

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 NOS: 20923 - 20935

APPLICATION OF COG OPERATING LLC
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

FEBRUARY 20, 2020

SANTA FE, NEW MEXICO

This matter came on for hearing before the New Mexico Oil Conservation Division, EXAMINERS FELICIA ORTH and LEONARD LOWE on Thursday, February 20, 2020, at the New Mexico Energy, Minerals, and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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13

14 W I T N E S S E S

15 ADAM REKER

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7	COG 1 - 5 and attachments	19
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1 HEARING EXAMINER ORTH: All right. The next
2 cases I will call are 21, 22, 23, 24. These are Case
3 Numbers 20923, 20924, 20925 and 20926, and in each of them
4 COG is the applicant. They're all compulsory pooling
5 matters. Each of them relates to a well known as Mastiff.
6 Appearances, please.

7 MS. MUNDS-DRY: Thank you, Madam Hearing
8 Examiner. Ocean Munds-Dry with COG Operating LLC. We also
9 have a drive to set up on the screen, as well as hard
10 copies. If we could have a minute to get set up.

11 HEARING EXAMINER ORTH: Yes. Let's take about
12 five minutes.

13 (Recess taken.)

14 HEARING EXAMINER ORTH: We have come to matters
15 20923, 24, 25 and 26, which I assume you would like
16 consolidated, but I will let you ask.

17 MS. MUNDS-DRY: Thank you, Madam Hearing Officer,
18 we would ask those cases be consolidated for purposes of
19 hearing.

20 HEARING EXAMINER ORTH: Thank you, they will be
21 consolidated. Please proceed.

22 MS. MUNDS-DRY: Thank you, Madam Hearing
23 Examiner. Sitting with me today is Michael Rodriguez, also
24 with COG Operating LLC. He will be my techno wizard this
25 morning.

1 HEARING EXAMINER ORTH: Okay.

2 MS. MUNDS-DRY: And we also have two witnesses.
3 We would like to swear them in.

4 HEARING EXAMINER ORTH: To swear them in, and I
5 understand Mr. Padilla?

6 MR. PADILLA: Yes. I will enter an appearance
7 for EOG Resources.

8 HEARING EXAMINER ORTH: Thank you very much.
9 Where are your two witnesses? There they are? Tell me your
10 names.

11 MR. REKER: Adam Reker.

12 MR. BERTALOTT: John Bertalott.

13 HEARING EXAMINER ORTH: Would you raise your
14 right hands. Do you swear or affirm that the testimony you
15 are about to give will be the truth, the whole truth, and,
16 nothing but the truth?

17 WITNESSES: (Collectively.) I do.

18 HEARING EXAMINER ORTH: That was both of your
19 witnesses.

20 MS. MUNDS-DRY: And your with your permission, we
21 would call our first witness.

22

23

24

25

1 ADAM REKER

2 (Sworn, testified as follows:)

3 DIRECT EXAMINATION

4 BY MS. MUNDS-DRY:

5 Q. Would you please state your name for the record,
6 who you work for, and in what capacity?

7 A. Adam Reker, COG Operating LLC as a landman.

8 Q. Have you previously testified before the
9 Division?

10 A. Yes, I have.

11 Q. Were your credentials made a matter of record at
12 that time?

13 A. Yes.

14 Q. And they were accepted?

15 A. Yes.

16 Q. Are you familiar with the applications that have
17 been filed in these cases?

18 A. Yes.

19 Q. Are you familiar with the status of lands and
20 subject area of these applications?

21 A. Yes, I am.

22 MS. MUNDS-DRY: With that, Madam Hearing
23 Examiner, we would tender Mr. Reker as an expert in
24 petroleum land matters.

25 MR. PADILLA: No objection.

1 HEARING EXAMINER ORTH: Any questions, Mr. Lowe?

2 EXAMINER LOWE: No.

3 HEARING EXAMINER ORTH: He is so recognized.

4 BY MS. MUNDS-DRY:

5 Q. With that then let's turn to our applications in
6 our exhibits. First, Mr. Reker, since we have several
7 applications before the Division, let's review for the
8 Examiners what we are seeking. What are we seeking in case
9 20923?

