

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

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

ORIGINAL

4 AMENDED APPLICATION OF COG OPERATING,  
5 LLC TO RE-OPEN CASE NUMBER 14795 TO  
6 POOL THE INTERESTS OF ADDITIONAL  
7 MINERAL OWNERS UNDER THE TERMS OF  
8 COMPULSORY POOLING ORDERS R-13535 AND  
9 R-13535-A, EDDY COUNTY, NEW MEXICO.

CASE NO. 14795  
(Re-opened)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 4, 2016

Santa Fe, New Mexico

10  
11  
12  
13  
14 BEFORE: WILLIAM V. JONES, CHIEF EXAMINER  
15 DAVID K. BROOKS, LEGAL EXAMINER

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17 This matter came on for hearing before the  
18 New Mexico Oil Conservation Division, William V. Jones,  
19 Chief Examiner, and David K. Brooks, Legal Examiner, on  
20 Thursday, August 4, 2016, at the New Mexico Energy,  
21 Minerals and Natural Resources Department, Wendell Chino  
22 Building, 1220 South St. Francis Drive, Porter Hall,  
23 Room 102, Santa Fe, New Mexico.

24 REPORTED BY: Mary C. Hankins, CCR, RPR  
25 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 JORDAN L. KESSLER, ESQ.  
4 HOLLAND & HART  
5 110 North Guadalupe, Suite 1  
6 Santa Fe, New Mexico 87501  
7 (505) 988-4421  
8 jlkessler@hollandhart.com

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8 INDEX

9 PAGE

10 Case Number 14795 Called 3

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

12 Witnesses:

13 Joseph Scott:

14 Direct Examination by Ms. Kessler 3

Cross-Examination by Examiner Jones 8

15 Cross-Examination by Examiner Brooks 10

16 Proceedings Conclude 10

17 Certificate of Court Reporter 11

18

19 EXHIBITS OFFERED AND ADMITTED

20 COG Operating, LLC Exhibit Numbers 1 through 6 8

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1 (2:35 p.m.)

2 EXAMINER JONES: Call Case Number 14795,  
3 which is the amended application of COG Operating, LLC  
4 to re-open Case Number 14795 to pool the interests of  
5 additional mineral owners under the terms of compulsory  
6 pooling Orders R-13535 and R-13535-A, Eddy County, New  
7 Mexico.

8 Call for appearances.

9 MS. KESSLER: Jordan Kessler on behalf of  
10 the Applicant. The same witness, Mr. Examiners.

11 JOSEPH SCOTT,

12 after having been previously sworn under oath, was  
13 questioned and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. KESSLER:

16 Q. Please state your name for the record and tell  
17 the Examiners by whom you're employed and in what  
18 capacity.

19 A. Joseph Scott, COG Operating, LLC. I'm a  
20 landman.

21 Q. Have you previously testified before the  
22 Division?

23 A. Yes.

24 Q. And were your credentials as a petroleum  
25 landman accepted and made a matter of record?

1 A. Yes.

2 Q. Are you familiar with the application filed in  
3 this case?

4 A. Yes.

5 Q. And you're familiar with the status of the  
6 lands in the subject area?

7 A. Yes.

8 MS. KESSLER: Mr. Examiners, I'd tender  
9 Mr. Scott as an expert in petroleum land matters.

10 EXAMINER JONES: He is so qualified.

11 Q. (BY MS. KESSLER) Mr. Scott, if you could turn  
12 to Exhibit 1, is this the Pooling Order R-13535 entered  
13 by the Division in April of 2012?

14 A. Yes.

15 Q. Did this create a nonstandard spacing unit?

16 A. Yes, it did.

17 Q. What acreage was that?

18 A. It created the -- the east half-east half of  
19 Section 31, 18 South, 26 East, in Eddy County,  
20 New Mexico, pooling all the unknown owners at the time.

21 Q. In the Yeso Formation?

22 A. In the Yeso Formation.

23 Q. And that would have been for the Penasco Draw  
24 San Andres-Yeso Associated Pool, correct?

25 A. Yes.

1 Q. Did this order dedicate the initial well -- the  
2 spacing unit, initial well at the time, the Falabella 31  
3 Fee 4H well?

4 A. That's correct.

5 Q. And is Exhibit 2 an amended order?

6 A. I have a C-102.

7 EXAMINER BROOKS: Me, too.

8 MS. KESSLER: Sorry. There is --

9 THE WITNESS: Yes, it did. That's correct.  
10 It's the amended order to revise the well name to the  
11 8H.

12 Q. (BY MS. KESSLER) And did this also pool  
13 additional parties?

14 A. I don't believe so.

15 Q. I think if you look at the caption of the case  
16 it says to pool additional mineral interest owners  
17 identified by COG in the spacing unit.

18 A. Oh, okay. Then it did.

19 Q. Looking at Exhibit 2, is this the filed plat  
20 for the initial well?

21 A. Yes, it is.

22 Q. And this provides the pool name and the API  
23 number for the well, correct?

24 A. Correct.

25 Q. Has this well been drilled?

1 A. It has.

2 Q. Why has COG come back to the Division?

3 A. The well was shut in without notifying Land.  
4 We lost leases. And after the JOA expired, we were able  
5 to acquire most of the leasehold owners and the majority  
6 of the working interest owners, but there are still some  
7 outstanding uncommitted owners that we are seeking to  
8 pool.

