

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

ORIGINAL

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

CASE NO. 15051

10 REPORTER'S TRANSCRIPT OF PROCEEDINGS

11 EXAMINER HEARING

12 October 3, 2013

13 Santa Fe, New Mexico

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, October 3, 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.

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

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1 (9:12 a.m.)

2 EXAMINER BROOKS: We will now call Case  
3 Number 15051, 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: Mr. Examiner, Michael  
8 Feldewert of the Santa Fe office of Holland & Hart  
9 appearing on behalf of the Applicant, and I have two  
10 witnesses.

11 EXAMINER BROOKS: Very good.

12 Will the witnesses -- oh. I'm sorry.

13 Mr. Bruce, are you entering an appearance?

14 MR. BRUCE: Yes. Mr. Examiner, Jim Bruce  
15 of Santa Fe. I am entering an appearance on behalf of  
16 Texas Christian University.

17 EXAMINER BROOKS: Do you have any  
18 witnesses?

19 MR. BRUCE: I have no witnesses.

20 EXAMINER BROOKS: Very good.

21 Would the witnesses please stand, identify  
22 themselves?

23 MR. DIRKS: Stuart Dirks.

24 MR. CLARK: Greg Clark.

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

1 MR. FELDEWERT: Call our first witness.

2 STUART DIRKS,

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

5 EXAMINER BROOKS: You may proceed.

6 DIRECT EXAMINATION

7 BY MR. FELDEWERT:

8 Q. Please state your full name, by whom you are  
9 employed and in what capacity?

10 A. Stuart Dirks. I'm employed by Concho Resources  
11 as a landman.

12 Q. And you have previously testified before this  
13 Division, correct?

14 A. Yes, I have.

15 Q. And you've had your credentials as an expert in  
16 petroleum -- as a petroleum landman accepted and made a  
17 matter of public record?

18 A. Yes, they were.

19 Q. And you're familiar with the application filed  
20 in this case?

21 A. Yes, I am.

22 Q. Are you as well familiar with the status of the  
23 lands in the subject area?

24 A. Yes, I am.

25 MR. FELDEWERT: Mr. Examiner, I would

1 tender Stuart Dirks as an expert in petroleum land  
2 matters.

3 EXAMINER BROOKS: Any objection?

4 MR. BRUCE: No, sir.

5 EXAMINER BROOKS: So qualified.

6 Q. (BY MR. FELDEWERT) Would you turn to what's  
7 been marked as COG Exhibit Number 1? And would you  
8 please identify it and explain what the company seeks  
9 under this application?

10 A. This is a plat centered on Section 3 of  
11 Township 19 South, Range 26 East in Eddy County. Our  
12 lands -- our leases are highlighted in yellow within  
13 Section 3. Production is identified by black dots for  
14 vertical wells, black lines for horizontal wells. The  
15 red horizontal line is our proposed Lee 3 Fee #8H.

16 We seek the formation of a 159.32-acre  
17 nonstandard spacing and proration unit comprising the  
18 east half of the east half of Section 3 for the drilling  
19 of our proposed Lee 3 Fee #8H well, and we seek the  
20 pooling of mineral interests within the Yeso Formation  
21 within our proposed nonstandard unit. And we ask that  
22 COG Operating, LLC be named operator of the well.

23 Q. Mr. Dirks, is there an -- is there pending  
24 before the Division approval of a similar horizontal  
25 well in this Section 3?

1           A.    Yes, our Lee 3 Fee #6H in the east half of the  
2 west half of this same Section 3, and it's the green  
3 line.

4           Q.    And was that application taken under advisement  
5 by the Division in August?

6           A.    Yes, it was.

7           Q.    And we're awaiting an order at this point?

8           A.    Yes, we are.

9           Q.    If I turn to what's been marked as COG Exhibit  
10 Number 2, is this a filed C-102 for the proposed well in  
11 the east half-east half of the section?

12          A.    Yes, it is.

13          Q.    It identifies, does it not, the API number  
14 that's been assigned to the well?

15          A.    Yes, it does.

16          Q.    And provides for the Examiner not only the pool  
17 name but pool code?

18          A.    Yes, it does.

19          Q.    And does this reflect that the penetration  
20 point and the bottom-hole location for this well will  
21 comply with the Division's setback requirements?

