

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. 15764

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 3, 2017

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

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This matter came on for hearing before the  
New Mexico Oil Conservation Division, Phillip Goetze,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, August 3, 2017, 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

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APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

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 HOLLAND & HART, LLP  
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1 (10:04 a.m.)

2 EXAMINER GOETZE: Back on the regular  
3 docket, Case Number 15764, application of COG Operating,  
4 LLC for a nonstandard spacing and proration unit and  
5 compulsory pooling, Eddy 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.

10 EXAMINER GOETZE: Any other appearances?

11 MS. KESSLER: Two witnesses today.

12 EXAMINER GOETZE: Would the witnesses  
13 please stand and state your name for the court reporter,  
14 and she shall swear you?

15 MR. BACON: Cody Bacon.

16 MR. REKER: Adam Reker, R-E-K-E-R.

17 (Mr. Bacon and Mr. Reker sworn.)

18 MS. KESSLER: I'll call my first witness.

19 EXAMINER GOETZE: Please.

20 ADAM REKER,  
21 after having been first duly sworn under oath, was  
22 questioned and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. KESSLER:

25 Q. Please state your name for the record and tell

1 the Examiner by whom you are employed and in what  
2 capacity.

3 A. I'm Adam Reker. I'm a landman for COG  
4 Operating, LLC.

5 Q. Have you previously testified before the  
6 Division?

7 A. Yes.

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

10 A. Yes, ma'am.

11 Q. Are you familiar with the application filed in  
12 this case?

13 A. Yes, ma'am.

14 Q. And are you familiar with the status of the  
15 lands in the subject area?

16 A. Yes.

17 MS. KESSLER: Mr. Examiners, I would tender  
18 Mr. Reker as an expert in petroleum land matters.

19 EXAMINER GOETZE: He is so qualified.

20 Q. (BY MS. KESSLER) Mr. Reker, please turn to  
21 Exhibit 1 and explain what COG seeks under this  
22 application.

23 A. This is the C-102 plat for the Malco 23 Fed Com  
24 #13H well. It's in an unorthodox location in the east  
25 half of the west half of Section 23, Township 17 South,

1 Range 28 East, in Eddy County, New Mexico.

2 Q. Are you seeking to pool all of the uncommitted  
3 interest owners in the entire Glorieta-Yeso Pool?

4 A. Yes, we are.

5 Q. And that pool and pool code are both identified  
6 on the C-102; is that correct?

7 A. Yes. It's Pool Code 96210. It's the entire  
8 Glorieta-Yeso Pool.

9 Q. Has an APD been approved for this well?

10 A. Yes, ma'am. The API number is 30-015-44297.

11 Q. And what is the character of the lands that  
12 make up this spacing unit?

13 A. The entire spacing unit is all federal land.

14 Q. For the entire Glorieta-Yeso Pool, do the  
15 Division statewide setbacks apply?

16 A. Yes, 330-foot spacing.

17 Q. This completed interval will not comply with  
18 the Division statewide setbacks?

19 A. It will not. We are applying for an unorthodox  
20 location administratively.

21 Q. And I understand that that application has been  
22 submitted but not yet approved?

23 A. Correct. We have a sundry from the BLM that  
24 has been approved for that unorthodox -- unorthodox  
25 location, but the OCD has not approved it yet.

1 Q. Are there any depth severances in this area?

2 A. No.

3 Q. Let's turn to Exhibit 2. Is this an ownership  
4 outline showing ownership by tract in the proposed  
5 spacing unit?

6 A. Yes.

7 Q. What interests are you seeking to pool?

8 A. So on this exhibit, all of the owners in bold  
9 have not committed to the spacing unit. So all of the  
10 owners in bold on my exhibit, Exhibit 2, are the owners  
11 we're seeking to pool, the working interest owners.

12 Q. They're all working interest owners?

13 A. Yes.

14 Q. And does the -- if they're not bolded, does  
15 this indicate that they have signed an AFE?

16 A. Correct. They have signed the AFE, and they  
17 are on board for this well.

18 Q. Is Exhibit 3 a copy of the well-proposal letter  
19 that you sent to the working interest owners in this  
20 well?

