

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, INC. CASE NO. 16005
FOR A NONSTANDARD SPACING AND
PRORATION UNIT AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

March 8, 2018

Santa Fe, New Mexico

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

This matter came on for hearing before the
New Mexico Oil Conservation Division, Michael McMillan,
Chief Examiner, and David K. Brooks, Legal Examiner, on
Thursday, March 8, 2018, 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

1 APPEARANCES

2 FOR APPLICANT COG OPERATING, INC.:

3 MICHAEL H. FELDEWERT, ESQ.
 4 HOLLAND & HART, LLP
 5 110 North Guadalupe, Suite 1
 6 Santa Fe, New Mexico 87501
 7 (505) 988-4421
 8 mfeldewert@hollandhart.com

8 INDEX

9		PAGE
10	Case Number 16005 Called	3
11	COG Operating, Inc.'s Case-in-Chief:	
12	Witnesses:	
13	Adam Reker:	
14	Direct Examination by Mr. Feldewert	3
15	Candice Pettijohn:	
16	Direct Examination by Mr. Feldewert	9
17	Cross-Examination by Examiner McMillan	14
18	Proceedings Conclude	15
19	Certificate of Court Reporter	16

20

21 EXHIBITS OFFERED AND ADMITTED

22	COG Operating, Inc. Exhibit Numbers 1, 2, 3, 7 and 8	9
23	COG Operating, Inc. Exhibit Numbers 4, 5 and 6	14
24		

25

1 (10:57 a.m.)

2 EXAMINER McMILLAN: COG Operating, LLC for
3 a nonstandard spacing and proration unit and compulsory
4 pooling, Eddy County, New Mexico.

5 MR. FELDEWERT: May it please the Examiner,
6 Michael Feldewert, with the Santa Fe office of Holland &
7 Hart, appearing on behalf of the Applicant, and we have
8 two witnesses here today.

9 EXAMINER McMILLAN: Would the witnesses
10 please be sworn in at this time?

11 Thank you.

12 (Mr. Reker and Ms. Pettijohn sworn.)

13 MR. FELDEWERT: Call our first witness.

14 EXAMINER McMILLAN: Please proceed.

15 ADAM REKER,

16 after having been first duly sworn under oath, was
17 questioned and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. FELDEWERT:

20 Q. Would you please state your name, identify by
21 whom you're employed and in what capacity?

22 A. Adam Reker, COG Operating as a landman.

23 Q. And how long have you been a landman with COG?

24 A. Three-and-a-half years.

25 Q. And have your responsibilities during that time

1 included the Permian Basin?

2 A. Yes.

3 Q. Mr. Reker, have you previously testified before
4 this Division and had your credentials accepted in
5 petroleum land matters?

6 A. Yes.

7 Q. Are you familiar with the application filed in
8 this case?

9 A. I am.

10 Q. And the status of the lands in the subject
11 area?

12 A. Yes.

13 MR. FELDEWERT: I would retender Mr. Reker
14 as an expert in petroleum land matters.

15 EXAMINER McMILLAN: So qualified.

16 Q. (BY MR. FELDEWERT) Would you please turn to
17 what's been marked as COG Exhibit Number 1 in that
18 packet there and first identify this exhibit and explain
19 what the company seeks under this application?

20 A. This is a map of COG's Red Lake area, which
21 shows the Collier 22 State Com #43H location and spacing
22 unit, located within Section 22, Township 17 South,
23 Range 28 East, Eddy County, New Mexico.

24 Q. And what does the company seek under this
25 application?

1 A. It seeks a 160-acre nonstandard proration --
2 proration and spacing unit comprised of the south half
3 of the north half, Section 22 of 17 South, Range 28
4 east, Eddy County, New Mexico. It's to pool the
5 non-cost-bearing interests, more specifically the record
6 title owners as to the San Andres Formation.

7 Q. Okay. So let me stop you right there. So
8 we're dealing just with non-cost-bearing interests?

9 A. Correct.

10 Q. Who owns the working interests?

11 A. COG owns 100 percent of the working interests.

12 Q. And you're just pooling record title owners in
13 the state leases that are involved?

14 A. Correct.

15 Q. So these are all state lands?

16 A. Yes. State throughout the entire spacing.

17 Q. If I turn to what's been marked as COG Exhibit
18 Number 2, is this the well that's reflected in Exhibit
19 Number 1?

20 A. Yes. It's the Collier 22 State Com #43H well.

21 Q. And this well has been drilled?

22 A. Yes, sir.

23 Q. And does this provide the Examiner with the API
24 number for the well and also the pool and then the pool
25 code for the area?

1 A. Yes. This is API Number 30-015-44044.

2 Q. I'm going to stop you right there. It's in the
3 exhibit. We don't need to read it.

4 A. Oh, okay.

5 Q. Is this pool governed by Division statewide
6 rules?

7 A. Yes.

8 Q. And does the completed interval for this well
9 comply with the setback requirements?

10 A. Yes.

11 Q. If I then turn to what's been marked as COG
12 Exhibit Number 3, does this identify a group of record
13 title owners in the state leases that you seek to pool?

14 A. Yes.

15 Q. Now, these are all non-cost-bearing interests.
16 So what do the percentages reflect here?

17 A. It's a percentage of the record title that
18 these parties own that we assumed through intestate
19 succession.

20 Q. Why do you need to pool these record title
21 owners? What happened here?

22 A. So COG owns 100 percent of the operating
23 rights. The operating rights were, for whatever reason
24 in the records, severed from record title, so COG had
25 the right to go out and go ahead and drill the well,

1 which we have. For the purposes of satisfying the
2 requirements for the State of New Mexico -- or the SLO's
3 com agreement, the operator, as well as the record title
4 owners have to execute the com agreement.

5 Having made attempts to get these people to
6 call us back and email us back and everything else,
7 they've been completely unresponsive, so in some talks
8 with the State Land Office, we have decided to go
9 through these proceedings to get them on board.

10 **Q. Did you send com agreements to these interest**
11 **owners?**

12 A. Yes.

13 **Q. I'm sorry. Record title owners?**

14 A. Yes.

15 **Q. And have you reached out by telephone?**

16 A. Yes.

17 **Q. Emails?**

18 A. Yes.

19 **Q. Can't get them to send an executed document**
20 **back?**

21 A. Correct.

22 **Q. And so we're here to pool. So that's why we're**
23 **creating a nonstandard spacing and proration unit for**
24 **purposes of pooling these non-cost-bearing record title**
25 **owners?**

1 A. Correct.

2 Q. Got it.

3 Okay. And since we're creating a
4 nonstandard spacing and proration unit for purposes of
5 this pooling, as part of this case, did the company
6 identify the leased mineral interest owners in the
7 40-acre tract surrounding the proposed unit?

8 A. Yes, we did.

9 Q. And included them in notice of this hearing?

10 A. Yes, we did.

11 Q. If I turn to what's been marked as -- I got out
12 of order here a little bit -- COG Exhibit Number 7 --

13 A. Okay.

14 Q. -- sorry about that -- is this an affidavit
15 prepared by my office with the attached letter providing
16 notice of this hearing to the record title owners?

17 A. Yes.

18 Q. And then also the offset owners?

19 A. Correct.

20 Q. And it appears that we've gotten green cards
21 back from some but haven't from others. As a result, if
22 I turn to what's been marked as COG Exhibit Number 8, is
23 this an Affidavit of Publication in the Eddy County
24 records directed by name to these record title owners?

25 A. Yes.

1 MR. FELDEWERT: Mr. Examiner, I would move
2 into evidence COG Exhibits 1 through 3 and then 7 and 8,
3 which comprise the notice affidavits.

4 EXAMINER McMILLAN: Okay. Exhibits 1, 2,
5 3, 7 and 8 may now be accepted as part of the record.

6 (COG Operating, Inc. Exhibit Numbers 1, 2,
7 3, 7 and 8 are offered and admitted into
8 evidence.)

9 MR. FELDEWERT: And that concludes my
10 examination of this witness.

11 EXAMINER McMILLAN: Go ahead.

12 EXAMINER BROOKS: No questions.

13 EXAMINER McMILLAN: Thank you.

14 MR. FELDEWERT: Call our next witness.

15 EXAMINER McMILLAN: Please proceed.

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

19 DIRECT EXAMINATION

20 BY MR. FELDEWERT:

21 **Q. Would you please state your name, identify by**
22 **whom you're employed and in what capacity?**

23 A. My name is Candice Pettijohn. I'm a geologist
24 at COG.

25 **Q. How long have you been a geologist with COG?**

1 A. Three-and-a-half years.

2 Q. Have your responsibilities included the Permian
3 Basin?

4 A. Yes.

5 Q. And you have, Ms. Pettijohn, also previously
6 testified before the Division as an expert in petroleum
7 geology?

8 A. Yes.

9 Q. Are you familiar with the application filed in
10 this case?

11 A. Yes.

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

14 A. Yes.

15 MR. FELDEWERT: I would retender
16 Ms. Pettijohn as an expert witness in petroleum geology.

17 EXAMINER McMILLAN: So qualified.

18 Q. (BY MR. FELDEWERT) This well that's at issue
19 here has already been drilled, Ms. Pettijohn. What
20 formation has it been drilled in?

