

**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. 15495
ORDER NO. R-14214**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on August 4, 2016, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 20th day of September, 2016, the Division Director, having considered the testimony, the record and the recommendations of Examiner,

FINDS THAT:

(1) Due public notice has been given and the Division has jurisdiction of this case and the subject matter.

(2) Cases No. 15495 and 15496 were consolidated at the hearing for the purpose of testimony; however, separate orders will be issued for each case.

(3) In Case No. 15495, COG Operating LLC (the "Applicant") seeks approval of a 160-acre non-standard oil spacing and proration unit (the "Unit") and project area for oil and gas production, from 4000 feet to the base of the Yeso formation, within the Artesia; Glorieta-Yeso Pool (Pool code 96830), comprising the S/2 S/2 of Section 27, Township 17 South, Range 28 East, NMPM, Eddy County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit.

(4) The Unit will be dedicated to Applicant's Halberd 27 State Com Well No. 21H (the "proposed well"; API No. 30-015-Pending), a horizontal well to be drilled from a surface location 644 feet from the South line and 137 feet from the West line (Unit M)

of Section 26, Township 17 South, Range 28 East to a bottomhole location 972 feet from the South line and 330 feet from the West line (Unit M) of Section 27, Township 17 South, Range 28 East, NMPM. The location of the completed interval will be standard for oil production within the Unit.

(5) The proposed well is within the Artesia; Glorieta-Yeso Pool and is subject to Special Rules promulgated by the Division on September 8, 2011 in Case No. 14613 with Order No. R-13382-E, as amended. Said order set in Rule No. 2 the oil production allowable for this pool to 600 barrels of oil per day ("bopd") with a limiting gas-oil ratio ("GOR") of 3000:1 for each proration unit. The pool is otherwise governed by Division Rule 19.15.15.9(A) which provides for 330-foot setbacks from the unit boundaries and standard 40-acre units each comprising a governmental quarter-quarter section. The proposed Unit and project area consists of four adjacent quarter-quarter sections oriented east to west.

(6) Applicant appeared through counsel and presented the following land and geologic evidence:

- (a) The proposed well will be landed in the Blinebry member of the Yeso formation at a planned depth of approximately 4400 feet subsurface. It is the "lower" of two planned Yeso horizontal wells within the Artesia; Glorieta-Yeso Pool and within the same 160-acre unit (S/2 S/2 of Section 27).
- (b) The "upper" well, Applicant's proposed Halberd 27 State Com Well No. 1H (API No. 30-015-42967), has been permitted for drilling and will be landed in the Paddock member of the Yeso formation, at a planned depth of approximately 3900 feet subsurface. This upper well is the subject of Case No. 15496.
- (c) The two wells differ slightly in ownership due to a depth severance at 4,000 feet subsurface provided in earlier assignments of lease operating rights; therefore, Applicant is asking for separate Units and compulsory pooling orders.
- (d) This area is suitable for development by horizontal drilling within the proposed depths from 4000 feet to the base of the Yeso formation.
- (e) The proposed orientation of the horizontal well from east to west is appropriate for the Unit.
- (f) All quarter-quarter sections to be included in the Unit are expected to be productive in the Yeso formation at depths from 4000 feet to the base of the Yeso, so that formation of the Unit as requested will not impair correlative rights;

- (g) Although the proximity of the planned upper well to the 4,000-foot depth severance boundary is consistent with the possibility of some drainage from depths below that boundary, the proposed landing depth is necessary to efficiently drain hydrocarbons within the Paddock, and accordingly to prevent waste.
- (h) Notice was provided to owners of interests within the horizontal boundaries of the proposed Unit at depths within the Artesia; Glorieta-Yeso Pool above 4000 feet, as well as to the owners below such depths, as parties potentially affected by the proposed establishment of a depth-limited non-standard spacing unit.
- (i) No owner voiced to Applicant any objection to the establishment of two units at different depths within this pool, or to the proposed drilling plan.
- (j) Notice was also provided to lessees or operators of surrounding tracts as affected parties of the proposed non-standard spacing unit.
- (k) Notice was provided to all interest owners subject to pooling proceedings as affected parties of the proposed compulsory pooling within the Unit.
- (l) Notice of this proceeding was published in a newspaper of general circulation in this county containing the names of all affected parties who were not located.