22          A.    Yes.

23          Q.    Is Section 3 all fee lands?

24          A.    Yes, it is.

25          Q.    If I turn to what's been marked as COG Exhibit

1 Number 3, does this identify the interest owners of  
2 record for the various tracts that comprise the east  
3 half of the east half of Section 3?

4 A. Yes, it does.

5 Q. And if I go to the last page of this exhibit,  
6 the second page, does it identify the percentage of  
7 interests that these record title owners will have in  
8 the proposed east half-east half spacing unit?

9 A. Yes, it does.

10 Q. Now, what is the significance of the  
11 highlighting on the second page of this exhibit? There  
12 are a number of parties that are bolded and one party  
13 that is italicized.

14 A. The bold parties are the parties that our title  
15 opinion has identified as unmarketable title. That is  
16 the current record titleholder, so it's unmarketable for  
17 the successors.

18 Q. And what is the significance in the  
19 highlighting of "Harry B. Hinkle"?

20 A. Yes, the italics, which is that Harry B. Hinkle  
21 is an uncommitted owner at this time.

22 Q. So does the -- the parties that have been  
23 highlighted either in bold or in italics, do those  
24 currently represent the parties that you need to pool  
25 under this application?

1 A. Yes, that's correct.

2 Q. Now, with respect to Mr. Hinkle, what efforts  
3 have been made to reach an agreement with Harry B.  
4 Hinkle?

5 A. We thought we had identified the correct person  
6 and sent a well proposal and pooling notice to the  
7 incorrect address. When following up on this, we  
8 tracked down the correct person, found out we had been  
9 talking to the wrong person, and got the correct address  
10 from him and have since sent him a new well proposal.

11 Q. Are there different sets of Hinkles?

12 A. There are many Hinkles, yes.

13 Q. And as I understand it, you thought you had the  
14 correct Hinkle identified and actually had discussions  
15 with that -- I'll call it the Hinkle clan, correct?

16 A. Correct.

17 Q. And then you came to find out that Harry B.  
18 Hinkle was not from that Hinkle clan; he's a different  
19 Hinkle?

20 A. That's correct.

21 Q. Have you since sent a well proposal to Harry B.  
22 Hinkle?

23 A. Yes, we have.

24 Q. And is the company in the process of also  
25 providing to him a copy of the pooling application?

1           A.    Yes.

2           Q.    Now, with respect to the parties that have been  
3   bolded, which includes heirs of the estates and trusts,  
4   has the company undertaken an effort to locate the  
5   potential mineral interest owners under these estates  
6   and trusts?

7           A.    Yes, we have.

8           Q.    And have you been able -- are you confident  
9   that you've located all of them, or do you remain unsure  
10   as to whether you've been able to identify all the  
11   beneficiaries and heirs of these estates?

12          A.    We believe that we have tracked everything  
13   down, with the exception of the nonparticipating royalty  
14   interests.

15          Q.    But at this time, you still seek to pool the  
16   heirs and the beneficiaries in the event that you have  
17   not been able to locate all of the heirs and  
18   beneficiaries?

19          A.    That's correct.   That's correct.

20          Q.    In fact, Texas Christian University is  
21   identified as one of the heirs of one of these estates;  
22   is it not?

23          A.    That is correct.

24          Q.    And you actually provided notice, then, to  
25   Texas Christian University?

1 A. That is correct.

2 Q. Is COG Exhibit Number 4, an Affidavit of  
3 Publication in the local newspaper, directed at the  
4 potential heirs and potential beneficiaries of these  
5 trusts and estates that have been highlighted on the  
6 last page of Exhibit Number 3?

7 A. Yes.

8 Q. And if I turn to what's been marked as COG  
9 Exhibit Number 5, is that the well proposal letter that  
10 went out to the interest owners in the east half-east  
11 half spacing unit?

12 A. Yes, it is.

13 Q. And it includes an AFE; does it not?

14 A. Yes, it does.

15 Q. Are the costs reflected on this AFE consistent  
16 with what the company may have incurred with its similar  
17 horizontal wells in this area?

