

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 TO AMEND ORDER R-13578 TO COMPULSORY  
7 POOL ADDITIONAL MINERAL INTERESTS IN  
8 THE APPROVED SPACING OF PRORATION  
9 UNIT, EDDY COUNTY, NEW MEXICO.

CASE NO. 14831

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

February 6, 2014

Santa Fe, New Mexico

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14 BEFORE: PHILLIP GOETZE, CHIEF EXAMINER

18 This matter came on for hearing before the  
19 New Mexico Oil Conservation Division, Phillip Goetze,  
20 Chief Examiner, on Thursday, February 6, 2014, at the  
21 New Mexico Energy, Minerals and Natural Resources  
22 Department, 1220 South St. Francis Drive, Porter Hall,  
23 Room 102, Santa Fe, 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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EXHIBITS OFFERED AND ADMITTED

COG Operating, LLC Exhibits Numbers 1 through 7 10

1 (8:31 a.m.)

2 EXAMINER GOETZE: Next case, Case  
3 14835 [sic] reopened, application of COG Operating, LLC  
4 to amend Order R-13578 to compulsory pool additional  
5 mineral interests in the approved spacing of proration  
6 unit, Eddy County, New Mexico.

7 Call for appearances.

8 MR. FELDEWERT: May it please the Examiner,  
9 Michael Feldewert, Santa Fe office of Holland & Hart,  
10 appearing on behalf of the Applicant. I have one  
11 witness here today who has already been sworn.

12 EXAMINER GOETZE: Very good.  
13 ✓ 14831. I have been corrected by Kate. She  
14 will be our next hearing examiner (laughter).

15 JOSEPH SCOTT,  
16 after having been previously sworn under oath, was  
17 questioned and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. FELDEWERT:

20 Q. Would you please state your name, identify by  
21 whom you are employed and in what capacity?

22 A. Joseph Scott. I work for COG Operating, LLC,  
23 as a landman.

24 Q. Mr. Scott, you have previously testified before  
25 this Division, correct?

1 A. Yes.

2 Q. And your credentials as an expert in petroleum  
3 land matters have been accepted and made a matter of  
4 public record?

5 A. Yes.

6 Q. Are you familiar with the application in this  
7 case and also the lands that are involved in the subject  
8 area?

9 A. Yes.

10 MR. FELDEWERT: Once again, I'd tender  
11 Mr. Scott as an expert witness in petroleum land  
12 matters.

13 EXAMINER GOETZE: He's so qualified.

14 Q. (BY MR. FELDEWERT) Would you turn to what's  
15 been marked as COG Exhibit Number 1, please? And this  
16 is Order R-13578 that was entered by the Division in  
17 June of 2012. Have you reviewed this order?

18 A. Yes.

19 Q. If I have you turn to page 3 of this particular  
20 order, what did this order accomplish?

21 A. It created a 160-acre nonstandard spacing unit  
22 for the Yeso Formation comprised of the west half-east  
23 half of Section 31, Township 18 South, 36 -- 26 East,  
24 Eddy County, New Mexico. It pooled the known parties,  
25 and it also created -- or dedicated the unit to the

1 Falabella 31 Fee Well #7H.

2 Q. And has that dedicated well been drilled yet?

3 A. No.

4 Q. Is it on your drilling schedule?

5 A. Yes.

6 Q. And if I turn to what's been marked as COG  
7 Exhibit Number 2, did the company obtain from the  
8 Division an extension of time to drill this initial well  
9 in this spacing unit?

10 A. Yes.

11 Q. And if I turn to what's been marked as COG  
12 Exhibit Number 3, did the company, likewise, obtain an  
13 extension on the approved APD for this Falabella 7H  
14 well?

15 A. Yes.

16 Q. What does the company seek under this  
17 particular pooling application?

18 A. We seek to pool additional parties that have  
19 been identified.

20 Q. If I turn to what's been marked as COG Exhibit  
21 Number 4, does it reflect the -- or does it reflect the  
22 additional interests that the party seeks to pool on the  
23 last two pages?

24 A. Yes.

25 Q. This exhibit first sets forth all the tracts in

1 this spacing unit, and the next two pages identify the  
2 interest owners by tract. And then the last two pages  
3 have highlighted the interests that the party seeks to  
4 pool, correct?

5 A. Yes.

6 Q. What prompted the discovery of these additional  
7 interest owners?

8 A. We received a title opinion subsequent to the  
9 takeoffs. So we received that, identified additional  
10 parties not identified in the takeoffs. Because of the  
11 faulty takeoffs, we have discontinued using that  
12 brokerage company.

13 Q. Now, on this page, this particular exhibit, on  
14 the very last page, it reflects a group of record title  
15 owners with what they call -- what is titled "curative  
16 issues." Does the company, likewise, then, seek to pool  
17 these interests because of title issues associated with  
18 these particular chain of titles?

19 A. Yes.

20 Q. What's the problem with this particular record  
21 title ownership interest chain?

22 A. It could be either ancillary probate  
23 proceedings that were not done correctly in New Mexico,  
24 and out of abundance of caution, we wanted to pool them,  
25 some type of title-transfer issue associated with these

1 parties.