10 A. We are seeking to create a 640 acre spacing unit
11 to pool the uncommitted owners in the Bone Spring formation
12 for a 640 acre spacing unit, which is comprised of the E/2
13 of Sections 4 and 9, Township 24 South, Range 32 East in Lea
14 County, New Mexico.

15 Q. And do we seek to dedicate the spacing unit to
16 the following wells, the Mastiff Fed Com 201H, 202H, 301H,
17 302H, 501H and 502H, as well as the 203H, 303H, 304, 305,
18 503 and 504. I try not to read those too fast out of
19 courtesy to the court reporter.

20 A. Yes.

21 Q. And will the completed interval for the proposed
22 Mastiff Fed Com 202H be within 330 of the quarter/quarter
23 section line separating Sections 4 and 9.

24 A. Yes. So we will -- we would want that to be our
25 proximity well for the inclusion of proximity acreage.

1 **Q. What do you seek in Case 20924?**

2 A. We seek to create a 600 -- or to pool the
3 uncommitted owners for the Bone Spring formation, in the W/2
4 of Section 33, Township 23 South, Range 32 East, and the W/2
5 of Section 4, Township 24 South, Range 32 east in Lea
6 County, New Mexico.

7 **Q. And do you we seek to dedicate that spacing unit**
8 **to the Mastiff Fed Com 204, 306, 307, 205, 308, 309, 310,**
9 **505, 506 and 507?**

10 A. Yes, that is correct.

11 **Q. And will the completed intervals for the proposed**
12 **Mastiff Fed Com 308 Well be within 330 of the**
13 **quarter-quarter line between Sections 4 and 33?**

14 A. Yes, it will, and that is what we are deeming our
15 proximity well for the purposes of the hearing.

16 **Q. In Case 20925, what do we seek there?**

17 A. We are seeking to commit all the uncommitted
18 owners as to the Wolfcamp formation for the E/2 of Sections
19 4 and 9, Township 24 South, Rage 32 East and create a 640
20 acre unit.

21 **Q. And do we seek to dedicate the Mastiff Fed Com**
22 **701, 702, 703, 704 and 705 for that spacing unit?**

23 A. That is correct.

24 **Q. And will the completed interval for the proposed**
25 **Mastiff Fed Com 703 be within 330 of the quarter/quarter**

1 **line of Sections 4 and 9?**

2 A. Yes, that is correct. And we want that to be our
3 proximity well as to our Wolfcamp project.

4 **Q. And finally for Case 20926 -- we're almost**
5 **there -- what do we seek there?**

6 A. It's a mouthful. To commit all owners as to the
7 Wolfcamp formation, all uncommitted owners for Section 33 of
8 Township 23 South, Range 32 East, in the W/2 of Section 4,
9 Township 24 South, Range 33 East.

10 **Q. And do we seek to dedicate the Mastiff Fed Com**
11 **706, 707, 708, 709 and 710 for that spacing unit?**

12 A. Yes, that is correct.

13 **Q. And will the completed interval for the proposed**
14 **Mastiff Fed Com 708 be within 330 of the quarter/quarter**
15 **line separating Sections 4 and 33?**

16 A. Yes, and we want that to be our proximity well
17 for the W/2 Wolfcamp project.

18 **Q. In total, how many wells does Concho seek to pool**
19 **into their respective spacing units?**

20 A. 27 wells in total to target the Avalon, Second
21 Bone Spring and Wolfcamp formation.

22 **Q. Thank you. And thank you for your patience while**
23 **we got that on the record.**

24 **Let's turn now to what's been marked as Concho's**
25 **Exhibit 1 and review these documents for the Examiner.**

1 A. Tab Number 2; correct?

2 **Q. Tab Number 1?**

3 A. Tab Number 1.

4 **Q. What do we have under Tab Number 1?**

5 A. These are the C-102s that were created for each
6 the Mastiff wells that we have proposed to all uncommitted
7 owners. So this is -- there are 27 plats in here, I
8 believe. So these just indicate the surface and bottom hole
9 locations for what we just described, all of those wells
10 that Ocean just described to you.