18 A. Yes, it is.

19 Q. Now, has the company also estimated the  
20 overhead and administrative costs while drilling this  
21 well and also while producing if you are successful?

22 A. Yes, we have.

23 Q. What are those costs?

24 A. \$5,450 per month drilling, \$545 per month  
25 producing.

1 Q. And those are actually identified in a Joint  
2 Operating Agreement that covers this acreage?

3 A. That's correct.

4 Q. Does the company request that these figures,  
5 likewise, be incorporated into any order from this  
6 hearing and adjusted in accordance with the COPAS  
7 guidelines?

8 A. Yes.

9 Q. Did the company then also identify the leased  
10 mineral owners in the 40-acre tract surrounding your  
11 proposed nonstandard unit?

12 A. Yes, we did.

13 Q. Did the company include these known leased  
14 mineral interest owners in the notice of the hearing?

15 A. Yes, we did.

16 Q. If I turn to what's been marked as COG Exhibit  
17 Number 6, is that the affidavit prepared by my office,  
18 with attached letters, providing notice of this hearing  
19 to the affected party?

20 A. Yes, it is.

21 MR. FELDEWERT: And, Mr. Examiner, if you  
22 go through there, you'll see, for Mr. Harry B. Hinkle,  
23 the notice was not returned, but it has not been  
24 received yet. So at this time, what we're planning to  
25 do is continue this case for one month. They're in

1 discussions with Harry B. Hinkle. Hopefully, we can  
2 reach an agreement. If not, we will come back a month  
3 from now, when we will have received the pooling  
4 application, and ask the case be taken under advisement,  
5 but we wanted to go ahead and present the case today.

6 EXAMINER BROOKS: Okay.

7 Q. (BY MR. FELDEWERT) Mr. Dirks, were Exhibits 1  
8 through 5 prepared by you or compiled under your  
9 direction and supervision?

10 A. Yes, they were.

11 MR. FELDEWERT: Mr. Examiner, I would move  
12 the admission into evidence of COG Exhibits 1 through 6,  
13 which includes my affidavit.

14 EXAMINER BROOKS: Any objection?

15 MR. BRUCE: No objection.

16 EXAMINER BROOKS: 1 through 6 are admitted.  
17 (COG Operating Exhibit Numbers 1 through 6  
18 were offered and admitted into evidence.)

19 MR. FELDEWERT: That concludes my  
20 examination of this witness.

21 EXAMINER BROOKS: Very good. Thank you.

22 CROSS-EXAMINATION

23 BY EXAMINER BROOKS:

24 Q. I take it these are all fee lands?

25 A. Yes, that's correct.

1 Q. And, you know, I didn't fully understand what  
2 you were talking about, about leased and unleased  
3 mineral owners. Some of these people are leased mineral  
4 owners and some are unleased; is that correct?

5 A. We've taken leases from everybody that we have  
6 identified as an heir, with the exception of TCU and  
7 Judson Properties. Well, some of these are leased  
8 mineral interest owners, and they are participating,  
9 with the exception of Harry Hinkle.

10 Q. Okay. They lease to COG, right?

11 A. COG or our partners, Yates.

12 Q. And they were included because you do not know  
13 the identity of the correct parties? Is that the case?

14 A. We included the people we identified as heirs  
15 that were not leased.

16 Q. And you include them by designation as heirs  
17 because there was a question as to who the identity of  
18 the correct heirs would be?

19 A. Yes, sir.

20 Q. That would provide service on unknown heirs?

21 A. Yes, sir.

22 Q. I believe that's all of my questions.

23 EXAMINER BROOKS: Mr. Goetze?

24 EXAMINER GOETZE: No questions.

25 EXAMINER BROOKS: Very good.

Mr. Bruce?

CROSS-EXAMINATION

BY MR. BRUCE:

Q. Just a few questions, Mr. Dirks. On your Exhibit 2, to your knowledge, the Dayton-Grayburg pool includes the Yeso interval?

A. Yes.

NO!!!  
ATOKA GLOVIERA-YESO  
POOL (CODE 3250)

Q. And looking at your Exhibit 3, title must have been a joy on this tract, wasn't it?

A. Yes (laughter).

Q. And TCU, which -- which person does their title come out of; do you recall?

A. The third and fourth lines, John P. Mathis and S.C. Mathis.

Q. Ah. Okay.

A. They had -- they have TCU. We believe that's 25 percent of each of those.

Q. And you have been in negotiations for quite some time with TCU; have you not?

A. Yes.

Q. And it was my understanding that you're near to agreeing on a lease form?

A. Yes.

Q. And will you continue to negotiate with TCU after this hearing?

1 A. Yes.

2 MR. BRUCE: That's all I have,

3 Mr. Examiner.

4 EXAMINER BROOKS: Okay. I have nothing  
5 further. The witness may stand down.

6 MR. FELDEWERT: Call our next witness.

7 GREG CLARK,

8 after having been first duly sworn under oath, was  
9 questioned and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. FELDEWERT:

12 Q. Would you please state your name, identify by  
13 whom you're employed and in what capacity?

14 A. Greg Clark, employed by Concho as a geologist.

15 Q. Mr. Clark, you have previously testified before  
16 this Division on numerous occasions, correct?

17 A. Yes, I have.

18 Q. Have your credentials as a petroleum geologist  
19 been accepted as a matter of record?

20 A. They have.

21 Q. Are you familiar with this application?

22 A. I am.

23 Q. And have you conducted a study of the lands  
24 that are subject to this application?

25 A. Yes.

1 MR. FELDEWERT: Mr. Examiner, I would  
2 tender Mr. Clark as an expert witness in petroleum  
3 geology.

4 MR. BRUCE: No objection.

5 EXAMINER BROOKS: So qualified.

6 Q. (BY MR. FELDEWERT) Would you please turn to  
7 what's been marked as COG Exhibit Number 7, identify it  
8 and explain what it shows?

9 A. Yes. This is a regional structure map on top  
10 of the Glorieta. What it reflects is a structure where  
11 you have regional dip going from the northwest to the  
12 southeast basinward. This map shows that there is not  
13 any major geologic features that would keep us separated  
14 from the analogous field, which is to the north and east  
15 in the Dayton field, that we feel we're structurally on  
16 strike with.

17 The producers in red are Paddock, and the  
18 producers in blue are Blinebry. The yellow represents  
19 Concho acreage, and the red line represents the Lee 3  
20 Fee #8H in which we would like to drill.

21 Q. So from a structural standpoint, you don't see  
22 any impediments to developing the horizontal wells?

23 A. I do not.

24 Q. Did you do a cross section for this area?

25 A. I did.

1 Q. If I turn to what's been marked as COG Exhibit  
2 Number 8, does it identify the wells that were utilized  
3 for your cross section?

4 A. Yes.

5 Q. And I note, Mr. Clark, that one of the wells  
6 that you were able to utilize was the well in the east  
7 half of the west half of Section 3?

8 A. Correct.

9 Q. Is that the -- is that the well that was taken  
10 under advisement by the Division in August?

11 A. Yes.

12 Q. So has that well been drilled?

13 A. It has.

14 Q. Has it been completed yet?

15 A. No, sir.

16 Q. You're awaiting approval from the Division?

17 A. Correct.

18 Q. But you had data from that well and were able  
19 to utilize it in the cross section?

20 A. Yes. We drilled a pilot hole in which we ran  
21 open-hole logs, and I incorporated that into the cross  
22 section -- original cross section.

23 Q. And so do you believe that the wells you've  
24 selected are representative of the area?

25 A. I do.

1 Q. If I turn to what's been marked as COG Exhibit  
2 Number 9, is this your cross section A to A prime?

3 A. It is.

4 Q. What does this show?

5 A. This is a stratigraphic cross section that's  
6 flattened on top of the Paddock. The structural  
7 component has been taken out in order to show the  
8 stratigraphic relationship throughout the area with the  
9 wells that I have chosen that are representative of each  
10 field.

