

**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. 15605
ORDER NO. R-14289**

**AMENDED APPLICATION OF COG OPERATING LLC FOR A NON-
STANDARD SPACING AND PRORATION UNIT, A NON-STANDARD PROJECT
AREA, 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 December 15, 2016, at Santa Fe, New Mexico, before Examiner Michael A. McMillan, and again on January 19, 2017, before Examiner William V. Jones.

NOW, on this 26th day of January, 2017, the Division Director, having considered the testimony, the record and the recommendations of Examiner McMillan,

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 ("COG" or "Applicant") seeks approval of a 280-acre non-standard oil spacing and proration unit and project area (the "Unit") for oil and gas production from the Bone Spring formation, Red Hills; Upper Bone Spring Shale Pool (Pool code 97900), comprising the W/2 W/2 of Section 27, and the W/2 NW/4 and NW/4 SW/4 of Section 34, all in Township 25 South, Range 33 East, NMPM, Lea County, New Mexico. Applicant further seeks an order pooling all uncommitted interests in the Unit for the Bone Spring formation.

(3) The Unit will be dedicated to Applicant's Rojo AE 7811 JV-P Federal Com. Well No. 1H (the "Subject well"; API No. 30-025-43476), a horizontal well drilled from a surface location 190 feet from the North line and 1050 feet from the West line (Unit D) of Section 27, to a bottom-hole location 1370 feet from the South line and 330 feet from the West line (Unit L) of Section 34, both in Township 25 South, Range 33 East, NMPM. The location of the completed interval will be standard for oil production within the Unit.

(4) The subject oil well is within the Red Hills; Upper Bone Spring Shale Pool (Pool code 97900) 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 seven adjacent quarter-quarter sections oriented south to north.

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

- (a) the Bone Spring formation in this area is suitable for development by horizontal drilling;
- (b) the proposed orientation of the horizontal well from south to north is appropriate for the Unit;
- (c) the subject well was spud on December 15, 2016. However, the subject well has not been completed;
- (d) all quarter-quarter sections to be included in the Unit are expected to be productive in the Bone Spring formation, so that the Unit as requested will not impair correlative rights;
- (e) the Division Operator of Record for the subject well is BTA Oil Producers, LLC ("BTA Oil Producers"; OGRID Number 260297). However, the Applicant has a voluntary agreement with BTA Oil Producers to become the operator of record. Further, the Applicant also has a voluntary agreement with BTA Oil Producers for a working interest in the Unit;
- (f) Applicant has a proposed well that will develop the SW/4 SW/4 of Section 34 in the Red Hills; Upper Bone Spring Shale Pool; therefore, no acreage will be stranded.
- (g) notice was provided to lessees or operators of surrounding tracts as affected parties of the proposed non-standard spacing unit. Further, notice was provided to lessees or operator of record in the SW/4 SW/4 of Section 34 which is not a portion of the proposed spacing unit and project area;
- (h) notice was provided to all interest owners subject to pooling proceedings as affected parties of the proposed compulsory pooling within the Unit; and
- (i) all parties to be pooled were successfully located and provided with notice.

(6) RSC Resources, Limited Partnership and Bradley S. Cate made an appearance through counsel; however, neither party presented evidence at hearing. Also,

neither party opposed granting of this application. No other party appeared or opposed 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 or affiliate of an owner of an oil and gas working interest within the Unit. Applicant has the right to drill and has drilled the Subject 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 Subject well 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 well.

(14) 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 280-acre non-standard oil spacing and proration unit (the "Unit") is hereby established for oil and gas production from the Bone Spring formation, Red Hill; Upper Bone Spring Shale Pool (Pool code 97900), comprising the W/2 W/2 of Section 27, and the W/2 NW/4 and NW/4 SW/4 of Section 34, all in Township 25 South, Range 33 East, NMPM, Lea County, New Mexico.

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

(3) The Unit shall be dedicated to Applicant's Rojo AE 7811 JV-P Federal Com. Well No. 1H (the "subject well"; API No. 30-025-43476), a horizontal well drilled from a surface location 190 feet from the North line and 1050 feet from the West line (Unit D) of Section 27, to a bottom-hole location 1370 feet from the South line and 330 feet from the West line (Unit L) of Section 34, both in Township 25 South, Range 33 East, NMPM. The location of the completed interval will be standard for oil production within the Unit.

(4) Should the subject well not be 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.

(5) 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.

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

(7) 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").

(8) 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."

(9) 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.

(10) 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.

(11) 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.

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

(13) 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.

(14) Except as provided in Paragraphs (11) and (13) 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).

(15) Any unleased mineral interest 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.

(16) 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.

(17) 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.

(18) 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

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