11 MS. MUNDS-DRY: And Madam Hearing Examiner, we
12 attempted to organize this in a way that hopefully makes
13 sense. You can see that for yourself. We put the C-102s by
14 case number, and so we do have them -- there's a page
15 indicating which case numbers relate to those C-102s.

16 HEARING EXAMINER ORTH: Thank you.

17 BY MS. MUNDS-DRY:

18 **Q. Mr. Reker, have APDs been filed for these wells?**

19 A. We have filed eight APDs of the 27, and the other
20 19 are in process in our shop.

21 **Q. When were those APDs submitted to the BLM?**

22 A. I believe it was October, November. A few months
23 ago. Several months ago.

24 **Q. Of last year?**

25 A. Yeah, 2019.

1 **Q. And has the Division designated a pool for each**
2 **of these areas?**

3 A. Yes.

4 **Q. And do you recall what those pool names are?**

5 A. I do not off the top of my head, but it's one for
6 the Bone Spring and one for the Wolfcamp. Do you have them
7 in front of you, for for the record?

8 MS. MUNDS-DRY: I do, Madam Hearing Examiner,
9 Mr. Hearing Examiner, just to get that on the record as
10 well -- and we will provide checklists. I know we don't
11 necessarily do it for this kind of case, but we thought as a
12 matter of courtesy we might provide that to you. It's the
13 Mesa Verde Bone Spring, which is pool code 96229. And the
14 Wolfcamp is actually a wildcat pool for this area, and that
15 is pool code 98309, according to Mr. Caplan.

16 HEARING EXAMINER ORTH: Thank you.

17 A. It's not on our C-102s in front of us like it
18 typically is, so I didn't want to botch the pool code.

19 BY MS. MUNDS-DRY:

20 **Q. Good plan. Are these areas governed by statewide**
21 **rules for spacing and setbacks?**

22 A. Yes.

23 **Q. Let's turn to COG Number 2. Briefly review these**
24 **plats for the Examiners.**

25 A. Yes. So this is ownership plat that was created

1 by myself as an exhibit to this hearing. This shows the
2 first page is ownership by tract. So the W/2 of Section 33,
3 as I described earlier, is a part of our proposed Mastiff
4 wells. All of Section 4 is a part of our Mastiff wells, but
5 in two separate projects. And then the E/2 of Section 9 is
6 going to be a portion of our Mastiff wells.

7 As far as the ownership goes, Section 33 is owned
8 by two parties, EOG Resources Inc., and Oxy Y-1. We are
9 seeking to pool these parties today.

10 **Q. I'm sorry to interrupt you, if we turn to the**
11 **second page, are those interests reflected so the Examiners**
12 **can follow along?**

13 A. Yes, sorry. Second page of this shows all of
14 this that I am kind of describing to you. These two, which
15 is all of Section 4, is owned 100 percent by Concho, COG.
16 Tract 3, Lease 3 is the NE/4 of Section 9, that's also owned
17 entirely by COG. And Tract 4 which is also Lease 4 is owned
18 by three different parties, EOG Resources, First Roswell and
19 Thomas Jennings.

20 **Q. And if we turn to the third page under Exhibit**
21 **Number 2, is that a unit --**

22 A. Yeah. So this is everybody's interest
23 proportionately reduced across our two mile spacing units.
24 So for the W/2 spacing unit, COG's would be 50 percent,
25 EOG's 35 percent, and Oxy's 15.

1 For the E/2 spacing unit, the Mastiff wells,
2 which will be in 4 and 9, that's also our unit interest, so
3 we have 75 percent of that unit, EOG having 18.75 and the
4 other 6.25 percent is split between First Roswell and Thomas
5 Jennings as stated in my exhibit.

6 **Q. So what interest does Concho seek to pool for**
7 **each of these applications?**

8 A. We seek to pool all the uncommitted owners in
9 each spacing unit, which is EOG Resources, Oxy Y-1, Thomas
10 Jennings and First Roswell.

