

**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:**

**CASE NO. 15237
ORDER NO. R-13950**

**APPLICATION OF COG OPERATING LLC FOR CREATION OF A NON-
STANDARD SPACING AND PRORATION UNIT, COMPULSORY POOLING,
AND APPROVAL OF A NON-STANDARD PROJECT AREA, EDDY COUNTY,
NEW MEXICO**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 20, 2014, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 20th day of January, 2015, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

- (1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.
- (2) COG Operating LLC ("Applicant"), seeks approval of (i) a 120-acre non-standard project area and (ii) a non-standard oil spacing and proration unit ("the Unit"), each for purposes of horizontal drilling within the Yeso formation, and comprised of the SW4 SE4 and S2 SW4 of Section 15, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico.
- (3) Applicant further seeks an order pooling all uncommitted interests in the Unit from the top of the Yeso formation to 4000 feet below the surface.
- (4) The Unit is to be dedicated to Applicant's Pilum 15 Fee Well No. 2H, (API No. 30-015-42644), the "Proposed Well" which will be drilled as a horizontal well from a surface location within Unit letter P of offsetting Section 16 in an easterly direction to a terminus within Unit letter O of Section 15. The well is planned for oil

production from the Paddock member of the Yeso formation at approximately 2685 feet vertical depth and will be located according to Division records within the Atoka-Glorieta-Yeso Pool (3250). The first perforation will be within Unit letter M of Section 15 and all completed intervals within this well will be at standard locations.

(5) Harvey E. Yates Company, Spiral Inc., and Explorers Petroleum Corporation (collectively "Heyco") appeared at the hearing through legal counsel. No other party appeared or otherwise opposed the granting of this application.

(6) Applicant appeared at the hearing and presented witnesses for land and geologic evidence that demonstrates the following:

- (a) The majority of Section 15 is Fee owned lands with a small holding owned by a state government agency.
- (b) The 120-acre Unit consists of two tracts. Tract 1 is the largest tract and is held wholly by COG Operating LLC. Tract 2 is much less than one acre in size and owned both surface and minerals by the New Mexico Department of Transportation. The oil and gas rights for Tract 2 have not been leased and are being pooled in this case.
- (c) For formation of the 120-acre non-standard project area and non-standard oil spacing and proration unit, notice was provided to all owners within the surrounding 40-acre tracts, and no protests were received.
- (d) There will be no stranded acreage as a result of the non-standard project area, since the lands within Unit letter P of Section 15 already have a Yeso producing well.
- (e) The proposed well could not be located within Section 15 due to surface restrictions. The exact surface location of this well within Unit letter P of Section 16 is being negotiated with the Harvey E. Yates Company which also has a permit to drill (the Nickel Plate 16 State Com Well No. 2) within Unit letter P of Section 16.
- (f) The completed intervals in this well will comply with all setback rules of the Division and all three quarter-quarters will contribute to total well production.
- (g) A diligent effort was made by the Applicant to locate all owners and to obtain joinder in this well. Notice was provided to owners as to the hearing.

(7) Heyco did not state it had opposition to the compulsory pooling, but that the proposed well location may interfere with its permitted well. Applicant's Land

witness at the hearing agreed to continue working with Heyco on a "Surface Sharing Agreement". Pending this agreement, the compulsory pooling should not be delayed.

(8) The proposed 120-acre non-standard project area and non-standard oil spacing and proration unit should be approved.

(9) Two or more separately owned tracts are embraced within the Unit, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Unit that are separately owned.

(10) Applicant is owner of an oil and gas working interest within the Unit. Applicant has the right to drill and proposes to drill the proposed well to a common source of supply within the Unit at the proposed location.

(11) There are interest owners in the Unit that have not agreed to pool their interests.

(12) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Unit the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved and all uncommitted interests pooled, whatever they may be, in the oil and gas within the Unit.

(13) COG Operating LLC (OGRID 229137) should be designated the operator of the proposed well and of the Unit.

