

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

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

Case No. 14558  
Order No. R-7900-D  
De Novo

APPLICATION OF MARBOB ENERGY CORPORATION  
(NOW COG OPERATING LLC) FOR VERTICAL  
EXPANSION OF THE BURCH-KEELY UNIT,  
EDDY COUNTY, NEW MEXICO

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

Case No. 14577  
Order No. R-10067-C  
De Novo

APPLICATION OF COG OPERATING, LLC FOR  
VERTICAL EXPANSION OF THE GRAYBURG  
JACKSON (SEVEN RIVERS-QUEEN-GRAYBURG-  
SAN ANDRES) POOL TO CORRESPOND WITH  
THE UNITIZED FORMATION OF THE BURCH-  
KEELY UNIT, EDDY COUNTY, NEW MEXICO

**ORDER OF THE COMMISSION**

IN THIS MATTER, having come before the New Mexico Oil Conservation Commission ("Commission") on July 28, 2011, at Santa Fe, New Mexico, on Cimarex Energy Co. of Colorado's ("Cimarex") and Magnum Hunter Production, Inc.'s ("Magnum") (together, ("Movants")) Motion for a Continuance ("Motion"), the Commission, having read submissions of the parties, heard argument of counsel and being otherwise fully advised of the premises:

**FINDS AND CONCLUDES:**

1. In the Motion, Movants ask the Commission to delay to an indeterminate date the hearing of these cases, scheduled for July 28, 2011. Movants wish to have the opportunity to participate and present evidence in these cases.

2. Both Movants claim an interest in the Grayburg Deep Unit, the unit with which ConocoPhillips ("Conoco") claims COG Operating LLC's ("COG") applications will interfere.

3. The Motion was filed on the afternoon of July 26, 2011.

4. 19.15.4.13(C) NMAC requires that motions for continuance be filed no later than forty-eight hours before the hearing, unless the reason for the continuance arises after the forty-eight hour deadline.

5. Movants claim that they only recently became aware of these cases, but they provide no evidence to support that claim.

6. At the July 28, 2011 hearing, counsel for Movants asserted that Cimarex had not received adequate notice, but Cimarex provided no evidence to support that claim, nor a more detailed argument on the point.

7. Movants' counsel filed an entry of appearance in these cases on July 21, 2011.

8. The Motion was filed out of time.

9. Movants did not participate in the Oil Conservation Division's hearing of these cases.

10. At the July 28, 2011 hearing, Movants appeared to change the relief requested by their Motion:

I recognize the parties are here and they want to go forward. I know my friends at COG have one or two other things going on in the state and they want to get this over and done with and I'm sure ConocoPhillips does, too. So at best, I would ask that after this hearing it be continued to allow my clients to put on some evidence. My clients do fully support ConocoPhillips' position in this case, and as you know, operators always like to present their own evidence, but because of the time deadlines there was no -- I couldn't satisfy the Division's or I should say the regulations regarding designating witnesses and submitting exhibits to opposing counsel, et cetera, so I have not brought any witnesses with me today.

Transcript of July 28, 2011 Hearing, pp. 7-8.

11. It further appears that a primary reason for Movants to want to participate in the July 28, 2011, hearing was that they wanted to put on their own evidence to support Conoco's case ("My clients do fully support ConocoPhillips' position in this case, and as you know, operators always like to present their own evidence...."). Id. Movants did not argue that their evidence would add to the facts presented to the Commission, merely that operators like to present their own evidence.

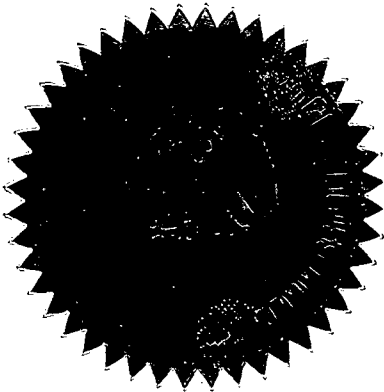
12. To allow Movants to reveal their witnesses and exhibits, to prepare their Pre Hearing Statement, and to put their case on, after having heard the other parties' evidence, which was prepared and offered with no idea of what Movants' witnesses, exhibits and arguments might be, would be unfair to the other parties, in particular COG, and would unnecessarily delay the resolution of the issues heard at the July 28, 2011 Hearing.

13. For all of the foregoing reasons, Movants' Motion was denied from the bench at, and Movants were not allowed to participate in, the July 28, 2011 Hearing.

**NOW THEREFORE** and for all the foregoing reasons the Commission hereby confirms the ruling at the July 28, 2011 Hearing that denied the Motion for Continuance filed by Cimarex and Magnum and that did not allow Cimarex and Magnum to participate in said hearing.

DONE at Santa Fe, New Mexico on the 22<sup>nd</sup> day of September 2011.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION



  
ROBERT BALCH, Member

  
SCOTT DAWSON, Member

  
JAMI BAILEY, Chair

SEAL