

1 STATE OF NEW MEXICO  
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
3 OIL CONSERVATION DIVISION

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

7 APPLICATION OF COG OPERATING, CASE NO. 15679  
8 LLC FOR A NONSTANDARD SPACING  
9 AND PRORATION UNIT AND COMPULSORY  
10 POOLING, EDDY COUNTY, NEW MEXICO.

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 EXAMINER HEARING

13 May 11, 2017

14 Santa Fe, New Mexico

15 BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER  
16 DAVID K. BROOKS, LEGAL EXAMINER

17 This matter came on for hearing before the  
18 New Mexico Oil Conservation Division, Michael McMillan,  
19 Chief Examiner, and David K. Brooks, Legal Examiner, on  
20 Thursday, May 11, 2017, at the New Mexico Energy,  
21 Minerals and Natural Resources Department, Wendell Chino  
22 Building, 1220 South St. Francis Drive, Porter Hall,  
23 Room 102, Santa Fe, New Mexico.

24 REPORTED BY: Mary C. Hankins, CCR, RPR  
25 New Mexico CCR #20  
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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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EXHIBITS OFFERED AND ADMITTED

COG Operating, LLC Exhibit Numbers 1 through 7	10
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1 (9:42 a.m.)

2 EXAMINER McMILLAN: I'd like to call Case  
3 Number 15679, application of COG Operating, LLC for a  
4 nonstandard spacing and proration unit and compulsory  
5 pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MS. KESSLER: Mr. Examiner, Jordan Kessler,  
8 from the Santa Fe office of Holland & Hart, on behalf of  
9 the Applicant.

10 EXAMINER McMILLAN: Any other appearances?  
11 Please proceed.

12 MS. KESSLER: I have two witnesses.

13 EXAMINER McMILLAN: Will the witnesses  
14 please stand up and be sworn in at this time?

15 (Ms. Roush and Mr. Bergman sworn.)

16 ASHLEY ROUSH,

17 after having been previously sworn under oath, was  
18 questioned and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. KESSLER:

21 Q. Would you please state your name for the record  
22 and tell the Examiners by whom you are employed and in  
23 what capacity?

24 A. Ashley Roush. I'm employed by COG Operating,  
25 LLC, and I'm a landman.

1 Q. Have you previously testified before the  
2 Division?

3 A. Yes, I have.

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

6 A. Yes, they were.

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

9 A. Yes, I am.

10 Q. And are you familiar with the status of the  
11 lands in the subject area?

12 A. Yes, I am.

13 MS. KESSLER: Mr. Examiners, I would tender  
14 Ms. Roush as an expert in petroleum land matters.

15 EXAMINER McMILLAN: So qualified.

16 Q. (BY MS. KESSLER) Will you please turn to your  
17 Exhibit 1 and identify this exhibit for the Examiners?

18 A. This is the C-102 for the Sidewinder Federal  
19 Com #4H well. We seek to create a nonstandard unit of  
20 the 446.4 acres covering the west half of Section 29 and  
21 the north half-northwest in Lots 1 and 2 of Section 32,  
22 Township 26 South, Range 29 East, Eddy County, New  
23 Mexico.

24 Q. And is this an irregular section along the  
25 Texas border of Section 32?

1 A. Yes. Section 32 is.

2 Q. Do you seek to pool all the -- in the Wolfcamp  
3 Formation?

4 A. Yes.

5 Q. Do you seek to dedicate the spacing unit for  
6 the Sidewinder Federal Com #4H well?

7 A. Yes.

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

9 A. It's currently pending.

10 Q. And has the Division designated a pool for this  
11 area?

12 A. Yes. It's the Purple Sage; Wolfcamp, and the  
13 pool code is 98220.

14 Q. What is the character of these lands?

15 A. They are federal and fee lands.

16 Q. And you mentioned that this is in the Purple  
17 Sage pool. So does that mean that the special pool  
18 rules apply?

