

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

APPLICATION OF COG OPERATING LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE NOS. 21219 & 21220

MOTION TO STRIKE OR IN THE ALTERNATIVE
MOTION TO SUPPLEMENT THE RECORD

COG Operating LLC (“COG”), submits this motion to strike the language described below from Mewbourne Oil Company’s (“Mewbourne”) closing argument submitted on Friday, July 24, 2020. In the alternative, COG moves to supplement the record with the additional information and exhibits presented in this pleading. In support of its motion, COG states:

1. In its closing argument, Mewbourne states that: “Mewbourne sent valid proposals to COG under the JOA, and **COG has subsequently elected not to participate in Mewbourne’s proposals**. Per the JOA, Mewbourne has to commence operations in a set amount of time following the proposals, and **Mewbourne is moving forward with its plan to develop the N/2 of Section 6.**” Mewbourne’s Closing Argument, pg. 2 (emphasis added).

2. Evidence was taken and heard in Case Nos. 21219 and 21220 on June 26, 2020.

3. As noted during the hearing, Mewbourne proposed wells in the N/2 of Section 6 as a non-operator under a JOA in which COG is the designated operator. The election period for Mewbourne’s well proposals in the N/2 of Section 6 (“Devon-6 wells”) expired on July 17, 2020.

4. On July 16, 2020, COG requested an extension of the election period from Mewbourne because of these pending cases. Affidavit of Ashley Roush, ¶2.

5. Mewbourne refused to grant COG an extension on its Devon-6 well proposals even though it granted OXY USA Inc. an extension. *Id.* at ¶3.

6. On July 17, COG informed Mewbourne that it would not participate in its proposed wells because COG has already proposed its preferred development plan to Mewbourne and has sought to pool Mewbourne's interest in Cases 21219 and 21220. *Id.* at ¶4.

7. These events, which took place twenty-one (21) days after Case Nos. 21219 and 21220 were heard, are post-hearing events occurring outside the scope of the evidence and testimony presented at hearing.

8. In the alternative, COG moves to supplement the record with the additional information and exhibits presented in this pleading.

9. WHEREFORE, COG respectfully requests that the Division grant its motion to strike the language described above from Mewbourne's closing argument or supplement the record with the evidence provided in this motion.

Respectfully submitted,

COG OPERATING LLC

/s/ Michael Rodriguez

Ocean Munds-Dry
Michael Rodriguez
COG Operating LLC
1048 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 780-8000
omundsdry@concho.com
mrodriguez@concho.com

ATTORNEYS FOR COG OPERATING LLC

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2020, I filed the foregoing document and served a copy on the following counsel of record via Electronic Mail to:

James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043
jamesbruc@aol.com

/s/ Michael Rodriguez

Ocean Munds-Dry
Michael Rodriguez

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AFFIDAVIT OF ASHLEY ROUSH

Ashley Roush, of lawful age and being first duly sworn, declares as follows:

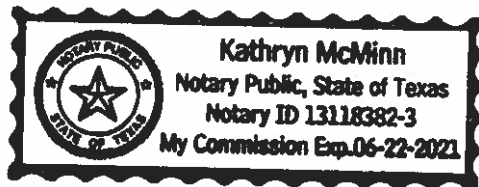
1. My name is Ashley Roush, and I am a petroleum landman with COG Operating LLC (“COG”).
2. On July 16, 2020, I emailed Corey Mitchell, a landman with Mewbourne Oil Company (“Mewbourne”), to request an extension of the election period for its Devon-6 wells because of the subject pending cases. *See* Exhibit A (Email between COG and Mewbourne).
3. Mewbourne refused to grant COG an extension on its Devon-6 well proposals, *see* Exhibit A, even though it granted OXY USA Inc. an extension, *see* Exhibit B (email from OXY).
4. On July 17th, COG informed Mewbourne that it would not participate in its proposed wells because COG has already proposed its preferred development plan to Mewbourne and has sought to pool Mewbourne’s interest in Cases 21219 and 21220. *See* Exhibit C.

THIS CONCLUDES AFFIANT’S STATEMENT.

