

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:

ORIGINAL

APPLICATION OF COG OPERATING, LLC  
FOR CREATION OF A NONSTANDARD  
SPACING AND PRORATION UNIT,  
COMPULSORY POOLING, AND APPROVAL  
OF A NONSTANDARD PROJECT AREA,  
EDDY COUNTY, NEW MEXICO.

CASE NO. 15237

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 20, 2014

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER  
GABRIEL WADE, LEGAL EXAMINER

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This matter came on for hearing before the  
New Mexico Oil Conservation Division, William V. Jones,  
Chief Examiner, and Gabriel Wade, Legal Examiner, on  
Thursday, November 20, 2014, at the New Mexico Energy,  
Minerals and Natural Resources Department, Wendell Chino  
Building, 1220 South St. Francis Drive, Porter Hall,  
Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

APPEARANCES

FOR APPLICANT COG OPERATING, LLC:

JORDAN KESSLER, ESQ.  
HOLLAND & HART  
110 North Guadalupe, Suite 1  
Santa Fe, New Mexico 87501  
(505) 988-4421  
jlkessler@hollandhart.com

FOR HARVEY E. YATES COMPANY, SPIRAL, INC. AND EXPLORERS  
PETROLEUM CORPORATION:

JAMES G. BRUCE, ESQ.  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
(505) 982-2043  
jamesbruc@aol.com



1 (11:18 a.m.)

2 EXAMINER JONES: Call Case 15237,  
3 application of COG Operating, LLC for creation of a  
4 nonstandard spacing and proration unit, compulsory  
5 pooling, and approval of a nonstandard project area in  
6 Eddy County, New Mexico.

7 Call for appearances.

8 MS. KESSLER: Jordan Kessler, with the  
9 Santa Fe office of Holland & Hart, for the Applicant.

10 EXAMINER JONES: Any other appearances?

11 MR. BRUCE: Mr. Examiner, Jim Bruce  
12 appearing on behalf of Harvey E. Yates Company and  
13 Spiral, Inc. and Explorers Petroleum Corporation. I  
14 have no witnesses.

15 EXAMINER JONES: Does COG have witnesses?

16 MS. KESSLER: Two witnesses.

17 EXAMINER JONES: Will the witnesses please  
18 stand?

19 And will the court reporter swear the  
20 witnesses?

21 Better get a bottle out.

22 (Laughter.)

23 (Mr. Clark and Mr. Dirks sworn.)

24 MR. CLARK: My name is Greg Clark, for the  
25 record.

1 MR. DIRKS: And I'm Stuart Dirks.

2 MS. KESSLER: I'd like to call Mr. Dirks as  
3 my first witness, please.

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

7 DIRECT EXAMINATION

8 BY MS. KESSLER:

9 Q. Could you tell the Examiner your name for the  
10 record and by whom you're employed and in what capacity?

11 A. My name is Stuart Dirks. I'm employed with COG  
12 Operating, LLC as a senior landman.

13 Q. Have you previously testified before the  
14 Division?

15 A. Yes, I have.

16 Q. And at that time, were your credentials as a  
17 petroleum landman accepted and made a matter of record?

18 A. Yes, they were.

19 Q. Are you familiar with the application filed in  
20 this case?

21 A. Yes, I am.

22 Q. And are you familiar with the status of the  
23 lands in the subject area?

24 A. Yes, I am.

25 Q. Has an APD been approved for this well?

1 A. Yes, it has.

2 MS. KESSLER: Mr. Examiner, I tender  
3 Mr. Dirks as an expert witness in petroleum land  
4 matters.

5 EXAMINER JONES: Any objection?

6 MR. BRUCE: No objection.

7 EXAMINER JONES: He is so qualified.

8 Q. (BY MS. KESSLER) Can you please turn to what's  
9 been marked as COG Exhibit Number 1 and identify what  
10 COG seeks under this application?

