

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

ORIGINAL

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

CASE NO. 14815

APPLICATION OF COG OPERATING, LLC,
FOR DESIGNATION OF A NON-STANDARD OIL SPACING
AND PRORATION UNIT, NON-STANDARD PROJECT AREA
AND FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

DOCKET NO. 13-12

BEFORE: RICHARD EZEANYIM, Hearing Officer
DAVID K. BROOKS, Legal Examiner

APRIL 26, 2012

Santa Fe, New Mexico

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This matter came on for hearing before the
New Mexico Oil Conservation Division, RICHARD EZEANYIM,
Hearing Examiner, and DAVID K. BROOKS, Legal Examiner,
on THURSDAY, APRIL 26, 2012, at the New Mexico Energy,
Minerals and Natural Resources Department, 1220 South
Street Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Lisa Reinicke
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A P P E A R A N C E S

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CERTIFICATE OF COMPLETION OF HEARING

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1 MR. EXAMINER: Now we go into serious
2 business. Mr. Hall, are you ready?

3 MR. HALL: Yes, sir.

4 MR. EXAMINER: On page 2 then, first I call
5 case number 14815, application of COG Operating, LLC for
6 designation of a non-standard oil spacing and proration
7 unit, non-standard project area for compulsory pooling
8 in Eddy County, New Mexico.

9 Call for appearances.

10 MR. HALL: Mr. Examiner, Scott Hall,
11 Montgomery & Andrews law firm, Santa Fe, appearing on
12 behalf of the applicant COG Operating with two witnesses
13 this morning.

14 MR. EXAMINER: Any other appearances,
15 please?

16 MR. BRUCE: Mr. Examiner, Jim Bruce of
17 Santa Fe. I'm entering appearances for Apache
18 Corporation and Chisos Limited.

19 MR. EXAMINER: Any other appearances?

20 Now, may all the witnesses stand up, state your
21 name, and be sworn in.

22 MR. CLARK: Greg Clark.

23 MR. GAYNOR: Brandon Gaynor.

24 [Whereupon the witnesses were duly sworn.]

25 MR. EXAMINER: Mr. Hall?

1 MR. HALL: Mr. Examiner, I will have
2 Mr. Gaynor take the stand first, please.

3 BRANDON GAYNOR

4 after having been first duly sworn under oath,
5 was questioned and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HALL:

8 Q. For the record please state your name.

9 A. Brandon Gaynor.

10 Q. Mr. Gaynor, where do you live and by whom are you
11 employed?

12 A. I live in Midland, Texas, and I'm employed by
13 Concho Resources.

14 Q. And in what capacity?

15 A. As a landman.

16 Q. Mr. Gaynor, have you previously testified before
17 the Division and had your credentials as a landman
18 accepted as a matter of record?

19 A. Yes, I have.

20 Q. And are you familiar with the application in this
21 case and the wells and the lands that are the subject of
22 the application?

23 A. Yes, I am.

24 MR. HALL: Mr. Examiner, we'd offer
25 Mr. Gaynor as an expert petroleum landman.

1 MR. EXAMINER: So qualified.

2 Q. (By Mr. Hall) Mr. Gaynor, if you would, could
3 you explain to the Examiner what it is COG is seeking by
4 its application?

5 A. Yes. We're seeking an order consolidating the
6 40-acre spacing units within the northwest, northeast,
7 and north half of the northwest of Section 16 of
8 Township 17 South Range 31 East, and designating those
9 units as a 120-acre non-standard oil spacing operation
10 unit for two wells in Yeso formation for a non-standard
11 horizontal drilling project area. Those two wells will
12 be the Burkett 16 State Number 15H and the Burkett 16
13 State Number 16H wells.

14 Q. And if you would, Mr. Gaynor, can you refer to
15 Exhibit Number 1 that you have in front of you. Can you
16 tell us what Exhibit 1 shows?

17 A. Exhibit 1 is sort of a large view map of the Yeso
18 shelf fairway ranging from 1727 all the way over to
19 1732. In 1731 there's a yellow area outlined by red.
20 The red is the outline of the area that we're seeking to
21 consolidate and force pool here today.

22 MR. EXAMINER: Hold on a second. Let me get
23 there. This is number 1? Is this number 1?

24 MR. HALL: Yes.

25 MR. GAYNOR: Yes.

1 MR. EXAMINER: So what are you saying?

2 MR. GAYNOR: I was saying that this is a
3 large view of the entire shelf fairway ranging from 1727
4 to 1732. What we're really talking about is this red
5 outlined yellow area in 1731. That's the outline of our
6 Burkett lease that we're talking about.

7 MR. EXAMINER: Yeah.

8 Q. (By Mr. Hall) And Exhibit 1 shows a 120-acre
9 non-standard project area; is that correct?

10 A. That is correct.

11 Q. Can you explain to the Hearing Examiner why the
12 unit is oriented east/west and does not include the
13 entire 160?

