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**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:**

**COG OPERATING, LLC'S FOR COMPULSORY POOLING, EDDY COUNTY, NEW
MEXICO.**

RECEIVED OCT 2 2011 JUN 15
CASE NO. 14649

**COG OPERATING, LLC'S FOR COMPULSORY POOLING, EDDY COUNTY, NEW
MEXICO.**

CASE NO. 14650

**APPLICATION OF BURNETT OIL CO., INC. FOR COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO.**

CASE NO. 14640

**APPLICATION OF BURNETT OIL CO., INC. FOR COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO.**

CASE NO. 14641

COG OPERATING, LLC'S CLOSING ARGUMENT

Concho requests all four applications in Case Nos. 14649, 14650, 14640 and 14641 be denied because a vertical well program for these leases is not in the best interest of conservation, the prevention of waste or the protection of correlative rights. Through the years, the Division and Commission have used various factors to decide competing pooling applications. See e.g. Order No. R-12108 A- D, Order No. R-12343 A- E, Order No. R-11700, Division Memorandum regarding Competing Forced Pooling Applications, April 5, 1995. Above all else, however, the Division is required to determine whether a pooling application will prevent waste and protect correlative rights. NMSA 1978, Sec. 70-2-17. This overarching duty was confirmed recently by the Commission in Order No. R-13228-F (See Conclusion Para. 9: "Section 70-2-17 requires the Commission to determine whether the pooling application will prevent waste and protect

correlative rights.”). Therefore, the pooling factors Burnett/Hudson urge the Division to adopt (i.e. ownership and technical factors) are meaningless.

While it is true that the applications before the Division involve the competing pooling applications for two vertical wells, it is important that the Division understand the big picture of development for the leases in Sections 12, 13, 24 and 25, Township 17 South, Range 31 East in the context of waste. The Division should not grant any of the four applications because to do so will lead to leaving reserves in the ground.

As Concho’s landman, David Evans testified, Concho had hoped to drill the four sections with a vertical drilling program of up to 192 wells. Tr. 74-75 (Evans). However, after numerous discussions with the BLM and the many restrictions on surface locations due to sand dune lizard and prairie chicken habitat, it has become clear to Concho that a horizontal well program will access and produce more reserves from these leases than a vertical well program. Tr. 95 (Evans); Concho Ex. 15, Tr. 119 (Reyes)(“Look at all the nondevelopment you would get on a vertical program that you’re not going to be able to drill because you can’t get a surface permit.”)

Although Burnett testified that they have not had issues with surface locations (Tr. 67, Tr. 152), they have not shared their entire development plan with the BLM.¹ While a piece-meal approach may be acceptable in some areas, in environmentally sensitive areas like these leases, it is more appropriate to take a long-term view. Concho has shared their entire development program with the BLM and is working diligently to secure all surface locations as soon as possible. This approach ensures maximum recovery of the resource and minimal surface disturbance.

Concho also presented the testimony of Ken Craig, a petroleum engineer for Concho who explained the impact on recoverable reserves on a vertical well program versus a horizontal well program. With the horizontal program, Concho estimated it will recover 23 million barrels of oil. Concho Ex. 18, Tr. 137. A vertical program would leave almost 19 million barrels in the ground. Tr. 136 (Craig). This equates to approximately 83% of reserves left in ground. In terms of revenue to the State of New Mexico, a horizontal program leads to \$134 million more revenue to the State. Concho Ex. 4. A vertical program reduces that number to \$23 million.

¹ In fact, Hudson has held these leases for decades and had yet to drill a Yeso well. As Mr. Evans noted, other parties have taken term assignments on this property but were not successful in getting Burnett/Hudson to drill.

Concho now proposes to drill horizontal wells that fully maximize recovery in the Yeso formation. Tr. 137 (Craig). On the other hand, Burnett/Hudson admitted they have no intention of drilling more than 2 wells per 40-acre spacing unit. Also, Concho does not agree that Burnett recovers more reserves by its completion techniques. Tr. 138 (Craig). In the end, Concho is the only party ensuring that the acreage in these subject leases are fully developed.

In sum, granting either Concho's or Burnett/Hudson's current applications drastically interferes with the development of the resources in these leases and in particular in Section 13 and Section 24. Tr. 122-123, 125 (Reyes). The following exchange between the Hearing Examiner and Ramon Reyes, Concho's petroleum geologist, illustrates the point that regardless of what factors the Division may adopt to determine these competing applications, both the Concho and Burnett applications will cause waste:

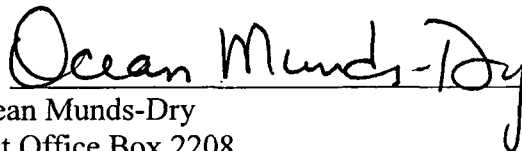
Q. (Warnell) But this is a plan, and this isn't really what we're here today for me to make a ruling on. I'm here to try to decide....on whether or not those two wells, those vertical wells...are drilled. And if they are drilled, who the operator is, COG or Burnett.

A. (Reyes) Yes, sir. But my point beingIt's not just about these two wells. It's about developing the whole three sections and starting off and doing it right. Because if you allow these two vertical wells to be done, then now we're down to possibly, at a maximum, 35 vertical wells that are going to be spotted in these three sections because of the surface issues. To me, that's waste..."

Therefore, COG Operating, LLC respectfully requests both Burnett and Concho applications be DENIED.

Respectfully submitted,

HOLLAND & HART, LLP

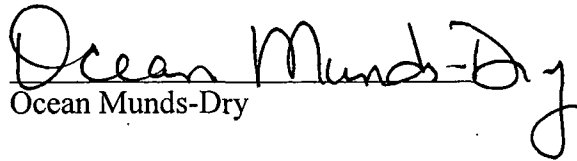
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ATTORNEYS FOR COG OPERATING, LLC

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2011, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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