(7) No other party entered an appearance or otherwise opposed this application.

The Division concludes as follows:

(8) The proposed non-standard unit should be approved in order to enable Applicant to drill a horizontal well that will efficiently produce the reserves within the horizontal and vertical boundaries of the Unit, thereby preventing waste and protecting correlative rights.

(9) NMSA 1978 Section 70-2-17 provides that where the owners of land embraced within a spacing or proration unit have not agreed to pool their interest, the Division, "to protect correlative rights, or to prevent waste, shall pool all or any part of such lands or interests or both in the spacing or proration unit as a unit." Pursuant to this provision and to NMSA 1978 Section 70-2-18.C, authorizing establishment of non-standard units, the Division has authority to establish and to pool a Unit defined by a depth severance within the vertical limits of a pool.

(10) The evidence in this case indicates that the establishment of depth-limited non-standard spacing and proration units within this pool above and below 4,000 feet,

respectively, is necessary to prevent waste and to protect correlative rights. Accordingly, this application should be granted.

(11) The oil allowable for a standard sized 40-acre proration unit within the Artesia; Glorieta-Yeso Pool was set by Special Rules at 600 bopd with a limiting GOR of 3000:1. The vertical limits of this pool have been essentially divided into two gross pay intervals by the depth limitation of this Unit. Therefore, the allowable for this Unit should be half of the pool oil allowable and consist of 300 (times 4 quarter-quarters) or 1200 bopd at a 3000:1 limiting GOR.

(12) 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.

(13) Applicant is owner or affiliate of an 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.

(14) There are interest owners in the Unit that have not agreed to pool their interests and there are owners of record title that have not signed the communitization agreement.

(15) 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 a just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Unit.

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

(17) 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.

(18) Reasonable charges for supervision (combined fixed rates) should be fixed at \$6000 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, a 160-acre non-standard oil spacing and proration unit (the "Unit") and project area is hereby established for oil and gas production from the Yeso formation, at depths from 4000 feet to the base

of the Yeso, all within the Artesia; Glorieta-Yeso Pool (Pool code 96830), comprising the S/2 S/2 of Section 27, Township 17 South, Range 28 East, NMPM, Eddy County, New Mexico.

(2) All uncommitted interests, whatever they may be, in the Unit are hereby pooled.

(3) The Unit shall be dedicated to Applicant's Halberd 27 State Com Well No. 21H (the "proposed well"; API No. 30-015-Pending), a horizontal well to be drilled from a surface location 644 feet from the South line and 137 feet from the West line (Unit M) of Section 26, Township 17 South, Range 28 East to a bottomhole location 972 feet from the South line and 330 feet from the West line (Unit M) of Section 27, Township 17 South, Range 28 East, NMPM. The location of the completed interval will be standard for oil production within the Unit.

(4) The operator of the Unit shall commence drilling the proposed well on or before September 30, 2017, and shall thereafter continue drilling the proposed well with due diligence to test the Blinbry member of the Yeso formation at approximately 4400 feet.

(5) The top oil allowable for this 160-acre non-standard unit shall be 1200 barrels of oil per day with a limiting GOR of 3000:1; provided that the Division, on its own motion, or upon application of any affected person, after notice and hearing, may modify the re-allocated allowables between the Unit and that unit comprising the same lands as to depths above 4000 feet established by order this day issued in Case No. 15496, as necessary to prevent waste and protect correlative rights.

(6) In the event the operator does not commence drilling the proposed well on or before September 30, 2017, Ordering Paragraphs (1) and (2) shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause demonstrated by satisfactory evidence.

(7) Should the proposed well not be drilled and completed within 120 days after commencement thereof, then Ordering Paragraphs (1) and (2) shall be of no further effect, and the Unit and project area created by this order 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 spacing units included in the proposed project area (or Unit), then the operator shall apply to the Division for an amendment to this order to contract the Unit so that it includes only those spacing units in which the well is completed.

(8) 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 created by this order shall terminate, unless this Order has been amended to authorize further operations.

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

(10) 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").

(11) 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."

(12) 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.

(13) 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.

(14) 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.

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

(16) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$6000 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.

(17) Except as provided in Paragraphs (14) and (16) 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 7-8A-31, as amended).

(18) 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.

(19) 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.

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

(21) 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
Director