

**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:**

**APPLICATION OF COG OPERATING, LLC FOR TWO NON-STANDARD  
PROJECT AREAS, TWO NON-STANDARD OIL SPACING AND PRORATION  
UNITS, AND APPROVAL OF NON-STANDARD LOCATIONS FOR TWO  
WELLS, LEA COUNTY, NEW MEXICO.**

**CASE NO. 15035**

**AND**

**APPLICATION OF COG OPERATING, LLC FOR A NON-STANDARD  
SPACING AND PRORATION UNIT AND COMPULSORY POOLING, LEA  
COUNTY, NEW MEXICO.**

**CASE NO. 15044  
ORDER NO. R-13810**

**ORDER OF THE DIVISION**

**BY THE DIVISION:**

These cases came on for hearing on September 19, 2013, in Santa Fe, New Mexico, before Examiner Richard I. Ezeanyim.

NOW, on this 19<sup>th</sup> day of March, 2014, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

**FINDS THAT:**

(1) Due public notice has been given, and the Division has jurisdiction of these cases and of the subject matter.

(2) Case Nos. 15035 and 15044 were consolidated at the hearing for the purpose of testimony, and one order should be issued for both cases.

(3) In Case No. 15035, COG Operating LLC ("COG" or "Applicant" or "Operator") seeks approval of two non-standard 280-acre project areas and two non-

standard 280-acre oil spacing and proration units in the Bone Spring formation, the Wildcat G-06 S263407P-Bone Spring Pool (**Code 97892**), comprised of the federal acreage as follows:

(i) The SW/4 NE/4 and the W/2 SE/4 of Section 5 and the W/2 E/2 of Section 8, Township 26 South, Range 34 East, NMPM, Lea County, New Mexico. This 280-acre non-standard oil spacing and proration unit and non-standard project area is to be dedicated to COG's Gunner 8 Fed. Well No. 5H (**API No. 30-025-41180**), to be drilled from a surface location 190 feet from the South line and 1520 feet from the East line (Unit O) of Section 8, to a terminus or bottomhole location 1650 feet from the North line and 1520 feet from the East line (Unit G) of Section 5. This location is unorthodox because portions of the completed interval are less than 330 feet from the outer boundary of the project area.

(ii) The SE/4 NW/4 and the E/2 SW/4 of Section 5 and the E/2 W/2 of Section 8, Township 26 South, Range 34 East, NMPM, Lea County, New Mexico. This 280-acre non-standard oil spacing and proration unit and non-standard project area is to be dedicated to COG's Gunner 8 Fed. Well No. 6H (**API No. 30-025-41181**), to be drilled from a surface location 190 feet from the South line and 1625 feet from the West line (Unit N) of Section 8, to a terminus or bottomhole location 1650 feet from the North line and 2625 feet from the West line (Unit F) of Section 5. This location is unorthodox because portions of the completed interval are less than 330 feet from the outer boundary of the project area.

(4) Applicant further seeks an order approving the unorthodox locations for these two wells.

(5) In Case No. 15044, COG seeks approval of a non-standard 160-acre, more or less, oil spacing and proration unit and project area (the Unit) in the Bone Spring formation, the Wildcat G-06 S263407P-Bone Spring Pool, comprised of the N/2 N/2 of Section 5, Township 26 South, Range 34 East, NMPM, Lea County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Bone Spring formation underlying the Unit.

(6) The Unit is to be dedicated to Applicant's Gunner 5 Fee Well No. 1H (**API No. 30-025-41401**), a horizontal well to be drilled from a surface location 660 feet from the North line and 190 feet from the East line (Unit A) of Section 5, to a terminus or bottomhole location 660 feet from the North line and 330 feet from the West line (Unit D) of said Section 5. The completed interval of the wellbore will be entirely within the prescribed setbacks from the outer boundary of the project area.

(7) Spacing in this pool is governed by statewide Rule 19.15.15.9.A NMAC, which provides for standard 40-acre units, each comprising a governmental quarter-quarter section.