(14) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the proposed well.

(15) At the hearing, Applicant requested that the overhead rates be fixed at \$7,000 per month while drilling and \$700 per month while producing. The Division believes that these overhead rates are higher than is reasonable for operation in the Yeso formation.

(16) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6,000 per month while drilling and \$600 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "Accounting Procedure-Joint Operations."

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of COG Operating LLC ("Applicant"), the non-standard project area and non-standard oil spacing and proration unit ("the Unit") both comprised of the SW4 SE4 and S2 SW4 of Section 15, Township 18 South, Range

26 East, NMPM, Eddy County, New Mexico, are hereby approved and all uncommitted interests, whatever they may be, in the oil and gas located from the top of the Yeso formation to a depth of 4000 feet are hereby pooled.

(2) The Unit shall be dedicated to Applicant's **Pilum 15 Fee Well No. 2H** ("the proposed well"; API No. 30-015-42644), to be drilled as a horizontal well from a surface location within Unit letter P of offsetting Section 16, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico. That exact surface location shall be acceptable to the applicant and to Harvey E. Yates Company who also has a well permitted in this quarter section. The well shall be drilled in an easterly direction with the first perforation located at a standard location within Unit letter M of Section 15 and the well terminating at a standard location within Unit letter O of Section 15.

(3) The operator of the Unit shall commence drilling the proposed well on or before January 1, 2016, and shall thereafter continue drilling the proposed well with due diligence to test the Paddock member of the Yeso formation at approximately 2685 feet vertically.

(4) In the event the operator does not commence drilling the proposed well on or before January 1, 2016, Ordering Paragraph (1) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(5) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraph (1) shall be of no further effect, and the Unit and project area shall terminate, unless operator appears before the Division Director and obtains an extension of the time for completion of the proposed well for good cause shown by satisfactory evidence. If the proposed well is not completed in all of the quarter-quarter sections included in the Unit within 120 days after commencement of drilling, then the operator shall apply to the Division to contract the Unit so that it includes only the quarter-quarter sections in which the individual well is completed.

(6) Upon final plugging and abandonment of the proposed well and any other well drilled on the Unit pursuant to Division Rule 19.15.13.9 NMAC, the pooled unit shall terminate, unless this Order has been amended to authorize further operations.

(7) COG Operating LLC (OGRID 229137) is hereby designated the operator of the well and of the Unit.

(8) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Unit, including unleased mineral interests, who are not parties to an operating agreement governing the Unit.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Unit an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected, within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(11) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(12) The operator is hereby authorized to withhold the following costs and charges from production from each well:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and
- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(13) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(14) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$6,000 per month while drilling and \$600 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(15) Except as provided in Paragraphs (12) and (14) above, all proceeds from production from the proposed well that are not disbursed for any reason shall be held for the account of the person or persons entitled thereto pursuant to the Oil and Gas Proceeds Payment Act (NMSA 1978 Sections 70-10-1 through 70-10-6, as amended). If not disbursed, such proceeds shall be turned over to the appropriate authority as and when required by the Uniform Unclaimed Property Act (NMSA 1978 Sections 7-8A-1 through 70-8A7-8A-28, as amended).

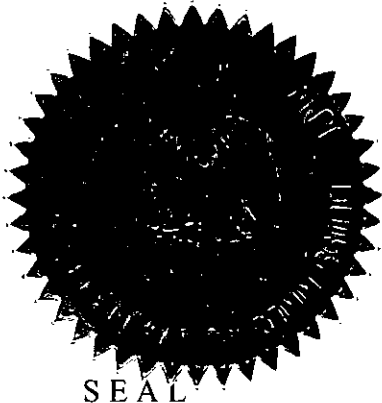
(16) Any unleased mineral interests shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(17) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this Order, this order shall thereafter be of no further effect.

(18) The operator of the well and Unit shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the compulsory pooling provisions of this Order.

(19) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David R. Catanach

DAVID R. CATANACH
Director