

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 PRODUCTION, LLC                      CASE NO. 16080  
FOR A NONSTANDARD SPACING AND  
PRORATION UNIT AND COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

September 20, 2018

Santa Fe, New Mexico

BEFORE:    WILLIAM V. JONES, CHIEF EXAMINER  
              DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, William V. Jones,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, September 20, 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  
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1 APPEARANCES

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1 (11:25 a.m.)

2 EXAMINER JONES: Case 16080, application of  
3 COG Production, LLC for a nonstandard spacing and  
4 proration unit and compulsory pooling in Eddy County,  
5 New Mexico.

6 Call for appearances.

7 MR. CARR: May it please the Examiner, my  
8 name is William F. Carr, senior counsel to Concho, and  
9 I'm representing COG Production Company in this matter.  
10 I have two witnesses.

11 EXAMINER BROOKS: You're standing in for  
12 Ms. Munds-Dry again?

13 MR. CARR: No, no. She's stepping back and  
14 seeing if I can do one of these (laughter).

15 EXAMINER JONES: Will the witnesses please  
16 stand?

17 MR. BRUCE: Mr. Examiner, Jim Bruce of  
18 Santa Fe representing Mewbourne Oil Company. I have no  
19 witnesses.

20 EXAMINER JONES: No witnesses? Okay.

21 (Ms. Roush and Mr. Fisher sworn.)

22 ASHLEY ROUSH,  
23 after having been first duly sworn under oath, was  
24 questioned and testified as follows:

25

1 DIRECT EXAMINATION

2 BY MR. CARR:

3 Q. Would you state your name for the record,  
4 please?

5 A. My name is Ashley Roush, and that's R-O-U-S-H.

6 Q. By whom are you employed and in what capacity?

7 A. I'm a senior landman at COG Operating, LLC.

8 Q. And have you previously testified before the  
9 New Mexico Oil Conservation Division?

10 A. Yes, I have.

11 Q. At the time of that testimony, were your  
12 credentials as an expert in petroleum geology accepted  
13 and made a matter of record?

14 A. Yes.

15 Q. Are you familiar with the application filed in  
16 this case?

17 A. Yes.

18 Q. And have you had made a study of the lands that  
19 are involved in the proposed unit?

20 A. Yes, I have.

21 Q. And have you prepared exhibits for presentation  
22 here today?

23 A. Yes.

24 MR. CARR: We tender Ms. Roush as an expert  
25 in petroleum land matters.

1 EXAMINER JONES: Any objection?

2 MR. BRUCE: No objection.

3 EXAMINER JONES: She is so qualified.

4 **Q. (BY MR. CARR) Would you please state what COG**  
5 **Production seeks with this application?**

6 A. We seek to form a 640-acre unit of Sections 13  
7 and 24 for the east half, Township 26 South, Range 28  
8 East in Eddy County as to the Wolfcamp Formation, and we  
9 seek to pool the uncommitted interest owners.

10 **Q. And these are to be dedicated -- this acreage**  
11 **to be dedicated to the Momba Federal Com Well #801H,**  
12 **correct?**

13 A. Correct.

14 **Q. Will you refer to what has been marked as COG**  
15 **Exhibit Number 1 and review this for the examiners?**

16 A. This is the draft C-102 that shows the location  
17 of the well for the Momba Federal Com 801H.

18 **Q. And this has not yet been approved?**

19 A. Right. We have applied for the APD, but this  
20 has not been approved yet.

21 **Q. So there is no API number for the well?**

22 A. Right.

23 **Q. Do you have a pool code for the well?**

24 A. It's 98220. It's the Purple Sage; Wolfcamp  
25 Pool.

1           Q.    And this shows the well location?

2           A.    Yes, it does.

3           Q.    Could you identify that for us?

4           A.    It's the east half of Sections 13 and 24. The  
5 surface-hole location is 210 feet from the north line  
6 and 330 feet from the east line, and the bottom hole is  
7 200 feet from the south line and the 330 feet from the  
8 east line.

