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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                   CASE NO. 15526  
FOR A NONSTANDARD SPACING AND  
PRORATION UNIT AND COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 4, 2016

Santa Fe, New Mexico

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

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RECEIVED

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 JORDAN L. KESSLER, ESQ.  
 and  
 4 MICHAEL FELDEWERT, ESQ.  
 HOLLAND & HART  
 5 110 North Guadalupe, Suite 1  
 Santa Fe, New Mexico 87501  
 6 (505) 988-4421  
 jlkessler@hollandhart.com  
 7

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1 (1:35 p.m.)

2 EXAMINER McMILLAN: Call Case Number 15526,  
3 application of COG Operating, LLC for a nonstandard  
4 spacing and proration unit and compulsory pooling, Lea  
5 County, New Mexico.

6 Call for appearances.

7 MS. KESSLER: Jordan Kessler, from the  
8 Santa Fe office of Holland & Hart, on behalf of the  
9 applicant. And we have two witnesses for this case.

10 EXAMINER JONES: Other appearances?

11 Will the witnesses please stand and the  
12 court reporter swear the witnesses?

13 (Joseph Scott and Drew Nelson sworn.)

14 MS. KESSLER: Mr. Examiners, I'd like to  
15 give just a brief opening statement to remind the  
16 Division of this existing order.

17 In this case, Sneed is -- COG is seeking to  
18 pool only a portion of the pool that covers the Yeso  
19 Formation. We're only seeking to pool the portion that  
20 covers the Blinebry and the Paddock members of the Yeso.

21 As you may recall, the Commission  
22 recognized the Division's statutory authority to pool  
23 only portions of the pool, and that was the Sneed 9 #23H  
24 well, which resulted in Order Number 14023-A. And a  
25 copy of that is included in the exhibits I just handed

1 you.

2           That order did three things. It confirmed  
3 the Division's authority to pool a portion of the pool.  
4 It determined that the lower portions of the pool in  
5 Section 9 would not contribute hydrocarbons to the  
6 wellbore. And that was because the Tubb is in this  
7 section is wet, as you may recall, and not considered  
8 productive of hydrocarbons. And lastly, it affirmed, to  
9 protect COG's correlative rights, the Division should  
10 only pool a portion of the pool because otherwise COG  
11 would be forced to share production with the owner in  
12 the deeper zone who would not be contributing  
13 hydrocarbons to the wellbore.

14           So after that order -- that was the Sneed  
15 23H order. After that order, we had Division Order  
16 14189, which applied those findings to the Branex well.  
17 Both of those wells are offsets to the well that we are  
18 going to discuss here today, identical facts in all of  
19 those situations. Depth severance exists at the base of  
20 the Blinebry, and COG only seeks to pool the productive  
21 portion of the Yeso.

22           EXAMINER BROOKS: You have the same  
23 situation in the sense that you had the -- you have the  
24 express consent of the only person who owns rights in  
25 the Tubb?

1 MS. KESSLER: That's correct. You'll see  
2 today that one of the exhibits is a letter from that  
3 owner.

4 The only difference, again, here between  
5 the Sneed 23H and the Sneed 11H, which is the well at  
6 issue today, is the target interval. So the Sneed 23H,  
7 Concho was about 400 feet from the severance line in  
8 that case, and today we're approximately 1,100 feet from  
9 the depth severance.

10 So unless you have any questions, I'll move  
11 forward with my main land witness.

12 EXAMINER BROOKS: Nope, not now.

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

16 DIRECT EXAMINATION

17 BY MS. KESSLER:

18 Q. Can you please state your name for the record  
19 and tell the Examiners by whom you're employed and in  
20 what capacity.

21 A. Joseph Scott. I'm a landman. I work for COG  
22 Operating, LLC.

23 Q. Have you previously testified before the  
24 Division?

25 A. Yes, I have.

1 Q. Were your credentials as a petroleum landman  
2 accepted and made a matter of record?

3 A. Yes, they were.

4 Q. Are you familiar with the application filed in  
5 this case?

6 A. Yes, I am.

7 Q. And are you familiar with the status of the  
8 lands in the subject area?

9 A. Yes, I am.

10 MS. KESSLER: I would tender Mr. Scott as  
11 an expert in petroleum land matters.

12 EXAMINER JONES: He is so qualified.

13 Q. (BY MS. KESSLER) Would you please turn to  
14 Exhibit 1 and explain what COG seeks for this  
15 application?

16 A. This is our C-102 for the Sneed Federal Com  
17 11H. It's located in the north half-north half of  
18 Section 9 and the northwest-northwest of Section 10, 17  
19 South, 32 East, Lea County, New Mexico. We seek to  
20 create a nonstandard spacing unit. We seek to pool all  
21 the uncommitted interest owners. We seek to pool a  
22 portion of the Yeso, from the top of the Yeso to the  
23 base of the Blinebry, and we seek to pool a portion of  
24 the pool of the Maljamar; Yeso West.

25 Q. And this would be a nonstandard spacing unit of

1 approximately 200 acres; is that correct?