19 A. Yes.

20 Q. That would be 320-acre spacing and 330-foot  
21 setbacks?

22 A. Correct.

23 Q. Will this well comply with the 330-foot  
24 setbacks?

25 A. Yes.

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

3 A. No depth severances.

4 Q. What is Exhibit 2?

5 A. Exhibit 2 shows the spacing unit and the  
6 interest -- side tract interest for the unit. The  
7 owners that are highlighted in yellow are the  
8 uncommitted working interest owners, Judkins Walton is  
9 an unleased mineral interest owner.

10 And on the next page, the uncommitted  
11 royalty interest owners with insufficient pooling  
12 language are also listed.

13 Q. And you seek to pool working interest owners  
14 and unleased mineral interest owners and royalty owners  
15 without sufficient pooling language in their  
16 instruments; is that correct?

17 A. That is correct.

18 Q. Is Exhibit 3 a letter you sent to the royalty  
19 interest owners without sufficient pooling language?

20 A. Yes. We sent that letter for them to sign the  
21 communitization agreement.

22 Q. Did any of them respond to this?

23 A. No.

24 Q. Is Exhibit 4 a copy of the letter that you sent  
25 to the unleased mineral interest owner?

1 A. Yes. It was an offer to lease.

2 Q. Did you also send him a well-proposal letter?

3 A. Yes, and a joint operating agreement and a  
4 communitization agreement.

5 Q. Did you have any response from him?

6 A. I've spoken to him on the phone, but no  
7 response as to him wanting to do anything.

8 Q. Is Exhibit -- well, I'll take a step back.  
9 When did you send the well-proposal letter to all the  
10 working interest owners?

11 A. March 7th is when we originally sent out the  
12 well proposal -- the revised well proposal for the  
13 Purple Sage pool.

14 Q. Okay. And did you subsequently become aware of  
15 some change in title?

16 A. Yes.

17 Q. And so did you send a follow-up letter to all  
18 working interest owners that's included in Exhibit 5?

19 A. Yes.

20 Q. And did that letter include an AFE?

21 A. Yes, it did.

22 Q. Are the costs reflected on this AFE consistent  
23 with what Concho has incurred for drilling similar  
24 horizontal wells in the area?

25 A. Yes.

1 Q. What additional efforts did you undertake to  
2 reach an agreement with the parties that you're seeking  
3 to pool today?

4 A. For Tap Rock Resources and Chevron, we are  
5 currently in negotiations on the documents and hoping to  
6 get those finalized soon.

7 For Judkins Walton, we sent him lease  
8 offer, a well proposal JOA and communitization  
9 agreement.

10 And I've had correspondence with both Tap  
11 Rock and Chevron through email and phone conversations,  
12 and I've spoken to the unleased mineral interest owner  
13 on the phone.

14 For the royalty interest owners with  
15 insufficient pooling language, we sent them the  
16 communitization agreement to sign.

17 Q. Have you estimated overhead and administrative  
18 costs for drilling and producing this well?

19 A. Yes, 7,000 a month for drilling and 700 a month  
20 for producing.

21 Q. Are those costs in line with what COG and other  
22 operators in the area are charging for similar wells?

23 A. Yes, they are.

24 Q. Do you request those costs be incorporated into  
25 the order resulting from this hearing?

1 A. Yes, please.

2 Q. And do you ask that the administrative costs be  
3 adjusted in accordance with the appropriate accounting  
4 procedures?

5 A. Yes.

6 Q. For uncommitted interest owners, are you  
7 requesting a 200 percent risk penalty?

8 A. Yes.

9 Q. And did COG identify and notify the offset  
10 operators and lessees of record of this hearing?

11 A. Yes, we did.

12 Q. Is Exhibit 6 an affidavit prepared by my office  
13 with letters to the parties that you seek to pool, as  
14 well as offset operators?

15 A. Yes, it is.

16 Q. Is Exhibit 7 a Notice of Publication in Eddy  
17 County?

18 A. Yes, it is.

19 Q. And is that because some of the royalty  
20 interest owners did not have green cards returned?

21 A. Yes.

22 Q. Were Exhibits 1 through 5 prepared by you or  
23 compiled under your direction and supervision?

24 A. Yes, they were.

25 MS. KESSLER: Mr. Examiners, I move

1 admission of Exhibits 1 through 7, which include the two  
2 notice affidavits.

3 EXAMINER McMILLAN: Exhibits 1 through 7 --

4 EXAMINER BROOKS: Which includes what?

5 MS. KESSLER: The Notice of Affidavit from  
6 my office and the Notice of Publication.

7 EXAMINER BROOKS: Okay.

8 EXAMINER McMILLAN: Exhibits 1 through 7  
9 may now be accepted as part of the record.

10 MS. KESSLER: Thank you.

11 (COG Operating, LLC Exhibit Numbers 1  
12 through 7 are offered and admitted into  
13 evidence.)

14 CROSS-EXAMINATION

15 BY EXAMINER McMILLAN:

16 Q. The first question: Have you -- have you  
17 applied for the NS -- administrative NSP for this well?

18 MS. KESSLER: Mr. Examiner, that was the  
19 Copperhead well that you be thinking about. This well  
20 is based on 320 acres.

21 EXAMINER McMILLAN: Right. But if you look  
22 at Lots 1 and 2, they're less than 28 acres.

23 MS. KESSLER: But it comprises the entire  
24 section that is an irregular section adjacent to Texas,  
25 so when we encountered this before, we have consulted

1 with the Division and determined it's not a nonstandard  
2 spacing unit. It's simply an irregular section.

3 EXAMINER McMILLAN: I thought the rule was  
4 if it's less than 28 -- 28 acres, that you had to apply  
5 for -- apply administratively, and it would be  
6 automatically granted.

7 MS. KESSLER: The Division has not required  
8 that in other irregular sections along the Texas border,  
9 so perhaps we can talk about that.

10 EXAMINER McMILLAN: Yeah. The Division has  
11 required that, but --

12 EXAMINER BROOKS: I don't know what the  
13 Division's practice is. I was going to ask a question  
14 here. You are requesting that the entire -- that the  
15 project area be constituted as a nonstandard spacing  
16 unit, correct?

17 MS. KESSLER: Correct.

18 EXAMINER BROOKS: But the issue that's  
19 being raised is that these particular units are not -- a  
20 nonstandard spacing unit may consist -- must consist of  
21 whole spacing units within the pool, and these are not  
22 sufficient -- of sufficient size to qualify as standard  
23 spacing units within the pool?

24 MS. KESSLER: Yes. And I do see the  
25 Examiners' point. My point simply would be where we've

1 had other irregular sections, we have not been required  
2 to request a nonstandard spacing unit.

3 EXAMINER BROOKS: Yeah. And I see no  
4 reason why you shouldn't be, but I don't know what the  
5 Division has done in the past.

6 EXAMINER McMILLAN: Generally, on the Texas  
7 state line, less than 28 acres requires administrative  
8 NSP, so there is precedent. But it's easily done.

9 EXAMINER BROOKS: Yeah. We can issue an  
10 order that simply says that will be pursued  
11 administratively as necessary.

12 EXAMINER McMILLAN: Simply done. Okay.

13 Q. (BY EXAMINER McMILLAN) There are no depth  
14 severances?

15 A. No depth severances.

16 Q. There is no API number?

17 A. Right. We don't have the APD yet. It's  
18 pending.

19 EXAMINER McMILLAN: Okay. Go ahead.

20 CROSS-EXAMINATION

21 BY EXAMINER BROOKS:

22 Q. This is a Federal Com well in the title, so is  
23 it multiple federal leases, or is it --

24 A. Just one federal lease in the northwest  
25 quarter, and then it's fee acreage in the southwest

1 quarter in 29 and Section 32.

2 Q. The rest of it is fee --

3 A. Yes, sir.

4 Q. -- except for the northwest?

5 That one federal lease is the entire  
6 northwest quarter of 29?

7 A. Yes, sir.

8 Q. Okay. Looking at your acreage -- or your  
9 division of interest here, you said Judkins Walton's  
10 interest was unleased?

11 A. Yes, sir.

12 Q. Is that the only unleased interest?

13 A. Yes, sir. He's the only unleased mineral  
14 interest owner.

15 Q. What kind of -- I'm not talking -- I'm not  
16 talking dollars, but what have you offered Mr. Watkins?  
17 Have you offered him only -- you've offered him the  
18 opportunity to participate, correct?

19 A. Yes. And we've offered -- we originally sent  
20 him a lease offer, and then we have sent him the well  
21 proposal if he would like to participate, as well as the  
22 communitization agreement and the JOA.

23 Q. Okay. So you sent him an opportunity to  
24 purchase, and you have also sent him a lease offer?

25 A. Yes, sir.

1 Q. An opportunity to participate --

2 A. To participate or a lease offer, yes.

3 Q. You also sent him an offer to lease?

4 A. Yes.

5 Q. Did you get any response?

6 A. I've spoken to him on the phone, but he hasn't  
7 acted like he's interested in doing anything right now.

8 Q. Okay. And Tap Rock Resources, they're a  
9 lessee?

10 A. Yes, sir.

11 Q. And have you had any negotiations with them?

12 A. Yes. They're currently negotiating the joint  
13 operating agreement with us.

14 Q. Okay. Very good.

15 And these other people, these are royalty  
16 owners whose pooling clause is nonsufficient --

17 A. Yes, sir.

18 Q. -- not clearly sufficient to be included in  
19 this unit?

20 A. Yes.

21 Q. I congratulate you for identifying that because  
22 we rarely have anybody who identifies it, and I can't  
23 believe that there are that many fee leases that allow  
24 project area spacing units.

25 Anyway, thank you.

1 MS. KESSLER: I'll call my next witness,  
2 please.

3 EXAMINER BROOKS: Thank you.

4 DREW BERGMAN,  
5 after having been previously sworn under oath, was  
6 questioned and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. KESSLER:

9 Q. Please state your name for the record and tell  
10 the Examiners by whom you're employed and in what  
11 capacity?

12 A. My name is Drew Bergman. I'm a geologist for  
13 COG Operating.

14 Q. Have you previously testified before the  
15 Division?

16 A. Yes, I have.

17 Q. Were your credentials as a petroleum geologist  
18 accepted and made a matter of record?

19 A. Yes, they were.

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

22 A. Yes, I am.

23 Q. And have you conducted a geologic study of the  
24 lands that are the subject of this hearing?

25 A. Yes, I have.

1 MS. KESSLER: Mr. Examiners, I would tender  
2 Mr. Bergman as an expert in petroleum geology.

3 EXAMINER McMILLAN: So qualified.

4 Q. (BY MS. KESSLER) Please turn to Exhibit 8 and  
5 identify this exhibit for the Examiners.

6 A. This is a map showing the Sidewinder Federal  
7 Com 4H at the red-dashed line and offset Wolfcamp  
8 production as the solid red lines and COG acreages in  
9 yellow.

10 Q. And this shows the Texas line, too; is that  
11 correct?

12 A. Yes, the black line -- the black-dashed line.

13 Q. Is Exhibit 9 a structure map of the Wolfcamp in  
14 this area?

15 A. Yes. This is a structure map on the top of the  
16 intra-Wolfcamp marker.

17 Q. And what does this show?

18 A. It shows uniform dip to the east into the Basin  
19 and no geologic impediments while drilling the  
20 horizontal.

