

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
TO RE-OPEN CASE NO. 15023 TO POOL
THE INTERESTS OF ADDITIONAL MINERAL
OWNERS UNDER THE TERMS OF COMPULSORY
POOLING ORDER R-13757, EDDY COUNTY,
NEW MEXICO.

CASE NO. 15023
(Re-opened)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 9, 2018

Santa Fe, New Mexico

BEFORE: SCOTT DAWSON, CHIEF EXAMINER
LEONARD LOWE, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, Scott Dawson,
Chief Examiner, Leonard Lowe, Technical Examiner, and
David K. Brooks, Legal Examiner, on Thursday, August 9,
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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

JORDAN L. KESSLER, ESQ.
HOLLAND & HART, LLP
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421
jlkessler@hollandhart.com

INDEX

PAGE

Case Number 15023 Called	3
Case Presented by Affidavit	3
Proceedings Conclude	10
Certificate of Court Reporter	11

EXHIBITS OFFERED AND ADMITTED

COG Operating, LLC Exhibit Letters A through G	6
--	---

1 (8:31 a.m.)

2 EXAMINER DAWSON: So what we'll do now is
3 start with Case Number 15023, which is number five on
4 the list, and it's an application of COG Operating, LLC
5 to re-open Case Number 15023 to pool the interests of
6 additional mineral owners under the terms of Compulsory
7 Pooling Order R-13757, Eddy County, New Mexico.

8 Call for appearances, please.

9 MS. KESSLER: Mr. Examiners, Jordan
10 Kessler, from the Santa Fe office of Holland & Hart, on
11 behalf of the Applicant. And this case will be
12 presented by affidavit.

13 EXAMINER DAWSON: Okay. Any other
14 appearances people involved in this case?

15 Any opposition?

16 Okay. When you're ready, Ms. Kessler.

17 MS. KESSLER: Thank you.

18 EXAMINER DAWSON: Can you have your
19 witnesses please stand and be sworn by the court
20 reporter?

21 MS. KESSLER: Mr. Examiner, my presentation
22 is by affidavit.

23 EXAMINER DAWSON: Oh, just affidavit.
24 Okay.

25 MS. KESSLER: So if I may proceed, what you

1 have in front of you is -- it's a little bit confusing.
2 Behind the cover page in front of Attachment A, I have
3 an affidavit from Mr. Stuart Dirks, who is a landman
4 with COG Operating, LLC. And this sets forth the fact
5 that this case was originally pooled under Division
6 Order R-13757 that was entered in October of 2013 and
7 created 159.67-acre nonstandard spacing unit comprised
8 of the east half of the west half of Section 6, Township
9 19 South, Range 26 East in Eddy County. And the order
10 also pooled uncommitted interest owners in the Atoka;
11 Glorieta-Yeso Pool and dedicated the spacing unit to the
12 Arabian Fee #6H well. And the API number and footage
13 calls for that well are listed in paragraph two.

14 Attachment A to this order is a copy -- I'm
15 sorry -- to this affidavit is a copy of the original
16 order, and Attachment B is an affidavit -- is a C-102
17 for the Arabian 6H well.

18 In 2016, this case was re-opened to pool
19 additional mineral interest owners due to an expiration
20 of a lease and a termination of a joint operating
21 agreement. And that was because the well was shut in
22 for a period of time. Those leases expired, as did the
23 joint operating agreement.

24 So Division Order R-13757-A pooled
25 additional mineral interest owners, and that is attached

1 as Exhibit C.

2 Now, the Arabian 6H well temporarily ceased
3 production on December 1st of 2016, and because of that
4 lapse in production, since the order of R-13757-A, there
5 have been additional interest owners who are no longer
6 committed to the well, again due to lease-expiration
7 issues.

8 Exhibit D to this affidavit, behind Tab D,
9 shows the nature and percentage of the interest owners
10 that COG is now seeking to pool. If you look at the
11 third page of Attachment D, there is a nice summary. It
12 says "Interest in Spacing Unit," and it shows the
13 parties that were pooled under the original orders, and
14 those are italicized. And it also seeks -- highlighted
15 in bold, it shows the four parties that COG seeks to
16 pool today. That would be the Estate of Mary Ellen
17 Taylor, Sharbro Energy, LLC, Yates Industries, LLC, and
18 Yates Brothers.

19 And as you can see from the asterisks, COG
20 has entered into verbal agreements with those parties
21 but has not yet finalized an agreement and has leases
22 expiring at the beginning of November, so it does seek
23 to go forward with this.

24 EXAMINER DAWSON: Okay.

25 MS. KESSLER: Lease offers and well

1 proposals were sent to the unleased mineral interest
2 owners and those are shown on Attachment E and request a
3 term assignment.

4 The working interest owner is included as
5 Attachment F.

6 All of these parties were locatable, and
7 COG has had discussions and negotiations with all of
8 these parties.

9 Attachment G to this affidavit is a letter
10 from Holland & Hart providing notice to the parties that
11 COG seeks to pool today.