14 A. Sure. Well, as for why drilling east/west is
15 better than north/south, Greg, Mr. Clark can answer that
16 question better than I. But we're trapped because we're
17 surrounded by wells that are already drilled in the
18 area. We can't go further to the east because that 40
19 is already filled with four wells, as you can see. And
20 to the west that 40 is already fully developed as well,
21 so we can't go any further in either direction.

22 Q. And tell us what the primary objective of the
23 well is.

24 A. It's the Yeso formation.

25 Q. And for the Yeso formation would the producing

1 area for the project area be defined by the setbacks for
2 that formation?

3 A. Yes. The producing portion of the well will be
4 330 feet from the lease line on both sides.

5 MR. EXAMINER: I think that I really need to
6 understand that northeast, northeast quarter there. You
7 have four wells right now, right?

8 MR. GAYNOR: Yes.

9 MR. EXAMINER: The northeast, northeast
10 quarter of that section 16?

11 MR. GAYNOR: Four wells, yes.

12 MR. EXAMINER: Who owns the four wells?

13 MR. GAYNOR: We do.

14 MR. EXAMINER: Okay, you own the four wells.
15 Okay. And now it is already situated with four wells?

16 MR. GAYNOR: Yes. We can't go any further
17 because their wellbore is in the way.

18 MR. EXAMINER: Okay. And now if you --
19 before we go to the geology, why you want to go
20 east/west. If you go north/south, those wells there in
21 those units --

22 MR. GAYNOR: We could not drill a full
23 section north/south horizontal in section 16 either
24 because of the development that's already there.

25 MR. EXAMINER: Is there any wells at all in

1 that red outline? Is there anything in the red outline?

2 MR. GAYNOR: No, not in the Yeso wells.

3 MR. EXAMINER: But there are wells but
4 they're not Yeso wells?

5 MR. GAYNOR: I think there are some
6 shallower wells.

7 MR. EXAMINER: But they're not Yeso.

8 MR. GAYNOR: That's correct.

9 MR. EXAMINER: Okay. And you want to drill
10 two wells there?

11 MR. GAYNOR: Yes.

12 MR. EXAMINER: Well, I won't ask you why you
13 want to drill two wells. You can drill one million
14 wells if you want to. But as I said, we are trying to
15 look at this horizontal well with a limited well
16 density.

17 MR. GAYNOR: Yes.

18 MR. EXAMINER: So I would like to understand
19 from the geologist or engineer if you have any -- why
20 that is, because that's important to me in trying to
21 permit this well rule. Is there any way that you apply
22 the rule to understand what you did?

23 Okay. But there are no Yeso wells vertical in
24 that?

25 MR. GAYNOR: That's correct.

1 MR. EXAMINER: Okay. Go ahead.

2 Q. (By Mr. Hall) Mr. Gaynor, would you identify the
3 surface of the bottom hole locations for the two wells
4 for the Examiner?

5 A. Yes. For the number 15H there's a surface
6 location 330 feet from the north line and 1,470 feet
7 from the east line and a bottom hole location of 330
8 feet from the north line and 330 feet from the west
9 line. For the number 16H --

10 MR. EXAMINER: It's not done yet, the bottom
11 hole location. We are looking at something else. You
12 know, we are looking at the completed interval. You
13 know, that's what I said. Of course, you're not -- I
14 know you were here last week and I made that
15 announcement that I don't know whether you have the
16 construction background.

17 MR. GAYNOR: We do. And that's something
18 that Greg is going to talk to you about.

19 MR. EXAMINER: I appreciate if you have the
20 geologist or engineer tell me where the completed -- I'm
21 interested in the completed interval. Okay, good. So
22 what you said is just -- but I'm going to -- when the
23 geologist can tell me where the completed interval is
24 going to be, demonstrating that with the completed
25 interval.

1 MR. HALL: We'll cover that for you.

2 Q. (By Mr. Hall) Mr. Gaynor, how long has COG owned
3 its lease interest in these portions of section 16?

4 A. This leasehold interest was acquired during the
5 acquisition of a bunch of Chase Oil Corporation
6 properties in 2006.

7 Q. Okay. Tell us about the ownership. What
8 outstanding interests that are not committed to the well
9 do you seek to pool?

10 A. We own, COG Operating, LLC, which owns 75 percent
11 of the operating rights or working interests in this
12 lease. The other 25 percent is under record by Total
13 Petrochemicals USA, Inc.

14 Q. Is ownership the same in each of the 40-acre
15 tracts comprising the project area?

16 A. Yes, it's one tract for ownership purposes.

17 Q. So COG then controls 75 percent of the well?

18 A. Yes.

19 Q. And is COG seeking the imposition of a
20 200 percent risk penalty against the unjoined interest?

21 A. Yes.

22 Q. And COG seems to be the designated operator?

23 A. Yes.

24 Q. Let's turn to Exhibit 2 as well as Exhibit 3.
25 And if you would discuss for the Hearing Examiner the

1 efforts to identify the outstanding interest owner and
2 obtainer participation of the well.

