

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

**APPLICATION OF NEARBURG EXPLORATION COMPANY,
SRO2 LLC AND SRO3 LLC FOR AN ACCOUNTING AND
LIMITATION ON RECOVERY OF WELLS COSTS, AND
FOR CANCELLATION OF APPLICATION FOR PERMIT
TO DRILL, EDDY COUNTY, NEW MEXICO.**

CASE NO. 15441

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

CASE NO. 15481

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

CASE NO. 15482

MOTION TO QUASH

COG Operating LLC ("COG") moves the Commission to quash two subpoenas issued at the request of Nearburg Exploration Company ("NEX"). In support of this motion, COG states as follows:

1. On February 7, 2017, the Commission at the request of NEX issued subpoenas directed to Aaron Myers and Brent Sawyer ordering them to appear at the Oil Conservation Commission at 9:00 a.m. on February 28, 2017, and March 1, 2017. See **Exhibit A** and **Exhibit B**, attached hereto.

2. Both Mr. Myers and Mr. Sawyer are residents of Texas.

3. The Commission, like New Mexico State Courts, has no jurisdiction or legal ability to compel residents of Texas to appear for a proceeding in New Mexico. *State v. Waits*, 1978-NMCA-116, ¶ 4, 92 N.M. 275 (“New Mexico has no legal authority to compel a person living in Texas to appear in its courts by issuance of a New Mexico subpoena ... The subpoena issued in New Mexico and served in Texas had no legal effect.”) Accordingly, the Commission subpoenas issued at the request of NEX are legally void.

4. Moreover, neither Mr. Myers nor Mr. Sawyer testified at the Division hearing in these consolidated matters. NEX has never sought to take their depositions pursuant to a Santa Fe County District Court lawsuit filed contemporaneously with NEX’s application to the Division. *See* COG Ex. 6 (case styled Nearburg Exploration Company, L.L.C., SRO2 LLC, and SRO3 LLC v. COG Operating LLC, CV-2015-02541). A de novo appeal of an adverse decision by the Oil Conservation Division is not the time to start probing in the dark or conducting discovery for other purposes, is inefficient, and is simply a waste of the Commission’s time.

For the reasons stated, COG Operating LLC respectfully requests that the Commission quash the subpoenas issued on February 7, 2017.

Respectfully submitted,

HOLLAND & HART LLP



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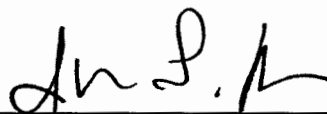
CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2017, I served a copy of the foregoing document to the following counsel of record via electronic mail:

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Jordan L. Kessler

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CASE NO. 15482

DE NOVO

SUBPOENA

TO: Aaron Myers, COG Operating, LLC
c/o Corporation Process Company
205 East Bender Blvd., Suite 150
Hobbs, NM 88240

Pursuant to Section 70-2-8, NMSA (1978), and 19.15.4.16 NMAC of the New Mexico Oil Conservation Division's Rules of Procedure, you are hereby ORDERED to appear at 9:00 a.m., February 28, 2017 and March 1, 2017 at the offices of the Oil Conservation Division, Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505.

This subpoena is issued on application of Nearburg Exploration Company, SRO2 LLC and SRO3 LLC through its attorneys Montgomery and Andrews, P.A., P.O. Box 2307 Santa Fe, New Mexico 87504.



Dated this 7th day of February, 2017.

NEW MEXICO OIL CONSERVATION DIVISION

By: David Catanach
David Catanach, Director

**STATE OF NEW MEXICO
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EDDY COUNTY, NEW MEXICO**

CASE NO. 15482

DE NOVO

SUBPOENA

TO: Brent Sawyer, COG Operating, LLC
c/o Corporation Process Company
205 East Bender Blvd., Suite 150
Hobbs, NM 88240

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Dated this 7th day of February, 2017.

NEW MEXICO OIL CONSERVATION DIVISION

By: David Catanach
David Catanach, Director