2 A. Yes, that's correct.

3 Q. And is it actually listed on the C-102 as  
4 200.01?

5 A. Yes, it is, because the lot's in the  
6 northwest-northwest.

7 Q. And the C-102 also provides the pool and pool  
8 code?

9 A. Yes, it does.

10 Q. And the API number for this well?

11 A. Yes, it does.

12 Q. Will the completed interval comply with the  
13 Division's 330-foot statewide setback requirement?

14 A. Yes.

15 Q. Is COG Exhibit 2 the Oil Conservation  
16 Commission's order approving COG's application to pool  
17 only a portion of the pool for the Sneed 9 #23H well?

18 A. Yes.

19 Q. And does the acreage for the Sneed 11H well  
20 also have a depth severance like the Sneed 23H well?

21 A. Yes.

22 Q. It's also at the base of the Blinebry, correct?

23 A. Yes. It's the exact, same depth severance.

24 Q. And did the Division also approve a pooling  
25 order for the Branex 15H well?

1 A. Yes, they did.

2 Q. Same depth severance?

3 A. Same depth severance, same owner.

4 Q. Is that Order R-14189?

5 A. Yes, I believe so.

6 Q. And the Branex is also in Section 9, correct?

7 A. It is, yes.

8 Q. Let's look at Exhibit 3. This shows the  
9 project area for the Sneed 11H well, correct?

10 A. Yes, that's correct? It's located -- the top  
11 red line indicates our proposed well. The lower red  
12 line is a well that's already been drilled.

13 Q. And the project area for the Sneed 23H would be  
14 directly below that, correct?

15 A. That's correct.

16 Q. Turning to Exhibit 4, what is this exhibit?

17 A. This is our Yeso -- Yeso interval type log.  
18 It's a type log that shows the depths of our Yeso  
19 Formation. It shows the depths of the different zones.  
20 And the blue shows the depth that we propose to land our  
21 well at.

22 Q. This shows an area that's covered by the  
23 Maljamar; Yeso Pool, correct?

24 A. That's correct.

25 Q. And it shows the landing depth of the proposed

1 well at 5,750 feet?

2 A. That's correct.

3 Q. And then the depth severance would be at the  
4 base of the Blinebry, top of the Tubb, right?

5 A. That's correct. It's 6,852 feet.

6 Q. So there's about 1,100 feet from the proposed  
7 lateral to the depth-severance line?

8 A. Correct.

9 Q. Why are you seeking the depth severance from  
10 the top of the pool to the base of the Blinebry?

11 A. The depth severance created by an owner prior  
12 to COG acquiring the interest is why we're seeking to  
13 pool just the common interest for those lands.

14 Q. So there is different ownership above and below  
15 the base of the Blinebry?

16 A. Yes.

17 Q. Have you brought a geologist who will show that  
18 the -- that the Tubb interval below the base of the  
19 Blinebry is not productive of hydrocarbons?

20 A. Yes.

21 Q. And there is an interest owner that only owns  
22 below the base of the Tubb -- or below the base of the  
23 Blinebry; is that correct?

24 A. That's correct.

25 Q. That would be Este, LTD?

1 A. That's correct.

2 Q. Is COG's working interest above and below the  
3 base of the Blinebry different?

4 A. Yes, it is.

5 Q. And this is because of the divided ownership,  
6 correct?

7 A. Correct.

8 Q. And you seek to pool only a portion of the Yeso  
9 with common ownership?

10 A. That's correct.

11 Q. Let's look at Exhibit 5. What is this exhibit?

12 A. This is an exhibit showing a plat where the  
13 well's located and the ownership. On the plat, you'll  
14 see the three colors, and that's indicated on the first  
15 column. And that shows our working interest in each  
16 tract, all parties' working interest. And the blue  
17 shows our working interest from the top of the Yeso to  
18 the base of the Blinebry, and the red column shows the  
19 working interest below the base of the Blinebry to the  
20 base of the Yeso.

21 Q. So the only tract with a depth severance is  
22 Tract 2, correct?

23 A. That's correct.

24 Q. That's highlighted in red?

25 A. That's correct.

1 Q. And prior to this hearing, did COG provide  
2 notice to Este, LTD that it was only seeking to pool to  
3 the base of the Blinebry?

4 A. Yes.

5 Q. Did you have any objection from them?

6 A. No.

7 Q. And did you visit with them about pooling only  
8 the Paddock and the Blinebry intervals?

9 A. I did. I had a full conversation with them and  
10 also provided a letter.

11 Q. Is Este's letter of support of COG's  
12 application included as Exhibit 6?

13 A. Yes, it is.

14 Q. And it's confirming that they have -- for the  
15 23H and the Branex well, that they agree with COG  
16 pooling only a portion of the pool?

17 A. That's correct.

18 Q. Let's look at Exhibit 7. Is this a well  
19 proposal letter that you sent to the working interest  
20 owners for this well?

21 A. Yes.

22 Q. Are the uncommitted working interest owners all  
23 aware of this pooling application?

24 A. Yes.

25 Q. And did they have any objection to pooling only

1 a portion of the pool?