11 A. Exhibit 1 is our C-102. We seek the formation  
12 of a 120-acre nonstandard spacing and proration unit  
13 comprising the south half of the southwest and the  
14 southwest of the southeast of Section 15, Township 18  
15 South, Range 26 East, Eddy County, New Mexico for the  
16 drilling of our proposed Pilum 15 Fee #2H well. We seek  
17 the pooling of mineral interests from the top of the  
18 Yeso Formation to 4,000 feet below the surface, and we  
19 ask that COG Operating be named operator.

20 Q. Do you have the API number for this well?

21 A. Yes, I do. The API number is 3001542644.

22 Q. And can you please identify the pool and the  
23 pool code involved in this application?

24 A. This is the Atoka-Glorieta-Yeso pool. The pool  
25 code is 3250.

1 Q. What is the character of the lands?

2 A. The entire section is fee lands.

3 Q. And are there special pool rules that apply  
4 here?

5 A. No, there are not.

6 Q. So the 330 statewide setback will apply?

7 A. Yes, that's correct.

8 Q. If you could turn to COG Exhibit Number 2,  
9 please, and identify this exhibit and walk us through  
10 it.

11 A. This is a plat of Section 15 showing our  
12 proposed spacing unit. It identifies the two tracts  
13 that make up our spacing unit. Tract 1 is held 100  
14 percent by COG. Tract 2 is held by the New Mexico State  
15 Highway and Transportation Department.

16 Q. What interests do you seek to pool?

17 A. We seek to pool the New Mexico State Highway  
18 Department.

19 Q. Did you send the Highway Department a well  
20 proposal letter?

21 A. Yes, we did.

22 Q. And is this reflected in Exhibit 3?

23 A. Yes, it is.

24 Q. What additional efforts did you take to reach  
25 voluntary agreement with the DOT?

1           A.    After sending our well proposal with offer to  
2   lease, I had numerous phone conversations with them,  
3   exchanges of e-mail. I explained to them that they  
4   actually were deeded the minerals. I sent them a copy  
5   of the warranty deed to show them how they received the  
6   minerals.

7           Q.    If you could turn to Exhibit Number 4, is this  
8   an AFE that was sent with the well proposal letter to  
9   the Department of Transportation?

10          A.    Yes, it is.

11          Q.    And are the costs reflected on this AFE  
12   consistent with what COG has incurred for drilling  
13   similar horizontal wells in this area?

14          A.    Yes, it is.

15          Q.    Does the well proposal letter, turning back to  
16   Exhibit 3, identify the requested overhead and  
17   administrative costs while drilling this well?

18          A.    Yes, it does.

19          Q.    What are those costs?

20          A.    \$7,000 per month drilling, \$700 per month  
21   producing.

22          Q.    And are these costs in line with what COG and  
23   other operators in the area charge for similar wells?

24          A.    Yes, they are.

25          Q.    Do you ask that these administrative costs and



1 overhead costs be incorporated into any order resulting  
2 from this hearing?

3 A. Yes, we do.

4 Q. Do you also ask that they be adjusted in  
5 accordance with the appropriate accounting procedures?

6 A. Yes, we do.

7 Q. And with respect to the uncommitted interest  
8 owner, the Department of Transportation, do you request  
9 the Division impose a 200 percent risk penalty?

10 A. Yes, we do.

11 Q. Let's talk about the formation of the unit.  
12 Did COG identify the lease mineral interest owners in  
13 the 40-acre surrounding tracts?

14 A. Yes, we did.

15 Q. Did you include these known offsetting lease  
16 mineral interests in the notice of the hearing?

17 A. Yes, they were.

18 Q. And this is reflected in Exhibit 5, correct?

19 A. Yes, it is.

20 Q. The offsetting parties?

21 A. Yes.

22 Q. Is Exhibit 6 an affidavit prepared by my office  
23 with attached letters providing notice of this hearing  
24 to the affected parties?

25 A. Yes, it is.

1 Q. Was it necessary to publish notice, or were all  
2 the interests locatable?

3 A. They were all locatable. It was not necessary  
4 to publish notice.

5 Q. Were Exhibits 1 through 5 compiled by you or  
6 prepared under your direction or supervision?

7 A. Yes, they were.

8 MS. KESSLER: I'd move into admission  
9 Exhibits 1 through 6, including Exhibit 6, which I  
10 prepared.

11 EXAMINER JONES: Exhibits 1 through 6 are  
12 admitted.

13 (COG Operating, LLC Exhibit Numbers 1  
14 through 6 were offered and admitted into  
15 evidence.)

16 CROSS-EXAMINATION

17 BY EXAMINER JONES:

18 Q. Mr. Dirks, how many acres does the Highway  
19 Department own?

20 A. By my estimate, it's about .00005225.

21 Q. Now, say those zeros again.

22 A. Four zeros.

23 Q. Four zeros. And 55?

24 A. 5225.

25 Q. 5225. Okay.

1               Several years ago, I remember there was  
2     some effort to get the Highway Department to participate  
3     or to handle these compulsory poolings. Do you have any  
4     precedent cases that you know about that were -- do you  
5     know the history of that at all? Because I don't, but I  
6     just heard about it.

7           A.     This is the first time I've been involved with  
8     this, but I know other landmen at Concho have done this.

9               MS. KESSLER: Mr. Examiner, my impression  
10    from past COG cases is that the Department of  
11    Transportation had a person there who attempted to  
12    arrange to be involved in the compulsory pooling  
13    application process, and that person has since left. So  
14    Mr. Dirks did go through a number of efforts, as he  
15    detailed earlier, to arrange with the Department of  
16    Transportation some agreement.

17               EXAMINER JONES: I really should have let  
18    Mr. Bruce ask these questions first here. So let me go  
19    ahead and -- I'm sorry. I'm feeling a bit --

20               MR. BRUCE: I've only got a couple.

21               I would point out, Mr. Examiner, I have  
22    force pooled the Highway Department -- I don't know --  
23    10 or 12 times. I know there was an effort. But the  
24    Highway Department doesn't know what they're doing, and  
25    they just throw it in the circular file, and that's it.

1 There is no effort by them to -- for anyone in that  
2 department to familiarize themselves with what's going  
3 on, even though they're about two blocks from the  
4 Division here. So it just has to be done.

5 EXAMINER JONES: Thank you.

6 CROSS-EXAMINATION

7 BY MR. BRUCE:

8 Q. Mr. Dirks, I think you know why I'm here  
9 (laughter).

10 MR. BRUCE: Something else also that's  
11 rare, Mr. Examiner --

12 Q. (BY MR. BRUCE) Mr. Dirks, the well pad for your  
13 proposed well has been drilled, correct -- I mean has  
14 been prepared?

15 A. The last -- the last I heard it was about 80  
16 percent completed, and we halted construction while we  
17 talked to HEYCO.

18 Q. And could you tell the Examiner, rather than  
19 have me question you, just the basic issue of what's  
20 going on?

21 A. If you notice on our C-102, our proration unit  
22 is in Section 15, but our surface location is in the  
23 southeast-southeast of 16, because we had some issues  
24 finding surface in Section 15. And then this will  
25 ensure we'll get our curve built. It happens that our

1 location is fairly close to a location that HEYCO has,  
2 so they were concerned that, you know, we'd be bumping  
3 elbows out there drilling our wells. So we have been in  
4 discussions with HEYCO to come up with some kind of a  
5 surface sharing agreement, so we can ensure that we can  
6 each conduct our operations without getting in each  
7 other's way.