3 A. Sure. You know, it probably helps to do a little
4 bit of an explanation of what we had to do with the
5 title in general. Because originally what happened here
6 was we had a leasehold ownership report prepared by a
7 landman who relied on some assumptions in the field to
8 come up with the ownership. And he came up with Apache,
9 Chisos, and Cross Borders as owning this other
10 25 percent.

11 Then we ordered the title opinion and the title
12 opinion came back and said there's a missing link in the
13 chain and it really ends up in Total because it flowed
14 down the river of mergers and other things. So we had
15 to kind of backtrack on some discussions that we had
16 with Apache, Chisos, and Cross Borders and start talking
17 with Total. We made everybody aware of these problems.

18 But ultimately we decided that there's nothing
19 that we can do about this, titles and Total. We can't
20 fix it. And so we proceeded with discussing everything
21 with them. So on March 6th we sent them a formal well
22 proposal for both of these wells. And that's what you
23 have here as Exhibits 2 and 3.

24 Q. All right. And appended to each of those well
25 proposal letters is an AFE for each well; is that

1 correct?

2 A. Yes, that's correct.

3 Q. And also is there appended an excerpt from title
4 opinion discussing the problems with the two chains of
5 title?

6 A. Yes. The requirement dealing with that issue, we
7 made them aware of it and provided them with a copy of
8 that finding.

9 Q. And is it correct to say that Apache, Chisos, and
10 Cross Borders claim title through an entity called Fina
11 Oil and Chemical Company?

12 A. Yes, that's correct.

13 Q. And did your title examiner determine that that
14 entity had no interest in the lands?

15 A. That's correct.

16 Q. And so the record title ownership is in who?

17 A. Is in Total.

18 MR. EXAMINER: What did you say?

19 MR. GAYNOR: That the record title ownership
20 is in Total.

21 MR. EXAMINER: Are you saying there is no
22 requirement? What do you mean by that?

23 MR. GAYNOR: Well, what I mean is that there
24 is a cloud on Total's title held by Apache, Chisos, and
25 Cross Borders. But it's really fairly straightforward

1 otherwise that everything just goes into Total because
2 there's a missing link in the chain and without that
3 link we can't put those two ends together.

4 Q. (By Mr. Scott) Has COG and its land staff had a
5 number of conversations with Total in order to try to
6 fix the title problem?

7 A. Yes, we have.

8 Q. And has the title problem been fixed?

9 A. No, it has not.

10 Q. In your opinion has COG made a good faith effort
11 to negotiate with Total, the parent successors --

12 A. Yes.

13 Q. -- and communicate with them in order to obtain
14 their voluntary participation in the well?

15 A. Yes.

16 Q. Let's explain to the Examiner COG's intended
17 scheduling and drilling sequence for the two wells.

18 A. Sure. We would really like to be able to drill
19 one of these wells by July 17th. We put that date in
20 both of our proposal letters to Total because we have
21 some sundries that we're waiting on getting back and who
22 knows which one we'll get first. But that's when we
23 would like to drill the first one, is on July 17th.

24 Q. And do you propose to drill the wells back to
25 back?

1 A. Yes, we do.

2 Q. How does COG propose that the unjoined interest
3 owner be afforded the opportunity to participate in the
4 first and second wells and avoid the risk penalty?

5 A. Well, after we receive an order we will repropose
6 each well individually to them and at that time they can
7 make a separate election on each well.

8 Q. So are you asking the Division to issue a single
9 order for both wells providing for separate elections
10 for each well?

11 A. Yes.

12 Q. And is that election period to run currently from
13 the time that you provide the new well proposals and
14 estimated costs to the interest owner?

15 A. Yes.

16 Q. And structuring the elections in that fashion, is
17 that consistent with established practice in the
18 industry under well proposals made under operating
19 agreements?

20 A. Yes. It is very common for us to receive letters
21 that have a proposal under an operating agreement that
22 lists, you know, five, even ten wells all in a row. We
23 propose to drill the number 1, 2, 3, 4, 5, 6, and 7, and
24 then they'll just have a packet of AFEs on the back.
25 I've seen that as recently as two weeks ago.

1 Q. So there may be no limit or at least a very high
2 limit on the number of wells that can be initially
3 proposed?

4 A. Sometimes there are contractual limits, but
5 that's very rare.

6 Q. Let's look at the AFEs, Exhibit 4. Put that in
7 front of you, please.

8 A. Okay.

9 Q. I ask you, is Exhibit 4 a copulation of AFEs for
10 each of the wells?

11 A. Yes, it is.

12 Q. Could you tell us what the dry hole and completed
13 well costs are reflected on the AFEs?

14 A. Sure. The before completion costs on each of the
15 wells, because these wells all have the same AFE
16 basically, is \$1,307,000. And the completed well cost
17 \$4,272,000.

