

**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. 15499
ORDER NO. R-14189**

**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 June 9, 2016, at Santa Fe, New Mexico, before Examiner Scott Dawson, and on June 23, 2016 before Examiner William V. Jones.

NOW, on this 18th day of July, 2016, the Division Director, having considered the testimony, the record and the recommendations of Examiner Dawson,

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 160-acre non-standard oil spacing and proration unit and project area (the "Unit") for oil production in the Blinbry and Paddock members of the Yeso formation, Maljamar; Yeso, West Pool (Pool code 44500), comprising the N/2 S/2 of Section 9, Township 17 South, Range 32 East. NMPM, Lea County, New Mexico. Applicant further seeks the pooling of all uncommitted interests in the Unit.

(3) The Unit will be dedicated to Applicant's Branex COG Federal Com. Well No. 15H (the "proposed well"; API No. 30-025-42906), a horizontal well to be drilled from a surface location 2310 feet from the South line and 150 feet from the West line (Unit L) to a bottomhole location 2312 feet from the South line and 330 feet from the East line (Unit I) of Section 9. The location of the completed interval will be standard for oil production within the Unit.

(4) The proposed well is within the Maljamar; Yeso, West Pool (pool code 44500) and is 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 four adjacent quarter-quarter sections oriented east to west.

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

- (a) The Yeso formation in this area is suitable for development by horizontal drilling;
- (b) The proposed orientation of the horizontal well from East to West or West to East is appropriate for the proposed Unit;
- (c) All quarter-quarter sections within the Unit are expected to be productive within the prospective portion of the Yeso formation, so that formation of the Unit, as proposed, will not impair correlative rights.
- (d) Only the Paddock and Blinebry members in the Unit are common source and supply for hydrocarbons in the Yeso formation in the proposed Unit;
- (e) Applicant is requesting to compulsory pool from the top of the Paddock formation to the base of the Blinebry formation (Exhibit 15);
- (f) Actual notice was provided to all interest owners subject to pooling proceeding as affected parties of the proposed compulsory pooling within the Unit, and also owners of mineral estate of the entire Yeso Pool within the Unit;
- (g) Oil Conservation Commission Hearing Order No. R-14023-A (Commission Order) issued in Case No. 15327 on December 10, 2015 authorized compulsory pooling a portion of a pool, because the Applicant would be otherwise required to share production with an owner in a portion of the pool that will not contribute hydrocarbons to the pool;
- (h) Applicant stated that the Commission Case and the present case involve the same exact set of facts. The Commission Case related to the adjacent S/2 N/2 of Section 9 and the SW/4 NW/4 of Section 10, Township 17 South, Range 32 East, in the Maljamar; Yeso, West Pool, a direct offset to the Unit here proposed. There, as here, an interest in the portion of the Yeso formation below the base of the

Blinebry member was in separate ownership from the upper part of the Yeso as to the entire proposed unit. As a result, only the Blinebry and Paddock members of the Yeso formation were made subject to the Commission's pooling order.

- (i) The same affected party who owned the separate interest in the Commission Case is the only party who will be affected by similarly limiting compulsory in this case to depths above the base of the Blinebry. This particular party sent a letter of support for limiting compulsory pooling in both cases.
- (j) Applicant is requesting to compulsory pool working interest owners, as well as record title owners who have divested all operating rights in the Yeso formation above the base of the Blinebry member and also in the Paddock member. Overriding royalty interest owners who have not signed the communitization agreement are also being compulsory pooled;
- (k) Record title owners who own no working interest and the overriding royalty interest owners are not subject to the risk penalty;
- (l) Notice was provided for formation of the non-standard spacing unit to lessees or operators of surrounding tracts; and
- (m) Applicant provided notice of this application by publication before hearing in a newspaper of general circulation in Lea County, New Mexico, the county in which the property is located for the unlocatable interest owners.

(6) No other party appeared at the hearing, or otherwise opposed the granting of this application.

The Division concludes as follows:

(7) The proposed non-standard unit should be approved in order to enable Applicant to drill a horizontal well 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 well to a common source of supply within the Unit at the proposed location.

(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 well and the Unit.

(13) Commission Order No. R-14023-A (Commission Order) concerned the COG Operating, LLC Sneed 9 Federal Com. Well No. 23H ("Sneed Well"; API 30-025-41410), whose project area was the S/2 N/2 of Section 9 and the SW/4 NW/4 of Section 10, Township 17 South, Range 32 East, NMPM, Lea County New Mexico.

(14) The Commission Order permitted compulsory pooling from the top of the Paddock member to the base of the Blinbry member of the Yeso formation.

(15) The Commission Order required the operator to provide, within one year of commencing production, evidence demonstrating that the final fracture configuration for the completion for the Sneed Well has remained within the vertical limits of the Unit of that specific compulsory pooled vertical interval. If the operator is unable to provide sufficient information for the Division to determine the limits of fracturing, the operator shall appear before the Commission to demonstrate continuing justification for the vertical segregation of the Yeso formation in the Maljamar; Yeso, West Pool. The Division should impose similar requirements for the Unit in this case.

(16) The Commission stated that the Commission Order decision was uniquely based on the specific facts of the case, and directs the Applicant to pursue other agreement options. The evidence presented by the Applicant suggests that the facts in the Unit are substantially identical to the Commission Order; therefore, the findings in the Commission Order are applicable to 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 \$7000 per month while drilling and \$700 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") is hereby established for oil and gas production from the Blinebry and Paddock members of the Yeso formation, Maljamar; Yeso, West Pool (Pool code 44500), comprising the N/2 S/2 of Section 9, Township 17 South, Range 32 East NMPM, Lea County, New Mexico.

(2) The Unit shall be dedicated to Applicant's Branex COG Federal Com. Well No. 15H (the "proposed well"; API No. 30-025-42906), a horizontal well to be drilled from a surface location 2310 feet from the South line and 150 feet from the West line (Unit L) to a bottomhole location 2312 feet from the South line and 330 feet from the East line (Unit I) of Section 9. The location of the completed interval will be standard for oil production within the Unit.

(3) The operator of the Unit shall commence drilling the proposed well on or before July 31, 2017, and shall thereafter continue drilling the proposed well with due diligence to test the Yeso formation.

(4) In the event the operator does not commence drilling the proposed well on or before July 31, 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.

(5) 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 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.

(6) 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.

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

(8) Operator shall provide to the Division, within one year of commencing production from the proposed well, evidence of the final fracture configuration of the completion to ensure that the completion remained within the vertical limits of the Unit as described in Ordering Paragraph 1. If the Operator is unable to provide sufficient

information for the Division to determine the limits of fracturing, then the operator shall appear before the Division to restate the justification for the vertical segregation of the Yeso formation as delineated in the Maljamar; Yeso, West Pool.

(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 an itemized schedule of estimated costs of drilling, completing and equipping the proposed well ("well costs").

(10) 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."

(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 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, 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.

(13) 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.

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

(15) Reasonable charges for supervision (combined fixed rates) for the well are hereby fixed at \$7000 per month while drilling and \$700 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.

(16) Except as provided in Paragraphs (12) and (14) 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).

(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 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.

(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

A handwritten signature in cursive script that reads "David R. Catanach".

DAVID R. CATANACH
Director