**The Applicant appeared at the hearing through counsel and presented the following testimony:**

(8) Sections 5 and 8 of Township 26 South, Range 34 East, with the exception of the N/2 N/2 of Section 5 is a single federal lease with identical ownership, and COG Operating, LLC owns one hundred (100%) percent of the working interest in this federal lease. The N/2 N/2 of Section 5 is a fee lease, and COG also owns forty-two (42) percent working interest in this unit.

(9) In October 2011, COG drilled and completed the Gunner 8 Fed. Well No. 8H (API No. 30-025-40309) with a surface location 990 feet from the South line and 330 feet from the West line (Unit M) of Section 8, and a terminus or bottomhole location 1989 feet from the North line and 326 feet from the West line (Unit E) of Section 5. The 280-acre non-standard oil spacing and proration unit and non-standard project area comprised of the SW/4 NW/4 and the W/2 SW/4 of Section 5 and the W/2 W/2 of Section 8, was dedicated to this well. This well is currently producing oil and gas from the Wildcat G-06 S263407P-Bone Spring Pool (97892), and the proceeds are being distributed to the lease holder and the Federal Government.

(10) At the time the Gunner 8 Fed. Well No. 8H was drilled, the horizontal well rule was not in effect, and a non-standard project area was not defined by rule. Therefore, there were no corresponding notice requirements to off-setting interest owners.

(11) COG intends to develop the Upper Shale portion of the Bone Spring formation underlying Sections 8 and 5 in Township 26 South, Range 34 East, NMPM, Lea County, New Mexico, with five (5) one and three-quarter mile stand-up horizontal wells on federal acreage from surface locations in the S/2 S/2 of Section 8, and extending into the S/2 N/2 of Section 5. COG also intends to develop the N/2 N/2 of Section 5 with a lay-down 160-acre, more or less, non-standard oil spacing and proration unit (project area).

(12) On February 15, 2012, the horizontal well rule became effective. This rule requires that notice shall be given to all off-setting interest owners for any non-standard project area. The one-and three-quarter mile project areas proposed by COG are non-standard project areas and, as a result, notice was given to all off-setting interest owners.

(13) The ownership interest in the NE/4 NE/4 of Section 5 is fifty (50%) percent EOG and fifty (50%) percent COG, and EOG did not object to the development of the federal lease as proposed by COG. COG has working interest ownership in all of the N/2 N/2 of Section 5, and therefore has proposed the drilling of the lay-down Gunner 5 Fee Well No. 1H. In addition, both EOG and Chevron U.S.A have agreed to participate in the drilling of this lay-down Gunner 5 Fee Well No. 1H in the N/2 N/2 of Section 5.

(14) In order for COG to drill a two-mile horizontal well covering all of Sections 5 and 8, it must first obtain approval from the United States Bureau of Land Management (BLM) to commingle fee and federal minerals. COG must also obtain a Communitization Agreement from BLM for the overlapping project areas for the federal and fee wells.

(15) Meanwhile, to commingle federal minerals with fee minerals, the BLM requires operators to install separate tank batteries at additional cost of \$600,000 each.

(16) The geology of Sections 5 and 8 of Township 26 South, Range 34 East, NMPM, Lea County, New Mexico, indicates that drilling North-South horizontal wells will be equally productive as drilling East-West horizontal wells. There is no clearly preferred orientation for drilling horizontal wells in these two sections.

(17) The development of Sections 5 and 8 as proposed by COG will reduce surface disturbance and the number of production facilities, and will prevent waste and protect correlative rights.

(18) **EOG Resources, Inc. appeared at the hearing through counsel and presented no witness or testimony, and also did not oppose the granting of this application.**

**Yates Brothers, Yates Holdings, LLC, Sugarberry Oil & Gas Corporation, Katy Pipeline and Production Corporation, and Inland Title, collectively known as Yates Brothers et al, appeared at the hearing through counsels and presented the following testimony:**

(19) The fracture orientation of the Bone Spring formation in this area is East-West based on the analysis of the Dipole Sonic Log, from the Dean APQ Federal Well No. 2H (API No. 30-025-40089); therefore, the only technically sound way to develop this acreage is with stand-up well units.