18 Q. And are those costs in line with what's being
19 charged for similar wells in the area?

20 A. They are.

21 Q. And have you made an estimate of the overhead
22 costs while drilling and producing the well?

23 A. Yes. It's 6,000 while drilling, and 600 while
24 producing.

25 Q. And are those costs in line as well?

1 A. Yes, they are.

2 Q. Do you recommend that these drilling producing
3 overhead rates be incorporated into the order that is
4 issued from this proceeding?

5 A. Yes.

6 Q. And you also ask that the order provide an
7 adjustment in the drilling of overhead rates in
8 accordance with the current COPAS rate?

9 A. Yes.

10 Q. I ask you, Mr. Gaynor, for the non-standard
11 project area aspect, this proposal, did COG or its
12 attorneys notify the New Mexico State Land Office?

13 A. Yes.

14 Q. And to your knowledge was any comment or
15 objection received from the State Land Office?

16 A. No.

17 Q. In your opinion, Mr. Gaynor, would granting COG's
18 application be in the best interest of conservation,
19 prevention of waste, protection of correlative rights?

20 A. Yes.

21 Q. And were Exhibits 1 through 4 prepared by you or
22 at your direction?

23 A. Yes.

24 MR. HALL: I move the admission of
25 Exhibits 1 through 4.

1 MR. EXAMINER: Any objection?

2 MR. BRUCE: No objection.

3 MR. EXAMINER: Exhibits 1 through 4 will be
4 admitted.

5 Do you have questions, Mr. Bruce?

6 [Exhibits 1 through 4 admitted.]

7 CROSS-EXAMINATION

8 BY MR. BRUCE:

9 Q. Mr. Gaynor, I just want to be clear, if you look
10 at your Exhibit 3.

11 A. Okay.

12 Q. It's got two different well numbers; one in the
13 heading. Is this the proposal for the 16?

14 A. This is for the 16. That's a typographical error
15 when it says 15H on that first line.

16 Q. Okay. And you are aware that Apache and Chisos
17 claim an interest in this tract, are you not?

18 A. Yes, we're aware of that.

19 Q. What has Total informed COG regarding ownership?

20 A. Total has said that they intend to execute an
21 assignment that will correct this problem and get title
22 into Apache, Chisos, and Cross Borders.

23 Q. Were AFEs and an operating agreement sent to
24 Chisos, Apache, and Cross Borders?

25 A. I am not certain that they were. I know that we

1 sent them proposals, or not proposals. We sent them a
2 term assignment request early on and spoke with them
3 about setting up an operating agreement before we
4 received the title opinion. *for*

5 Q. Are you aware that Chisos has informed COG that
6 it will join in the wells?

7 A. They have expressed their interest that they
8 would like to join in the wells, yes.

9 Q. And the landman who sent out the well proposals,
10 I'm sorry, I'm at a loss on the last name.

11 A. It's a Persian name. It's Mohebkhosravi.

12 Q. Okay. Was she the landman who was dealing on
13 this prospect with Chisos and Apache?

14 A. Yes.

15 Q. And did you review any e-mails between Chisos and
16 COG?

17 A. I do not think I have seen those e-mails. I
18 talked with her about them and I've worked with her on
19 this. I have not seen everything that she sent in an
20 e-mail.

21 MR. BRUCE: Okay. If I can approach the
22 witness, Mr. Examiner?

23 MR. EXAMINER: You may.

24 Q. (By Mr. Bruce) I've handed you what I've marked
25 as Exhibit A, some e-mails between Sue Ann Craddock and

1 Chisos Limited and the other landman for failure to
2 remember how to pronounce the name.

3 A. Sure.

4 Q. Have you seen that before?

5 A. I don't think I've seen this e-mail before, no.

6 Q. And I don't have a witness so I can't identify
7 it, but the top e-mail says that an AFE and a JOA were
8 never submitted directly to Chisos, were they?

9 A. Let me read it real quick.

10 Q. Or I should say they would execute an AFE and
11 join in the well; is that correct?

12 A. Yes, that's what it says.

13 Q. That's a fair summary of it?

14 A. Yes.

15 Q. And was notice of this hearing given to Chisos
16 and Apache and Cross Borders?

17 A. They were given notice, yes.

18 Q. Thank you, Mr. Gaynor.

19 MR. EXAMINER: Anything further?

20 MR. HALL: No, sir.

21 MR. EXAMINER: *Am* No questions?

22 EXAMINER BROOKS: No questions.

23 MR. EXAMINER: Did you give them the AFE and
24 the JOA when you were contacting those Apache and
25 Chisos --

1 MR. GAYNOR: I do not believe that we gave
2 them the AFE because by the time we were ready to send
3 that out we were aware of this title problem and they do
4 not have an interest at present.

5 MR. EXAMINER: Oh, they do not have an
6 interest in the unit?

7 MR. GAYNOR: No.

8 MR. EXAMINER: They don't have any interest.
9 Then why are we talking about them if they don't have an
10 interest?

11 MR. GAYNOR: Because they think that, and it
12 may be true, I don't know, they think Total can execute
13 some instruments that will give them an interest.