11 As you will see, the Paddock Formation, we  
12 don't see any major thickening or thinning throughout  
13 the area, and the log characteristics are very similar.  
14 Therefore, we feel that these wells are analogous to  
15 where we want to drill the Lee 3 Fee #8H. And, again,  
16 we've incorporated the pilot hole from the Lee 3 Fee  
17 #6H, which is relatively close to this well, and feel  
18 that it is also representative of where we would like to  
19 drill this well.

20 You will see the red rectangles in the  
21 depth track. Those are wells that have been completed  
22 in the Paddock Formation, and the Lee 3 6H, which is the  
23 second well from the right, again, has not been  
24 completed in the vertical portion, since it was a pilot  
25 hole used to help us determine where we wanted to land

1 the 6H well.

2 And the first well on the left, it is a  
3 Morrow gas producer. Therefore, it has not been  
4 completed back to the Yeso. And the third well from the  
5 right is another pilot hole that COG drilled, which is  
6 the Stonewall 9 Fee #1H.

7 Q. And this identifies, then, your proposed target  
8 interval; does it not?

9 A. That is correct. That's depicted by the  
10 lateral interval in the red bracket on the second well  
11 from the left.

12 Q. What conclusions have you drawn, Mr. Clark?

13 A. I feel that -- I've concluded that there are no  
14 geologic impediments that would keep us from developing  
15 this well using -- as a horizontal well, and I feel that  
16 we can efficiently and effectively develop this area  
17 using a horizontal well. And I have concluded that each  
18 40 acre will contribute more or less equally to the  
19 overall production of the well.

20 Q. Now, the final exhibit reflects that the  
21 completed interval from this well will comply with all  
22 the setback requirements under the Horizontal Well Rule?

23 A. It does.

24 Q. In your opinion, will the granting of COG's  
25 application be in the best interest of conservation, the

1 prevention of waste and the --

2 A. Yes.

3 Q. -- protection of correlative rights?

4 A. Sorry. Yes.

5 Q. Were COG Exhibits 7 through 10 prepared by you  
6 or compiled under your direction and supervision?

7 A. Yes, they were.

8 MR. FELDEWERT: Mr. Examiner, I would move  
9 the admission into evidence of Exhibits 7 through 10.

10 MR. BRUCE: No objection.

11 EXAMINER BROOKS: 7 through 10 are  
12 admitted.

13 (COG Operating Exhibit Numbers 7 through 10  
14 were offered and admitted into evidence.)

15 MR. FELDEWERT: That concludes my  
16 examination of this witness.

17 EXAMINER BROOKS: Mr. Bruce?

18 MR. BRUCE: Just one.

19 CROSS-EXAMINATION

20 BY MR. BRUCE:

21 Q. Mr. Clark, looking at your exhibits, I notice  
22 that there are quite a few stand-up well units, but  
23 there are also a number of lay-downs. Is there really  
24 any preferred orientation of well units in this area for  
25 the Yeso?

1 A. Not in this area. We have not seen anything  
2 that would tell us to drill stand-up or lay-down.  
3 That's a preferred orientation.

4 Q. Thank you.

5 EXAMINER BROOKS: That was the only  
6 question I was going to ask. I knew the boss would want  
7 me to ask it.

8 Mr. Goetze?

9 EXAMINER GOETZE: The boss would also ask  
10 what a geologic impediment is, but I think we know what  
11 it is at this time. So no more questions.

12 (Laughter.)

13 EXAMINER BROOKS: Very good. You had  
14 requested to continue this until October 31st?

15 MR. FELDEWERT: Yes, Mr. Examiner. What I  
16 would request is that it be placed on the October 31st  
17 docket, and in the event we're able to reach an  
18 agreement with Harry B. Hinkle, I can notify the  
19 Division, and the matter can be taken under advisement  
20 at that point.

21 EXAMINER BROOKS: Very good. Case Number  
22 15051 will be continued to the October 1st docket --  
23 October 31st docket for purposes of notice.

24 And this docket will stand adjourned.

25 (Case Number 15051 certified for recording, 9:32 a.m.)  
a complete record of the proceedings in  
the Examiner hearing of Case No. 15051

heard by me on 10-3-83

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, Inc.  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2013