12 And, Mr. Examiners, for these reasons, COG
13 respectfully requests the additional uncommitted
14 interest owners be pooled pursuant to the terms of
15 Order R-13757. And I would ask at this time that this
16 exhibit, along with Attachments A through G, be taken
17 into the record.

18 EXAMINER DAWSON: Okay. At this time
19 Exhibits A through G on Case Number 15023 will be
20 admitted to the record.

21 (COG Operating, LLC Exhibit Letters A
22 through G are offered and admitted into
23 evidence.)

24 EXAMINER DAWSON: Do you have any
25 questions, Leonard?

1 EXAMINER LOWE: No, I don't.

2 EXAMINER DAWSON: David?

3 EXAMINER BROOKS: I think I may have missed
4 something. How did these -- these interests that were
5 not included, how did they arise?

6 MS. KESSLER: The well was temporarily shut
7 in, Mr. Examiner, and while it was shut in and ceased
8 production, certain leases expired and the operating
9 agreement terminated.

10 EXAMINER BROOKS: Oh, okay. So these are
11 minimal owners who became -- whose interests -- to whom
12 interests reverted upon the expiration of leases that
13 would have been kept in production -- that would have
14 been kept in force by production if the leases -- if the
15 well had continued -- had continuously produced?

16 MS. KESSLER: That's true for two of the
17 owners. Two of the owners are unleased mineral interest
18 owners. Two of the interests are working interest
19 owners who were parties to an operating agreement that
20 also terminated or expired due to the cessation of
21 production.

22 EXAMINER BROOKS: So -- I'm sorry. They're
23 working interest owners who were -- who were parties to
24 an operating agreement. Well, why did they not have an
25 interest before?

1 MS. KESSLER: They weren't pooled,
2 Mr. Examiner. They weren't compulsory pooled because
3 they had reached -- they had reached a voluntary
4 agreement, which was the operating agreement.

5 EXAMINER BROOKS: Okay. But they did
6 not -- what happened to the voluntary agreement?

7 MS. KESSLER: When the well temporarily
8 ceased producing, the operating agreement terminated.

9 EXAMINER BROOKS: Okay. So those -- those
10 interests became uncommitted because -- committed under
11 the terms of an operating agreement, and then that
12 operating agreement expired by its own terms?

13 MS. KESSLER: Precisely. Yes.

14 EXAMINER BROOKS: Thank you.

15 EXAMINER DAWSON: Do you know why the well
16 ceased production?

17 MS. KESSLER: I'm sorry, Mr. Examiner, I
18 don't.

19 EXAMINER DAWSON: Okay. And how are they
20 going to treat the new interest owners in the new lease?

21 MS. KESSLER: They have proposed -- they
22 have offered to lease. They have proposed a
23 recompletion, and they've offered to term assign. So
24 the well will be recompleted, and with respect to the
25 recompletion, if there are any pooled parties under this

1 order, COG is seeking a 200 percent risk penalty for the
2 recompletion order.

3 EXAMINER DAWSON: Okay.

4 EXAMINER BROOKS: I would assume that you
5 recognize that probably they will be entitled to a new
6 election --

7 MS. KESSLER: Correct.

8 EXAMINER BROOKS: -- since they would not
9 be bound by the election they made under the title that
10 they held at the time.

11 MS. KESSLER: For the recompletion work?

12 EXAMINER BROOKS: Yes.

13 MS. KESSLER: Yes.

14 EXAMINER DAWSON: Has a new JOA been
15 executed?

16 MS. KESSLER: It's been proposed, in my
17 understanding. And, again, as I mentioned, Attachment D
18 to the exhibit shows that all parties have reached a
19 verbal agreement with COG. But, again, there are
20 lease-expiration issues, and so COG is requesting that
21 these parties be pooled and is also requesting an
22 expedited order.

23 EXAMINER DAWSON: Okay. Okay. So at this
24 time --

25 Is that it?

1 MS. KESSLER: (Indicating.)

2 EXAMINER DAWSON: All right. At this time
3 Case Number 15023 will be taken under advisement.

4 Thank you, Ms. Kessler.

5 MS. KESSLER: Thank you.

6 (Case Number 15023 concludes, 8:40 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 STATE OF NEW MEXICO

1 COUNTY OF BERNALILLO

2

3 CERTIFICATE OF COURT REPORTER

4 I, MARY C. HANKINS, Certified Court

5 Reporter, New Mexico Certified Court Reporter No. 20,

6 and Registered Professional Reporter, do hereby certify

7 that I reported the foregoing proceedings in

8 stenographic shorthand and that the foregoing pages are

9 a true and correct transcript of those proceedings that

10 were reduced to printed form by me to the best of my

11 ability.

12 I FURTHER CERTIFY that the Reporter's

13 Record of the proceedings truly and accurately reflects

14 the exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither

16 employed by nor related to any of the parties or

17 attorneys in this case and that I have no interest in

18 the final disposition of this case.

19 DATED THIS 16th day of August 2018.

20

21

22 MARY C. HANKINS, CCR, RPR

23 Certified Court Reporter

24 New Mexico CCR No. 20

25 Date of CCR Expiration: 12/31/2018

Paul Baca Professional Court Reporters

26

27