2 Q. So you have the interest identified, but you're  
3 concerned that the title chain subsequently has enough  
4 concern that you, at this point, want to pool these  
5 parties?

6 A. Yes.

7 Q. And you're hoping that these title issues will  
8 be corrected over time by the interest owners?

9 A. Yes.

10 Q. Given the additional interests that were  
11 discovered in your drilling title opinion, did the  
12 company repropose the Falabella 7H to all of the  
13 interest owners identified in the title opinion?

14 A. Yes.

15 Q. And if I turn to what's been marked as COG  
16 Exhibit Number 5, is this the well-proposal letter that  
17 was sent out in November for the Falabella 7H to all of  
18 these parties?

19 A. Yes.

20 Q. And it has the same location as identified in  
21 the existing pooling order, correct? That has not  
22 changed?

23 A. Yes. Correct.

24 Q. And does this letter also set forth an AFE that  
25 has been updated?

1 A. Yes.

2 Q. And are the costs reflected in this AFE  
3 consistent with what the company has incurred for  
4 drilling similar horizontal wells?

5 A. Yes.

6 Q. I also note that your overhead rates in this  
7 particular exhibit are 5,450 a month while drilling and  
8 545 while producing?

9 A. Yes.

10 Q. Those are the rates that you've offered to the  
11 interest owners?

12 A. Yes.

13 Q. And are those the rates, then, that should be  
14 adopted in the order?

15 A. If it pleases the Court.

16 EXAMINER GOETZE: We're not a court  
17 (laughter). Far from it.

18 Proceed.

19 Q. (BY MR. FELDEWERT) With respect to the  
20 additional interest identified in Exhibit Number 4 that  
21 the parties seek to pool, aside from sending out your  
22 new well-proposal letter, has the company taken  
23 additional efforts to obtain -- obtain voluntary joinder  
24 of these interest owners in the drilling of this initial  
25 well?

1 A. Yes.

2 Q. What did the company do?

3 A. I followed up with e-mail and/or a phone call  
4 to parties that I have not received signed documents  
5 from. I have attempted to make a lease offer to  
6 parties, and there are a couple that are pending right  
7 now. We're just waiting on leases to come in. And one  
8 party we sent the proposal to, we have not identified --  
9 or we have not contacted, and I've seeked [sic] all  
10 measures to find a contact, such as online people  
11 searches, our company directory, and sent our broker out  
12 to try to contact the party we have not communicated  
13 with.

14 Q. Who was that?

15 A. Mary W. Walker.

16 Q. Now, I'm going to jump ahead a little bit, but  
17 keep your finger on here and turn to what's been marked  
18 as COG Exhibit Number 7, the last exhibit. Is that an  
19 Affidavit of Publication that includes in that list,  
20 actually, the last names of the heirs and devisees of  
21 Mary W. Walker?

22 A. Yes.

23 Q. And in addition to that, if I just keep my  
24 finger on there, you also include in this Affidavit of  
25 Publication the record title owners that are reflected

1 from the last -- Exhibit Number 4, correct?

2 A. Yes.

3 Q. And finally, Mr. Scott, is COG Exhibit Number 6  
4 an affidavit prepared by you-all, by my office,  
5 providing notice of this hearing to the affected  
6 parties?

7 A. Yes.

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

10 A. Yes.

11 MR. FELDEWERT: Mr. Examiner, I would move  
12 admission into evidence of COG Exhibits 1 through 6,  
13 which includes the Notice of Affidavit prepared by my  
14 office, as well as the Affidavit of Publication.

15 EXAMINER GOETZE: Exhibits 1 through 7 --

16 MR. FELDEWERT: 7. I'm sorry. 1 through  
17 7.

18 EXAMINER GOETZE: -- are so entered.

19 (COG Operating, LLC Exhibits Numbers 1  
20 through 7 were offered and admitted into  
21 evidence.)

22 MR. FELDEWERT: This concludes my  
23 examination of this witness.

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CROSS-EXAMINATION

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BY EXAMINER GOETZE:

Q. You cleared up all issues regarding the difference in AFE and the orders, so I have no concerns there.

This is the same well; we're not moving any locations as far as wells for this --

A. Correct.

Q. So we don't have issues there.

And the only other thing, what do you see as a schedule for these two wells?

A. We plan to spud them either in March or April.

Q. So we're looking at a compressed schedule here?

A. Yes. Tentatively, it's -- the end of March will be the second well drilled.

Q. We're bureaucrats here, so we need to know a little bit more. We work in years. So we'll put this on the front row.

EXAMINER GOETZE: Other than that, we'll take this case under advisement, and this is the end of today's docket.

MR. FELDEWERT: Thank you, Mr. Examiner.

EXAMINER GOETZE: Hearing is closed.

(Case Number 14831 concluded, 8:41 a.m.)

I do hereby certify that the foregoing is a complete record of the proceedings in

2/25/14

the within hearing of case no. 14831

**PAUL BACA PROFESSIONAL COURT REPORTERS**

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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*  
MARY C. HANKINS, CCR, RPR  
Paul Baca Court Reporters, Inc.  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2014