Ashley Roush
Affiant

STATE OF Texas)
COUNTY OF Midland)

SUBSCRIBED and SWORN to before me this 28th day of July, by
Ashley Roush.



Kathryn McMinn
NOTARY PUBLIC

My Commission Expires:

06/22/2021

From: Corey Mitchell <cmitchell@Mewbourne.com>
Sent: Thursday, July 16, 2020 7:56 AM
To: Ashley Roush <ARoush@concho.com>
Cc: Mark Carter <MCarter@concho.com>
Subject: [External] RE: [EXT] Devon 6 N2 Proposal Extension

**** External email. Use caution. ****

Ashley,

At this time we are not able to extend the election period under the Devon 6 Fee well proposals. As we have discussed for months, our goal is to work out a mutually agreeable trade with COG on the subject properties as opposed to using the OCD as a negotiation tool.

If we were collectively/actively working towards a resolution MOC would be able to work with COG on this request. However, to date we have not received any feedback or agreement to the trade COG offered MOC and we agreed to. I have made it clear that we are agreeable to executing a letter agreement with reasonable language incorporated in it, along the lines of what COG did with Devon. In this connection, I provided the paperwork for the trade we agreed to based on the previous forms negotiated between MOC and COG.

The OCD should be used as a last resort and not a mechanism to hinder working together. MOC is still willing and ready to work something out with COG based on what was previously discussed but it will take efforts from both sides. Let me know if you are interested in moving forward on a deal and put this all behind us. Please give me a call if you would like to discuss.

Thanks.

Corey Mitchell
Mewbourne Oil Company
500 West Texas, Suite 1020
Midland, TX 79701
Bus. (432) 682-3715

From: Ashley Roush <ARoush@concho.com>
Sent: Wednesday, July 15, 2020 5:41 PM
To: Corey Mitchell <cmitchell@Mewbourne.com>
Cc: Mark Carter <MCarter@concho.com>
Subject: [EXT] Devon 6 N2 Proposal Extension

Corey,

Due to the outstanding OCD decision on the acreage involved in the Devon 6 proposals would you be willing to grant an extension until the outcome of the hearing?

Thanks,

Ashley Roush, RPL
NDB West Land Supervisor
COG OPERATING LLC
One Concho Center
600 W. Illinois Ave
Midland, Texas 79701
(432) 818-2358



-----Original Message-----

From: Carr, Courtney R <Courtney_Carr@oxy.com>

Sent: Tuesday, July 21, 2020 5:31 PM

To: Travis Macha <TMacha@concho.com>; Ashley Roush <ARoush@concho.com>

Subject: [External] RE: Devon 6

**** External email. Use caution. ****

Hey Travis,

We deferred our election in these wells... We are hoping MOC/COG work it out before our next election deadline.

Thanks,

Courtney Carr

Land Negotiator

Occidental Oil & Gas Corporation

(713) 599-4116



Jeff Gasch
Vice President of Delaware Basin

July 16, 2020

Mewbourne Oil Company
Fasken Center
500 West Texas, Suite 1020
Midland, TX 79701

Attn: Mitch Robb

Re: Devon 6 W0AD Fee 1H
Devon 6 W1AD Fee 2H
Devon 6 W0HE Fee 1H
Devon 6 W1HE Fee 2H
N2 of Section 6, T25S, R28E
Eddy County, New Mexico

Transmitted via Email

Ladies and Gentlemen,

Concho Operating LLC ("Concho") is in receipt of Mewbourne Oil Company's ("Mewbourne") proposals for the above-mentioned wells under the Joint Operating Agreement, dated February 15, 2005. Please be advised that Concho has elected **not to participate** in the drilling of these wells.

We appreciate Mewbourne's interest in Concho's acreage, and would request that all future correspondence regarding Concho acreage continue to be directed to our Joint Ventures group for the most efficient handling. The address is as follows:

COG Operating LLC
600 W. Illinois Avenue
Midland, TX 79701
Attn: Joint Interest Ventures
jiv@concho.com

Sincerely,

DocuSigned by:

A handwritten signature in black ink that reads "Jeff Gasch".

904512269C5F4F0...

Jeff Gasch
Vice President of Delaware Basin