

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

ORIGINAL

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

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

CASE NO. 15495

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

CASE NO. 15496

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 4, 2016

Santa Fe, New Mexico

RECEIVED OCT 20 11 46 AM '16

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, William V. Jones,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, August 4, 2016, 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: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

## 1 APPEARANCES

2 FOR APPLICANT COG OPERATING, LLC:

3 MICHAEL H. FELDEWERT, ESQ.  
 4 HOLLAND & HART  
 5 110 North Guadalupe, Suite 1  
 Santa Fe, New Mexico 87501  
 (505) 988-4421  
 mfeldewert@hollandhart.com

6

7

## 8 INDEX

9

PAGE

10 Case Numbers 15495 and 15496 Called 3

11 COG Operating, LLC's Case-in-Chief:

12 Witnesses:

13 Dylan C. Park:

|    |                                       |    |
|----|---------------------------------------|----|
| 14 | Direct Examination by Ms. Feldewert   | 3  |
|    | Cross-Examination by Examiner Jones   | 21 |
| 15 | Cross-Examination by Examiner Brooks  | 23 |
|    | Recross Examination by Examiner Jones | 26 |

16

17 Greg Clark:

|    |                                     |    |
|----|-------------------------------------|----|
| 18 | Direct Examination by Mr. Feldewert | 29 |
|    | Cross-Examination by Examiner Jones | 37 |

19 Proceedings Conclude 41

20 Certificate of Court Reporter 42

21

## 22 EXHIBITS OFFERED AND ADMITTED

23 COG Operating, LLC Exhibit Numbers 1 through 13 20

24 COG Operating, LLC Exhibit Numbers 14 through 17 37

25

1 (11:00 a.m.)

2 EXAMINER JONES: Call Case Numbers 15495  
3 and 15496, application -- 15495 is application of COG  
4 Operating, LLC for a nonstandard spacing and proration  
5 unit and compulsory pooling, Eddy County, New Mexico,  
6 and Case 15496, which was continued and re-advertised,  
7 amended application of COG Operating, LLC for a  
8 nonstandard spacing and proration unit and compulsory  
9 pooling.

10 Call for appearances.

11 MR. FELDEWERT: May it please the Examiner,  
12 Michael Feldewert, from the Santa Fe office of Holland &  
13 Hart, appearing on behalf of the Applicant. And I have  
14 two witnesses.

15 EXAMINER JONES: Any other appearances?  
16 Will the court reporter please swear the  
17 witnesses?

18 (Dylan C. Park and Greg Clark sworn.)

19 DYLAN C. PARK,  
20 after having been first duly sworn under oath, was  
21 questioned and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. FELDEWERT:

24 Q. Would you state your name, identify by whom  
25 you're employed and in what capacity?

1           A.    Dylan Park.  I work for COG Operating, LLC in  
2   the capacity of a landman.

3           Q.    Mr. Park, how long have you been a landman with  
4   COG?

5           A.    With COG, approximately three years.

6           Q.    Have you previously testified before this  
7   Division on land matters?

8           A.    Yes, I have.

9           Q.    Are you familiar with the applications filed in  
10  these consolidated cases?

11          A.    Yes, I am.

12          Q.    And are you familiar with the status of the  
13  lands that are the subject of these two applications?

14          A.    Yes, I am.

15                   MR. FELDEWERT:  I would tender Mr. Park,  
16  once again, as an expert in petroleum land matters.

17                   EXAMINER JONES:  He is so qualified.

18          Q.    (BY MR. FELDEWERT) Mr. Park, would you turn to  
19  what's been marked as COG Exhibits 1 and 2?  First off,  
20  are these -- Exhibits 1 and 2, are they the C-102s for  
21  the wells that are involved in the spacing unit that's  
22  at issue here today?

23          A.    Yes, they are.

24          Q.    Okay.  What does the company seek under this  
25  particular application with respect to this acreage, the

1 south half-south half of Section 27?

2 A. We are seeking to create two separate 160-acre  
3 nonstandard spacing and proration units. These units,  
4 are divided by a 4,000-foot depth severance and  
5 ownership.

6 So for the Halberd 27 State Com 1H, we're  
7 seeking to pool from the top of the Glorieta to 4,000  
8 feet. And for the Halberd 27 State Com 21H, we're  
9 seeking to pool 4,000 feet to the base of the Yeso. And  
10 we refer to these as the shallow depth and deeper depth,  
11 respectively, throughout the testimony.

12 Q. And do you also seek, then, to pool the  
13 uncommitted interest owners in each of these two  
14 separate spacing units under the same --

15 A. Yes, we do.

16 Q. What's the nature of the acreage in the south  
17 half of the south half of Section 27?

18 A. They are made up of three state leases.

19 Q. Okay. And looking at this first exhibit,  
20 Number 1, this is for the 1H well?

21 A. Correct.

22 Q. And this particular exhibit provides the  
23 Examiners with the pool name and the pool code, correct?

24 A. That is correct.

25 Q. And we have an API name to this well?

1 A. That is correct.

2 Q. So this application has been filed?

3 A. Correct.

4 Q. If I then go to Exhibit Number 2, this  
5 particular C-102 has not been filed, correct?

6 A. That is correct.

7 Q. And why is that?

8 A. COG doesn't hold an interest in all the 40s  
9 making up the 160-acre unit.

10 Q. Is this part of the depth severance issues you  
11 referenced earlier?

12 A. That is correct.

13 Q. If I turn, then, to what's been marked as  
14 Exhibit Number 3, does this depict for the Examiners the  
15 types of differences in ownership that's involved here  
16 both above and below the 4,000-foot level in this pool?

