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

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

ORIGINAL

APPLICATION OF COG OPERATING LLC  
FOR A NON-STANDARD OIL SPACING AND  
PRORATION UNIT AND COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO.

CASE 15295

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

MAY 14, 2015

Santa Fe, New Mexico

RECEIVED OCD  
2015 JUN -2 P 3:32.

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER  
ALLISON MARKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, Michael McMillan,  
Chief Examiner, and Allison Marks, Legal Examiner, on  
May 14, 2015, at the New Mexico Energy, Minerals, and  
Natural Resources Department, Wendell Chino Building,  
1220 South St. Francis Drive, Porter Hall, Room 102,  
Santa Fe, New Mexico.

REPORTED BY: ELLEN H. ALLANIC  
NEW MEXICO CCR 100  
CALIFORNIA CSR 8670  
PAUL BACA COURT REPORTERS  
500 Fourth Street, NW  
Suite 105  
Albuquerque, New Mexico 87102

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A P P E A R A N C E S

FOR APPLICANT:

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I N D E X

CASE NUMBER 15295 CALLED

COG OPERATING LLC CASE-IN-CHIEF:

WITNESS DAVID MICHAEL WALLACE

	Direct	Redirect	Further
By Mr. Larson	4	15	
	EXAMINATION		
Examiner McMillan	11		
Examiner Marks	15		

WITNESS CARRIE M. MARTIN

	Direct	Redirect	Further
By Mr. Larson	17		
	EXAMINATION		
Examiner McMillan	21		

Reporter's Certificate	PAGE 24
------------------------	------------

EXHIBIT INDEX  
Exhibits Offered and Admitted

	PAGE
1	
2	
3	
4	COG Operating LLC Exhibit 1 11
5	COG Operating LLC Exhibit 2 11
6	COG Operating LLC Exhibit 3 11
7	COG Operating LLC Exhibit 4 11
8	COG Operating LLC Exhibit 5 11
9	COG Operating LLC Exhibit 6 11
10	COG Operating LLC Exhibit 7 21
11	COG Operating LLC Exhibit 8 21

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1 (Time noted 8:18 a.m.)

2 EXAMINER McMILLAN: With that in mind, I  
3 would now like to call case No. 15295, Application of  
4 COG Operating LLC for a non-standard oil spacing and  
5 proration unit and compulsory pooling, Lea County, New  
6 Mexico.

7 Call for appearances.

8 MR. LARSON: Good morning, Mr. Examiner.  
9 Gary Larson for Applicant COG Operating.

10 EXAMINER McMILLAN: Any other appearances?  
11 (No response.)

12 MR. LARSON: I have two witnesses.

13 EXAMINER McMILLAN: Let's get them sworn in  
14 now.

15 (Whereupon, the oath was administered to the  
16 two witnesses.)

17 MR. LARSON: I first call Mr. Wallace.

18 DAVID MICHAEL WALLACE  
19 having first been duly sworn, was examined and testified  
20 as follows:

21 DIRECT EXAMINATION

22 BY MR. LARSON

23 Q. Good morning. Would you please state your full  
24 name for the record.

25 A. David Michael Wallace.

1 Q. And where do you reside?

2 A. Midland, Texas.

3 Q. And by whom are you employed and in what  
4 capacity?

5 A. COG Operating LLC. And I'm a senior landman from  
6 for southeast Lea County.

7 Q. Are you familiar with the land matters pertaining  
8 to COG's application in this case?

9 A. I am.

10 Q. And have you previously testified at a Division  
11 hearing?

12 A. I have.

13 Q. And during these hearings did the Examiner  
14 qualify you as an expert in land matters?

15 A. Yes.

16 MR. LARSON: Mr. Examiner, I move that  
17 Mr. Wallace be qualified as an expert in land matters  
18 for purposes of today's hearing.

19 EXAMINER McMILLAN: So accepted.

20 Q. Mr. Wallace, could you identify the document  
21 marked as COG Exhibit 1.

22 A. This is the C-102 for Skull Cap State Com.  
23 No. 2-H Well.

24 Q. And does the C-102 identify the project area for  
25 the proposed Skull Cap State Com No. 2H Well?

1 A. It does.

2 Q. Could you identify the document marked as COG  
3 Exhibit No. 2?

4 A. This is a land ownership map for the project area  
5 of this well.

6 Q. Did you prepare this document?

7 A. Yes, I did.

8 Q. And does that exhibit identify all of the  
9 uncommitted mineral interest owners in the proposed  
10 project area?