14 MR. EXAMINER: Okay, okay. Now, I don't
15 know, this morning we released my local. So I would
16 like you to give me exactly where the well is from
17 because the matter will be abolished.

18 MR. GAYNOR: It will be in the friend
19 Glorieta Yesopool.

20 MR. EXAMINER: Friend Glorieta?

21 MR. GAYNOR: Yes, Friend Glorieta Yeso.

22 MR. EXAMINER: Now, this is one of them that
23 was consolidated. Okay, very good. In your effort to
24 contact every interest, were you able to locate
25 everybody?

1 MR. GAYNOR: Yes. That 25 percent interest
2 is only interest that we do not own ourselves.

3 MR. EXAMINER: So there will be no need for
4 escrow?

5 MR. GAYNOR: No.

6 MR. EXAMINER: Now, are you pooling just
7 that one 20-acres in the Yeso or is this from the
8 surface the Yeso? What are you doing? You said you are
9 pooling that project area.

10 MR. GAYNOR: Just the Yeso.

11 MR. EXAMINER: Just the Yeso. It appears to
12 me, apart from this there are no other wells. If I look
13 at Exhibit Number 1, because all of them are vertical
14 wells. So they would be the only two, or if you want to
15 add three, it's up to you, that's the only place you can
16 drill a well in that particular section, right?

17 MR. GAYNOR: Yes, that's correct, because
18 everywhere else --

19 MR. EXAMINER: If you look at that there is
20 no other place to go.

21 MR. GAYNOR: That's correct.

22 MR. EXAMINER: So those are the only places
23 that you can put in those vertical wells. Okay. I want
24 to make sure because your intention is not east/west.
25 So I'm not worried whether you are going to north/south

1 because the location is developed, I think.

2 MR. GAYNOR: Sure.

3 MR. EXAMINER: So you mentioned, are you in
4 a hurry to drill these wells?

5 MR. GAYNOR: Yes, we are in a hurry to drill
6 these wells because we just don't have enough locations
7 to keep all of our rigs busy and we have contracts with
8 these companies, you know, out into the future. So we
9 have to make sure that we keep having places for them to
10 go.

11 MR. EXAMINER: So do you have any APES or
12 APIs for those wells?

13 MR. GAYNOR: Well, there are, but they're
14 being --

15 MR. EXAMINER: Have you applied for them?

16 MR. GAYNOR: We have applied for them.
17 They're being sundried right now because they moved the
18 surface location back to the location that we named at
19 the beginning of this hearing.

20 MR. EXAMINER: Okay. You may be excused.

21 Call your next witness.

22 MR. HALL: We call Greg Clark to testify.

23

24

25

1 GREG CLARK

2 after having been first duly sworn under oath,
3 was questioned and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HALL:

6 Q. For the record state your name, please.

7 A. Greg Clark.

8 Q. Mr. Clark, where do you live and by whom are you
9 employed?

10 A. I live in Midland and employed with Concho.

11 Q. In what capacity?

12 A. Geologist.

13 Q. And are you familiar with the lands that are the
14 subject of the application in this case?

15 A. I am.

16 Q. And the proposed wells?

17 A. Yes.

18 Q. Have you previously testified before the Examiner
19 and had your credentials as a geologist established as a
20 matter of record?

21 A. I have.

22 MR. HALL: At this point, Mr. Examiner, we
23 offer Mr. Clark again as an expert petroleum geologist.

24 MR. EXAMINER: He is so qualified.

25 Q. (By Mr. Hall) If you would, Mr. Clark, let's

1 turn to your exhibits starting with Exhibit Number 5.

2 Could you explain to the Examiner what this shows?

3 A. Sure. This is a somewhat regional structure map.

4 The structures on the top of the paddock, which is the

5 top of the Yeso formation. The yellow coloring is

6 Concho's acreage in the proposed project area, which is

7 outlined in red also for the Burkett 15 and 16H wells.

8 The purpose of this map is to show that there is

9 not any major geological structural impedances that

10 would keep us from developing this project area on three

11 quarter horizontals. We have a dip that is trending

12 somewhat in the area of the project area, dipping from

13 the west to the east. And also colored in red and blue,

14 as you'll see up in the legend up in the top of the left

15 of the map, represent Paddock and/or Blinbry producers

16 that are in the area.

17 We also in green have A to A prime, which will be

18 the next exhibit which will be a cross section,

19 stratigraphic cross section showing the stratigraphical

20 relationship of existing wells and how they correlate to

21 the project they're in.

22 Q. Lets to turn Exhibit 6, the cross section, and

23 tell us about that.

24 A. This cross section is a stratigraphic cross

25 section, which is flattened and hung on the top of the

1 Paddock. The structural component has been taken out in
2 order to show the stratigraphic relationship of the Yeso
3 for the Paddock and Blinebry formations in relationship
4 to the project area. As you can see there's overall
5 uniform thickness from the top of the Paddock to the top
6 of the tub, very similar log characteristics, therefore,
7 telling us that we feel like the formation would be
8 overall somewhat homogenous in the area in order to
9 drill these three quarter sections.

