

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

**COPY**

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

APPLICATION OF COG OPERATING LLC CASE 15282  
FOR A NON-STANDARD SPACING AND PRORATION and 15283  
UNIT AND COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

MAY 14, 2015

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER  
ALLISON MARKS, LEGAL EXAMINER

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This matter came on for hearing before the  
New Mexico Oil Conservation Division, Michael McMillan,  
Chief Examiner, and Allison Marks, Legal Examiner, on  
May 14, 2015, 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: ELLEN H. ALLANIC  
NEW MEXICO CCR 100  
CALIFORNIA CSR 8670  
PAUL BACA COURT REPORTERS  
500 Fourth Street, NW  
Suite 105  
Albuquerque, New Mexico 87102

1 A P P E A R A N C E S

2 FOR APPLICANT COG OPERATING LLC:

3 JORDAN LEE KESSLER, Esq.  
 4 Holland & Hart  
 110 North Guadalupe  
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 5 Santa Fe, New Mexico 87501  
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 6 jlkessler@hollandhart.com

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9 I N D E X

10 CASE NUMBER 15282 CALLED

11 COG OPERATING LLC CASE-IN-CHIEF

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14 E X H I B I T I N D E X

15 Exhibits Offered and Admitted

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17 COG Operating LLC Exhibit 12 PAGE 4

18 COG Operating LLC Exhibit 13 5

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21 Reporter's Certificate PAGE 9

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1 (Time noted 11:48 a.m.)

2 EXAMINER McMILLAN: I call case No. 15282,  
3 Application of COG Operating LLC for a non-standard  
4 spacing and proration unit and compulsory pooling, Eddy  
5 County, New Mexico.

6 Call for appearances.

7 MS. KESSLER: Mr. Examiner, Jordan Kessler  
8 from Holland and Hart in Santa Fe for the Applicant.

9 EXAMINER McMILLAN: Any other appearances?  
10 (No response.)

11 MS. KESSLER: Mr. Examiner, this case was  
12 originally heard on April 2nd. At that time the  
13 applicant sought to pool the Yeso Formation from the top  
14 of the formation to 4,000 feet.

15 There were two witnesses at the time, and 11  
16 exhibits were presented. The two cases, for the 1H and  
17 the 2H, were combined at that time.

18 Again, after that hearing, the Division  
19 contacted counsel for COG and requested that additional  
20 notice be provided to all of the owners in the Yeso  
21 Formation.

22 EXAMINER McMILLAN: Okay.

23 MS. KESSLER: So the two exhibits that you  
24 have in front of you now are letters for each, for the  
25 1H and the 2H Wells, providing notice to mineral

1 interest owners in the Yeso Formation below 4,000 feet.

2 Again I would remind the Examiners that the  
3 hearing at that time was continued for notice purposes  
4 only to allow additional notice, both under the ten-day  
5 publication period at the time for the notice that was  
6 published, in addition to providing notice to these  
7 additional parties in Yeso Formation.

8 I move admission into evidence Exhibits 12  
9 and 13.

10 EXAMINER McMILLAN: So it appears to me that  
11 Exhibit 12 -- it relates to case 15282, right?

12 MS. KESSLER: That's correct.

13 EXAMINER McMILLAN: So Exhibit 12 will be  
14 accepted as part of the record for case 15282.

15 (Whereupon, COG OPERATING LLC Exhibit 12 was  
16 offered and accepted as part of the record for Case No.  
17 15282.)

18 MS. KESSLER: And then the following  
19 exhibit, Exhibit 13 is for case No. 15283.

20 EXAMINER McMILLAN: Okay.

21 MS. KESSLER: But I would remind the  
22 examiner that those two cases were combined.

23 EXAMINER McMILLAN: I am just trying to --

24 MS. KESSLER: Okay.

25 EXAMINER McMILLAN: And then Exhibit 13 will

1 be accepted into the record for case No. 15283. And  
2 they are affidavit and notices?

3 MS. KESSLER: Correct.

4 (Whereupon, COG OPERATING LLC Exhibit 13 was  
5 offered and accepted as part of the record for Case No.  
6 15283.)

7 EXAMINER MARKS: I have basically the same  
8 questions just for the record. If the applications are  
9 granted, how do we protect the correlative rights of the  
10 other interest owners?