2 A. No.

3 Q. Did the working interest letter -- the well  
4 proposal letter to the working interest owners also  
5 include an AFE?

6 A. Yes.

7 Q. Did the AFE reflect what COG incurs for  
8 drilling similar horizontal wells in the area?

9 A. Yes, it does.

10 Q. Have you also estimated overhead and  
11 administrative costs for drilling and producing the  
12 well?

13 A. Yes, we have.

14 Q. What are those costs?

15 A. It is 7,000 for drilling costs and 700 for  
16 producing costs.

17 Q. And are those rates consistent with what other  
18 operators are charging for similar wells in this area?

19 A. Yes.

20 Q. Do you seek to have those costs adjusted in  
21 accordance with the COPAS accounting procedures?

22 A. Yes.

23 Q. And for any uncommitted working interest  
24 owners, do you request that the Division impose a 200  
25 percent risk penalty?

1 A. Yes.

2 Q. If you could turn to Exhibit 8, does this  
3 exhibit identify interests in the proposed spacing unit  
4 by tract?

5 A. Yes, it does.

6 Q. In addition to the working interest owners,  
7 what other interest does COG seek to pool in this  
8 application?

9 A. Can you repeat the question, please?

10 Q. Sure. Looking at page 2 of this exhibit, are  
11 there other interests besides the working interest  
12 owners that COG seeks to pool with this application?

13 A. Yes, there are.

14 Q. That would be overriding royalty interest  
15 owners?

16 A. Oh, it's on page 2. I'm sorry.

17 Q. Sure. Page 2 --

18 A. It's on page 2. Excuse me.

19 Q. -- of that exhibit.

20 A. Yes. There are uncommitted override owners,  
21 unmarketable title owners and record title owners.

22 Q. Is Exhibit 9 a letter that you sent to  
23 overriding royalty interest owners?

24 A. Yes. This is a letter we went to the override  
25 owners requesting them to voluntary pool their interests

1 in accordance with the BLM's requirement to follow the  
2 comm agreement.

3 Q. And are you seeking to pool them because the  
4 interest owners don't have language expressly  
5 authorizing pooling in their underlying instrument?

6 A. That's correct.

7 Q. And Exhibit 10, is that a letter that you sent  
8 to the record title owner?

9 A. Yes.

10 Q. Have you also attempted to reach an agreement  
11 with them?

12 A. Yes, I have.

13 Q. But you so far have been unsuccessful?

14 A. No. They're just going real slow these days.

15 Q. If we could turn back to Exhibit 8, page 2, it  
16 look likes you're also requesting to pool unmarketable  
17 title; is that correct?

18 A. That's correct.

19 Q. And why is that?

20 A. These owners have a cloud in their title that  
21 is not in compliance with New Mexico title law.

22 Q. Have you attempted to contact them?

23 A. We've had brokers reach out to the owners that  
24 are still alive and reached out to the heirs of those  
25 owners that are deceased notifying them that they have

1 errors in their title and it needs to be corrected and  
2 that there might be some divisional issues if not.

3 Q. Prior to this hearing, did you publish notice  
4 directed by name to all of the unmarketable title  
5 interest owners?

6 A. Yes.

7 Q. Is Exhibit 11 an affidavit prepared by my  
8 office with attached letters providing notice of the  
9 hearing to the participants to be pooled, the offset  
10 interest owners in the 40-acre tract surrounding the  
11 nonstandard space unit and the also the interest owner  
12 below the Blinebry?

13 A. Yes.

14 Q. And is Exhibit 12 a Notice of Publication  
15 directed by name to the unmarketable title parties?

16 A. Yes.

17 Q. Were Exhibits 1 through 10 prepared by you or  
18 compiled under your direction and supervision?

19 A. Yes.

20 MS. KESSLER: Mr. Examiners, I'd move  
21 admission of Exhibits 1 through 12, including my  
22 affidavit.

23 EXAMINER JONES: 1 through 12 are admitted.  
24 (COG Operating, LLC Exhibit Numbers 1  
25 through 12 are offered and admitted into

1 evidence.)

2 CROSS-EXAMINATION

3 BY EXAMINER JONES:

4 Q. The interest owners below the Blinebry, Este --  
5 was that the -- is that the only one?

6 A. That's the only one.

7 Q. Okay. So as far as creating a nonstandard  
8 proration unit vertically, that's the people that would  
9 be left out; is that correct?

10 A. That's correct.

11 Q. Okay. It wouldn't affect any other --

12 A. No other owners in the pool itself.

13 Q. Below that depth?

14 A. Below that depth.

15 Q. Now, this business about the base of the  
16 Blinebry, is that something that's in a land title --  
17 what I mean is it seems like we're mixing geology and  
18 land here. I mean -- because the base of the Blinebry  
19 might be a little bit -- is there a depth that it  
20 specifies, or does it say "base of the Blinebry"?

21 A. It says "the base of the Blinebry." It's  
22 not -- it's not 5,550 feet or anything like that. It  
23 actually states "the base of the Blinebry."