10 Q. Tell the Hearing Examiner what vertical intervals
11 you need to pool.

12 A. We plan to pool from the top of the Paddock to
13 the top of the tub.

14 Q. That's all in the Yeso?

15 A. That is the Yeso.

16 Q. Mr. Clark, does each of the 40-acre tracts
17 comprising of the project area appear to be perspective
18 for oil production?

19 A. Yes.

20 Q. And does COG propose that participation of the
21 well be allocated on a 100 percent surface acre basis?

22 A. Yes.

23 Q. Is that a fair and reasonable basis for
24 participation?

25 A. Yes.

1 Q. Tell us why.

2 A. Well, as I've shown in terms of the structure map
3 and the stratigraphic cross sectional map, we feel that
4 the each part of the full section laterals will
5 contribute equally to the overall production of the
6 well.

7 Q. And as Mr. Gaynor has said, ownership is
8 consistent in each of the 40-acre tracts; is that
9 correct?

10 A. Correct.

11 Q. Let's turn to Exhibit 7. Tell us what that is.

12 A. Exhibit 7 is a completion wellbore schematic that
13 we put together. Again, the diagram is not to scale but
14 the purpose is to show our intention of completing the
15 interval within the setbacks. If you look at the
16 Exhibit Number 7, this is a representation of the
17 Burkett 16 State 15H well. The solid blue line
18 represents the east lease line; the dash blue line
19 represents 330 feet from the east lease line; and if you
20 go down to the bottom where the curve of the horizontal
21 is I have put a display there that is representative of
22 the very last factor which will not encroach any closer
23 than 330 from the east lease line.

24 Therefore, if you go to the TD of the well it
25 will not -- this diagram shows that it will not

1 penetrate the vertical line that is 333 feet from the
2 west line. Therefore, the whole completed interval will
3 be within the allowable setbacks.

4 MR. EXAMINER: Is it going to be an open
5 hole completion?

6 MR. CLARK: It will be an open hole packer
7 completion.

8 MR. EXAMINER: Yeah, that's exactly what I'm
9 looking for. Very good.

10 MR. CLARK: Thank you.

11 Q. (By Mr. Hall) And Exhibit 8, let's look at that.

12 A. Exhibit 8 is the same diagram except showing how
13 the Burkett 16 State 16H will be completed in terms of
14 the allowable setbacks.

15 Q. And for that well is it also correct that the
16 completed interval will be entirely within the producing
17 area?

18 A. The producing area, that is correct.

19 Q. Mr. Clark, can these reserves in this project
20 area be efficiently and economically recovered with two
21 wells?

22 A. Yes.

23 Q. And in your opinion, Mr. Clark, would granting
24 COG's application be in the best interest of
25 conservation and prevention of waste and protection of

1 correlative rights?

2 A. Yes.

3 Q. Were Exhibits 5 through 8 prepared by you?

4 A. Yes.

5 MR. HALL: And I move the admission of
6 Exhibits 5 through 8. Nothing further of this witness
7 on direct.

8 MR. EXAMINER: Mr. Bruce?

9 MR. BRUCE: I have no objection to the
10 admission of the exhibits.

11 MR. EXAMINER: Which exhibits do you want
12 admitted?

13 MR. HALL: 5 through 8.

14 MR. EXAMINER: Exhibits 5 through 8 will be
15 admitted.

16 Mr. Bruce, any questions?

17 [Exhibits 5 through 8 admitted.]

18 CROSS-EXAMINATION

19 BY MR. BRUCE:

20 Q. Just a couple questions, Mr. Clark.

21 A. Sure.

22 Q. What interval is the number 16 well being
23 completed in the Paddock or the Blinebry?

24 A. We will go horizontal in the Blinebry.

25 Q. Same thing with the 15H?

1 A. That is correct.

2 Q. And how many completions ~~statements~~ *stages* do you have
3 in these?

4 A. You know, that's going to be dependent on once we
5 see the mud log, but they vary from anywhere from 15 to
6 17 stages, plus or minus.