17 A. Yes, it does.

18 Q. Would you please explain to us how this is set  
19 up and what all the colors mean?

20 A. Yes. So on the left-hand side, we have the  
21 shallow depth that we're seeking to pool and create the  
22 unit on, and on the right-hand side would be the deeper  
23 depth that we're seeking to create the unit. And the  
24 highlighted yellow are those that we're seeking to pool.  
25 The red tract shows where there is a difference in

1 ownership between the two tracts.

2 Q. Okay. Now, I note that this exhibit has two  
3 pages to it. And the first page reflects what?

4 A. The first page reflects the working interest  
5 owners.

6 Q. And what does the second page reflect?

7 A. The second page reflects all the overriding  
8 royalty interest owners.

9 Q. And with respect to those different groups of  
10 owners, we've had ownership differences above and below  
11 4,000 feet?

12 A. That is correct.

13 Q. So if I'm understanding this correctly, with  
14 the red shading in Tracts 1A and 1B, are those the  
15 tracts that have the depth-severance issues?

16 A. Yes, that's correct.

17 Q. Ownership issues?

18 A. Correct.

19 Q. And in this particular case, COG has a  
20 different ownership percentage in Tract 1B, right?

21 A. That is correct.

22 Q. But they own above and below?

23 A. That is correct.

24 Q. But Tract 1A has two different owners --

25 A. That is correct.

1 Q. -- above and below the shallow and the deeper?

2 A. That's correct.

3 Q. And who is involved with Tract 1A?

4 A. OXY USA WTP Limited Partnership and Occidental  
5 Limited Partnership own in the deeper depths, while COG  
6 owns in the shallower depths.

7 Q. And if I go to the second page of this exhibit  
8 dealing with the overriding royalty interest owners, we  
9 have differences in ownership there above and below  
10 4,000 feet, correct?

11 A. That is also correct.

12 Q. Do we have the same individuals involved above  
13 and below, on the second page?

14 A. Yes, we do.

15 Q. But they have different ownership percentages?

16 A. That is correct.

17 Q. How did these ownership differences arise?  
18 What causes this to occur?

19 A. It arose through various assignments since  
20 lease inception back in the '30s and '40s, just  
21 multiple, multiple lease assignments.

22 Q. And did the company, prior to filing this  
23 application, attempt to reach a contractual resolution  
24 with all of these parties to account for these ownership  
25 differences by depth?

1 A. Yes, we did.

2 Q. Let's focus, for example, on OXY, which is one  
3 of the parties that you seek to pool and they own above  
4 4,000 -- or below 4,000 feet in Tract 1A; is that right?

5 A. That is correct.

6 Q. Okay. What did you -- what efforts did you  
7 undertake with respect to OXY to deal with this  
8 depth-severance issue?

9 A. We sent OXY a proposal to participate in both  
10 wells, the 1H and the 21H, along with an operating  
11 agreement. They have agreed to participate in the 1H  
12 but not the 21H, and we're still attempting to work out  
13 the OA on the 1H with them.

14 Q. Let me stop you there. Did you send them two  
15 separate joint operating agreements?

16 A. Yes, we did.

17 Q. One for the shallow depth?

18 A. Yes, we did.

19 Q. And then one for the deeper depth?

20 A. Correct.

21 Q. And did you do that with all the other working  
22 interest owners, too?

23 A. Yes, we did.

24 Q. And did any of the other working interest  
25 owners sign those separate joint operating agreements?

1 A. Yes.

2 Q. Based on depth severance?

3 A. Correct.

4 Q. Okay. Did you also have discussions, for  
5 example, with OXY about trying to resolve this through a  
6 farm-out?

7 A. Yes, we did, and we couldn't come to a  
8 resolution. COG would only be able to earn 100 feet  
9 below the TVD under their farm-out provision, and that  
10 would just create another depth severance. So we  
11 couldn't come to a resolution on that.

12 Q. It would have exacerbated depth-severance  
13 issues?

14 A. Correct.

15 Q. With respect to OXY, you said they agreed to  
16 participate in the 1H but not the 21H?

17 A. That is right.

18 Q. Isn't their interest greater in the 21H?

19 A. That's correct.

20 Q. Okay. Does -- so having been unable to reach  
21 an agreement -- contractual agreement with all of these  
22 parties, what's your development plan to account for  
23 this depth severance?

24 A. Our plan is to drill the 1H well and then  
25 subsequently drill the 21H well in the deeper depths.

1 Q. So the 1H being in shallower depth?

2 A. Correct.

3 Q. And then the 21H in the deeper depth?

4 A. That's right.

5 Q. If I turn to Exhibit Number 4, does this help  
6 put a picture on this development plan?

7 A. Yes, it does.

8 Q. What's shown here on the first page?

9 A. This is just a location map showing Section 27.  
10 As you see in the south half of the south half, it shows  
11 the two wells we've proposed with their bottom-hole and  
12 surface-hole locations.

