

**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. 14795
(Re-Opened and Re-Advertised)
ORDER NO. R-13535-B**

**AMENDED APPLICATION OF COG OPERATING LLC TO RE-OPEN CASE NO.
14795 TO POOL THE INTERESTS OF ADDITIONAL MINERAL OWNERS
UNDER THE TERMS OF COMPULSORY POOLING ORDERS NO. R-13535 AND
R-13535-A, 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, before Examiner William V. Jones.

NOW, on this 28th day of September, 2016, 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 the subject matter.

(2) COG Operating LLC (the "Applicant") seeks to amend Order No. R-13535, issued in Case No. 14795 on April 11, 2012, and Order No. R13535-A, issued in Case No. 14795 (Re-Opened) on February 28, 2014, to include in a compulsory pooled unit ("the Unit") the interests of unleased mineral owners who succeeded to ownership of these interests by reversion upon expiration of leases that were in force and effect, and committed to the Unit when the prior compulsory pooling orders were issued.

(3) By Order No. R-13535, the Division created the Unit as a non-standard oil spacing and proration unit in the Penasco Draw; San Andres-Yeso (Associated) Pool (Pool Code 50270) comprising the E/2 E/2 of Section 31, Township 18 South, Range 26 East, NMPM, in Eddy County, New Mexico, and compulsory pooled the Unit for the drilling of Applicant's then proposed Falabella 31 Fee Well No. 4H. Order No. R-13535-A amended

Order No. R-13535 to dedicate the Unit instead to Applicant's Falabella 31 Fee Well No. 8H ("the Well" - API No. 30-015-39515).

- (4) Applicant appeared through counsel and presented the following evidence:
 - (a) The Well has been drilled and completed.
 - (b) Subsequent to completion, the Well was shut in for a period of time causing some leases that were committed thereto pursuant to a joint operating agreement, to expire.
 - (c) Applicant has obtained new leases from some, but not all, of the owners ("Unleased Owners") who became owners of unleased mineral interests by reversion upon expiration of the leases.
 - (d) There is a need to amend Orders No. R-13535 and R-13535-A: (i) to confirm that the interests of the Unleased Owners are subject to the compulsory provisions of those orders, and (ii) to define their rights thereunder.
 - (e) All of the Unleased Owners were notified of the present Application and of the hearing except for one Unleased Owner whose whereabouts were unknown and could not be ascertained despite a diligent search. The un-locatable Unleased Owner was duly noticed by publication.

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

The Division concludes as follows:

(6) In order to afford all owners of each interests in the Unit, including both the previously pooled parties and the Unleased Owners, the opportunity to recover or receive without unnecessary expense their just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests of the Unleased Owners, whatever they may be, in the Unit, pursuant to the provisions of Order No. R-13535, as modified by Order No. R-13535-A and by this order.

(7) The compulsory pooling provisions of this order should be effective from the date of first production from the Well.

(8) In order to place the Unleased Owners in the equivalent position to that of an absolute owner of the mineral estate to whom that estate reverted after a well was drilled thereon, it should be provided that no Unleased Owner is entitled by reason of this order to receive proceeds of production, or is responsible for any well costs, operating expenses or administrative overhead charges incurred, prior to the expiration of the lease that formerly applied to such owner's interest. Since there is no evidence in the record regarding the

dates when the leases expired, the Unleased Owners should be responsible for operating costs and administrative overhead charges from the first day of the month following the issuance of this Order.

(9) Since the Unleased Owners had no opportunity to elect to participate prior to the drilling of the Well on the Unit, no risk charge should apply to their interests.

(10) Reasonable charges for supervision (combined fixed rates) applicable to the interests of the Unleased Owners should be fixed at \$5,450 per month while drilling and \$545 per month while producing, provided that these rates should be adjusted annually, from date of issuance of Order No. R-13535-A, pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

(11) Applicant also requested that the prior orders be amended to pool the San Andres formation as well as the Yeso formation.

(12) No provision of either of the prior orders limits pooling of the Unit to the Yeso formation. Since the Unit is constituted in Order No. R-13535 as a non-standard oil spacing and proration unit within the Penasco Draw; San Andres-Yeso (Associated) Pool (Pool Code 50270), the Unit is pooled by said order within the entire vertical extent of that pool, including the San Andres formation to the extent provided in Order No. R-3140, issued in Case No. 3454 on September 7, 1966. Hence, the requested amendment to include the San Andres formation in the Unit is unnecessary, and should be denied.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of COG Operating LLC, Order No. R-13535, issued in this case on April 11, 2012, is hereby amended to compulsory pool all interests, whatever they may be, of the owners of unleased minerals in the Unit, and their heirs, devisees, personal representatives, successor and assigns ("Unleased Owners"), who succeeded to such ownership by reason of the expiration after April 11, 2012 of oil and gas leases that covered such interests on that date.

(2) The Unit shall remain dedicated to Applicant's Falabella 31 Fee Well No. 8H (API No. 30-015-39515 – "the subject well").

(3) The interests of the Unleased Owners, and only those interests, shall be subject to the following provisions in lieu of any conflicting provisions of Order No. R-13535, as heretofore amended by Order No. R-13535-A, issued on February 28, 2014.

(4) Ordering Paragraphs (10) through (13) of Order No. R-13535 shall not apply to the interests of the Unleased Owners pooled by this order, as to the subject well. If, however, any infill well is subsequently proposed in this Unit under Rule 19.15.13.10 NMAC, this Ordering Paragraph [3] shall not apply, and the provisions of Ordering Paragraphs (10) through (13) of Order No. R-13535 shall apply to any infill well so proposed.

(5) Ordering Paragraph (15) of Order No. R-13535, as heretofore amended by Order No. R-13535-A, is hereby amended, as applied to the interests of the Unleased Owners pooled by this order only, to read as follows:

Reasonable charges for supervision (combined fixed rates) for the subject well are hereby fixed at \$5,450 per month while drilling and \$545 per month while producing, provided that these rates shall be adjusted annually from date of issuance of Order No. R-13535-A, 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 attributable to the interests of Unleased Owners pooled by this order. The expenses so withheld shall be limited to such as are reasonable and accrued subsequent to the first day of the month following the issuance of this order.

(6) This order does not entitle any Unleased Owner to any interest in production from the Unit that occurred prior to the expiration of the lease that formerly covered such Unleased Owner's interest. This provision should not, however, be construed to prejudice or affect the right of any Unleased Owner to recover any proceeds of production to which it is otherwise entitled from the lessee of such prior lease or from any other person who may be responsible therefor.

(7) Except as herein otherwise provided, Order No. R-13535, as heretofore amended by Order No. R-13535-A, shall continue in full force and effect, and the interests of the Unleased Owners pooled hereby shall be subject thereto.

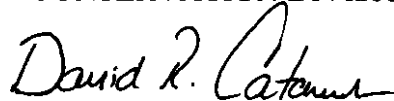
(8) Because the Unit formed by Order No. R-13535 already includes the San Andres formation to the extent such formation is included within the vertical boundaries of the Penasco Draw; San Andres-Yeso (Associated) Pool (Pool Code 50270), Applicant's request to expand the Unit to include the San Andres formation is hereby denied.

(9) 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.

SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



DAVID R. CATANACH
Director