

**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:**

**(Re-opened)
CASE NO. 15023
ORDER NO. R-13757-A**

AMENDED APPLICATION OF COG OPERATING LLC TO RE-OPEN CASE NO. 15023 TO POOL THE INTERESTS OF ADDITIONAL MINERAL OWNERS UNDER THE TERMS OF COMPULSORY POOLING ORDER NO. R-13757, 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 5th day of October, 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-13757, issued in Case No. 15023 on October 4, 2013, to include in a compulsory pooled unit ("the Unit") the interests of unleased mineral owners who succeeded to ownership of their interests by reversion upon expiration of leases that were in force and effect, and committed to the Unit, when the prior compulsory pooling order was issued.
- (3) By Order No. R-13757 ("the previous order"), the Division created the Unit as a non-standard oil spacing and proration unit in the Yeso formation comprising the E/2 W/2 of Section 6, Township 19 South, Range 26 East, NMPM, in Eddy County, New Mexico, and compulsory pooled all then uncommitted interests in the Unit for the drilling of Applicant's then proposed Arabian 6 Fee Well No. 6H (API No. 30-015-39625 - "the subject well").

(4) The testimony in the hearing held in original Case No. 15023 on July 11, 2013, which resulted in issuance of the previous order, was to the effect that all then leased interests were voluntarily committed to the subject well, and only certain unleased mineral interests should be compulsory pooled.

(5) The original order recites in Finding Paragraph (4) that the subject well will be located in the Penasco Draw; San Andres-Yeso (Associated) Pool (pool code 50270), but the provisions of that order establishing, and pooling, the Unit describe it as comprising only the Yeso formation.

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

- (a) The subject well has been drilled and completed.
- (b) Subsequent to completion, the subject well was shut in for a period of time causing some leases that were committed thereto pursuant to a joint operating agreement, and the 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 earlier leases.
- (d) There is a need to amend Order No. R-13757: (i) to confirm that all uncommitted interests of the Unleased Owners are subject to the compulsory provisions of the previous order, and (ii) to define their rights thereunder.
- (e) All of the Unleased Owners whose interests remain uncommitted were notified of the present Application and of the hearing.
- (f) Ownership of the area within the horizontal boundaries of the Unit is identical in the Yeso and San Andres formations; so that the Unit can be expanded to include the San Andres formation without any re-allocation of interests.

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

The Division concludes as follows:

(8) In order to afford all owners of each interest 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-13757, as modified by this order.

(9) The compulsory pooling provisions of this order should be effective from the date of first production from the subject well except as herein otherwise provided.

(10) 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.

(11) 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.

(12) 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-13757, pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*."

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

(14) Although Applicant requested expansion of the Unit to include the San Andres formation in its application, there is no reference to the proposed expansion in the Advertisement of the hearing in this re-opened case. Hence, the requested amendment to include the San Andres formation in the Unit should be denied, without prejudice.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of COG Operating LLC, Order No. R-13757, issued in this case on October 4, 2013, 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, successors and assigns ("Unleased Owners"), who succeeded to such ownership by reason of the expiration after October 4, 2013 of oil and gas leases that covered such interests on that date.

(2) The Unit shall remain dedicated to the Arabian 6 Fee Well No. 6H (API No. 30-015-39625 - "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-13757.

(4) Ordering Paragraphs (10) through (13) of Order No. R-13757 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 (4) shall not apply, and the provisions of Ordering Paragraphs (10) through (13) of Order No. R-13757 shall apply to any infill well so proposed.

(5) Ordering Paragraph (15) of Order No. R-13757 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-13757, 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.

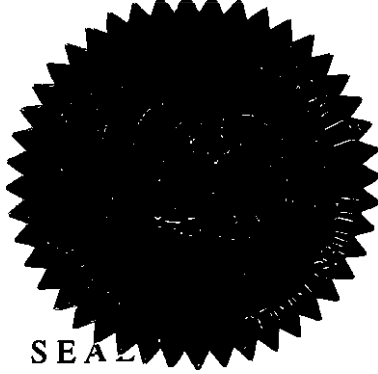
(6) This order does not entitle any Unleased Owner to any interest in production from the Unit that occurred prior to the expiration of the lease that formerly covered such Unleased Owner's interest, nor authorize the operator to withhold from proceeds of production thereafter occurring any costs of operation or administrative overhead incurred prior to the date of this order. 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 as royalty from the lessee of any prior lease or from any other person who may be responsible therefor.

(7) Except as herein otherwise provided, Order No. R-13757 shall continue in full force and effect, and the interests of the Unleased Owners pooled hereby shall be subject thereto.

(8) Because the request to expand the Unit formed by Order No. R-13757 vertically to include the San Andres formation was not included in the advertisement of this case, that request 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.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David R. Catanach

DAVID R. CATANACH
Director