11 MS. KESSLER: And, again, I would refer you  
12 back to the original hearing on April 2nd. I believe  
13 there was testimony at that time discussing correlative  
14 rights. And I believe in this case in particular, there  
15 was more discussion regarding the geological formation  
16 and how it would be prevented from draining below  
17 4,000 feet. Mr. Feldewert was the attorney that  
18 presented that case.

19 EXAMINER MARKS: And, again, from the legal  
20 perspective, do you believe there are rules to cover  
21 vertical segregation of a pool?

22 MS. KESSLER: I believe that the rules are  
23 unclear, but that they do not prevent vertical  
24 segregation.

25 And this was again a conversation that was

1 discussed at length with Mr. Feldewert, myself, and  
2 Hearing Examiners after the hearing when we were told  
3 that we needed to provide additional notice.

4 EXAMINER MARKS: Okay. And is this the same  
5 as what makes this a non-standard proration --

6 EXAMINER McMILLAN: Yes, it's the same  
7 thing. It's an inadequacy almost in the Administrative  
8 Code, so you have to do kind of a work-around.

9 EXAMINER MARKS: Okay.

10 And I have the same question on the legal  
11 description, is the legal description a legal  
12 description of the surface, and it's the formation that  
13 provides -- that you believe makes it an adequate legal  
14 description?

15 MS. KESSLER: That's correct. As with all  
16 pooling cases that are presented in front of the  
17 Division, there is a surface location that is provided  
18 and then also a description of the formation.

19 EXAMINER MARKS: Okay. And was there  
20 testimony previously or do you believe that there is a  
21 separate source of supply here?

22 MS. KESSLER: I believe that in this case  
23 there was testimony addressing that question.

24 EXAMINER MARKS: Okay. And how are  
25 allowables handled here?

1 MS. KESSLER: The same. These will be  
2 shared within the pool according to the statewide rules.

3 EXAMINER MARKS: I have no other questions.

4 (Discussion off the record between the  
5 Examiners.)

6 EXAMINER McMILLAN: Okay. So what's going  
7 to happen if you are drilling to a vertical depth of  
8 3,198 and you frac it and it goes -- the frac extends  
9 100 feet down, are you going to get around that  
10 particular situation?

11 MS. KESSLER: I believe there was testimony  
12 in the hearing on April 2nd addressing that particular  
13 question.

14 EXAMINER McMILLAN: And the same thing with  
15 the drill 4,975, what's going to happen if you frac and  
16 you frac vertically out to 5,075?

17 MS. KESSLER: Again, I would point you,  
18 Mr. Examiner, to the testimony in the hearing on  
19 April 2nd. And in the event that that testimony is not  
20 satisfactory, please let me know.

21 But we were under the impression that at  
22 that time all of these questions were answered and that  
23 this was just going to be a notice hearing, so I did not  
24 come prepared to speak to fracking issues.

25 EXAMINER McMILLAN: So case 15282 will be

1 taken under advisement. And case 15283 will be taken  
2 under advisement. And then if there are issues in  
3 either one of these cases, we will notify -- we will go  
4 through the proper channels in notifying you.

5 MS. KESSLER: Okay.

6 EXAMINER McMILLAN: All right. It's noon.  
7 Let's come back at 1:15 p.m.

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11 (Time noted 12:00 p.m.)

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I hereby certify that the foregoing is  
a correct record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_,  
heard by me on \_\_\_\_\_.

\_\_\_\_\_, Examiner  
Oil Conservation Division



1 STATE OF NEW MEXICO )  
 2 ) ss.  
 3 COUNTY OF BERNALILLO )  
 4  
 5  
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7 REPORTER'S CERTIFICATE

8  
 9 I, ELLEN H. ALLANIC, New Mexico Reporter CCR  
 10 No. 100, DO HEREBY CERTIFY that on Thursday, May 14,  
 11 2015, the proceedings in the above-captioned matter were  
 12 taken before me, that I did report in stenographic  
 13 shorthand the proceedings set forth herein, and the  
 14 foregoing pages are a true and correct transcription to  
 15 the best of my ability and control.

16  
 17 I FURTHER CERTIFY that I am neither employed by  
 18 nor related to nor contracted with (unless excepted by  
 19 the rules) any of the parties or attorneys in this case,  
 20 and that I have no interest whatsoever in the final  
 21 disposition of this case in any court.

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ELLEN H. ALLANIC, CSR  
 NM Certified Court Reporter No. 100  
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