8 Q. And HEYCO has an existing APD also; do they  
9 not?

10 A. That's correct, yes.

11 Q. And just for the record, what is the name of  
12 the HEYCO proposed well?

13 A. I don't know. Nickel --

14 Q. Nickel Plate --

15 A. Nickel Plate something, something. Sorry.

16 MR. BOOTH: Nickel Plate 16 State #1.

17 THE WITNESS: Thank you.

18 Q. (BY MR. BRUCE) And will COG continue to  
19 negotiate with HEYCO so that the issues --

20 A. Yes. Yes.

21 MR. BRUCE: That's it, Mr. Examiner.

22 RECROSS-EXAMINATION

23 BY EXAMINER JONES:

24 Q. So the surface locations are going to be on the  
25 same pad, or are they going to be --

1           A.     That's part of our discussions.

2           Q.     Do you know the direction this Nickel Plate  
3 well is going to head to?

4           A.     They're going from east to west.

5                   MR. BRUCE: Their well is in the north  
6 half-south half of Section 16, Mr. Examiner.

7                   MR. CLARK: No. South half-south half.

8                   MR. BRUCE: South half-south half.

9                   MR. CLARK: Ours is north of theirs.

10                  EXAMINER JONES: South half-south half.

11                  So basically you're not going to encounter  
12 on subsurface at all. It's just the surface issues.

13                  MR. BRUCE: Well, they don't --

14                  THE WITNESS: We're going to drill our --  
15 our well direction so we can let HEYCO know exactly  
16 where we are.

17           Q.     (BY EXAMINER JONES) But your application is  
18 just asking for a nonstandard project area and  
19 compulsory pooling?

20           A.     Yes.

21           Q.     And the nonstandard project area, you had to --  
22 did you have any issues with southeast-southeast, the  
23 mineral owner in the -- mineral working interest owner  
24 in the southeast-southeast?

25           A.     Our 120 is developed, and that

1 southeast-southeast -- sorry -- our 120 is undeveloped,  
2 and that southeast-southeast is developed. They do have  
3 a Yeso well.

4 Q. Okay. So you're not leaving out any --

5 A. No.

6 Q. -- not stranding anybody here?

7 A. No.

8 Q. I don't have any more questions.

9 EXAMINER WADE: No questions.

10 EXAMINER JONES: Thank you.

11 THE WITNESS: Thank you.

12 MS. KESSLER: Call Mr. Greg Clark.

13 GREG CLARK,

14 after having been previously sworn under oath, was  
15 questioned and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. KESSLER:

18 Q. Can you please state your name for the record  
19 and tell the Examiner by whom you are employed and in  
20 what capacity?

21 A. Yes. My name is Greg Clark. I'm employed by  
22 COG Operating, LLC as a senior geologist.

23 Q. Have you previously testified before the  
24 Division?

25 A. Yes, I have.

1 Q. And were your credentials as a petroleum  
2 geologist accepted and made a matter of record?

3 A. Yes, they were.

4 Q. Are you familiar with the application filed in  
5 this case?

6 A. I am.

7 Q. And did you conduct a study of the lands that  
8 are the subject of the application?

9 A. I did.

10 MS. KESSLER: Mr. Examiner, I tender  
11 Mr. Clark as an expert witness in petroleum geology.

12 EXAMINER JONES: Any objection?

13 MR. BRUCE: No objection.

14 EXAMINER JONES: He is qualified as an  
15 expert.

16 Q. (BY MS. KESSLER) Would you please turn to COG  
17 Exhibit Number 7?

18 A. Yes.

19 Q. Identify the exhibit and walk us through it.

20 A. Yes. This is a regional structure map --  
21 subsea structure map on top of the Paddock Formation.  
22 You'll see, looking at it, all of the contours didn't  
23 come through, but the bold contours did, and you'll see  
24 that those are 250 feet. Regional dip is going south  
25 and east towards the Basin. Where we're at is on the



1 Delaware Basin shelf margin complex of the Greater  
2 Delaware Basin area.

3           You'll see in yellow acreage highlighted  
4 that represents the unit in which we propose to drill  
5 the Pium 15 Fee #2H. You will see that there are wells  
6 that are identified in red and blue, red being Paddock  
7 producers, and the blue being Blinbry producers  
8 throughout the area. In light blue are areas that are  
9 labeled by field area names.

10           The main purpose of this map is to show  
11 that there is no major faulting or geologic impediments  
12 that would keep us from drilling this well using a  
13 three-quarter section horizontal.

14       Q.   Do you believe the structure is consistent in  
15 this section?

16       A.   It is consistent in the nature that there is no  
17 faulting or major impediments. But as you'll see, there  
18 is a little bit of an anticlinal ridge that goes through  
19 the middle of the map, but it's very subtle and  
20 shouldn't -- shouldn't give us any impediments going  
21 forward with drilling that well.

22       Q.   If you could turn to COG Exhibit Number 8 and  
23 walk us through it, please.

24       A.   Sure. This is the same regional area map with  
25 the structure taken off. The purpose of this map is to

1 show the line of section, which is A to A prime, going  
2 south from the Lakewood area to north above the Dayton  
3 area. This line of section is representative of areas  
4 where there is known horizontal and vertical Yeso  
5 production, and it goes through the area in which we  
6 want to drill the Pilum 15 Fee #2H.

7 Q. Do you consider these wells representative of  
8 the area?

9 A. I do.

10 Q. Turning to Exhibit Number 9, would you identify  
11 this exhibit?

12 A. Yes. Again, this is the line of section  
13 previously identified on the previous exhibit. It's a  
14 stratigraphic cross section flattened on top on the  
15 Paddock. The purpose of that is to take out the  
16 structural component as to show the stratigraphic  
17 relationship throughout the regional area.

18 You will see on the left, I have a bracket  
19 there defining the lateral interval and how it is pretty  
20 correlative throughout this area, and that's the  
21 interval in which we intend to land the Pilum 15 Fee  
22 #2H.

23 On the north end, or the A prime part of  
24 the cross section, you'll see the two wells. The well  
25 to the right and then the second well from the right

1 both have red rectangles in the depth track, which are  
2 representative of the perforated and completed intervals  
3 in the vertical wells in the Yeso Formation, so there  
4 has been vertical and horizontal production in the area.  
5 And you'll see that there is no major thickening or  
6 thinning or any sort of stratigraphic pinch-outs that  
7 would keep us from -- or keep us from drilling this well  
8 using a three-quarter section horizontal.

9                   And the logs represent the gamma ray and  
10 the density neutron porosity, and you'll see that the  
11 log characteristics are very similar throughout the  
12 area.

13           Q.    So you do identify continuity across this unit?

14           A.    Yes, I do.

15           Q.    What conclusions have you drawn based on your  
16 geologic study?

17           A.    There are no geologic impediments that would  
18 keep us from developing this area using a three-quarter  
19 section horizontal well. This area can be efficiently  
20 and economically produced using a horizontal well. And  
21 this nonstandard unit, on average, will produce more or  
22 less equally to the total production of the well.

23           Q.    Will the completed interval from the well  
24 comply with all setback requirements under the  
25 Horizontal Well Rule?

1 A. Yes, it will.

2 Q. And does COG Exhibit Number 10 show this on the  
3 well diagram?

4 A. Yes, it does.

5 Q. In your opinion, will the granting of COG's  
6 application be in the best interest of conservation, the  
7 prevention of waste and the protection of correlative  
8 rights?

9 A. Yes.

10 Q. Were COG Exhibits 7 through 10 prepared by you  
11 or compiled under your direction and supervision?

12 A. They were.

13 MS. KESSLER: I'd move the admission of COG  
14 Exhibits 7 through 10.

15 MR. BRUCE: No objection.

16 EXAMINER JONES: Exhibits 7, 8, 9 and 10  
17 are admitted.

18 (COG Operating, LLC Exhibit Numbers 7  
19 through 10 were offered and admitted  
20 into evidence.)

21 EXAMINER JONES: Mr. Bruce?

22 MR. BRUCE: I don't have any questions.

23 CROSS-EXAMINATION

24 BY EXAMINER JONES:

25 Q. I guess my question is why go down dip?

1           A.   Well, we'll be going toe up, but we're going to  
2   be landing a little bit lower than we want and -- not  
3   than what we want but in the lower part of the interval  
4   that's perspective and just drill slightly -- slightly  
5   toe up, even though we will be going downdip. We'll  
6   still be within the unit that we feel like will be  
7   completed and contribute to the production of the well.  
8   And also surface-wise deemed us to put that location  
9   where it's at.

10          Q.   Oh. You couldn't put it over on Unit P?

11          A.   It worked out better to where we have it right  
12   now. Yes, sir.

13          Q.   How about your logging program? Do you do  
14   anything? Long hole [sic] drilling?

15          A.   Gamma ray.

16          Q.   Just gamma ray?

17          A.   And mud log.

18          Q.   And mud log. That's it?

19          A.   Yes, sir. We feel like the rock is so  
20   consistent in terms of rock properties that it's more  
21   risk having a nuclear source in the hole for a  
22   horizontal well than the data or value that we would  
23   obtain from that.

24          Q.   How fast do they drill through the section?

25          A.   Oh, it depends, you know. But on average, the

1 horizontal part, we drill anywhere from 60 to 100 foot  
2 an hour; COG does.

3 Q. Okay.

4 A. And that's if there's not a lot of chert.  
5 There's a lot of chert over there.

6 Q. The Paddock, -- is this over on the -- this  
7 Lakewood area, that's over on the western side of the  
8 Basin, up on the shelf?

9 A. Yes. It's just right around --

10 Q. On the eastern side?

11 A. Right around Artesia.

12 Q. Okay. So the samples -- can you catch samples  
13 drilling that fast?

14 A. Oh, yeah. Yeah. The crew that we have on this  
15 rig are very, very good mud loggers. They do an  
16 excellent job.

17 Q. They send you the data remotely, or do you have  
18 to be out there?

19 A. No. In this day and age, we have the luxury of  
20 obtaining that through e-mail.

21 Q. Oh, wow. Wow. I just dated myself there.  
22 Gosh.

23 The Paddock is at -- can you describe the  
24 geologic environment that was laid down?

25 A. Sure. You know, you're on the -- you're on the

1 shelf crest, part of the shelf margin complex. It's  
2 mainly dolomite, very dolomitic, and that pretty much  
3 generalizes the character of the rock.

4 Q. But you want to drill lay-down wells? You  
5 don't want to drill stand-ups?

6 A. Well, we've done extensive work out here that  
7 tells us that SHmax, we feel, is in the northwest to  
8 southeast direction and it's very minimal. There's --  
9 there's -- there's not much anisotropy between SHmin and  
10 SHmax. So we feel as long as we're oblique or  
11 perpendicular to that that we're going to -- and  
12 production has also told us that.

13 Q. Frack jobs go off okay --

14 A. Yes. Yes, sir.

15 Q. I love to hear geologists talk, so I better  
16 quit asking questions.

17 A. We love to hear ourselves talk.

18 EXAMINER JONES: Gabe, got any questions?

19 EXAMINER WADE: No.

20 EXAMINER JONES: Thanks a lot.

21 THE WITNESS: You're welcome.

22 EXAMINER JONES: Take Case 15237 under  
23 advisement.

24 (Case Number 15237 concludes, 11:41 a.m.)

25 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 \_\_\_\_\_

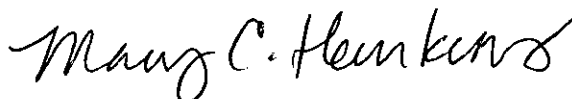
1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO  
3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, New Mexico Certified  
6 Court Reporter No. 20, and Registered Professional  
7 Reporter, do hereby certify that I reported the  
8 foregoing proceedings in stenographic shorthand and that  
9 the foregoing pages are a true and correct transcript of  
10 those proceedings that were reduced to printed form by  
11 me to the best of my ability.

12 I FURTHER CERTIFY that the Reporter's  
13 Record of the proceedings truly and accurately reflects  
14 the exhibits, if any, offered by the respective parties.

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

19   
20

21 MARY C. HANKINS, CCR, RPR  
22 Paul Baca Court Reporters, Inc.  
23 New Mexico CCR No. 20  
24 Date of CCR Expiration: 12/31/2014  
25