7 Q. Thanks.

8 A. You're welcome.

9 MR. EXAMINER: Any further questions?

10 MR. BRUCE: No further questions.

11 MR. EXAMINER: Mr. Brooks?

12 EXAMINER BROOKS: No questions.

13 MR. HALL: Mr. Examiner, I'm sorry, did you
14 have questions? I didn't mean to interrupt.

15 MR. EXAMINER: No, he doesn't have
16 questions. Yeah, I have questions.

17 What is depth of this well?

18 MR. CLARK: The true vertical depth or where
19 we're planning on going horizontal?

20 MR. EXAMINER: I'm going to allowables now.

21 MR. CLARK: Sure. We plan on going
22 horizontal between 5900 and 6200 feet.

23 MR. EXAMINER: 5900?

24 MR. CLARK: Well, between 5900 and 6200 feet
25 measure depth.

1 MR. EXAMINER: Okay. 5900 would be 187
2 units, would that be correct?

3 MR. CLARK: I'm not sure of that answer.

4 MR. EXAMINER: Could you check to see if
5 that's allowable for me? The depth is 5,000 what?

6 MR. CLARK: Let's say 6,000 feet.

7 MR. EXAMINER: Okay, 6,000 feet?

8 MR. CLARK: Yes, sir.

9 MR. EXAMINER: I'm trying to establish that
10 because they are going to be drilling two horizontal
11 wells there, and each of the units is dependent on the
12 depth that is allowable is 142, and they are going to
13 drill two horizontal wells. So in each unit you have to
14 produce, what, 71 for me to -- because I'm going to
15 have -- there's no vertical wells. We have established
16 that no vertical wells in that one.

17 MR. CLARK: Correct.

18 MR. EXAMINER: So the only two wells would
19 be the two horizontal wells that are there. So each of
20 them will produce in each unit, you know, 71 barrels.
21 So the units are allowable, right?

22 MR. CLARK: May I ask the Commissioner a
23 question? I'm not familiar with the allowables to a
24 certain extent. Would that allowable per unit be on a
25 40-acre basis?

1 MR. EXAMINER: Yes, it's on a unit basis.

2 MR. CLARK: So that would be times three,
3 right?

4 MR. EXAMINER: Yes, yes, yes, times three.
5 Yeah, it would be times three. Of course it's going to
6 be times three for the total. But for that form for the
7 unit, you know, of course you can produce in any
8 proportion.

9 MR. CLARK: And that's what you would do is
10 you'd proportion it out across the unit.

11 MR. EXAMINER: Yeah, what I'm trying to get
12 at, I hope you're not drilling an excessive number of
13 wells. Would one be enough to do it? It depends on how
14 the well is producing.

15 EXAMINER BROOKS: Well, this is going to be
16 in the Chisos which is where one of the previous
17 owners --

18 MR. EXAMINER: Is it affected?

19 MR. CLARK: I believe so.

20 MR. EXAMINER: Okay.

21 EXAMINER BROOKS: It would be 300 barrels a
22 day.

23 MR. EXAMINER: Okay, that's very good. Then
24 in that case my fear is that there is no -- this is very
25 important for me because as we go ahead I want to

1 understand, remember now, if you want you can drill four
2 horizontal wells there. There's no limit to the number
3 you're going to drill. But I want to make sure you're
4 not drilling, you know, wells that are not really
5 necessary, but I don't think you would.

6 MR. CLARK: Correct.

7 MR. EXAMINER: Now, from what you just said
8 I don't think you would be. Dependent on how much the
9 wells produce it might be prolific, it might produce
10 1,000 barrels a day in that one unit.

11 MR. CLARK: We hope so.

12 MR. EXAMINER: But I think the 300 barrels
13 that have been approved previously, we help you do that.

14 MR. CLARK: Yes, sir.

15 MR. EXAMINER: That's not bad. So two wells
16 can handle it. Okay, that's what I wanted to know. Let
17 me see if I have more questions to ask you. You may
18 step down.

19 MR. CLARK: Thank you.

20 MR. HALL: Mr. Examiner, one more piece of
21 business. I move the admission of Exhibit 9, which is
22 my notice of affidavit and the attached letters.

23 MR. EXAMINER: Exhibit 9, did you want to
24 admit that?

25 MR. HALL: It's part of the reporter's

1 original packet.

2 MR. BRUCE: Scott, could I see one?

3 MR. EXAMINER: Do you have any objection to
4 admitting this exhibit?

5 MR. BRUCE: I don't think so. I just want
6 to see the exhibit.

7 Could I just ask one thing? Mr. Hall, who is --
8 I have no objection.

9 MR. EXAMINER: There being no objection,
10 Exhibit 9 will be admitted.

11 [Exhibit 9 admitted.]

12 MR. HALL: That concludes our case.

13 MR. EXAMINER: Anything further, Mr. Bruce?

14 MR. BRUCE: Yeah, Mr. Examiner, just very
15 briefly, Mr. Gaynor has said that Total will execute an
16 assignment to Apache and Chisos and Cross Borders. I
17 don't represent Cross Borders. And Chisos has informed
18 COG that it will participate, and so I would request
19 that Chisos be dismissed as a party being pooled. And
20 if not, I would point out that there's no evidence that
21 well proposals or AFEs were ever sent to Apache and
22 Chisos, so I would ask at the very least that the case
23 be continued for two to four weeks so that proper
24 procedures can be followed, that well proposals can be
25 sent to Apache and Chisos and they can have time to

1 review the AFEs and get back to COG.

2 I understand that COG wants to drill the wells
3 starting in July. I don't think that a short
4 continuance will conflict with that desire. And so at
5 the very least we would ask for a continuance so that
6 COG can send AFEs, well proposals and even operating
7 agreements to these parties. Thank you.