9           Q.    And you gave us the pool code. What pool is  
10 this located in?

11          A.    It's the Purple Sage; Wolfcamp Gas Pool.

12          Q.    Has the Division adopted special pool rules for  
13 that pool?

14          A.    Yes.

15          Q.    And what do they provide?

16          A.    Standard setbacks of 330 feet and 320-acre  
17 spacing.

18          Q.    So this well will be located at a standard  
19 location on a standard spacing unit?

20          A.    Yes.

21          Q.    And what is the character of the land?

22          A.    Federal and fee.

23          Q.    Could you identify COG Exhibit Number 2 and  
24 review this for the examiners, please?

25          A.    This shows ownership by tract and by unit. The

1 owners that are highlighted in yellow are the owners I  
2 seek to pool. I also list, on the next page, the unit  
3 working interest owners and then the royalty owner we  
4 seek to pool and the overriding royalty interest owner  
5 we seek to pool.

6 **Q. And why are you including royalty owners and**  
7 **overriding royalty owners?**

8 A. The royalty owner has insufficient pooling  
9 language, and the overriding royalty interests were  
10 created out of conveyances that don't have pooling  
11 language.

12 **Q. Have you reviewed the location and the proposal**  
13 **with the royalty owner and the overriding royalty**  
14 **owners?**

15 A. Yes, I have. For the royalty interest owner, I  
16 have sent them the communitization and the designation  
17 of pooled unit, and the overrides, I have sent  
18 ratifications of those documents.

19 **Q. And once these are signed, these individuals**  
20 **will be released from the pooling order; is that right?**

21 A. That is right.

22 **Q. What is COG Exhibit Number 3?**

23 A. This is the well-proposal letter we sent out in  
24 January of 2018.

25 **Q. And to whom was it mailed or delivered or sent?**



1           A.    It was delivered by Federal Express overnight  
2   to the working interest owners on page 3, which is  
3   Exhibit A.

4           **Q.    Could you review for the examiners the efforts**  
5   **you've undertaken since this letter was mailed or**  
6   **delivered to these individuals to obtain their voluntary**  
7   **participation in the well?**

8           A.    Yes.  For all of the working interest owners,  
9   we've sent them the operating agreement, the  
10   communitization agreement and the designation of pooled  
11   unit.  Chevron has elected to participate in the well,  
12   but we are still waiting on their signatures on the  
13   contracts.  We are currently working a trade with OXY  
14   for their interest in this well.  And Marathon, we have  
15   sent them all the documents, and we have had email  
16   correspondence, and we are waiting on their election and  
17   their signatures.

18          **Q.    What is the status of Tap Rock Resources?**

19          A.    We have received an election to participate,  
20   and they have signed everything, so we are not seeking  
21   to pool them.  And Mewbourne, we have come to a deal.

22          **Q.    So you are close with each of these individuals**  
23   **in reaching a voluntary agreement for participation?**

24          A.    Yes.

25          **Q.    Let's go to the next page of Exhibit 3.  Would**

1     **you identify this, the AFE?**

2           A.     This is the AFE for the Momba Fed Com 801H.

3           **Q.     And what are the total numbers proposed?**

4           A.     The total is \$13,255,302.

5           **Q.     Are these costs consistent with what other**  
6 **operators charge for similar wells in the area?**

7           A.     Yes.

8           **Q.     Let's go to Exhibit Number 4.  What is this?**

9           A.     This is the notice sent out to the pooled  
10 parties.

11          **Q.     And this was sent in April?**

12          A.     Yes.

13          **Q.     The second page of this exhibit is a list of**  
14 **the individuals to whom it was sent?**

15          A.     Yes, it is.

16          **Q.     And at the top, we have the pooled parties.**  
17 **Those are the working interest owners you just**  
18 **identified?**

19          A.     Right, and the royalty interest owners and the  
20 overrides.

21          **Q.     Below those, you've got the offsets indicated.**  
22 **Why is that?**

23          A.     We filed for this before the new horizontal  
24 rules came out.  I think we filed in April.  So at the  
25 time, we had to notify the offsets.

1           Q.    And because the rules have changed, we are  
2   asking that the portion of the case that relates to --  
3   the portion of the application that would require the  
4   creation of a nonstandard unit, notice to offsets, be  
5   dismissed.

6                   EXAMINER BROOKS:   That's what we've been  
7   doing this morning.

8                   MR. CARR:   We would just like to be treated  
9   that way.

10                  EXAMINER JONES:   This is an old  
11   application, right?

12                  MR. CARR:   This was filed back in April.

13                  THE WITNESS:   April.

14                  EXAMINER JONES:   So it's not under the new  
15   rules, except if the well's already been permitted to  
16   drill, right?

17                  EXAMINER BROOKS:   No.   It hasn't been  
18   permitted.

19                  THE WITNESS:   It hasn't been permitted yet.

20                  EXAMINER BROOKS:   And when it is permitted,  
21   then they can proceed and file an APD with us, and we'll  
22   approve it under the new rule.   It only becomes a  
23   problem if it wouldn't have been something we could do  
24   under the old rule or if it's something we can't do  
25   under the new rule, and I don't believe either one of

1 those things applies.

2 MR. CARR: And I think we're in compliance  
3 under the old rule. We did provide notice to all the  
4 offsets of the hearing.

5 EXAMINER BROOKS: Yeah. Right.

6 MR. CARR: It's just that when we get to  
7 the point where an order's going to be entered, we think  
8 at that point in time, the nonstandard portion -- the  
9 unit portion of the case could be dismissed, and we  
10 would simply have pooling --

11 EXAMINER BROOKS: Yeah. The only time it  
12 becomes an issue is when the proposed unit is  
13 nonstandard under the new rule and we have to approve it  
14 under the old rules so that it can then become a  
15 nonstandard under the new rule under the transition  
16 provision. I think that's the only time it makes a  
17 difference. There may be some other situations it makes  
18 a difference, but I'm pretty sure this isn't one of  
19 them.

20 MR. CARR: Well, we had taken care of  
21 everything under the old rule, but we had some time  
22 delays, and we think that portion can be dismissed.

23 EXAMINER BROOKS: I'm satisfied.

24 Q. (BY MR. CARR) Would you go to what has been --  
25 well, let me ask you: Were the green cards received

1 from each of the individuals identified on the list  
2 attached to Exhibit 4?

3 A. For everyone but Margi Burns.

4 Q. And hers was returned undeliverable?

5 A. Yes.

6 Q. What efforts have you made to locate her?

7 A. We went through our internal databases where we  
8 keep track of addresses. We also looked at the last  
9 known record that was recorded of her address and did  
10 various external searches on the Internet.

11 Q. You've been unable to locate her?

12 A. Right.

13 Q. And she is the only interest owner that is in  
14 that posture before the Division today?

15 A. Yes, she is.

16 Q. What are the overhead and administrative costs  
17 that you're requesting in this case?

18 A. 7,000 for drilling and 700 for producing.

19 Q. And are these costs consistent what other  
20 operators in the area charge for similar wells?

21 A. Yes, they are.

22 Q. And has Mewbourne executed the operating  
23 agreement proposed for this well?

24 A. Yes, they have.

25 Q. And does it contain the \$700 -- the \$7,000

1 while drilling and the \$700 while producing figures?

2 A. Yes, it does.

3 Q. Are there any depth severances in the acreage  
4 that's the subject of this case?

5 A. No depth severances.

6 Q. And no unleased minerals?

7 A. No unleased minerals.

8 Q. Let's go to Exhibit Number 5. What is this?

9 A. This is the Affidavit of Publication that was  
10 filed in the "Carlsbad Current-Argus."

11 Q. And when did it run actually in the paper?

12 A. May 16th.

13 Q. Let's go to -- and it really has been published  
14 just as a precaution, in case there was a problem with  
15 delivery of any of the letters like the one to  
16 Mrs. Burns?

17 A. Right.

18 Q. Let's go to what is marked as Exhibit Number 6.  
19 Is this my affidavit confirming that the notice letters  
20 that you have discussed were, in fact, mailed as you  
21 have testified?

22 A. Yes, it is.

23 Q. And behind that, we have copies of the actual  
24 return receipts, including a copy of the envelope  
25 showing that the letter to Ms. Burns was, in fact,

1 undeliverable?

2 A. Yes.

3 Q. And these cover each of the individuals we're  
4 seeking to pool in this proceeding?

5 A. Yes, it does.

6 Q. Were Exhibits 1 through 3 prepared by you?

7 A. Yes, they were.

8 Q. And are Exhibits 4, 5 and 6 notice letters and  
9 affidavits that were prepared by my office to comply  
10 with the rules of the Division?

11 A. Yes, they are.

12 MR. CARR: May it please the examiner, at  
13 this time we'd move admission into evidence of COG  
14 Exhibits 1 through 6.

15 EXAMINER JONES: Exhibits 1 through 6  
16 are --

17 (COG Production, LLC Exhibit Numbers 1  
18 through 6 are offered into evidence.)

19 MR. CARR: One question more.

20 MR. BRUCE: No questions. See, I know her  
21 and her father quite well, as opposed to her attorney.

22 EXAMINER JONES: Oh, okay.

23 MR. CARR: He's actually hanging around  
24 hoping for a free lunch, but that's not going to happen.

25 (Laughter.)

1                   MR. CARR: I have one more question for the  
2 witness.

3           Q.    (BY MR. CARR) Are we seeking the imposition of  
4 a 200 percent penalty for risk against any interest that  
5 isn't voluntarily committed to the well?

6           A.    Yes, we are.

7                   MR. CARR: That concludes my questions of  
8 this witness.

9                               CROSS-EXAMINATION

10          BY EXAMINER BROOKS:

11          Q.    Okay. I have a question of this exhibit -- of  
12 this publication, because I thought I had gotten  
13 everybody in the habit of putting the names of all the  
14 people they're publishing to in the -- they're intending  
15 to get notice to by publication in the -- in the notice,  
16 and I don't see that here, unless I'm overlooking it.

17          A.    I believe if you look on the second page at the  
18 very bottom, it starts with "to Chevron U.S.A.," and  
19 then you go to the next page and, in bold, the rest are  
20 listed.

21                   MR. CARR: And then at the bottom of that  
22 listing are the royalty owners and the overriding  
23 royalty owners.

24                   EXAMINER BROOKS: Okay. "To Chevron U.S.A.  
25 and its successors, heirs and/or devisees," which I



1     don't think it will have heirs or devisees, since it's  
2     not an individual. Then the next one, you have all  
3     these people listed.

4                   MR. CARR: All the companies. And then  
5     below that, you have the overrides.

6                   EXAMINER BROOKS: I'm glad I've got you  
7     better disciplined than I thought.

8                   CROSS-EXAMINATION

9     BY EXAMINER JONES:

10           Q.     **Mr. Charuk is Lynn Charuk?**

11           A.     Yes.

12           Q.     **It says, "Lynn Charuk and her successors."**

13           A.     Well, it could be a male or a female. Lynn is  
14     a pretty universal name (laughter).

15           Q.     **That's true. That's true.**

16                   MR. CARR: We're probably in trouble for  
17     that.

18                   EXAMINER BROOKS: Not with me.

19                   EXAMINER JONES: He was up here the other  
20     day.

21                   MR. CARR: I'm glad it wasn't today.

22                   THE WITNESS: He may not be happy with us.

23           Q.     **(BY EXAMINER JONES) And Margi Fort -- we've had**  
24     **the Forts up here before, Margi Fort Burns.**

25           A.     She was the only one we couldn't find.

1           Q.    So you found the other Forts but not Ms. Burns?

2           A.    Yes, sir.

3           Q.    You wanted to put the surface location up in  
4 the north?

5           A.    We couldn't find surface locations anywhere  
6 other than the north half of 13. It's kind of a  
7 difficult area for surface by the state line.

