

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

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IN THE MATTER OF THE HEARINGS CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

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

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

Case No. 14649

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

Case No. 14650

BURNETT OIL CO., INC.'S WRITTEN CLOSING ARGUMENT

I. INTRODUCTION.

In Case 14640 Burnett Oil Co., Inc. ("Burnett") seeks an order pooling all uncommitted mineral interests in the Glorieta-Yeso formation underlying the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, Township 17 South, Range 31 East, NMPM. COG Operating LLC ("COG") filed a competing application in Case 14649.

In Case 14641 Burnett seeks an order pooling all mineral interests in the Glorieta-Yeso formation underlying the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, Township 17 South, Range 31 East, NMPM. COG filed a competing application in Case 14650.

At the hearing, COG's geologist, Mr. Reyes, testified that COG was "withdrawing" its two applications. Therefore, only Burnett's applications are properly before the Division.

II. ARGUMENT.

A. Pooling is Mandatory.

The pooling statute provides that if the interest owners in a spacing unit have not agreed to voluntarily pool their interests, the Division "shall" pool the interests in the spacing unit. **NMSA 1978 §70.2.17.C.** Because COG has withdrawn its applications (and due to the factors listed in Part II.B below), the Division must grant Burnett's pooling applications.

At the hearing COG asserted that all four applications should be denied because *COG had determined* that the subject acreage should be developed by drilling wells with multiple horizontal laterals from one well -- a type of well that *COG admitted* (i) it has never drilled, and (ii) no operator in New Mexico has ever drilled (**Testimony of COG witness K. Craig**). While COG bases its position on difficulty in obtaining well locations, Burnett's testimony showed that (a) the subject leases are already about three-fourth's developed (**Burnett Exhibit 10**), and (b) Burnett and the shallow rights operator (Hudson Oil Company of Texas) have obtained, and continue to obtain, approved well locations on the subject leases.

Burnett testified that it is not averse to drilling horizontally under the right circumstances. However, the pending applications concern two vertical wells, and the Division must enter an order on Burnett's proposals. Burnett's applications cannot be denied based on the possible drilling at some time in the future of wells which are not only speculative, but may be uneconomic or not technically feasible.

B. Pooling Factors Mandate Approving Burnett's Applications.

The factors to consider in awarding operations between two operators are set forth in Commission Order No. R-10731-B (at pp. 9-10): The factors are as follows:

1. AFE costs.
2. Capability of operating prudently.
3. Risk factor.
4. Negotiations before pooling.
5. Working interest control.
6. Geologic and other technical factors.

Factors 1-3 are not important in these cases, because Burnett testified its AFE's were reasonable, it was capable of operating the wells, and the risk factor should be 200%, and COG did not challenge that evidence. As to negotiations, the parties have been in constant contact since November 2010, and have not reached agreement.

This leaves the ownership and technical factors. As to ownership, Burnett owns or controls two-thirds of the working interest in the Glorieta-Yeso well units, versus COG's one-third. In addition, Burnett and its working interest partners control 84% of the working interest in formations above the Glorieta-Yeso. Thus, it is common sense to award Burnett operations. When reinforced with the fact that Burnett has obtained much greater recoveries in its Glorieta-Yeso wells than COG has obtained in its wells (**Burnett Exhibit 9**), Burnett must be named operator of the subject well units.

WHEREFORE, Burnett requests that its applications be granted.

Respectfully submitted,



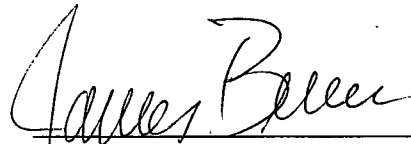
James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

Attorney for Burnett Oil Co., Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 7th day of June, 2011 by facsimile transmission and U.S. Mail:

Ocean Munds-Dry
Holland & Hart LLP
P.O. Box 2208
Santa Fe, New Mexico 87504
fax: (505) 982-6043



James Bruce