24 Q. It's not like the Birch Keely [phonetic] deal  
25 all over again?

1 EXAMINER BROOKS: Or the case we heard this  
2 morning.

3 EXAMINER JONES: Yeah.

4 Q. (BY EXAMINER JONES) So how long ago was this  
5 division -- was the interest --

6 A. Severed? I want to say in 2011, Este assigned  
7 their interest over to a company called Hawking  
8 [phonetic]. Hawking then assigned their interest over  
9 to us. So Este still owns the interest that they  
10 retained, and we own everything else that Hawking was  
11 assigned.

12 Q. So it was after the Marbob days and everything?  
13 It was definitely after that?

14 A. It could have been. Yeah, 2011. It was after  
15 Marbob.

16 Q. I think this area -- this is covered by that  
17 Marloco order that got reversed, and it just retained  
18 allowable issues. So it's got a special depth bracket  
19 allowable, I believe; is that correct?

20 A. Yeah. I believe this area does have a special  
21 allowable.

22 Q. For the Maljamar West; Yeso West Pool?

23 A. I believe it does. I'm not positive.

24 Q. And also in this -- in this unit or  
25 equivalent -- northwest-northwest of Section 10, the

1 Division put down 170 acres for that whole project area,  
2 but it looks like there's six lots, is that correct, in  
3 there within the --

4 A. Yes.

5 Q. The seventh lot should be 30 acres, shouldn't  
6 it?

7 A. It's a very odd quarter-quarter section.  
8 Normally it's one lot for, you know, more or less than  
9 40 acres. For whatever reason, they created six lots  
10 within this quarter-quarter section, and that's in the  
11 southeast-southeast. And it's in the north -- the  
12 northwest -- north half of the northwest and the  
13 southwest of the northwest. It's normal legal  
14 description language, so it's very unique. So when we  
15 filed our C-102, the OCD or whoever approves the C-102,  
16 their system just couldn't accept it. It was either a  
17 lot or a unit letter but not six lots and  
18 quarter-quarter-quarter sections included.

19 Q. Yeah. Yeah. I --

20 A. But we're in the process of working with this  
21 Division in Santa Fe to resolve that issue.

22 Q. Okay. Since it's BLM lands, maybe they can  
23 create a pseudo lot or something that will take care of  
24 the extra 30 acres or something. I don't know what  
25 they --

1           A.    I know we're in the process of getting the  
2 C-102 resolved.

3                   MS. KESSLER:  And we have included as  
4 Exhibit 1 the revised C-102 that's being submitted.

5                   EXAMINER JONES:  Okay.  I think that's -- I  
6 think it's an ONGARD issue.  The way they wrote the  
7 program, our permitting doesn't allow for something like  
8 this.

9                   I don't have any other questions.  I'll  
10 turn it over to Mr. Brooks.

11                                   CROSS-EXAMINATION

12 BY EXAMINER BROOKS:

13           Q.    Okay.  Este is the only person who owns below  
14 the Tubb but it does not own above the Tubb, right?

15           A.    Correct.

16           Q.    So above the Tubb, it's -- the same interest  
17 that Este owns below the Tubb is owned by COG above the  
18 Tubb, right?

19           A.    More or less.  They retained an override in the  
20 whole thing.

21           Q.    Okay.  So they have an override?

22           A.    They have an override in the lands that we're  
23 proposing the well.  It's in his individual name, and  
24 the lands below it, for whatever reason, he assigned to  
25 his own individual entity, which is called Este.  But at

1 the end of the day, he still owns uniform throughout the  
2 entire Yeso, but there are two different entities, his  
3 individual name and his LLC or his LLT [sic].

4 Q. Yeah. But he owns only an override?

5 A. That's correct.

6 Q. And the working interest --

7 A. Oh. And the working interest is owned by COG.

8 Q. -- is owned by COG?

9 There is nobody else?

10 A. Nobody else.

11 Q. Everybody else owns an interest in the Blinebry  
12 and the Tubb?

13 A. That's correct.

14 Q. Okay. I don't understand this lot issue that  
15 Mr. Jones was asking about. Can you explain it?

16 A. Let me refer to that exhibit.

17 Q. I'm looking at Exhibit 1.

18 A. If you would refer -- Exhibit 1. Perfect,  
19 actually.

20 So Section 10, the section -- yeah, Section  
21 10, in the northwest-northwest --

22 Q. Right.

23 A. -- it doesn't depict the lots, but in that  
24 southeast quarter, if you look on like a geo plat [sic],  
25 whatever, you'll see six lots just in the southeast

1 quarter --

2 Q. Yeah.

3 A. -- and then the legal description of the  
4 remaining portions of that quarter-quarter are as you  
5 would write it any other way without having lots.

6 Q. So -- okay. Now let's go over that again.  
7 Southeast quarter of Section 10.

8 EXAMINER JONES: Actually, southeast of  
9 this, right? Their lots are right there.

10 EXAMINER BROOKS: Southeast of northwest.

11 THE WITNESS: Southeast of northwest, yes,  
12 sir.

13 Q. (BY EXAMINER BROOKS) And the dots show the lots  
14 are --

15 A. No. The dots --

16 Q. Oh, the dots are the setback?

17 A. Yes. Yes.

18 Q. There are lots -- there are six lots within the  
19 southeast of the northeast, what geographically is the  
20 southeast to the northeast; is that right?

21 A. It's the southeast of the northwest-northwest.

22 Q. Southeast of the northwest -- southeast of the  
23 northwest of the northwest. So we're talking about a  
24 10-acre tract?

25 A. Yes, 10.01.

1 Q. And that has six lots?

2 A. Yeah.

3 Q. That's divided in six lots?

4 A. Yes.

5 Q. Okay. Now, you don't have a copy of that plat  
6 as an exhibit?

7 A. I don't.

8 Q. Can you furnish us one?

9 A. I sure can.

10 Q. I appreciate it. Thank you very much.

11 EXAMINER JONES: It'll be in your emails.

12 Q. (BY EXAMINER BROOKS) Now, explain to me what  
13 the discrepancy is. You would -- first of all, what is  
14 the acreage that we're -- what is the area you're asking  
15 us to pool?

16 A. We're asking to pool all five of the 40-acre  
17 tracts, but we're not trying to --

18 Q. Yeah. So you're trying to pool the north half  
19 of the -- north half-north half of Section 9 and the  
20 northwest-northwest of Section 10?

21 A. Right.

22 And so normally when you have a  
23 quarter-quarter section and it's more or less than 40  
24 acres --

25 Q. Right.

1           A.    -- of the Lot 1, 2, 3, so on, for whatever  
2 reason, somebody put in this 40-acre tract, six lots  
3 only in the southeast quarter, made up of 10.1 acres,  
4 and the rest of the legal description is however you  
5 would write it --

6           Q.    10 -- six lots totaling 10.1 acres?

7           A.    Yes.

8           Q.    Okay. So they're little, tiny lots?

9           A.    Yes.

10          Q.    And the rest of the description would be the  
11 north half and the southeast quarter of the northwest  
12 quarter of the northwest quarter?

13          A.    The north -- yes. Yes.

14          Q.    So if you said -- the description -- the legal  
15 description would be Lots 1 through 6 and the north half  
16 of the north -- the north half and southeast quarter of  
17 the northwest quarter of the northwest quarter --

18          A.    Yes.

19          Q.    -- parentheses, northwest-northwest equivalent?

20          A.    Yes.

21                   MS. KESSLER: We also put, Mr. Examiner, in  
22 our application, "the northwest of the northwest,  
23 including Lots 1 through 6."

24          Q.    (BY EXAMINER BROOKS) Yeah. So the acreage  
25 access is very small, actually, here. This is

1 approximately a 200-acre project area?

2 A. Correct.

3 Q. 200.1 or something like that?

4 A. Correct.

5 Q. So why is there a 30-acre discrepancy?

6 A. Well, on our corrected C-102 that we have in  
7 our exhibit here -- this is the corrected C-102 we're  
8 currently resubmitting, and our counsel is helping us --

9 Q. Oh, okay.

10 EXAMINER JONES: This shows the lots, but  
11 it doesn't show the 30-acre remainder in equivalent  
12 northwest-northwest. So Lots 1 through 6 -- but the  
13 system doesn't have it.

14 EXAMINER BROOKS: On a computer model which  
15 just shows squares and doesn't have -- that's why we  
16 need the actual plat, of course. But how we're going to  
17 deal with it from a data process standpoint, we'll have  
18 to ask somebody who knows something about that process  
19 because neither the engineer or the lawyer are competent  
20 to address that issue.

21 Okay. Very good. I think I understand it  
22 now.

23 Q. (BY EXAMINER BROOKS) There's -- I believe you  
24 testified that there is a fairly large distance between  
25 where the well is going to be landing and the base of

1 the Blinebry.

2 A. Approximately 1,100 feet.

3 Q. Now, is the -- the base of the Blinebry, that  
4 is a -- well, this is a question for the geologist. Do  
5 you have a geologist?

6 MS. KESSLER: We do.

7 THE WITNESS: We do.

8 EXAMINER BROOKS: I'll save that question  
9 for the geologist.

10 Thank you.

11 THE WITNESS: Thank you.

12 EXAMINER BROOKS: Oh, I have one more  
13 question for the last witness.

14 Is anybody going to object if he answers it  
15 from his chair?

16 Okay. It'll be very brief.

17 You said that there were defects in  
18 marketable title. Is that because these lands are  
19 titled to deceased persons, and they have not been --  
20 there has not been administration on the estate? Is  
21 that the issue?

22 THE WITNESS: That's one of the problems,  
23 possibly gaps in title, signing -- trust -- trust  
24 signing leases without trust agreements -- or power of  
25 attorney to sign as a trustee, just little, bitty --

1 EXAMINER BROOKS: Yeah. So it's a variety  
2 of things?

3 THE WITNESS: It's a variety of broken  
4 title, yes.

5 EXAMINER BROOKS: Not any one issue.

6 Okay. Well, thank you. That's all I  
7 wanted to know. I'm through.

8 MS. KESSLER: I'll call my next witness,  
9 please.

10 EXAMINER BROOKS: Sorry for the rewrite.

11 DREW NELSON,  
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 are employed and in what  
18 capacity.

19 A. I'm Drew Nelson. I'm the senior geologist with  
20 COG Operating, LLC.

21 Q. Have you previously testified before the  
22 Division as an expert in petroleum geology?

23 A. No, I have not.

24 Q. Can you please outline your educational  
25 background?

1           A.    Yes.  I completed my bachelor of science in  
2 geology, University of Nebraska, 2010.  I attended  
3 Oklahoma State University for my master's in science,  
4 where I interned with SM Energy, and now I'm currently  
5 employed, as of 2012, with COG Operating, LLC.

6           Q.    Have your responsibilities included the Permian  
7 Basin?

8           A.    Yes, they have.

9           Q.    Approximately how long?

10          A.    Approximately four years.

11          Q.    And are you a member of any professional  
12 associations?

13          A.    Yes.  I'm a board member of SIPES.  I'm a  
14 member of AAPG, WTGS, ETPN [phonetic] and AIS.

15          Q.    Are you familiar with the application that's  
16 been filed in this case?

17          A.    Yes, I am.

18          Q.    And have you conducted a geologic study of the  
19 lands that are the subject of this area?

20          A.    Yes, I have.

21                   MS. KESSLER:  I would tender Mr. Nelson as  
22 an expert in petroleum geology.

23                   EXAMINER JONES:  He is so qualified.

24          Q.    (BY MS. KESSLER) If you'll turn back to Exhibit  
25 3, is this a locator map for the proposed well?

1 A. Yes, it is.

2 Q. It identifies the proposed unit orientation of  
3 the well?

4 A. Yes, it does.

5 Q. And COG acreage is highlighted in yellow,  
6 correct?

7 A. That's correct.

8 Q. What are the dots?

9 A. The dots are wells that are completed in the  
10 Paddock and Blinebry intervals.

11 Q. So we see the lateral for the Sneed 11H. Where  
12 is the Sneed 23H?

13 A. Just to the south.

14 Q. And do you understand the Sneed 23H well is the  
15 subject of Commission Order R-14023-A?

16 A. Yes, I do.

17 Q. Are you familiar with that order?

18 A. Yes, I am.

19 Q. If you could turn to Exhibit 2, the Sneed Order  
20 14023-A, except for certain findings, is related to the  
21 geology in Section 9; is that correct?

22 A. Yes, it is.

23 Q. If we look at paragraph five on page 4, does  
24 this state that the Tubb is wet and does not contain  
25 recoverable hydrocarbons?

1 A. Yes, it does.

2 Q. And does it also state in paragraph B that the  
3 Drinkard interval is unlikely to be productive?

4 A. Yes, it does.

5 Q. By turning the page and looking at paragraph  
6 six, does this state that pooling only the Paddock and  
7 the Blinebry is just and reasonable given that the Tubb  
8 and Drinkard do not contain hydrocarbons?

9 A. Yes, it does.

10 Q. Does pooling the entire -- Este receiving a  
11 share of the -- despite not contributing to the  
12 wellbore?

13 A. Yes, it does.

14 Q. And you mention that the Sneed 11H is an offset  
15 well to the Sneed 23H, correct?

16 A. Yes, that's correct.

17 Q. In your opinion, are there any significant  
18 differences in the geology underlying the south half of  
19 the north half and the north half of the north half in  
20 Section 9?

21 A. No, there are not.

22 Q. Why is that?

23 A. The geology between the two wellbores is very  
24 similar. There is no structural differences, no  
25 pinch-outs, no faults, no significant dip or anything

1 like that affecting the two separate wellbores.

2 Q. In your opinion, do the Commission's finding in  
3 this order apply solely to the acreage that is proposed  
4 in the 11H well?

5 A. Yes, they do.

6 Q. And the only difference, again, would be the  
7 landing zone; is that correct?

8 A. That's correct.

9 Q. The target interval is further away from the  
10 depth-severance line?

11 A. That's correct.

12 Q. In your opinion, will the proposed wellbore  
13 produce any hydrocarbons from the Tubb Formation?

14 A. No, it will not.

15 Q. In your opinion, in the subject area, are the  
16 Paddock and Blinebry intervals in the Yeso Formation  
17 common sources of productive hydrocarbons?

18 A. Yes, they are.

19 Q. And in your opinion, is it necessary to pool  
20 only the interest owners above the base of the Blinebry  
21 to protect correlative rights of these owners?

22 A. Yes.

23 Q. Let's turn to Exhibit 3 -- I'm sorry -- 13.

24 Can you please identify this exhibit and walk us through  
25 it?

1           A.     Sure.  This is a location map with the Sneed 9  
2     Federal Com 11H listed.  Also, it's -- there is a  
3     structure map in subsea on the Paddock Formation.  
4     Additionally, the dots, again, are showing Paddock and  
5     Blinebry producing wells in the area.  The structure map  
6     shows there is no significant structural contribution or  
7     change within the proposed well and the other Sneed well  
8     in the area.  The only exception is a slight dip off to  
9     the east.

10          Q.     But no geologic impediments that you've been  
11     able to identify based on the structure?

12          A.     No, no geologic impediments.

13          Q.     Let's turn to Exhibit 14.  What is the line  
14     labeled A to A prime on that exhibit?

15          A.     That's a three-well cross section.

16          Q.     Do you consider the wells on this cross section  
17     representative of wells in the area?

18          A.     Yes, I do.

19          Q.     And is Exhibit 15 a cross section?

20          A.     Yes, it is.

21          Q.     Can you please walk us through this exhibit?

22          A.     Yes.  This is a cross section showing the  
23     Paddock interval in offset wells to the proposed Sneed  
24     Fed Com 11H.  It's showing the top of the Paddock and  
25     the top of the Blinebry, which defines the Paddock

1 interval. It is showing that there is very little  
2 change in thickness across the interval.

3 Q. Based on your geologic study of the area, have  
4 you identified any impediments to identifying the area  
5 using a horizontal well?

6 A. No, I have not.

7 Q. Do you believe the area can be efficiently and  
8 economically developed by using horizontal wells?

9 A. Yes, I do.

10 Q. Do you believe that each tract for the proposed  
11 nonstandard unit will, on average, contribute equally to  
12 the production of the well?

13 A. Yes, I do.

14 Q. And as Joseph previously mentioned, the  
15 completed interval will comply with the horizontal well  
16 setback requirements, correct?

17 A. That is correct.

18 Q. In your opinion, will granting COG's  
19 application be in the best interest of conservation, the  
20 prevention of waste and the protection of correlative  
21 rights?

22 A. Yes.

23 Q. Were Exhibits 13 through 15 prepared by you or  
24 compiled under your direction and supervision?

25 A. Yes, they were.

1 MS. KESSLER: Mr. Examiner, I would move  
2 admission of Exhibits 13 through 15.

3 EXAMINER JONES: Exhibits 13 through 15 are  
4 admitted.

5 (COG Operating, LLC Exhibit Numbers 13  
6 through 15 are offered and admitted into  
7 evidence.)

8 CROSS-EXAMINATION

9 BY EXAMINER JONES:

10 Q. On Exhibit 13, the top portion of the Paddock  
11 is colored in -- shaded in green, is that -- you just  
12 wanted to highlight the productive area of the Paddock?

13 A. It's highlighting -- it's just a different  
14 interval within the Paddock that we use to identify  
15 differences in porosities within the unit.

16 Q. Why is it below -- below -- below the top of  
17 the Blinebry? Is it so low porosity there? Is it  
18 anhydrite or some kind of limestone?

19 A. The majority of the unit is dolomite. So there  
20 is -- there is some anhydrite on very small local areas,  
21 but the entire interval is majority dolomite.

22 Q. So this is just -- this area in the lower part  
23 of the Paddock was just not -- it doesn't have any  
24 secondary porosity development, is that correct, or --

25 A. Well, it's a -- it's a factor of cement- --

1 dolomitization and cementation.

2 Q. Okay.

3 A. So it depends on when the dolomitization takes  
4 place, and it's just a differentiation due to that  
5 timing.

6 Q. Okay. So what kind of fracturing would exist  
7 in the Paddock? Would it -- would it be more fractured  
8 in those tighter rocks that are less -- less developed  
9 as far as matrix porosity?

10 A. Without examining some -- you know, a  
11 seismic -- microseismic or those type of things, I  
12 wouldn't be able to answer that real well.

13 Q. Well, do you have any -- any FMI logs or pours  
14 through this area that you could use to describe --

15 A. Not that I've looked at recently.

16 Q. Okay. So basically it's just an empirical --  
17 some parts produce better than others, and it's hard to  
18 explain exactly why?

19 A. That's correct. It's one of the issues that  
20 we're constantly working at chasing.

21 Q. And you said the Tubb is not productive, and  
22 that other order, I guess, said that also. But why  
23 isn't the Tubb productive?

24 A. The biggest reason is because it's wet. It's  
25 water wet.

1 Q. Okay. And this area where you're at now,  
2 according to your map, the top of the Paddock is higher  
3 on structure, if I'm reading that correctly. So is this  
4 a more gassy area, or does it matter -- does structure  
5 matter that much?

6 A. Structure is not the major component to  
7 production in this area, in my opinion. I don't feel  
8 that structure is the major contributor.

9 Q. Okay. But you have a cluster of really good  
10 vertical drilling.

11 A. Yes.

12 Q. And why -- why is that there and not -- and not  
13 other places to the north like where you're drilling  
14 now?

15 A. Other places could be related to porosities.  
16 There could be a lot of different reasons, and those are  
17 the type of things we're constantly look at, trying to  
18 evaluate. But differences in porosity due to  
19 dolomitization. But I don't feel the structure is a  
20 major component here because, as I said, the only real  
21 instructional influence is the slight dip off to the  
22 east.

23 Q. Okay. Okay. So were those vertical wells  
24 primarily upper Paddock wells?

25 A. Which vertical wells are you referring to?

1 Q. On your exhibit, probably number --

2 A. 3?

3 Q. 13.

4 A. 13.

5 Q. Yeah. You show, actually, Blinebry and  
6 Paddock, I think, if I'm reading this correctly.

7 A. Right. So any of those circles that have both  
8 red and blue are completed in both the Blinebry and the  
9 Paddock interval. They have at least some portion, both  
10 intervals.

11 Q. So they just went through and shot what they  
12 thought looked good and tracked [sic] it from the bottom  
13 up?

14 A. That sounds reasonable to me. I couldn't give  
15 a thorough answer on that, but that sounds reasonable,  
16 yes.

17 Q. Okay. Now, this well that you're referring to  
18 that was the subject of a Commission order, is that  
19 well -- let's say on Exhibit 13, is that the well that  
20 goes a mile and a quarter in the south half of the north  
21 half?

22 A. The south half of the north half?

23 Q. Is that shown on this map?

24 A. Can you repeat your question for me?

25 Q. That well that's the subject of -- it's the --

1 the name of the well escapes me.

2 MS. KESSLER: It's the Sneed 23H.

3 EXAMINER JONES: 23H.

4 You said 1323H.

5 MS. KESSLER: The Sneed 23H.

6 EXAMINER JONES: So it was in Section 13?

7 But it was in Section 9, wasn't it?

8 MS. KESSLER: Yes. It is in Section 9.

9 It's the Sneed 9 #23H.

10 THE WITNESS: That's correct. That's  
11 correct.

12 EXAMINER JONES: 9 #23H.

13 Q. (BY EXAMINER JONES) So was that well in the  
14 south half of the north half?

15 A. Yes, that's correct.

16 Q. Okay. Now, there's another well between that  
17 and your -- your proposed Number 11H that only goes a  
18 mile. Is that -- is that well --

19 A. It's a Paddock well.

20 Q. It's a Paddock well.

21 A. Yes.

22 Q. So that well would have been the subject of  
23 some kind of -- was that subject to the hearing order?

24 A. I'm not completely sure on that.

25 MS. KESSLER: Not to my knowledge,

1 Mr. Examiner.

2 THE WITNESS: I don't know.

3 Q. (BY EXAMINER JONES) Even though the -- isn't it  
4 true it would have been in a tract that would have had  
5 the depth severance, or would that be actually in H?

6 MS. KESSLER: I believe -- I'm trying to  
7 confirm with the landman.

8 WITNESS MR. SCOTT: Yes. There was a  
9 pooling order. That was way before our time and I were  
10 there.

11 EXAMINER JONES: So that was compulsory  
12 pooled?

13 WITNESS MR. SCOTT: I believe so.

14 EXAMINER JONES: But it was not in the  
15 north half-north half. So was it a depth-severance  
16 issue on that one?

17 MR. FELDEWERT: Mr. Examiner, if you won't  
18 hold me to this --

19 EXAMINER JONES: I won't.

20 MR. FELDEWERT: -- my recollection is that  
21 there was no depth severance for that acreage.

22 EXAMINER JONES: That's good enough for me.

23 MS. KESSLER: Takes a village.

24 EXAMINER BROOKS: You can't be prosecuted  
25 for perjury.

1 (Laughter.)

2 MR. FELDEWERT: I'm not --

3 EXAMINER JONES: Okay. Thank you very  
4 much.

5 CROSS-EXAMINATION

6 BY EXAMINER BROOKS:

7 Q. Okay. I will ask the one geologic question I  
8 was going to ask.

9 The Blinebry and the Tubb, is that a marker  
10 that's fairly easy to distinguish?

11 A. It is. It is. It's a persistent marker.

12 Q. So that even though the land person, if I  
13 understood correctly, testified that the depth-severance  
14 instrument just says the Tubb, it would be fairly  
15 objective in terms of exactly where that pattern --

16 A. I want to understand what you mean by  
17 objective.

18 Q. Well, an experienced geologist could pick --  
19 experienced geologists could pick it with a reasonable  
20 degree of consistency.

21 A. Absolutely. Yes.

22 Q. Okay. That's what I mean. Certainly nothing  
23 down underground is absolutely -- and if you're like  
24 Horacio, "without the sensible and true avouch of mine  
25 own eyes," you're not going to be able to get there.

1                   Okay. Thank you.

2                                   RECROSS EXAMINATION

3 BY EXAMINER JONES:

4           Q.    Would all four of these tracts contribute to  
5 the -- all five of these tracts contribute to the  
6 production of the well?

7           A.    Yes. I believe it would.

8           Q.    Thank you very much.

9                           MS. KESSLER: Ask this case be taken under  
10 advisement.

11                           EXAMINER JONES: Taking Case 15526 under  
12 advisement.

13                                   (Case Number 15526 concludes, 2:19 p.m.)

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*I do hereby certify that the foregoing is  
a correct 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 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

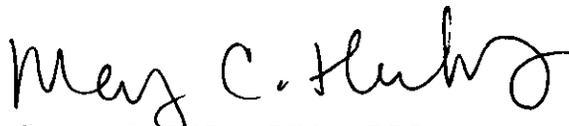
5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of 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

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22

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