8 MR. HALL: Mr. Examiner, under the Branco
9 case issued by the Commission several years ago,
10 operators obliged to deal with the interest owner of
11 record, and that is Total Petrochemicals. As it stands
12 now, Mr. Bruce's clients have no assignment from the
13 interest owner of record. They have no capacity to
14 execute an operating agreement or an AFE or commit any
15 interests to the well. They simply don't own any.

16 It's only prospective and speculative that the
17 gap in title may be cured by Total and Chisos and
18 Apache, but it's not the case today. And COG needs to
19 move forward. If, in fact, they deliver executed
20 assignments curing the problem we can deal with that at
21 that time. We don't know when that will occur is the
22 problem, so we ask that the case proceed.

23 MR. BRUCE: I believe that with respect to
24 the notice provisions of the Division's regulations that
25 say you deal with the record title owner or someone you

1 know owns or claims title. And clearly, via Exhibit 9,
2 they gave notice of this proceeding to Apache and
3 Chisos. And having given notice, I think we have
4 standing to request a continuance especially since if
5 they're giving them notice, why didn't they send them an
6 AFE and well proposal?

7 MR. EXAMINER: Anything further?

8 MR. HALL: Again, Mr. Examiner, notice to a
9 claimant does not cure the defect in title. You have no
10 choice but to deal with the interest owner, and that's
11 not Chisos and that's not Apache.

12 MR. EXAMINER: Then at this point let me
13 pass it to the Legal Examiner. You know, it's a
14 question of whether to continue or not. Let me have
15 Mr. Brooks address that matter.

16 EXAMINER BROOKS: Applicant shall give
17 notice to an owner of an interest in minerals of any
18 portions of the lands the applicant proposes to be
19 pooled or unitized whose interest is evidenced by
20 written conveyance document either of record or known to
21 the applicant.

22 So it seems to me that it doesn't say that the
23 applicant knows that there's some kind of a claim. It
24 says that the applicant knows of a written instrument,
25 which the testimony doesn't seem to say that it did. So

1 I would recommend that we overrule the continuance.

2 MR. EXAMINER: According to the evidence of
3 my counselor here, it says that the motion to continue
4 is overruled, whatever that means.

5 EXAMINER BROOKS: I have a question for
6 Mr. Bruce, not a serious one. I mean, not a case
7 determining one. If you want to present an argument, go
8 ahead.

9 MR. BRUCE: I would, if you turn to
10 Exhibit 2 or 3, which attaches a portion of the title
11 opinion. The title opinion itself says that in January
12 1999 Fina purports to assign the same interest to Manix
13 Energy. And that title descended, I know for a fact
14 having examined that title, to Apache and Chisos and
15 others. So there is an instrument of record.

16 I recognize what you're saying, Mr. Examiner, but
17 there are instruments of record by which the interests
18 that COG credits to Total descend. There are a number
19 of instruments of record by which title, we believe,
20 descends into Apache and Chisos.

21 MR. HALL: I think the Blanco case is
22 determinative of this question.

23 EXAMINER BROOKS: Well, I think we have a
24 problem with notice may be one issue, but I think we
25 have a problem if we require a proposal to someone whose

1 title is defective. So I will stick with my previous
2 recommendation. Obviously if the title defect is cured
3 between now and the time for the election then the
4 people who acquire title by that cured process will be
5 the ones who will have the opportunity to make the
6 election. So I think that it's going to end up being
7 harmless, although it might cause everybody to scramble
8 around a little bit.

9 MR. HALL: Okay, thanks.

10 MR. EXAMINER: We're not done yet. We have
11 to conclude the case. So where we are at, if I
12 understand the lawyers currently, is that we are not
13 going to continue the case.

14 MR. HALL: That's correct.

15 EXAMINER BROOKS: Well, continuance is
16 always discretionary. You can grant it if you want to,
17 but my recommendation is that it's not required.

18 MR. EXAMINER: Yeah, I think let's go
19 forward. I don't want to go back over this even though
20 I want to streamline processes and procedures. We're
21 going to go forward and then if there's any agreement
22 reached, I mean, that's between you guys. Remember what
23 I said? You guys should be negotiating and not coming
24 in here.

25 Now, Mr. Bruce, you submitted Exhibit A. Do you

1 want this admitted?

2 MR. BRUCE: No.

3 MR. EXAMINER: Okay. At this point case
4 number 14815 will be taken under advisement.

5 [Case 14815 taken under advisement.]

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No.
heard by me on 4/28/12


Oil Conservation Division Examiner

REPORTER'S CERTIFICATE

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I, Lisa Reinicke, New Mexico Provisional Reporter, License #P-405, working under the direction and direct supervision of Paul Baca, New Mexico CCR License #112, Official Court Reporter for the US District Court, District of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case and that I have no interest whatsoever in the final disposition of this case in any court.



Lisa R. Reinicke,
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Ex count: