

**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. 15609
ORDER NO. R-14301**

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 5, 2017, at Santa Fe, New Mexico, before Examiner Michael A. McMillan.

NOW, on this 17th day of February, 2017, 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 approval of a 320-acre, more or less, non-standard oil spacing and proration unit and project area (the "Unit") comprising the W/2 E/2 of Section 34, Township 25 South, Range 33 East, and the W/2 E/2 of Section 3, Township 26 South, Range 33 East, NMPM, Lea County, New Mexico, for oil and gas production from the Wolfcamp formation, being part of the WC-025 G-09 S253336-Upper Wolfcamp Pool (Pool code 98094). Applicant further seeks an order pooling all uncommitted interests in the Unit as to the Upper Wolfcamp formation.
- (3) The Unit will be dedicated to Applicant's Columbus Fee Well No. 23H (API No. 30-025-43489), a horizontal well to be drilled from a surface location 210 feet from the North line and 1340 feet from the East line (Unit B) of Section 34, Township 25 South, Range 33 East, to a bottom-hole location 200 feet from the South line and 1650 feet from the East line (Unit O) of Section 3, Township 26 South, Range 33 East, NMPM, Lea County, New Mexico, and to Applicant's Columbus Fee Well No. 24H (API No. 30-025-

43490), a horizontal well to be drilled from a surface location 210 feet from the North line and 2210 feet from the East line (Unit B) of Section 34, Township 25 South, Range 33 East, to a bottom-hole location 200 feet from the South line and 2310 feet from the East line (Unit O) of Section 3, Township 26 South, Range 33 East, NMPM, Lea County, New Mexico. The location of the completed interval of each well will be standard for oil production within the Unit. The two wells described above are hereinafter called the "proposed wells".

(4) The proposed wells will be completed within the Upper Wolfcamp formation and are subject to Division Rule 19.15.15.9(A) NMAC, 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 eight adjacent quarter-quarter sections oriented north to south.

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

- (a) The Wolfcamp formation in this area is suitable for development by horizontal drilling.
- (b) All quarter-quarter sections to be included in the Unit are expected to be productive, and each quarter-quarter section will contribute more or less equally to Unit production, so that the Unit as requested will not impair correlative rights.
- (c) The second well will be drilled immediately after the first.
- (d) Notice of the application and hearing in this case was provided to lessees or operators of surrounding tracts as affected parties of the proposed non-standard spacing unit;
- (e) Notice by certified mail was provided to all interest owners in the proposed Unit whose interests were evidenced by a conveyance instrument, either of record or known to Applicant when the Application was filed, as parties whose interests will be subject to the pooling provisions of this order.
- (f) There were no interest owners whose whereabouts were not ascertained.

(6) Tonkin Mineral Interests, LLC ("Tonkin") appeared through counsel and contended that Applicant did attempt in good faith to negotiate a lease of Tonkin's interest in the Unit. Tonkin subsequently notified the Division that it has withdrawn its protest of this application.

The Division concludes as follows:

(7) The proposed non-standard unit should be approved in order to enable Applicant to drill horizontal wells that will efficiently produce the reserves underlying the Unit, thereby preventing waste and protecting correlative rights.

(8) 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.

(9) 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 wells to a common source of supply within the Unit at the proposed locations.

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

(11) 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.

(12) COG Operating LLC should be designated the operator of the proposed wells and the Unit.

(13) 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 wells.

(14) Reasonable charges for supervision (combined fixed rates) should be fixed at \$7,000 per month, per well, while drilling and \$700 per month, per well, 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 320-acre non-standard oil spacing and proration unit (the "Unit") is hereby established comprising the W/2 E/2 of Section 34, Township 25 South, Range 33 East, and the W/2 E/2 of Section 3, Township 26 South, Range 33 East, NMPM, Lea County, New Mexico, for oil and gas production from the Wolfcamp formation, being part of the WC-025 G-09 S253336-Upper Wolfcamp Pool (Pool code 98094).

(2) All uncommitted interests, whatever they may be, in the oil and gas in the Upper Wolfcamp formation underlying the Unit, are hereby pooled.

(3) The Unit shall be dedicated to Applicant's Columbus Fee Well No. 23H (API No. 30-025-43489), a horizontal well to be drilled from a surface location 210 feet from the North line and 1340 feet from the East line (Unit B) of Section 34, Township 25 South, Range 33 East, to a bottom-hole location 200 feet from the South line and 1650 feet from the East line (Unit O) of Section 3, Township 26 South, Range 33 East, NMPM, Lea County, New Mexico, and to Applicant's Columbus Fee Well No. 24H (API No. 30-025-43490), a horizontal well to be drilled from a surface location 210 feet from the North line and 2210 feet from the East line (Unit B) of Section 34, Township 25 South, Range 33 East, to a bottom-hole location 200 feet from the South line and 2310 feet from the East line (Unit O) of Section 3, Township 26 South, Range 33 East, NMPM, Lea County, New Mexico. The location of the completed interval of each well will be standard for oil production within the Unit. Said two wells are hereinafter called the "proposed wells".

(4) The operator of the Unit shall commence drilling the first proposed well on or before February 28, 2018, and shall thereafter continue drilling said well with due diligence to test the Upper Wolfcamp formation, and shall commence drilling of the second proposed well within 60 days after release of the drilling rig for the first proposed well.

(5) In the event the operator does not commence drilling the first proposed well on or before the date above provided, 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.

(6) Should the first 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. Unless at least one proposed well is completed in all of the standard 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 standard spacing units in which the well is completed.

(7) Upon final plugging and abandonment of the proposed wells 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.

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

(9) 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

separate itemized schedules of estimated costs of drilling, completing and equipping each of the proposed well ("well costs").

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

(11) 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 of each proposed well 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.

(12) Within 60 days following determination of reasonable well costs for either of the proposed wells, any pooled working interest owner who has paid its share of estimated costs in advance for such well as provided above shall pay to the operator its share of the amount that reasonable well costs of such well 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.

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

- (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.

(14) The operator shall distribute the costs and charges withheld from production of each well, proportionately, to the parties who advanced the well costs for such well.

(15) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7,000 per month, per well, while drilling and \$700 per month, per well, 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 wells, not in excess of what are reasonable, attributable to pooled working interest owners.

(16) Except as provided in Paragraphs (13) and (15) above, all proceeds from production from the proposed wells 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).

(17) 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.

(18) 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.

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

(20) 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