(20) Yates Brothers et al cannot propose a development plan for the N/2 N/2 of Section 5, Township 26 South, Range 34 East, NMPM, Lea County, New Mexico, because they are all mineral interest owners only, not working interest owners or operators. They opined that since most well orientations in the area are stand-up well units, they do not want their acreage in the N/2 N/2 of Section 5 to be developed in an East-West orientation by COG.

(21) Yates Brothers et al own mineral interest only in the 120 acres, more or less, comprised of the N/2 NW/4 and the NW/4 NE/4 of Section 5, and do not own any interest in the NE/4 NE/4 of Section 5. They contend that COG's Gunner 8 Fed. Well No. 6H is encroaching diagonally to their acreage in the NW/4 NE/4 of Section 5, and this encroachment will impair their correlative rights.

(22) Yates Brothers et al opined that in order to prevent waste and protect correlative rights, COG should drill two (2) mile horizontal wells comprised of all of Sections 5 and 8, Township 26 South, Range 34 East, NMPM, Lea County, New Mexico.

**The Division concludes as follows:**

(23) The evidence submitted in these cases indicates that there is no preferred orientation in Sections 5 and 8 of Township 26 South, Range 34 East, NMPM, Lea County, New Mexico. COG's one-and three-quarter mile stand-up Gunner 8 Fed. Well No. 8H, drilled in October 2011 before the effective date of the horizontal well rule, is currently producing, and Division records indicate that it is a successful well. COG has the right to develop its single Federal lease with identical ownership in Sections 5 and 8, and as a result has drilled this well. In effect, this well has established the pattern of development for these two sections.

(24) COG plans to drill four additional one-and three-quarter mile stand-up horizontal wells in Sections 5 and 8, and one (1) one-mile horizontal well in the N/2 N/2 of Section 5, to complete the development of those two sections without leaving any acreage stranded. In fact, to order COG at this point to change its development pattern will be disruptive, and probably will induce waste and impair correlative rights.

(25) The opponents of these two cases argued that COG's Gunner 8 Fed. Well No. 6H is encroaching diagonally to the NW/4 NE/4 of Section 5, where they own interest. This is true; however, the proposed off-setting well in the N/2 N/2 of Section 5 by COG will protect mineral interest owners in that unit.

(26) Approval of COG's application in Case No. 15035 will enable Applicant to drill horizontal wells that will efficiently produce the reserves underlying Sections 5 and 8 of Township 26 South, Range 34 East, NMPM, Lea County, New Mexico. This application should be approved in order to prevent waste and protect correlative rights.

(27) In Case No. 15044, two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(28) Applicant is an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

(29) There are interest owners in the Unit, including owners of royalty and overriding royalty interests who have not agreed to pool their interests.

(30) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons,

this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.

(31) COG Operating, LLC should be designated the operator of the proposed well and of the Unit.

(32) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(33) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates should be adjusted annually pursuant to Section III. I.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations."

**IT IS THEREFORE ORDERED THAT:**

(1) In Case No. 15035, two non-standard 280-acre project areas, and two non-standard 280-acre oil spacing and proration units in the Bone Spring formation, the Wildcat G-06 S263407P-Bone Spring Pool (**Code 97892**), comprised of the federal acreage described below are hereby approved.

(i) The SW/4 NE/4 and the W/2 SE/4 of Section 5 and the W/2 E/2 of Section 8, Township 26 South, Range 34 East, NMPM, Lea County, New Mexico. This 280-acre non-standard oil spacing and proration unit and non-standard project area shall be dedicated to COG's Gunner 8 Fed. Well No. 5H (**API No. 30-025-41180**), to be drilled from a surface location 190 feet from the South line and 1520 feet from the East line (Unit O) of Section 8, to a terminus or bottomhole location 1650 feet from the North line and 1520 feet from the East line (Unit G) of Section 5. This location is unorthodox because portions of the completed interval are less than 330 feet from the outer boundary of the project area.

