mr. Clark, if I then turn to what's been marked  
25 as COG Exhibit Number 9, what is the difference between

1 the prior exhibit and what does this particular Exhibit  
2 Number 9 show?

3 A. This map is the same regional map with the  
4 structure taken off. It represents the line of cross  
5 section, that will be the next exhibit that we'll talk  
6 to, that goes from the south to the north and wells that  
7 we feel are representative of producing fields and  
8 analogous to the area in which we want to drill the Lee  
9 3 Fee #6H.

10 Q. If I keep my finger on this exhibit and I turn  
11 to what's been marked as COG Exhibit Number 10, would  
12 you please identify for us COG Exhibit Number 10 and  
13 orient us with respect to the prior exhibit, Number 9?

14 A. Yeah. Again, this is the cross section from  
15 the previous exhibit going from A to A prime, which is  
16 south to north. The wells have been picked that we feel  
17 are representative of producing fields that would be  
18 analogous to where we want to drill the Lee 3 Fee #6H.

19 It is a stratigraphic cross section. The  
20 structural component has been taken out. You'll see  
21 that the datum is on top of the Paddock, and we have  
22 chosen to show a stratigraphic cross section in order to  
23 show the relationship of the stratigraphy and overall  
24 rock characteristics from producing fields to where we  
25 feel it is analogous to the Lee 3 Fee #6H.

1           You will see that in the depth track, in  
2 the middle track, there are red markings that show  
3 perforated intervals. The second well from the left and  
4 the third well from the left and the first well from the  
5 right have all been completed in the Yeso.

6           The well that is the third well from the  
7 right is a COG well that was a pilot hole in order to  
8 pick our landing point for the horizontal well.  
9 Therefore, we did not complete that pilot hole in the  
10 Yeso.

11           And the well that is the first from the  
12 left and the second from the right are Morrow gas  
13 producers that have not been recompleted back to the  
14 Yeso to date.

15           Q.    What conclusions have you drawn from your  
16 study, Mr. Clark?

17           A.    We see that there is no geologic impediments  
18 that would keep us from developing this area using  
19 horizontal wells. We feel that the area can be  
20 efficiently and effectively produced using horizontal  
21 wells. And, on average, we feel that the nonstandard or  
22 the -- that the horizontal well will, on average,  
23 contribute more or less equally to the overall  
24 production of the well.

25           Q.    You feel the acreage in the spacing unit will

1 contribute equally?

2 A. Yes, I do.

3 Q. Will the completed -- now, there was testimony  
4 that the completed interval for this well will comply  
5 with all setback requirements; is that correct?

6 A. That is correct.

7 Q. If I turn to what's been marked as COG Number  
8 11, is that a well diagram showing compliance with the  
9 Division's setback requirements for this well?

10 A. It is.

11 Q. In your opinion, will the granting of this  
12 application be in the best interest of conservation, the  
13 prevention of waste and the protection of correlative  
14 rights?

15 A. Yes.

16 Q. Were COG Exhibits 8 through 11 prepared by you  
17 or compiled under your direction and supervision?

18 A. Yes, they were.

19 MR. FELDEWERT: Mr. Examiner, I would move  
20 admission into evidence of COG Exhibits 8 through 11.

21 EXAMINER BROOKS: 8 through 11 are  
22 admitted.

23 (COG Operating Exhibit Numbers 8 through 11  
24 were offered and admitted into evidence.)

25 MR. FELDEWERT: That concludes my

1 examination of this witness.

2 EXAMINER BROOKS: I have no questions.

3 Mr. Goetze?

4 CROSS-EXAMINATION

5 BY EXAMINER GOETZE:

6 Q. Just one question. Will this pull the Yeso and  
7 that's it?

8 A. Yes.

9 Q. No other questions. Thank you.

10 EXAMINER BROOKS: Thank you.

11 And Case Number 15033 is continued to  
12 October 22nd.

13 MR. FELDEWERT: Until -- Mr. Examiner --

14 EXAMINER BROOKS: I mean August 22nd.

15 (Case Number 15033 concludes, 8:37 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. 15033  
heard by me on 8-8-2013.

David K. Brooks Examiner  
Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

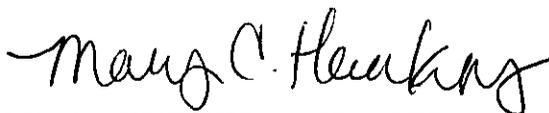
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CERTIFICATE OF COURT REPORTER

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  
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Date of CCR Expiration: 12/31/2013