9 Q. So not all of the interest owners have executed  
10 either an extension of the JOA or a new lease?

11 A. Correct.

12 Q. And they need to be added to the pooling order?

13 A. Correct.

14 Q. Are you also requesting that the Division  
15 revise the order to include the San Andres Formation?

16 A. Yes.

17 Q. And is that to be consistent with the Division  
18 designated pool?

19 A. Yes.

20 Q. Is ownership common between the San Andres and  
21 Yeso Formations?

22 A. Yes.

23 Q. If you look at Exhibit 3, does this identify  
24 the interest owners that COG seeks to add to the pooling  
25 order?

1           A.    Yes, it does.  It identifies it by tract and  
2           ownership, and on the fourth page, it shows the unit  
3           recapitulation and the working interest owners and  
4           mineral owners with the expired leases that we seek to  
5           pool.

6           Q.    Have you been able to locate these interest  
7           owners?

8           A.    All but one, and that is the last one, by the  
9           name of Judith McLaughlin.

10          Q.    Is Exhibit 4 a copy of the letter you sent to  
11          the interest owners to execute a new lease or extend the  
12          operating agreement?

13          A.    Yes.

14          Q.    And in addition to sending these letters, what  
15          other efforts did you undertake to reach an agreement  
16          with these parties?

17          A.    We've made phone calls, sent emails, had a  
18          brokerage try to seek to locate the parties, and we will  
19          continue trying to locate these parties to get everybody  
20          committed.

21          Q.    Again, if they do either execute a new lease or  
22          an operating agreement, then they will be released from  
23          the pooling order?

24          A.    That's correct.

25          Q.    Is Exhibit 5 an affidavit prepared by my office

1 with attached letters providing notice of this hearing  
2 and that we seek to add to the pooling order?

3 A. Yes.

4 Q. And is Exhibit 6 a Notice of Publication?

5 A. Yes.

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

8 A. 1 through 6?

9 Q. I'm sorry. 1 through 4.

10 A. 1 through 4? Oh, yes. Yes.

11 MS. KESSLER: Mr. Examiner, I would move  
12 Exhibits 1 through 6, which would include my affidavits.

13 EXAMINER JONES: Exhibits 1 through 6 are  
14 admitted.

15 (COG Operating, LLC Exhibit Numbers 1  
16 through 6 are offered and admitted into  
17 evidence.)

18 CROSS-EXAMINATION

19 BY EXAMINER JONES:

20 Q. This Falabella was the subject of a hearing to  
21 allow well tests to be used for commingling of  
22 production and also within Section 31. Is that going to  
23 become a factor at all, do you know, or are we just --  
24 at that time everybody agreed to use well tests, and we  
25 got the orders in the well. I guess we won't have some

1 kind of legal issue about whether it would affect that.  
2 I don't think we have anything in our rules saying if  
3 somebody sells an interest in a well, it's already been  
4 approved for surface commingling, that it would affect  
5 the surface commingling.

6 EXAMINER BROOKS: Well, I think it's clear  
7 that when the interest is transferred -- I mean, no,  
8 it's not in the rules, but I think it's always been  
9 understood. I don't think there's ever been any  
10 question about the fact that the authority goes with the  
11 assignment unless -- except in regard to those types of  
12 permits where there is a specific provision in the  
13 contract such as SWDs. I believe there is in SWDs. I  
14 know there is in environmental permits, but not on  
15 temporary -- not on anything with operations.

16 EXAMINER JONES: So this is an oil -- this  
17 is an associated pool, but it's an oil well because it's  
18 less than 10,000 GOR; is that correct?

19 THE WITNESS: I'm not qualified to answer  
20 that.

21 EXAMINER JONES: That's what records show.

22 THE WITNESS: Okay.

23 EXAMINER JONES: Came in a lot less than  
24 10,000, and they called it oil, so it's got only 40-acre  
25 spacing.

1 MS. KESSLER: Correct.

2 EXAMINER JONES: That's to the bigger  
3 spacing.

4 I don't think I have any more questions.  
5 David, do you have any questions?

6 CROSS-EXAMINATION

7 BY EXAMINER BROOKS:

8 Q. Yeah. You're not adding any new interests to  
9 this one, as I understand it? You're just trying to  
10 repool the ones you had pooled before?

11 A. No. We are adding uncommitted owners. They  
12 were once committed.

13 Q. Yeah. They were once committed.

14 A. Yes.

15 Q. You're not -- you haven't discovered any  
16 interests that have never been brought into this?

17 A. No, sir. No, sir. These were -- these were  
18 owners once committed and no longer are committed.

19 Q. Thank you.

20 MS. KESSLER: Thank you, Mr. Examiners.

21 EXAMINER JONES: Okay. We're taking Case  
22 Number 14795 under advisement.

23 (Case Number 14795 concludes, 2:44 p.m.)

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

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