21 A. Yes.

22 Q. When did you send this letter?

23 A. May 4th, 2017. All letters went out on that  
24 date.

25 Q. And on the third page of that letter, is that

1 **an AFE?**

2 A. Yes. AFEs went out with each proposal letter.

3 **Q. Are the costs on this AFE consistent with what**  
4 **other operators in the area charge for similar wells?**

5 A. Yes, ma'am.

6 **Q. Please discuss the additional efforts that you**  
7 **undertook to reach agreement with the parties you're**  
8 **requesting to pool.**

9 A. It varied by owner. We're actually in  
10 negotiations to buy three of the owners' interests.  
11 Additionally, I requested that COG get a term assignment  
12 from all owners. Some have been completely  
13 unresponsive. Some, we have negotiated the JOA, and  
14 they just haven't signed it yet. So they are on my list  
15 to be pooled today, but we will get a voluntary  
16 agreement by spud. But it kind of varied depending on  
17 which owner it was. Some were completely unresponsive,  
18 like I said. But I did make efforts to term assign  
19 every owner in the spacing unit.

20 **Q. Did the well-proposal letter also offer a term**  
21 **assignment --**

22 A. Additionally, the proposal letter did, as you  
23 can see in that third or fourth paragraph in the  
24 terms -- initial terms that I set out.

25 **Q. And if you reach agreement with any of the**

1 parties you are now requesting to pool, will you  
2 identify the Division?

3 A. Yes.

4 Q. Have you estimated overhead and administrative  
5 costs for drilling and producing this well?

6 A. Yes. We estimated 6,000 for drilling and 600  
7 for producing.

8 Q. Is that in line with what COG and other  
9 operators in the area are charging for similar Yeso  
10 wells?

11 A. Yes. It's a shallower well.

12 Q. Do you request that those costs be incorporated  
13 into any order resulting from this hearing?

14 A. We do.

15 Q. Do you ask that those costs be adjusted in  
16 accordance with the COPAS accounting procedures?

17 A. Yes, we do.

18 Q. For uncommitted working interest owners, are  
19 you requesting that the Division impose a 200 percent  
20 risk penalty?

21 A. Yes.

22 Q. And did you identify the offset operators or  
23 lessees of record in the 40-acre tracts surrounding the  
24 proposed nonstandard spacing unit?

25 A. We did.

1           **Q.    Is Exhibit 4 an affidavit from my office with**  
2           **attached letters providing notice both to the parties**  
3           **that you seek to pool, as well as the offset operators**  
4           **or lessees of record?**

5           A.    Yes, ma'am.

6           **Q.    And is Exhibit 5 an Affidavit of Publication in**  
7           **Eddy County?**

8           A.    Yes.

9           **Q.    Were Exhibits 1 through 3 prepared by you or**  
10          **compiled under your direction and supervision?**

11          A.    Yes, ma'am.

12                   MS. KESSLER:  Mr. Examiners, I move  
13                   admission of Exhibits 1 through 5, which include two  
14                   notice affidavits from me.

15                   EXAMINER GOETZE:  Exhibits 1 through 5 are  
16                   so entered.

17                                   (COG Operating, LLC Exhibit Numbers 1  
18                                   through 5 are offered and admitted into  
19                                   evidence.)

20                   MS. KESSLER:  No further questions.

21                   EXAMINER GOETZE:  Mr. Brooks?

22                                   CROSS-EXAMINATION

23                   BY EXAMINER BROOKS:

24           **Q.    The -- sorry.  I haven't been listening as**  
25           **carefully as I should have.**

1           **Are all of the parties to whom -- how did**  
2 **you come up with a list of people that you served --**  
3 **that you included on the -- on the legal notice that was**  
4 **published in the newspaper?**

5           A.    So we looked at offsetting ownership as far as  
6 operatorship in wells.  If not, we -- if there were no  
7 wells in the offsetting 40-acre tracts, we looked up  
8 lessee of record.

9           **Q.    Now, this is for the offsetting tracts?**

10          A.    Yes.  That's for the offsetting tracts.  And  
11 the owners that we are pooling, we got a title opinion  
12 for it, and that's how those interest owners were  
13 located.

14          **Q.    Did you publish as to owners that you're**  
15 **pooling -- or did you publish legal notice directly to**  
16 **the owners that you're pooling?**

17                   MS. KESSLER:  The pooled parties, yes,  
18 Mr. Examiner.

19                   THE WITNESS:  Yes.

20                   EXAMINER BROOKS:  Where is that in this?

21                   MS. KESSLER:  That's Exhibit 5.

22          **Q.    (BY EXAMINER BROOKS) And did you include all of**  
23 **the uncommitted owners in the -- on the legal notice?**

24          A.    Yes.

25          **Q.    Even though that -- so that -- that notice**

1     **duplicates the list that you made to --**

2           A.    Yes.

3           Q.    **Now, are there some owners that you mailed to**  
4     **that you did not get return receipts from?**

5           A.    No. We got return receipts. Actually, several  
6     of these owners are in other COG-operated wells. So we  
7     have good addresses, and they're currently being paid on  
8     other wells. They were just unresponsive on this well.

9           Q.    **So did you get return receipts from everyone**  
10    **you mailed to?**

11          A.    Yes.

12          Q.    **And there is nobody to whom you do not have an**  
13    **address?**

14          A.    Correct. We have addresses on everyone.

15          Q.    **Okay. I don't have to worry about your**  
16    **publication. Thank you.**

17          A.    It was just to cover our bases.

18          Q.    **Yes. Well, I understand that a lot of people**  
19    **do that because at the time you send out your certified**  
20    **mail, you do not know whether you're going to get return**  
21    **receipts.**

22          A.    Some of them come back in a week, and some come  
23    back in six weeks. It just depends.

24          Q.    **Return receipts has gotten so slow coming back.**  
25    **It didn't used to be like that. They've gotten really**

1 **slow coming back, so I can understand.**

2 MS. KESSLER: One follow-up question, if I  
3 may.

4 REDIRECT EXAMINATION

5 BY MS. KESSLER:

6 Q. **Were you able to communicate with all of the**  
7 **parties that you are seeking to pool?**

8 A. Yes.

9 CROSS-EXAMINATION

10 BY EXAMINER GOETZE:

11 Q. **And I only have one question. I notice in the**  
12 **offset parties, we have S.P. Yates. Is this related to**  
13 **the Yates as far as corporation, or is this a private**  
14 **individual?**

15 A. It's a private individual associated with the  
16 Yates family, and that was -- that was one that was a  
17 lessee of record as opposed to being an operator. And  
18 he was noticed.

19 Q. **There is no conflict with something that was**  
20 **acquired by EOG?**

21 A. I don't believe so, no. Not that I'm aware of.  
22 I wasn't informed by S.P. Yates.

23 Q. **I know you weren't there when they signed the**  
24 **documents, but still --**

25 A. Right.

1 Q. -- there's been a lot of paperwork flying back  
2 and forth, so I want to make sure everyone's properly  
3 noticed.

4 A. Okay.

5 Q. I have no further questions.

6 MS. KESSLER: I'll call my next witness.

7 EXAMINER GOETZE: Please.

8 CODY BACON,

9 after having been previously sworn under oath, was  
10 questioned and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. KESSLER:

13 Q. Would you please state your name for the record  
14 and tell the Examiners by whom you're employed and in  
15 what capacity?

16 A. My name is Cody Bacon. I'm employed by COG  
17 Operating, LLC as a petroleum geologist.

18 Q. Have you previously testified before the  
19 Division?

20 A. Yes, I have.

21 Q. And were your credentials as a petroleum  
22 geologist accepted and made a matter of record?

23 A. They were.

24 Q. Are you familiar with the application filed in  
25 this case?

1       A.    Yes.

2       **Q.    And have you conducted a study of the lands**  
3 **that are the subject of this application?**

4       A.    I have.

5                   MS. KESSLER:  Mr. Examiners, I would tender  
6 Mr. Bacon as an expert in petroleum geology.

7                   EXAMINER GOETZE:  He's so qualified.

8       **Q.    (BY MS. KESSLER) Mr. Bacon, let's look at**  
9 **Exhibit 6.  Can you please identify this exhibit for the**  
10 **Examiners?**

11       A.    Sure.  This is a subsea structure map across  
12 the area.  It has a 100-foot contour interval.  The  
13 yellow shading is the proposed spacing unit.  And the  
14 red line within that yellow shading is the location of  
15 the Malco 13H, and it shows the north-to-south  
16 orientation.  The circles that are blue are wells that  
17 are producing from the Blinebry.  The circles that are  
18 red are wells producing from the Paddock.

19                   As you can see from the structure map, it  
20 demonstrates a very gentle west-to-east dip.  It's very  
21 consistent.  It shows no faulting.  And when you look  
22 further to the south where your contour interval is --  
23 excuse me -- where the contours are getting closer  
24 together, that is approximately where you begin to go  
25 from the shelf down into the Delaware Basin.

1           **Q.    Is Exhibit 7 a zoomed-in map of the line of**  
2 **section drawn on it?**

3           A.    Yes, it is.

4           **Q.    What is the line labeled A to A prime?**

5           A.    The pink line labeled "A to A prime" is the  
6 line of section across the area, and the pink dots are  
7 the wells that make up that line of section.

8           **Q.    Do you consider the wells used on this**  
9 **cross-section line representative of Yeso wells in the**  
10 **area?**

11          A.    Yes.

12          **Q.    Is Exhibit 8 a corresponding cross-section**  
13 **exhibit?**

14          A.    It is.

15          **Q.    Can you please walk us through this?**

16          A.    This is a structural cross section, A to A  
17 prime, from the previous exhibit. Looking at the very  
18 base of the cross section is the bold red line. That  
19 indicates the top of the Blinebry. The bold red line  
20 above that one is the top of the Paddock, and above that  
21 is the top of the Glorieta. The green shading is the  
22 Paddock Formation, which is the target interval for this  
23 well, and on the far left side is the approximation of  
24 the landing zone. It demonstrates that the thickness  
25 across the area is very consistent. There is no major

1 structural change. There is no faulting, no pinch-outs  
2 or any other geologic impediments.

3 Q. No impediments or hazards to drilling a  
4 horizontal well?

5 A. Correct.

6 Q. In your opinion, can the area be efficiently  
7 and economically developed by horizontal wells?

8 A. Yes.

9 Q. And in your opinion, will each quarter-quarter  
10 section contribute more or less equally to production  
11 from the well?

12 A. Yes.

13 Q. And finally, in your opinion, will granting  
14 this application be in the best interest of  
15 conservation, for the prevention of waste and the  
16 protection of correlative rights?

17 A. Yes.

18 Q. Were Exhibits 6 through 8 compiled by you or  
19 prepared under your direction or supervision?

20 A. They were.

21 MS. KESSLER: Mr. Examiner, I move  
22 admission of Exhibits 6 through 8.

23 EXAMINER GOETZE: Exhibits 6 through 8 are  
24 so entered.

25 (COG Operating, LLC Exhibit Numbers 6

1 through 8 are offered and admitted into  
2 evidence.)

3 MS. KESSLER: Thank you.

4 EXAMINER GOETZE: Any questions?

5 EXAMINER BROOKS: I have no questions for  
6 this witness.

7 CROSS-EXAMINATION

8 BY EXAMINER GOETZE:

9 Q. I must congratulate you that you have found 160  
10 acres in a straight line that doesn't have a vertical  
11 well in this area.

12 A. Thank you.

13 Q. So on that note, the preexisting wells in this  
14 area in production, you feel will not affect your  
15 completion of this well?

16 A. I don't believe so.

17 Q. And I notice that we have both Paddock and  
18 Blinebry production. The current target is the  
19 shallower zone or shallower producer. Are there any  
20 plans or interest in going to the lower?

21 A. Interest, yes. As far as plans, I am not sure.

22 Q. Okay. So we are looking at just going for the  
23 shallower for now?

24 A. That's correct.

25 EXAMINER GOETZE: I have no further

1 questions for this witness.

2 MS. KESSLER: Thank you. I'd ask this case  
3 be taken under advisement.

4 EXAMINER GOETZE: Very good.

5 Then Case Number 15764 is taken under  
6 advisement.

7 Thank you very much.

8 (Case Number 15764 concludes, 10:19 a.m.)

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I hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 15764  
heard by me on August 3 2017  
  
Examiner  
Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

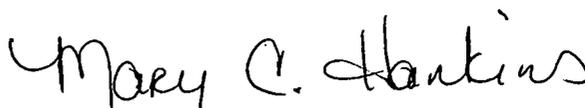
5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of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



22

MARY C. HANKINS, CCR, RPR  
Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2017  
Paul Baca Professional Court Reporters

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