(ii) The SE/4 NW/4 and the E/2 SW/4 of Section 5 and the E/2 W/2 of Section 8, Township 26 South, Range 34 East, NMPM, Lea County, New Mexico. This 280-acre non-standard oil spacing and proration unit and non-standard project area shall be dedicated to COG's Gunner 8 Fed. Well No. 6H (**API No. 30-025-41181**), to be drilled from a surface location 190 feet from the South line and 1625 feet from the West line (Unit N) of Section 8, to a terminus or bottomhole location 1650 feet from the North line and 2625 feet from the West line (Unit F) of Section 5. This location is unorthodox because portions of the completed interval are less than 330 feet from the outer boundary of the project area.

(2) Pursuant to the application of COG Operating, LLC, the unorthodox locations of these two wells are hereby approved.

(3) In Case No. 15044, a non-standard 160-acre oil spacing and proration unit (the Unit) is hereby established in the Bone Spring formation, the Wildcat G-06 S263407P-Bone Spring Pool (**Code 97892**), consisting of the N/2 N/2 of Section 5, Township 26 South, Range 34 East, NMPM, in Lea County, New Mexico.

(4) Pursuant to the application of COG Operating, LLC, all uncommitted interests, whatever they may be, in the oil and gas in the Wildcat G-06 S263407P-Bone Spring Pool underlying the Unit, are hereby pooled

(5) The Unit shall be dedicated to Applicant's Gunner 5 Fee Well No. 1H (**API No. 30-025-41401**), a horizontal well to be drilled from a surface location 660 feet from the North line and 190 feet from the East line (Unit A) of Section 5, to a terminus or bottomhole location 660 feet from the North line and 330 feet from the West line (Unit D) of said Section 5. The completed interval of the wellbore will be entirely within the prescribed setbacks from the outer boundary of the project area.

(6) The operator of the Unit shall commence drilling the proposed well on or before March 30, 2015, and shall thereafter continue drilling the well with due diligence to test the Bone Spring formation.

(7) In the event the operator does not commence drilling the proposed well on or before March 30, 2015, Ordering Paragraphs (3) and (4) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(8) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (3) and (4) shall be of no further effect, and the unit and project area created by this order shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not completed in all of the quarter-quarter sections included in the proposed unit within 120 days after commencement of drilling, then the operator shall apply to the Division for an amendment to this Order to contract the Unit so that it includes only those quarter-quarter sections in which the well is completed.

(9) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled unit created by this Order shall terminate, unless this order has been amended to authorize further operations.

(10) COG Operating, LLC (**OGRID 229137**) is hereby designated the operator of the well and of the Unit.

(11) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to

an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(12) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(13) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(14) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(15) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(16) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(17) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$7,000 per month while drilling and \$700 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the



actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(18) Except as provided in Paragraphs (15) and (17) above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act, (NMSA 1978 Sections 7-8A-1 through 70-8A7-8A-28, as amended).

(19) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production and no costs or charges shall be withheld from production attributable to royalty interests or overriding royalty interests.

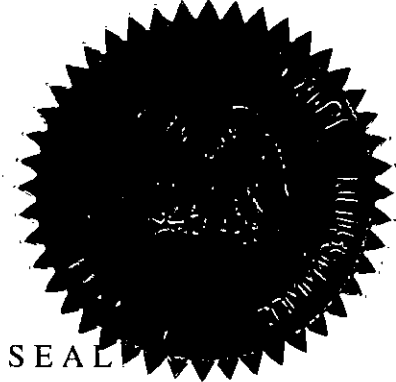
(20) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(21) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this order.

(22) This Order is subject to approval by the United States Bureau of Land Management (BLM).

(23) Jurisdiction of these cases is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year designated above.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in cursive script, appearing to read "Jami Bailey".

JAMI BAILEY  
Director