11 A. Yes, it does.

12 Q. And does it also indicate each interest owner's  
13 percentage of interest?

14 A. Yes, it does.

15 Q. Did you send well proposals to all of the  
16 identified mineral interest owners in advance of the  
17 filing of COG's application?

18 A. I did with the exception of two of them, Peggy  
19 Neal Pool Marquez and Elizabeth Hogan.

20 Q. And have you subsequently sent a well proposal to  
21 those individuals?

22 A. I have.

23 Q. And are their interests represented by another  
24 mineral interest owner identified on page 2 of  
25 Exhibit 2?

1 A. Yes. They are represented by Mitchell Cappadona.

2 Q. And have you communicated with Mr. Cappadona  
3 regarding his as well as those other two mineral  
4 interests?

5 A. That is correct. I've spoken to him several  
6 times and negotiated leases with him.

7 Q. And is Mr. Cappadona representing any other  
8 uncommitted mineral interest owners identified on  
9 Exhibit 2?

10 A. He represents Jewell Hasford, Shirley Sue Mosley  
11 and Joe Bill Mosley.

12 Q. And have you also discussed leasing those  
13 interests with Mr. Cappadona?

14 A. That's correct.

15 Q. Could you identify the document marked as COG  
16 Exhibit 3.

17 A. This is an example of a well proposal that we  
18 sent to the interest owners in our project area.

19 Q. And did you prepare this letter?

20 A. I did.

21 Q. And was an identical letter sent to the other  
22 mineral interest owners identified in Exhibit No. 2?

23 A. That is correct.

24 Q. And what documents did you enclose with the well  
25 proposal letters you sent out?

1 A. I enclosed an AFE and JOA with each packet.

2 Q. And have you subsequently communicated with any  
3 of the interest owners other than Mr. Cappadona about  
4 participating in the well or entering into an agreement  
5 with COG?

6 A. Yes. I have spoken to Energen Resources. We  
7 have been negotiating for a while and we've come to  
8 terms on a term assignment to pick up their interest; as  
9 well as the other parties, I've negotiated leases with  
10 them.

11 Q. And is timing an issue with regard to COG's  
12 request for a pooling order?

13 A. Yes, it is. I've got a lease expiration issue in  
14 my project area.

15 Q. And in your opinion, have you made a good faith  
16 effort to obtain the interest owners' voluntary joinder  
17 in the well or a commitment to an agreement with COG?

18 A. Yes.

19 Q. I next ask you to identify the document marked as  
20 Exhibit No. 4.

21 A. This is the AFE that we sent out for this well to  
22 each interest owner.

23 Q. That is the Skull Cap State Com No. 2?

24 A. That's correct.

25 Q. And are the well costs identified in the AFE

1 similar to costs incurred for other Third Bone Spring  
2 horizontal wells?

3 A. Yes.

4 Q. Could you identify the document marked as COG  
5 Exhibit No. 5.

6 A. This is the notification letter that was sent out  
7 to the interest owners in our spacing unit as well as  
8 offset interest owners.

9 Q. And were these letters sent at your direction?

10 A. Correct.

11 Q. And referring back to Exhibit 2, did you identify  
12 any offset interests that would be entitled to receive  
13 notice of COG's pooling application in today's hearing?

14 A. Yes. They were the identical parties, the same  
15 parties.

16 Q. The same parties that are listed as uncommitted  
17 mineral owners?

18 A. That's correct.

19 Q. Do you have a recommendation for the amount COG  
20 should be paid for supervision and administrative  
21 expenses?

22 A. Yes. \$7,000 a month for drilling and \$700 a  
23 month for producing.

24 Q. And are those amounts consistent with and similar  
25 to those charged by COG for other Third Bone Spring

1 horizontal wells?

2 A. Yes.

3 Q. And do you also recommend that the rates for  
4 supervision and administrative expenses be adjusted  
5 periodically pursuant to the Copas accounting procedure?

6 A. Yes.

7 Q. Is COG also requesting a 200 percent charge for  
8 the risk of drilling and completing the Skull Cap State  
9 Com No. 2-H?

10 A. Yes.

11 Q. In your opinion, will the granting of COG's  
12 application serve the interests of conservation and the  
13 prevention of waste?

14 A. Yes.

15 Q. Please speak up.

16 A. Yes. I'm sorry.

17 Q. And given the lease termination issues COG is  
18 facing, do you have a request with regard to the  
19 Division's order addressing the pooling application in  
20 this case, Mr. Wallace?

21 A. Yes. If possible, we would like an expedited  
22 order on this, because of the issues.

23 MR. LARSON: Mr. Examiner, I move the  
24 admission of COG Exhibits 1 through 5.

25 EXAMINER McMILLAN: Exhibits 1, 2, 3, 4 and

1 5 now may be accepted as part of the record.

2 (Whereupon, COG Operating LLC's Exhibits 1  
3 through 5 were offered and accepted as part of the  
4 record.)

5 EXAMINATION BY EXAMINER McMILLAN

6 EXAMINER McMILLAN: The first question is,  
7 what type of acreage is this?

8 THE WITNESS: It's state and fee acreage.  
9 The acreage which falls under section 32 is state owned  
10 by COG. And then the 120 acres in the section to the  
11 south is fee.

12 EXAMINER McMILLAN: And you want to  
13 compulsory pool all the Bone Spring?

14 THE WITNESS: Yes.

15 EXAMINER McMILLAN: Now, the question I have  
16 is let's look at -- these questions go back to the same  
17 thing. You are asking for 200 -- your project area is  
18 200 acres, correct?

19 THE WITNESS: Correct.

20 EXAMINER McMILLAN: Now, when I see your  
21 application, I'm only getting 160 acres out of that.

22 THE WITNESS: We've got 80 acres in  
23 section 32 to the north, and then 120 in section 5.

24 EXAMINER McMILLAN: Okay. But then let's go  
25 back and look at -- we need to go back and look at your

1 Exhibit No. 5.

2 THE WITNESS: Okay.

3 EXAMINER McMILLAN: The last sentence there  
4 says the proposed non-standard spacing and proration  
5 unit is comprised of the west half of the northeast  
6 quarter of section 5 and the west half of the --

7 THE WITNESS: The last sentence of the first  
8 paragraph?

9 EXAMINER McMILLAN: Yes.

10 THE WITNESS: The west half of the northeast  
11 of section 5 and the west half of the southeast --  
12 that's a typo.

13 EXAMINER McMILLAN: Yeah, but you sent it to  
14 these people. You are requesting 200, but in your  
15 application you're only asking for 160.

16 MR. LARSON: Could I hand a copy of the  
17 application to the witness?

18 EXAMINER McMILLAN: Certainly.

19 (Discussion between the examiners.)

20 THE WITNESS: The application here has  
21 200-acre spacing and proration unit in the project area.

22 EXAMINER McMILLAN: But your application  
23 only has 160 in it.

24 THE WITNESS: I'm a little confused. I am  
25 sorry.

1                   EXAMINER McMILLAN: The application only  
2 nets out 160 acres. It appears that you excluded the  
3 southwest -- you excluded the northwest quarter of the  
4 southeast quarter.

5                   THE WITNESS: It appears that it doesn't  
6 show it in the first paragraph of the application.

7                   EXAMINER McMILLAN: And your letter doesn't,  
8 either.

9                   THE WITNESS: I guess that was a mistake on  
10 my part.

11                   EXAMINER McMILLAN: You know, to me there  
12 appears to be a problem with that. Because you are  
13 asking for 200 -- you are asking the OCD for 200 acres,  
14 yet your application is only asking for 160.

15                   THE WITNESS: I'm sorry. You mean the  
16 notice of application has the wrong acreage amount, but  
17 the application does --

18                   EXAMINER McMILLAN: Your application to the  
19 OCD is asking for 200 and your letter only has 160.

20                   THE WITNESS: Okay.

21                   EXAMINER McMILLAN: There is a discrepancy  
22 there.

23                   THE WITNESS: That was a mistake.

24                   EXAMINER McMILLAN: I mean you have to give  
25 the respective parties the correct acreage. You can't

1 say -- you can't ask for -- you can't come before the  
2 hearing and ask for 200 acres and your application only  
3 asks for 160.

4 And then the other question I have is  
5 actually you guys had inadvertently applied for an NSP  
6 application that I had seen, and how -- in your NS  
7 administrative application, which was actually  
8 dismissed, the southwest quarter of the southeast  
9 quarter, you guys had planned to develop that; is that a  
10 correct statement?

11 THE WITNESS: The southwest of the southeast  
12 of --

13 EXAMINER McMILLAN: Of section 32, you  
14 planned to develop that; is that correct?

15 THE WITNESS: The southwest of the southeast  
16 in section 32, yes.

17 EXAMINER McMILLAN: And you have seen that  
18 somewhere in your drilling, that is part of your  
19 drilling program out here?

20 THE WITNESS: Are you speaking of section 5  
21 to the south or section 32 in our project area?

22 EXAMINER McMILLAN: Well, it would be  
23 section 32.

24 THE WITNESS: The southwest of the  
25 southeast, yes, we do have plans to drill from the south

1 to develop that acreage.

2 EXAMINER McMILLAN: Okay.

3 I believe this case will have to be  
4 continued because the notice was incorrect. And after  
5 you go through correct notification, at that point, the  
6 case will be heard again. Therefore, this case will be  
7 continued.

8 MR. LARSON: Mr. Examiner, could we go ahead  
9 and proceed with our examination today, go ahead and  
10 continue?

11 EXAMINER McMILLAN: Yes.

12 MR. LARSON: Could I have a couple of  
13 followup questions?

14 EXAMINER McMILLAN: Yes.

15 REDIRECT-EXAMINATION

16 BY MR. LARSON:

17 Q. Mr. Wallace, the well proposal that you sent out,  
18 did that identify a 200-acre project area?

19 A. Yes, it did.

20 Q. And so all the interest owners were notified of a  
21 proposed 200-acre project area?

22 A. That's correct.

23 MR. LARSON: That is all I have.

24 EXAMINATION BY EXAMINER MARKS

25 EXAMINER MARKS: Do you have anything in

1 writing from Mr. Cappadona that he represents the other  
2 interest owners that you stated?

3 THE WITNESS: I do have documentation. I  
4 don't have a legal document showing him as the executor  
5 of the estate, but he has done so for many years.

6 I am in the process of negotiating a lease  
7 with him right now, and I asked him for that  
8 documentation.

9 EXAMINER MARKS: I just don't see -- I  
10 forget what exhibit number it is -- maybe it's  
11 Exhibit 5. I don't see notice to Ms. Hogan or to  
12 Marquez --

13 THE WITNESS: Yes. When we were going  
14 through the proposal list and the ownership, when I was  
15 preparing the land exhibit, I noticed that they didn't  
16 receive the proposals. And when we discovered that, I  
17 immediately sent out the proposals to them.

18 MS. MARKS: So when we come back, if we can  
19 have some notice or some sort of documentation showing  
20 that --

21 THE WITNESS: Okay. And I did speak to him  
22 about those particular interests and he claimed to  
23 represent them, and we've negotiated a lease for all  
24 those parties. We are still in the process of cleaning  
25 it up.

1 MS. MARKS: Okay.

2 MR. LARSON: And you communicated with  
3 Mr. Cappadona yesterday about today's hearing?

4 THE WITNESS: That is correct.

5 MR. LARSON: That's all I have.

6 EXAMINER McMILLAN: Thank you. I have no  
7 further questions.

8 THE WITNESS: Thank you.

9 CARRIE M. MARTIN

10 having been first duly sworn, was examined and testified  
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. LARSON:

14 Q. Good morning, Ms. Martin. Could you please state  
15 your full name for the record.

16 A. Carrie M. Martin.

17 Q. And where do you reside?

18 A. Midland, Texas.

19 Q. And by whom are you employed and in what  
20 capacity?

21 A. COG Operating as geologist.

22 Q. And what is the focus of your responsibilities at  
23 COG?

24 A. All geological matters related to southern Lea  
25 County.

1 Q. And are you familiar with the geological aspects  
2 of the proposed Skull Cap State Com No. 2-H Well and the  
3 matters addressed in COG's application?

4 A. Yes.

5 Q. Could you briefly summarize your educational  
6 background and professional experience?

7 A. Yes. I graduated from Florida State University  
8 with a bachelor of science in geology in 1997. I  
9 graduated with a masters of science in geology from the  
10 University of Alabama in 2002. I spent 11 years at  
11 ConocoPhillips and for the last three years I've been at  
12 COG Operating.

13 Q. And have you previously testified at an  
14 administrative hearing?

15 A. Yes. At the Oklahoma Corporation Commission.

16 Q. And during that hearing, did the Examiner accept  
17 your qualifications as an expert in petroleum geology?

18 A. Yes.

19 MR. LARSON: Mr. Examiner, I move for  
20 Ms. Martin's qualification as an expert petroleum  
21 geologist for purposes of this hearing.

22 EXAMINER McMILLAN: So qualified.

23 Q. (By Mr. Larson:) Were you involved in COG's  
24 evaluation of the prospects for Skull Cap State Com  
25 No. 2-H Well?

1 A. Yes.

2 Q. And does COG have experience with Third Bone  
3 Spring wells in this area?

4 A. Yes, we drilled a number of Third Bone Spring  
5 wells across the state line in Texas?

6 Q. And have those wells been productive?

7 A. Yes.

8 Q. And what was your assessment of the prospects for  
9 the Skull Cap State Com No. 2-H Well?

10 A. That the geology in the Skull Cap State Com area  
11 is similar to the geology we see across the state line  
12 in Texas.

13 Q. Could you identify the document marked as COG  
14 Exhibit 6.

15 A. This is a structure map on top of the Third Bone  
16 Spring Sand, showing a 50-foot contour interval. The  
17 dashed line shows the location of the Skull Cap State  
18 Com. No. 2-H and the red dot shows the location of our  
19 type log for the area.

20 Q. And did you prepare this document marked as  
21 Exhibit 6?

22 A. Yes.

23 Q. And what role did this structure map have in your  
24 geological analysis of the prospects for the Skull Cap  
25 well?

1       A. We see that there are no stratographic pinch-outs  
2 or faulting in the area, and that there is no geological  
3 impediments to drilling horizontal wells.

4       Q. What other wells in the area did you look at?

5       A. I looked at all available regional wells that  
6 penetrated the Third Bone Spring Sand, and we have seen  
7 a number of vertical producing wells out of the Third  
8 Bone Spring Sand at approximately five to ten miles to  
9 the west of this area.

10      Q. I next ask you to identify the document marked as  
11 Exhibit 7.

12      A. This is a type log of the Third Bone Spring Sand  
13 from the Fez Fee No. 11 pilot hole. And this shows the  
14 top of the Third Bone Spring Sand -- it's in purple --  
15 and the base of the Third Bone Spring is the top of the  
16 Wolf Camp Formation.

17      Q. And did you prepare this document?

18      A. Yes.

19      Q. And what role did this document have in your  
20 analysis of the prospects for the Skull Cap well?

21      A. That the geology in this -- this is a regional  
22 representation of the Third Bone Spring in this  
23 area.

24      Q. Could you next identify the document marked as  
25 Exhibit 8.

1 A. Yes. This is a well path diagram of the Skull  
2 Cap State Com. No. 2-H Well.

3 Q. And did you prepare this document?

4 A. Yes.

5 Q. And will the completed Skull Cap State Com. No.  
6 2-H Well comply with the Division's setback  
7 requirements?

8 A. Yes.

9 Q. And in your opinion will the well be productive  
10 along the entire length of the completed lateral?

11 A. Yes.

12 Q. And in your opinion will the granting of COG's  
13 application serve the interest of conservation and the  
14 prevention of waste?

15 A. Yes.

16 MR. LARSON: Mr. Examiner, I move the  
17 admission of Exhibits 6, 7, and 8.

18 EXAMINER McMILLAN: Exhibit 6, 7, and 8 may  
19 now be accepted as part of the record.

20 (Whereupon, COG Operating LLC's Exhibits 6  
21 through 8 were offered and accepted as part  
22 of the record.)

23 MR. LARSON: I'll pass the witness.

24 EXAMINATION BY EXAMINER McMILLAN

25 EXAMINER McMILLAN: My question -- could we

1 go back and look at Exhibit 6.

2 THE WITNESS: Okay.

3 EXAMINER McMILLAN: You said it's a  
4 continuous sand. But based on what you see in an  
5 isopach, which you didn't have, is there any variance in  
6 the isopachs, anything of that nature?

7 THE WITNESS: The thickness of the Third  
8 Bone Spring Sand is similar throughout the area.

9 EXAMINER McMILLAN: Okay. I don't really  
10 have any more questions for her.

11 MR. LARSON: I have no further questions,  
12 Mr. Examiner.

13 EXAMINER McMILLAN: All right. Therefore,  
14 case No. 15295 will be continued to June 11th.

15 MR. LARSON: I'm sorry, Mr. Examiner. Did  
16 you say the 28th?

17 EXAMINER McMILLAN: No. I said June 11th,  
18 just to make sure that you get all the notices out. If  
19 you can do it, if you get it done quicker than that,  
20 then they can make it the 28th.

21 MR. LARSON: Okay. We will endeavor to have  
22 it done by the 28th.

23 EXAMINER McMILLAN: Then I was just trying  
24 to give you the worst case scenario, not having to come  
25 back. If you get it done faster, then it can go to the

1 next hearing.

2 MR. LARSON: Very good. Thank you,  
3 Mr. Examiner.

4 EXAMINER McMILLAN: Thank you very much.  
5 (Time noted 8:41 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 ) ss.  
 3 COUNTY OF BERNALILLO )

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REPORTER'S CERTIFICATE

I, ELLEN H. ALLANIC, New Mexico Reporter CCR No. 100, DO HEREBY CERTIFY that on Thursday, May 14, 2015, the proceedings in the above-captioned matter were taken before me, that I did report in stenographic shorthand the proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability and control.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the rules) any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.




---

ELLEN H. ALLANIC, CSR  
 NM Certified Court Reporter No. 100  
 License Expires: 12/31/15