21 Q. And you've also marked the proposed well, as  
22 well as the offset Wolfcamp?

23 A. Correct.

24 Q. And the COG acreage in yellow?

25 A. Correct.

1 Q. What is Exhibit 10?

2 A. This is a map showing a line of cross section.  
3 It'll be shown in the next exhibit as the green A to A  
4 prime line.

5 Q. And did you use two wells for your  
6 cross-section exhibit?

7 A. Yes, I did.

8 Q. Do you consider these wells to be  
9 representative of the Lower Wolfcamp wells in the area?

10 A. Yes, I do.

11 Q. Is Exhibit 11 the corresponding cross-section  
12 exhibit?

13 A. Yes, it is.

14 Q. And what does that show?

15 A. So you've got the -- the far left track on each  
16 well log is a gamma ray track. You've got the  
17 resistivity track in the middle and then the porosity  
18 track on the far right showing the density-porosity and  
19 neutron-porosity log. And you also have two  
20 intra-Wolfcamp marker tops shown by the two red lines  
21 and the lateral interval shown by the green bracket.

22 Q. Now, you've marked the lateral interval. What  
23 is your landing zone?

24 A. We will target about 10,500 feet, shown on the  
25 far left log.

1 Q. And in that area in the Wolfcamp, based on  
2 these logs, have you identified relative thickness or  
3 standard thickness for the formation?

4 A. Yes.

5 Q. No major thickening or thinning?

6 A. No.

7 Q. Have you identified any geologic impediments in  
8 drilling these horizontal wells?

9 A. I have not.

10 Q. And do you believe that the area can be  
11 efficiently and economically developed by horizontal  
12 wells?

13 A. Yes, I do.

14 Q. Do you believe that each of the tracts will  
15 contribute more or less equally to production of the  
16 wells?

17 A. Yes.

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

22 A. Yes.

23 Q. Were Exhibits 8 through 11 prepared by you or  
24 compiled under your direction and supervision?

25 A. Yes, they were.

1 MS. KESSLER: Mr. Examiners, I'd move  
2 admission of Exhibits 8 through 11.

3 EXAMINER McMILLAN: Exhibits 8 through 11  
4 may now be accepted as part of the record.

5 (COG Operating, LLC Exhibit Numbers 8  
6 through 11 are offered and admitted into  
7 evidence.)

8 MS. KESSLER: That concludes my  
9 examination.

10 CROSS-EXAMINATION

11 BY EXAMINER McMILLAN:

12 Q. I guess the question I've got is looking at  
13 Exhibit Number 10, did you drill the well in Section 6?  
14 Is that a COG well?

15 A. Yes, sir, it is.

16 Q. And which well has done better, the well in  
17 Section 31 or the well in Section 6?

18 A. The well in Section 6 is actually a lot older  
19 than the well in Section 31. The well in Section 31 was  
20 just recently drilled within the last year, and it's  
21 looking better than the well in Section 6.

22 Q. Is it because of completion, or do you think  
23 preferred orientation? I'm just curious.

24 A. I would say due to modern completion.

25 Q. So there's probably not much difference

1 north-south versus east-west?

2 A. We don't have any evidence to really conclude  
3 whether or not there is a difference.

4 Q. In Texas, is that the Phantom [sic; phonetic];  
5 Wolfcamp pool?

6 A. Yes, sir, I believe it is.

7 Q. So how far off the line can you get?

8 A. I believe it is 330 off the line.

9 Q. Okay. And I'm just curious. Go to Exhibit 11.  
10 Do you expect you have multiple wells within the project  
11 area?

12 A. Yes.

13 EXAMINER BROOKS: No questions.

14 EXAMINER McMILLAN: Okay. So Case Number  
15 15679 shall be taken under advisement.

16 MS. KESSLER: Thank you.

17 (Case Number 15679 concludes, 10:00 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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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  
23 Certified Court Reporter  
24 New Mexico CCR No. 20  
25 Date of CCR Expiration: 12/31/2017  
Paul Baca Professional Court Reporters

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