13 Q. So both wells are going to be drilled from an  
14 off-lease location?

15 A. That's correct.

16 Q. And then transverse along the south half of the  
17 south half at different depths?

18 A. That's correct.

19 Q. If I turn to the second page of this exhibit,  
20 is this a type log of this pool that identifies the  
21 landing interval for each of these two wells?

22 A. Yes, it is.

23 Q. You show one as being located in the Paddock?

24 A. That's correct.

25 Q. And then one being located in the Blinebry?

1 A. Yes, sir.

2 Q. For purposes of developing those intervals  
3 separately?

4 A. Yes.

5 Q. Do we have a geologist that's going to talk  
6 about that further?

7 A. Yes, sir.

8 Q. Now, you also had some state leases involved  
9 here, correct?

10 A. That's correct.

11 Q. So you've had discussions with the State Land  
12 Office about your development plan to account for this  
13 depth-severance issue?

14 A. Yes, sir.

15 Q. And has the State Land Office agreed to accept  
16 separate communitization agreements that are based on  
17 this depth severance?

18 A. Yes, they have.

19 Q. And in presenting your development plan to the  
20 un- -- or to the working interest owners and then the  
21 overriding royalty interest owners, did you explain to  
22 them this -- this development plan to account for the  
23 depth severance?

24 A. Yes, we did.

25 Q. If I turn, for example, then, to OXY -- or COG

1 Exhibit Number 5, is this, for example, the  
2 well-proposal letters that you sent to Occidental for  
3 their interest?

4 A. Yes, it is.

5 Q. Okay. And we have -- the first letter deals  
6 with the 1H, which is going to be in a shallow depth --

7 A. Correct.

8 Q. -- or a shallower depth?

9 A. Yes, sir.

10 Q. And the second letter involved with the  
11 proposal for the second well in the Blinebry, correct?

12 A. That's correct.

13 Q. And in proposing these wells to OXY and the  
14 working interest owners, what was the overhead rate?

15 A. 6,000 for drilling, 600 for producing.

16 Q. And then are these rates consistent with what  
17 operators are charging for similar wells at this depth  
18 and length of lateral?

19 A. Yes, they are.

20 Q. And then in proposing these two wells to  
21 develop this acreage, did you also commit AFEs?

22 A. Yes, we did.

23 Q. And if I turn to what's been marked as COG  
24 Exhibit Number 6, are these the AFEs that were sent for  
25 each well with your well proposal letters?

1 A. Yes, they are.

2 Q. And do these reflect the costs that the company  
3 was incurring for drilling similar wells at the time  
4 that these were prepared?

5 A. Yes, they do.

6 Q. Now, you mentioned the working interest owners,  
7 and you also showed that there were some differences in  
8 the overriding royalty interests, correct?

9 A. Yes.

10 Q. Both above and below the depth severance?

11 A. Yes.

12 Q. If I turn to what's been marked as COG Number  
13 7, is this representative of the letters that you sent  
14 to the overriding royalty interest owners explaining to  
15 them what your development plan is to account for this  
16 depth severance?

17 A. Yes, it is.

18 Q. Okay. And in these letters, you explain to  
19 them that there is a depth severance, correct?

20 A. Correct.

21 Q. And you explain to them where you're going to  
22 put the well in the shallower depth?

23 A. Correct.

24 Q. And you explain to them where you're putting  
25 the well in the deeper depth?

1 A. Yes.

2 Q. And did many of these overriding royalty  
3 interest owners ratify the communitization agreement?

4 A. Many of them did but not all.

5 Q. So there are some that just didn't act?

6 A. That's correct.

7 Q. Did any of them express disagreement with this  
8 plan to deal with the depth severance?

9 A. No, they didn't.

10 Q. If I then turn to what's been marked as COG  
11 Exhibits 8 and 9, is this a -- are these tract maps that  
12 identify the interests that remain to be pooled?

13 A. Yes, they do.

14 Q. And how was -- in each of these exhibits, 8 and  
15 9, how are they -- how are these parties that need to be  
16 pooled depicted?

17 A. In the highlighted yellow shading.

18 Q. So if I go, for example, to Exhibit Number 8 --  
19 first off, on the front page, you're showing the two  
20 state leases involved, right?

21 A. Right.

22 Q. And if I go to the second page, that's where I  
23 see the yellow shading?

24 A. Yes.

25 Q. So it reflects that there is a record title

1 owner that needs to be pooled, correct?

2 A. That is correct.

3 Q. And then we see OXY there that needs to be  
4 pooled?

5 A. Correct.

6 Q. And then there are some other smaller working  
7 interest owners that did not execute the joint operating  
8 agreement?

9 A. Yes, sir.

10 Q. And then we see, on the third page, some  
11 overriding royalty interest owners that did not yet --  
12 have yet to ratify the communitization agreement?

13 A. That's correct.

14 Q. And then Exhibit Number 9 is set up the same  
15 way for the 21H well?

16 A. That is correct.

17 Q. Now, when you -- first off, dealing with the  
18 record title owners, what efforts did you make to commit  
19 them to your development plan?

20 A. I spoke to the family members on several  
21 occasions to explain that we needed them to sign the  
22 communitization agreement as record title holder. There  
23 were some curative issues that needed to be done, and  
24 they chose not to act upon that.

25 Q. So the uncommitted record title owners are

1 actually an estate?

2 A. Correct.

3 Q. Okay. All right. And then with respect to the  
4 working interest owners -- you talked about OXY -- did  
5 you also contact these other working interest owners?

6 A. I spoke to all that was -- I spoke to all that  
7 were locatable.

8 Q. And explained to them what the plan was?

9 A. Yes.

10 Q. And with respect to the overriding royalty  
11 interest owners, did you do the same in connection  
12 with -- to ratify the communitization agreement?

13 A. Yes, I did.

14 Q. And you mentioned there are -- there were  
15 certain interest owners that the company was unable to  
16 locate?

17 A. Yes. I believe three.

18 Q. What efforts were undertaken to locate them?

19 A. Various people, locator tools. They had  
20 brokers checking county records, Internet searches.

21 Q. And did -- some of those uncommitted parties --  
22 unlocatable parties, did that involve estates?

23 A. Some of them, yes.

24 Q. Okay. So if I turn to what's been marked as  
25 COG Exhibits 10 and 11, does that reflect notice of this

1 hearing was published in the local newspaper by name to  
2 these unlocatable parties?

3 A. Yes, it does.

4 Q. In connection with this hearing, did the  
5 company undertake efforts to identify the leased mineral  
6 interest owners in the 40-acre tract surrounding your  
7 proposed nonstandard spacing unit?

8 A. Yes, we did.

9 Q. And did the company include those parties in  
10 the notice of this hearing?

11 A. Yes.

12 Q. And did the company then -- because you're  
13 dealing with the depth severance, did you also provide  
14 notice to the offsetting interests and operators in the  
15 pool both above and below the depth severance?

16 A. Yes, we did.

17 Q. Okay. And if I turn to what's been marked as  
18 COG Exhibit 12, is that an affidavit prepared by my  
19 office providing notice, as discussed, for the 1H well?

20 A. Yes, it is.

21 Q. And is Exhibit Number 13 an affidavit prepared  
22 by my office providing notice for this hearing for the  
23 21H well?

24 A. Yes, it is.

25 Q. In each case, was a separate notice sent to the

1 parties you seek to pool?

2 A. Yes.

3 Q. And was a separate letter sent to the parties  
4 that offset the surrounding 40s?

5 A. Correct.

6 Q. And the fourth page in, is that the letter that  
7 was sent to the offset lessees and operators in the pool  
8 above and below the depth-severance line?

9 A. Yes.

10 Q. Now, you informed all of these parties, all  
11 these affected parties, of the depth-severance issue  
12 that you're dealing with, right?

13 A. Yes.

14 Q. And you informed them all of your two-well  
15 development plan?

16 A. Yes, we did.

17 Q. One in shallow, one in deep?

18 A. Yes.

19 Q. And you informed all these parties of the depth  
20 in which you tend to locate each of these two wells?

21 A. Yes.

22 Q. And you informed them that -- and you had  
23 discussions with all these parties?

24 A. Correct.

25 Q. And you provided all these parties with notice

1 of this hearing?

2 A. Yes.

3 Q. Have any of these parties expressed any  
4 disagreement with your development plan designed to  
5 accommodate the depth-severance ownership issues?

6 A. No, they have not.

7 Q. And have any of these parties suggested that  
8 this does not protect the correlative rights of the  
9 owners above or below the depth-severance line?

10 A. No, they have not.

11 Q. Were COG Exhibits 1 through 13 prepared by you  
12 or compiled under your direction and supervision?

13 A. Yes, they were.

14 MR. FELDEWERT: Mr. Examiner, I would move  
15 the admission of evidence of COG Exhibits 1 through 13,  
16 which includes my Notice of Affidavit.

17 EXAMINER JONES: Exhibits 1 through 13 are  
18 admitted.

19 (COG Operating, LLC Exhibit Numbers 1  
20 through 13 are offered and admitted into  
21 evidence.)

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

24 EXAMINER JONES: I'll ask a few quick  
25 questions, and then I'll turn it over to Mr. Brooks

1 here.

2 CROSS-EXAMINATION

3 BY EXAMINER JONES:

4 Q. The Glorieta, is that mentioned in the  
5 ownership documents as being separately owned in the  
6 Yeso?

7 A. The ownership is common from the top of the  
8 Glorieta to 4,000 feet.

9 Q. Okay. And the location of the first well is, I  
10 noticed -- I guess we're going to talk about that in a  
11 little bit, but it's 100 or so feet. Are there any  
12 owners that were concerned about the location of the  
13 well being closer to their interest?

14 A. No, there was not.

15 Q. Okay. And is the operator of the well -- would  
16 COG be responsible for the land -- your land software  
17 and accounting software handling all of the overrides or  
18 royalty interests? So you would take care of payment of  
19 royalty; is that correct?

20 A. Yes, sir.

21 Q. And the overrides?

22 A. Yes, sir.

23 Q. And these two wells, I think, are still not  
24 called State Com wells in our OCD system, but they are  
25 com wells, correct?

1 A. That's correct.

2 Q. So you'll probably just, you know, file a  
3 change of C-103 asking for that to be changed --

4 A. Okay.

5 Q. -- if it's not already been done?

6 MR. FELDEWERT: I'm looking at Exhibit  
7 Number 1, which is the C-102 that was filed.

8 EXAMINER JONES: Yeah. That one says  
9 "State Com #1." So I printed out -- I printed out --  
10 last night, I printed out this Halberd 27 State #1. It  
11 doesn't say "com" in it. But it's not a big deal.

12 THE WITNESS: Yeah. We'll make sure that  
13 gets corrected.

14 Q. (BY EXAMINER JONES) What about below 4,000  
15 feet? Is there any -- this drilling -- the Yeso is  
16 pretty thick. It goes way on down, you know, so I  
17 don't, you know -- Greg is probably going to talk about  
18 the productivity of it.

19 A. Correct.

20 Q. But there is no ownership differences from  
21 4,000 feet on down to the base of the Yeso?

22 A. The interest is common from 4,000 to the base  
23 of the Yeso.

24 Q. Okay. I'm going to turn this over to  
25 Mr. Brooks.

## CROSS-EXAMINATION

1

2 BY EXAMINER BROOKS:

3 Q. I don't -- your exhibit -- yeah. Exhibit 3 is  
4 quite complicated, and I did not really follow it  
5 through the way you explained it. I didn't really  
6 follow it while you were explaining it because it is  
7 complicated. But I take it that these tracts, A1, 1B, 2  
8 and 3 are all relevant tracts? There are no -- no other  
9 divi- -- lateral divisions?

10 A. That is correct.

11 Q. Okay. And in Tract 1A, OXY and Occidental  
12 Permian own 100 percent of the working interests  
13 interest?

14 A. That's correct, below 4,000 feet within the  
15 Yeso.

16 Q. Below 4,000.

17 Okay. COG and Concho own the entire  
18 working interest above --

19 A. That is correct.

20 Q. -- above 4,000?

21 A. Yes, sir.

22 Q. Now, in Tract 1B, Concho and COG own all of the  
23 working interest to all of the levels, right?

24 A. That's correct, just two different  
25 percentages --

1 Q. Okay.

2 A. -- because of the way the assignments were.

3 Q. And let's see. In Tract 2, there are a bunch  
4 of other working interest owners, but you're not -- no.  
5 Let's see.

6 A. There's approximately --

7 Q. On page 1, it's all working interests?

8 A. That's correct.

9 Q. So you have outside working interest owners in  
10 Tract 2 both above and below the 4,000-foot division.  
11 They appear to be the same --

12 A. They're common there. Yes, sir.

13 Q. These are all the -- all the same people?

14 A. Yes, sir.

15 Q. Both above and below, the same people, the same  
16 interests?

17 A. Yes, sir.

18 Q. Okay. And so there is not a -- there is not a  
19 depth-severance issue in Tract 2?

20 A. No, sir.

21 Q. Okay. And some of those are committed, and  
22 some you're pooling?

23 A. That's correct.

24 Q. And then Tract 3, Occidental Permian owns all  
25 the working interest?

1 A. Yes, sir.

2 Q. And that's true at all levels?

3 A. Correct.

4 Q. So only -- only in tracts 1 and 1B did the  
5 depth severance affect the working interests?

6 A. Yes, sir. That's correct.

7 Q. Okay. Then we go over to overriding royalty  
8 interest table, and that's the same way, because the  
9 depth severance is actually only in Tracts 1 and 1B?

10 A. Yes, sir.

11 Q. The overriding royalty situation is quite a bit  
12 simpler than the working interest owners?

13 A. Yeah.

14 Q. Fewer parties involved, so not surprising.

15 Okay. Well, I think that's about all I --  
16 that would be worth asking you questions.

17 What is the status of these wells? They  
18 have not been drilled?

19 A. No, sir.

20 Q. And both have been filed, though?

21 A. The 1H has been filed, and we have a permit.  
22 The 21H has not because we don't -- COG doesn't own an  
23 interest in all the 40s that make up the lateral.

24 Q. Oh, yeah. You told us that. You told us that  
25 at the start. It slipped my mind. We've dealt with so

1 many different situations this morning.

2 Okay. I think that's all the questions I  
3 have at this time?

4 RE CROSS EXAMINATION

5 BY EXAMINER JONES:

6 Q. I have one more question. And maybe because I  
7 haven't been involved in a lot of cases like this, but  
8 in these two cases, are you asking for -- you're asking  
9 for a nonstandard proration unit in order to do  
10 compulsory pooling consisting of four separate spacing  
11 units within the pool; is that correct?

12 A. Yes.

13 MR. FELDEWERT: Well, I would say what  
14 we're doing is asking for the creation of two  
15 nonstandard spacing units comprised of the 40-acre  
16 tracts penetrated by each well.

17 EXAMINER JONES: Okay. Okay.

18 EXAMINER BROOKS: You'll have different  
19 horizontal boundaries but the same -- same lateral  
20 boundaries?

21 MR. FELDEWERT: Correct. Vertical. It's a  
22 different vertical depth.

23 EXAMINER BROOKS: Different vertical. Same  
24 horizontal lateral.

25 MR. FELDEWERT: Roughly. I think -- you

1 can see how the transverse -- all fit within the window,  
2 330 from the offset.

3 EXAMINER JONES: Okay. But as far as the  
4 compulsory -- it's just the formation of a nonstandard  
5 proration unit, sometimes those could be a subset of a  
6 vertical -- on a vertical well, it could be subset of a  
7 standard unit. In this case they're expanded by four  
8 40s put together. But are you also asking for it  
9 vertically to be compressed and to have two separate  
10 nonstandard proration units vertically?

11 MR. FELDEWERT: Mr. Examiner, yeah. I  
12 think that's roughly right. If you look at -- there  
13 have been some other orders issued by the Division where  
14 they did precisely that.

15 EXAMINER JONES: Okay.

16 MR. FELDEWERT: Where they made it -- they  
17 created the nonstandard spacing and proration unit using  
18 the horizontal acreage and then compressed the vertical  
19 extent of the spacing unit to accommodate depth  
20 severance or the differences in ownership.

21 EXAMINER JONES: Okay. So you form the  
22 nonstandard proration unit and then compulsory pool all  
23 interests in the unit that are not participating in  
24 the --

25 MR. FELDEWERT: That may be, but pool them

1 separately, right?

2 EXAMINER JONES: Pool them separately, yes.

3 MR. FELDEWERT: Yes. Okay.

4 EXAMINER JONES: So it's just a question of  
5 where you put the language of the -- of the 4,000 feet.  
6 Do you put it in the -- in the language in the sentence  
7 for compulsory pooling, or do you put it in the sentence  
8 creating the nonstandard proration unit?

9 MR. FELDEWERT: I think if you take a look  
10 at the order entered for the Sneed well, you'll find  
11 that they put it within the language of the creation of  
12 the spacing unit.

13 EXAMINER JONES: Okay. That sounds good to  
14 me.

15 I'll turn this over to Mr. Brooks.

16 EXAMINER BROOKS: Well, earlier I had  
17 already asked my questions. I think that the way you've  
18 explained it was my understanding, so I must be right.

19 (Laughter.)

20 EXAMINER JONES: Okay. Thank you.

21 MR. FELDEWERT: Call our next witness?

22 EXAMINER BROOKS: I need to leave at  
23 quarter to 12:00.

24 MR. FELDEWERT: We won't be very long.

25

1 GREG CLARK,  
2 after having been previously sworn under oath, was  
3 questioned and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FELDEWERT:

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

8 A. Greg Clark, petroleum geologist, COG Operating,  
9 LLC.

10 Q. And how long have you been a petroleum  
11 geologist with COG?

12 A. A little over four-and-a-half years.

13 Q. Mr. Clark, you have previously testified before  
14 this Division as an expert in petroleum geology,  
15 correct?

16 A. I have.

17 Q. Are you familiar with the applications that  
18 have been filed in these consolidated cases?

19 A. Yes.

20 Q. Have you conducted a geologic study of the  
21 lands that are the subject of this hearing?

22 A. Yes.

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

25 EXAMINER JONES: He is so qualified.

1 Q. (BY MR. FELDEWERT) If I turn, Mr. Clark, to  
2 what's been marked as Exhibit Number 4, which is the  
3 exhibit that shows the development plan to accommodate  
4 these depth severances, did you assist in creating this  
5 development plan as shown on this exhibit?

6 A. Yes.

7 Q. And the second page actually utilizes a type  
8 log. Is that type log located in Section 27?

9 A. It is.

10 Q. So is it representative, then, of this pool  
11 under the south half of Section 27?

12 A. Yes.

13 Q. Would you in more detail describe what is shown  
14 on page 2 of Exhibit Number 4?

15 A. Yes. This is a type log that we used in the  
16 section. It encompasses modern-day logs and is more  
17 up-to-date on the logs, is more representative of modern  
18 logs.

19 As I mentioned before, you'll see in Tract  
20 1 the gamma ray. In the second tract are the density  
21 curves. What we'll see here is how the Yeso is defined  
22 and the members of the Yeso, which are the Paddock,  
23 Blinebry and Tubb. They are differentiated by the  
24 horizontal red lines, which separate the different  
25 members of the Yeso Formation. You will see that to the

1 left of the Yeso column is where we have depicted the  
2 top of the Yeso to the 4,000-foot depth severance and  
3 then the 4,000-foot depth severance to the base of the  
4 Yeso.

5 And also to the right of the logs, you will  
6 see the stratigraphic equivalent interval in which we  
7 intend to land the two horizontal wells, being the  
8 Halberd #1H and the Halberd #21H.

9 Q. Mr. Clark, am I correct that the purpose of the  
10 1H is to develop the Paddock interval?

11 A. Yes.

12 Q. And that the purpose of the 21H is to develop  
13 the Blinebry interval?

14 A. Yes.

15 Q. Okay. And in so doing, how did you settle on  
16 the location of these two wells? What did you use to  
17 determine the location?

18 A. So we used existing well log data, mud log data  
19 and, you know, previous analogies of where we've landed  
20 in these different members of the Yeso Formation, which  
21 have yielded good results throughout the New Mexico  
22 Shelf area.

23 Q. Was the location of these two wells based on  
24 ownership in any fashion?

25 A. I'm sorry?

1 Q. In other words, the landing interval for these  
2 two wells, did you base them on ownership, or did you  
3 base them on geology?

4 A. No. No, sir. Geology.

5 Q. And in your opinion, are the landing intervals  
6 for these two wells -- are they efficiently located to  
7 develop the intervals here within the Yeso Formation  
8 that you've just described?

9 A. Yes, they are.

10 Q. Okay. And in your expert opinion, are both of  
11 these wells necessary to effectively drain the reserves  
12 in the Yeso Formation?

13 A. Yes.

14 Q. Okay. How does the -- Mr. Clark, how does the  
15 company intend to deal with any allowable issues that  
16 may arise for this particular pool?

17 A. From my understanding, allowables have been  
18 increased in this area. We do not foresee any allowable  
19 issues, but if it were to happen, we would cut back each  
20 well systematically the same to where there wouldn't be  
21 any difference in allowables from one well to the other.

22 Q. So you wouldn't curtail one for the benefit of  
23 the other?

24 A. Absolutely not.

25 Q. In part because of the differences in

1 ownership?

2 A. Yes.

3 Q. Do the targeted intervals here -- do they  
4 extend across the surface acreage that's at issue here?

5 A. Would you repeat that question?

6 Q. Do the intervals that you seek in the target  
7 with these two wells, does it extend across your  
8 proposed spacing units?

9 A. Oh, yes. Yes.

10 Q. If I turn to what's been marked as COG Exhibit  
11 14, is that a structure map that you have put together?

12 A. Yes, it is.

13 Q. And what does this depict?

14 A. So this is a structure map showing the Paddock  
15 Formation. It's in subsea. And you get an overall feel  
16 of the structural grain, which you get a  
17 northwest-to-southeast structural dip. There's no major  
18 faulting or no major folding within the area that would  
19 give us any sort of structural impediment from  
20 developing both of these wells using a full-section  
21 horizontal.

22 Q. Did you also put together for this hearing a  
23 structure map that was hung on the top of the Blinebry?

24 A. Yes.

25 Q. Okay. Is that Exhibit Number 15?

1 A. Yes, it is.

2 And, again, this -- this exhibit shows the  
3 overall structural grain, which is very similar to the  
4 Paddock. There is no big difference in structure. The  
5 contour intervals are different, but the overall  
6 structural grain, again, is your major regional dip that  
7 is going from the northwest to the southeast with no  
8 major folds or faulting, developing this area using  
9 full-section horizontal wells.

10 Q. Okay. Now, in preparation for this hearing,  
11 did you also create a cross section?

12 A. I did.

13 Q. And if I turn to what's been marked as COG  
14 Exhibit 16, does this depict the wells that you utilized  
15 to create your cross section?

16 A. Yes, it does.

17 Q. And is that shown by the wells in green?

18 A. Yes.

19 Q. In your opinion, are these wells representative  
20 of the area in question?

21 A. They are.

22 Q. If I then turn to what's been marked as COG  
23 Exhibit Number 18, is this the cross section that  
24 corresponds A to A prime to Exhibit 17?

25 A. Yes, it is.

1 Q. And does this -- one of the wells that you used  
2 in your cross section, is it the type log that we looked  
3 at earlier?

4 A. Yes, it is. That's the second well from the  
5 left.

6 Q. Okay. And that's the well that's in the north  
7 half of Section 27?

8 A. That's correct.

9 Q. Now, in this particular exhibit, you again  
10 identify the landing interval for each well?

11 A. Yes.

12 Q. Okay. What else do you observe with respect to  
13 both the Paddock member of the Yeso and the Blinebry  
14 member of the Yeso?

15 A. So overall, this cross section is a  
16 stratigraphic cross section. It's been flattened on top  
17 of the Paddock. The structural component has been taken  
18 out in order to show the stratigraphic relationship of  
19 these different members of the Yeso Formation throughout  
20 the area in which we intend to drill both the Halberd  
21 #1H and Halberd #21H laterals.

22 You will see the log suites are the same as  
23 the type log, with the gamma ray in the first tract and  
24 the porosities in the second tract. You will see that  
25 there is no major difference in log characteristics as

1 you go throughout this cross section. There is a  
2 minimal thickening or thinning stratigraphically between  
3 these members.

4 And also you will see that there are two  
5 wells that have been completed in the Yeso Formation,  
6 with the well that is the second from the right having  
7 been completed in the Paddock Formation and then the  
8 well that is to the right of the cross section that have  
9 been perforated and completed both in the Blinebry and  
10 in the Paddock interval.

11 Q. In your opinion, will the Paddock and Blinebry  
12 intervals below this proposed nonstandard spacing and  
13 proration unit -- I should say nonstandard spacing and  
14 proration units. Will these intervals contribute  
15 equally to the production of these wells?

16 A. Yes.

17 Q. And in your opinion, again, Mr. Clark, are both  
18 of these wells located to most efficiently drain the  
19 targeted interval?

20 A. Yes.

21 Q. In your opinion, is the granting of this  
22 application in the best interest of conservation, the  
23 prevention of waste and the protection of correlative  
24 rights?

25 A. Yes.

1 Q. And were COG Exhibits 14 through 17 prepared by  
2 you or compiled under your direction and supervision?

3 A. They were.

4 MR. FELDEWERT: Mr. Examiner, I would move  
5 the admission of evidence of COG Exhibits 14 through 17.

6 EXAMINER JONES: Exhibits 14 through 17 are  
7 admitted.

8 (COG Operating, LLC Exhibit Numbers 14  
9 through 17 are offered and admitted into  
10 evidence.)

11 MR. FELDEWERT: That concludes my  
12 examination of this witness.

13 CROSS-EXAMINATION

14 BY EXAMINER JONES:

15 Q. I'll be quick.

16 What happened to the Drinkard? Is it gone  
17 in this area?

18 A. Oh, I haven't discerned the Drinkard very much.  
19 You know, there's not a lot of focus on the Tubb and the  
20 Drinkard in this area, so I just have used the Tubb and  
21 didn't focus much on the Drinkard because I knew that  
22 this cross section I was going to use wouldn't be  
23 showing the Drinkard.

24 Q. Okay. The big question: Would you be drilling  
25 the 21H well if you didn't have differences of

1 ownership?

2 A. Yes.

3 Q. Okay. And why are you drilling the  
4 surface-hole location -- at two separate hole locations;  
5 is that correct?

6 A. Yes.

7 Q. Okay. So you'll have separate tank batteries  
8 for each one of these?

9 A. Yes. That's what we intend to do.

10 Q. Okay. That's all my questions.

11 CROSS-EXAMINATION

12 BY EXAMINER BROOKS:

13 Q. Is there -- ~~how far away above the 4,000 feet~~  
14 ~~is your lateral going to be in the first well?~~

15 A. ~~It's approximately 75 to 100 feet.~~

16 Q. Is it not likely to draw from the lower depths?

17 A. The lower depth meaning?

18 Q. Below 4,000 feet?

19 A. ~~There is a possibility we could not secure~~

20 ~~drainage from there but we also had where we~~

21 ~~drainage to, it's going to give us the best. It's the~~

22 ~~best option in order for us to complete all of the~~

23 ~~reserves within the padlock, therefore, not leaving any~~  
24 of the reserves behind.

25 Q. You talked about proration, but you didn't

1 really talk about the -- what seems to me is an issue  
2 that's definitely going to have to be resolved in terms  
3 of proration to apply proration.

4 This is 40-acre spacing, right?

5 MR. FELDEWERT: Uh-huh.

6 EXAMINER BROOKS: So you're going to have  
7 one allowable for each 40 acres, and that allowable, it  
8 seems to me, is going to have to be split between these  
9 two nonstandard units in order to get a proration  
10 pattern that will protect correlative rights. Do you --  
11 would you disagree with that?

12 I guess that's more addressed to you,  
13 Mr. Feldewert, rather than the witness, because I assume  
14 you've probably thought about this somewhat. And the  
15 witness, of course, is a geologic expert. He's not an  
16 expert on OCD rules.

17 MR. FELDEWERT: Right. Well, you are  
18 correct in that this pool has an allowable.

19 EXAMINER BROOKS: Yeah. And it's based on  
20 depth bracket allowable. And since the depth bracket  
21 allowable is the depth of the discovery well --

22 MR. FELDEWERT: Has nothing to do --

23 EXAMINER BROOKS: -- it doesn't have  
24 anything to do with the depth of the actual well.

25 MR. FELDEWERT: And so I think one of the

1 reasons that we ask the question -- deal with the  
2 allowable --

3 EXAMINER BROOKS: Yeah.

4 MR. FELDEWERT: But both wells are going to  
5 have to stay within the allowable -- within the total  
6 allowable. And I think the testimony has been that  
7 they're going to treat them both equally, not going to  
8 curtail one, one to benefit the other. So --

9 EXAMINER BROOKS: Which I understand. But  
10 we also -- if we create these nonstandard units, it  
11 seems to me we have to deal with the issue of what the  
12 actual allowable for these units is going to be, and I  
13 don't think we can give each one the total allowable for  
14 the four 40 acres. I think we're going to have to  
15 allocate the allowable for the four 40 acres because all  
16 of the rest of the spacing units in the pool have an  
17 allowable based on the depth bracket allowable for the  
18 40 acres for the entire -- and that's the allowable for  
19 all production from this pool, wherever it comes from.  
20 And to make it fit the correlative rights pattern, it  
21 seems to me it has to be --

22 MR. FELDEWERT: And I think you articulated  
23 it better than I, and I think the company anticipates  
24 the need to do that.

25 EXAMINER BROOKS: Thank you. That's all I

1 have.

2 EXAMINER JONES: There is a special  
3 allowable for this area. I think it's Marloco. I think  
4 there are special pool rules.

5 EXAMINER BROOKS: Right. The concept would  
6 be the same.

7 Mr. Jones has pointed out that there is a  
8 depth bracket allowable table that would not apply  
9 because --

10 MR. FELDEWERT: Because you have special  
11 pool rules?

12 EXAMINER BROOKS: Special pool rules.

13 MR. FELDEWERT: Right. Right. But I  
14 understand what you're saying, and I think that is  
15 contemplated by the company.

16 EXAMINER JONES: Anything further?

17 MR. FELDEWERT: Nothing.

18 EXAMINER JONES: With that, take Cases  
19 15495 and 14596 under advisement.

20 Break for lunch. Come back at 1:30.

21 (Case Numbers 15495 and 15496 conclude,  
22 11:41 a.m.)

23 I do hereby certify that the foregoing is  
24 a complete record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_  
25 heard by me on \_\_\_\_\_

\_\_\_\_\_, Examiner

Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3  
4 CERTIFICATE OF COURT REPORTER

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

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

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

20  
21 *Mary C. Hankins*

22 MARY C. HANKINS, CCR, RPR  
23 Certified Court Reporter  
24 New Mexico CCR No. 20  
25 Date of CCR Expiration: 12/31/2016  
Paul Baca Professional Court Reporters