21 A. San Andres.

22 Q. And have you prepared a structure map of the
23 cross section of this formation?

24 A. Yes.

25 Q. If I turn to what's been marked as COG Exhibit

1 **Number 4, is this a structure map that you have created?**

2 A. Yes.

3 **Q. Okay. First off, does it, likewise, identify**
4 **the spacing unit and the proposed well?**

5 A. Yes. The spacing unit in yellow. The proposed
6 well in red.

7 **Q. What are all the other dots on here?**

8 A. Those are existing drilled wells.

9 **Q. Okay. And are these wells drilled in the San**
10 **Andres Formation?**

11 A. Some of them, yes. These are various
12 formations.

13 **Q. Various formations. Okay.**

14 A. (Indicating.)

15 **Q. Are there any horizontal wells drilled in the**
16 **San Andres Formation?**

17 A. No.

18 **Q. This is -- this is the first one that was**
19 **drilled?**

20 A. The first one drilled, and it's part of the
21 shelf [sic].

22 **Q. Okay. And what do you observe with respect to**
23 **the structure in this particular area?**

24 A. It's consistent structure over the section
25 demonstrating no faulting, no pinch-outs, no geological

1 impediments to horizontal drilling.

2 Q. And with respect to this particular well, were
3 there any drilling problems encountered?

4 A. No.

5 Q. Have you created a structural cross section for
6 this area?

7 A. Yes.

8 Q. If I turn to what's been marked as COG Exhibit
9 Number 5, does this identify the wells that you unitized
10 for your cross section?

11 A. Yes.

12 Q. Why did you choose these particular wells?

13 A. They're the closest wells to the spacing unit
14 that had digital logs through the zone of interest.

15 Q. And in your opinion, are these representative
16 of the area?

17 A. Yes.

18 Q. If I then turn to what's been marked as COG
19 Exhibit Number 7, is this the structural cross section
20 that corresponds with the wells shown on Exhibit Number
21 6?

22 A. Yes.

23 Q. And first off, for the record, identify -- can
24 you testify as to how you identified the formations and
25 what is shown on this exhibit?

1 A. In peach is the San Andres Formation, and below
2 that in yellow is the Glorieta. This shows consistent
3 thickness in both formations across this area. The logs
4 indicate consistent lithology and porosity, and in blue
5 is indicated the landing zone for this well.

6 Q. Okay. So that's where the well has actually
7 been drilled?

8 A. Yes.

9 Q. Is the San Andres Formation in this area
10 suitable for development by horizontal wells?

11 A. Yes.

12 Q. And is the orientation of the well appropriate
13 for this area?

14 A. Yes.

15 Q. Do you see any difference at this point between
16 lay-down or stand-up?

17 A. We haven't drilled a stand-up yet, so no.

18 Q. Do you expect that each quarter-quarter section
19 of the proposed nonstandard spacing and proration unit
20 to contribute more or less equally to the production
21 from the well?

22 A. Yes.

23 Q. And in your opinion, Ms. Pettijohn, is the
24 granting of this application in the best interest of
25 conservation, in the prevention of waste and the

1 **protection of correlative rights?**

2 A. Yes.

3 **Q. Were COG Exhibits 4, 5, 6 and 7 -- I'm sorry --**
4 **4, 5 and 6 prepared by you or compiled under your**
5 **direction and supervision?**

6 A. Yes.

7 MR. FELDEWERT: Mr. Examiner, I would move
8 into evidence COG Exhibits 4, 5 and 6.

9 EXAMINER McMILLAN: Exhibits 4 through 6
10 may now be accepted as part of the record.

11 (COG Operating, Inc. Exhibit Numbers 4, 5
12 and 6 are offered and admitted into
13 evidence.)

14 MR. FELDEWERT: That concludes my
15 examination of this witness.

16 CROSS-EXAMINATION

17 BY EXAMINER McMILLAN:

18 **Q. I've got a question for you. Looking at 6,**
19 **when they drilled the well, did you see any portions of**
20 **the lateral that were not drained, or did you actually**
21 **take a look? I'm always curious about this, the**
22 **differential porosity.**

23 A. Not drained? None of them should have been
24 drained yet or depleted because there are no existing
25 wells in the San Andres in this spacing unit. That's

1 why they drilled a well here in the San Andres. There
2 are wells in the spacing unit, but none of them in the
3 San Andres.

4 **Q. Oh, okay. They're deeper?**

5 A. Yeah. They're either shallower or deeper.

6 **Q. Oh, okay.**

7 **I don't have any questions.**

8 EXAMINER BROOKS: Nor do I.

9 MR. FELDEWERT: That concludes our
10 presentation, and we ask the case be taken under
11 advisement.

12 EXAMINER McMILLAN: Case Number 16005 shall
13 be taken under advisement.

14 Thank you very much.

15 (Case Number 16005 concludes, 11:08 a.m.)

16

17

18

19

20

21

22

23

24

25

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 DATED THIS 26th day of March 2018.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2018
Paul Baca Professional Court Reporters

25