8                   MR. CARR: I have nothing further.

9                   EXAMINER JONES: Thanks for coming today.

10                  THE WITNESS: Thank you.

11                  EXAMINER BROOKS: And I will not stay for  
12 the geologist.

13                  EXAMINER JONES: Exhibits 1 through 6 are  
14 admitted.

15                   (COG Production, LLC Exhibit Numbers 1  
16 through 6 are admitted into evidence.)

17                   (Examiner Brooks exits the room, 11:39  
18 a.m.)

19                  MR. CARR: May it please the examiner, at  
20 this time I would call Matt Fisher as a geological  
21 witness.

22                               MATT FISHER,  
23 after having been previously sworn under oath, was  
24 questioned and testified as follows:

25

1 DIRECT EXAMINATION

2 BY MR. CARR:

3 Q. Will you state your name for the record?

4 A. Matt Fisher.

5 Q. Mr. Fisher, you previously testified this  
6 morning; did you not?

7 A. Yes.

8 MR. CARR: May it please the examiner, we  
9 would ask that the record show that Mr. Fisher remains  
10 under oath and that his qualifications as a geologist  
11 have been accepted and made a matter of record.

12 EXAMINER JONES: Let the record reflect  
13 that Mr. Fisher remains under oath and has been accepted  
14 as an expert in geology.

15 Q. (BY MR. CARR) Would you please refer to what  
16 has been marked as COG's Exhibit Number 7?

17 A. Okay. This is a location map showing COG's  
18 acreage in yellow, as well as the proposed location of  
19 the Momba Federal Com 801H, as well as other offsets,  
20 producing Wolfcamp D wells.

21 Q. Let's go to Exhibit Number 8. Would you  
22 identify it and review it, please?

23 A. This is the same map as before, but overlain on  
24 this is a subsea structure map of the top of the  
25 Wolfcamp D. That is one of our formation markers within

1 the Wolfcamp D that we use at COG Operating. The  
2 contour intervals here are 50 foot each, and it shows  
3 that the structural dip is from west to east. And this  
4 shows that the Momba 801H will be drilled approximately  
5 along strike.

6 Q. In your opinion, is the Wolfcamp in the area  
7 continuous across the proposed spacing unit?

8 A. Yes, it is.

9 Q. Do you see any evidence at this point of any  
10 faults or pinch-outs, fracking or other geological  
11 impediments to the development of this unit of  
12 horizontal wells?

13 A. No, I don't.

14 Q. Let's go to Exhibit Number 9. Would you  
15 identify and review this, please?

16 A. Okay. This is a location map that shows the  
17 location of the cross section, which is shown on the  
18 next exhibit, from A to A prime, going from north to  
19 south.

20 Q. Did you select the wells that are included in  
21 the cross section?

22 A. Yes, I did.

23 Q. And do you consider them to be representative  
24 of the Wolfcamp Formation in the area that's the subject  
25 of this case?

1           A.    Yes, I do.

2           Q.    All right.  Let's go to Exhibit 10 and look at  
3   the cross section.

4           A.    Okay.  This is the cross section, which was  
5   referenced on the previous exhibit, from A to A prime,  
6   going from left to right.  The tracts are the same as  
7   the previous case, just gamma ray on the left,  
8   resistivity in the middle and then your porosity tracks  
9   on the right.  This is hung on the top of the Wolfcamp  
10   D, which is our formation marker for what we call the  
11   Wolfcamp D.  The targeted interval is shown by the green  
12   box on the middle well where it says "Lateral Interval,"  
13   and that's the location of where we will place our  
14   horizontal.

15          Q.    In your opinion, is this an area that can be  
16   efficiently and effectively developed with horizontal  
17   wells?

18          A.    Yes.

19          Q.    Will each tract in the proposed spacing or  
20   proration unit contribute more or less equally to the  
21   well?

22          A.    Yes.

23          Q.    In your opinion, will the granting of this  
24   application be in the best interest of conservation, the  
25   prevention of waste and the protection of correlative

1     **rights?**

2           A.     Yes.

3           **Q.     Were COG Exhibits 7 through 10 prepared by you?**

4           A.     They were.

5                   MR. CARR:   May it please the examiner, I  
6     move the admission into evidence of COG Exhibits 7  
7     through 10.

8                   EXAMINER JONES:   Exhibits 7 through 10 are  
9     admitted.

10                   (COG Production, LLC Exhibit Numbers 7  
11                   through 10 are offered and admitted into  
12                   evidence.)

13                   MR. CARR:   That concludes my direct  
14     examination of this witness.

15                   CROSS-EXAMINATION

16     BY EXAMINER JONES:

17           **Q.     The AFE has A TVD of 10,680.  Is that still**  
18     **about right?**

19           A.     Yes, it is.

20           **Q.     The Wolfcamp D, that came up twice today.  Is**  
21     **that right on top of the Pennsylvanian, or is it --**

22           A.     So this is our deepest Wolfcamp interval that  
23     we pick tops on.  So yes, this is the base of the  
24     Wolfcamp Formation.

25           **Q.     Okay.  So do these logs show the top of the**

1 Penn?

2 A. No, they do not.

3 Q. Okay. So it's still -- still 100 feet or more  
4 down below the target probably?

5 A. Yes. Uh-huh.

6 Q. I know during the Purple Sage hearings, at the  
7 last minute, they asked that the Upper Pennsylvanian be  
8 included in the Purple Sage, but it hadn't been  
9 advertised that way, and there are several pools  
10 involved that would have been affected. And I don't  
11 know about depth severances either, you know, once you  
12 get that deep.

13 A. Uh-huh.

14 Q. You think -- is this going to be significantly  
15 different than the -- in reservoir characteristics than  
16 the Upper Wolfcamp?

17 A. Yes, it is. It's a lot more clay rich, and  
18 that's kind of the defining factor of it. It's more of  
19 a true shale than some of the Wolfcamp A, from the  
20 previous hearing.

21 Q. Okay. But as far as the actual moving away  
22 from the rock and just talking about the liquids and the  
23 gases, is it about the same --

24 A. It's a little higher GOR, typically. These  
25 wells produce quite a bit more gas.

1           Q.    Okay.  But the BOE basis, you thought you could  
2   make a well and pay for it out here?

3           A.    Yes, sir.  Yeah.  The offset wells on the first  
4   exhibit of mine, it shows some of the wells around  
5   there, and they've all, for the most part, been very  
6   successful wells.

7           Q.    Okay.  Okay.  Thanks very much.

8           A.    Okay.  Thank you.

9                   MR. CARR:  That concludes our presentation.

10                  EXAMINER JONES:  Mr. Bruce, I'm sorry.  Did  
11   you have anything else?

12                  MR. BRUCE:  No.

13                         Will you buy me lunch?

14                  MR. CARR:  Yes.  I will buy your lunch just  
15   to get you out of here.

16                         (Laughter.)

17                  EXAMINER JONES:  Case 16080 is taken under  
18   advisement.

19                  MR. CARR:  Thank you very much, and thank  
20   you for taking us out of order.

21                  EXAMINER JONES:  Okay.  Let's break until  
22   1:30.

23                         (Case Number 16080 concludes, 11:46 a.m.)

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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 6th day of October 2018.

21

22

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