11 **Q. And those are highlighted in red on the exhibit?**

12 A. That is correct.

13 **Q. If we turn to the next page, is this the same,**
14 **the same plat and same ownership but for the Wolfcamp?**

15 A. Yes. So ownership is uniform between the Bone
16 Spring and the Wolfcamp in these two sections. So this is
17 essentially a carbon copy of the Bone Spring that I just
18 described, other than it applies to the Wolfcamp formation
19 as well, so it's a separate exhibit because it applies to
20 our Wolfcamp cases that we consolidated.

21 **Q. So the ownership percentages are the same that as**
22 **you reviewed --**

23 A. That's correct.

24 **Q. -- under the previous document? And would the**
25 **interest recap be the same?**

1 A. That is correct.

2 Q. And the parties we seek to pool, are those the
3 same as well?

4 A. Yes.

5 Q. Then let's turn to what's been marked as COG
6 Exhibit Number 3. Are these the well proposal letters that
7 we sent to the interest owners?

8 A. Yes. These are well proposals for all -- I don't
9 know if we included them for all 27 wells, but this is a
10 copy of a well proposal we sent.

11 Q. These are representative examples?

12 A. Representative examples because it would have
13 been a huge packet.

14 Q. Yes. What date were the letters sent -- let's
15 start with EOG. What date did we send the well proposal
16 letter to EOG?

17 A. October 18, 2018.

18 Q. And what date did we send other parties?

19 A. It was in actually May 2019.

20 Q. See if I have the exact date. Was that May 6,
21 2019?

22 A. Yes.

23 Q. And that was sent to --

24 A. That was sent to Oxy Y-1. And Thomas Jennings
25 and First Roswell, we actually sent them two sets of

1 proposals. We had a mess-up in our mailroom and couldn't
2 prove he received his proposal so we repropose in an
3 abundance of caution. And our second round of proposals to
4 him went out on October 28, 2019.

5 **Q. After you sent the well proposal letters, what**
6 **other efforts did you undertake to attempt to get voluntary**
7 **agreement?**

8 A. Well, I had a couple different conversations
9 with -- well, extensive conversations with EOG, but I will
10 start with the other parties.

11 I talked to Tom Jennings on the phone. He is the
12 representative party of First Roswell as well, so he
13 represents both of those entities. He kind of said that he
14 wanted to see how this hearing went and everything, and I
15 think he intends to participate, but we do not have
16 voluntary joinder from him at this time.

17 Oxy, I had multiple phone calls back and forth
18 with them. They started to negotiate the JOA at the very
19 beginning, and then those negotiations fell by the way side.
20 So I kind of followed up with them here and there, but I do
21 not have voluntary joinder from Oxy at this time either.

22 **Q. Let's turn to EOG and your efforts there.**

23 A. That has been a very long process, as we stated
24 earlier, since October of 2018. We have a lot of common
25 interest in this area. We have attempted to get a trade

1 done, hundreds of e-mails, dozens of trade stuff back and
2 forth attempting to get a deal done where we wouldn't have
3 to go to this forced pooling today, but we were unable to
4 get a voluntary agreement. So we met all of our
5 requirements to pool and here we are today.

6 Q. When do you recall that your first communication
7 after you sent the well proposals, when did you first
8 communicate with EOG?

9 A. October 2018.

10 Q. When was your last communication with EOG?

11 A. Last week.

12 Q. And is it fair to say that you have had ongoing
13 consistent conversations with them since October of 2018?

14 A. Yes. Multiple people at their shop.

15 Q. But you have not been able to reach voluntary
16 agreement?

17 A. That's correct.

18 Q. Did the well proposal letters include an AFE?

19 A. Yes.

20 Q. And are those included -- included here in the
21 well proposal letters in Exhibit Number 3.

22 A. Yes.

23 Q. Are those, the costs reflected in the AFEs
24 consistent with what EOG has incurred for drilling similar
25 horizontal wells in this area?

1 A. Yes.

2 Q. In your opinion, have you made a good faith
3 effort to try to reach an agreement with the uncommitted
4 interest owners?

5 A. Yes, I have discussed at length with several of
6 those parties, and we were unable to get an agreement as of
7 today.

8 Q. Have you estimated overhead and administrative
9 costs while drilling and producing each of the wells?

10 A. Yes. We estimated drilling to be 7,000, and
11 producing to be 700 for our rates.

12 Q. Are those costs in line with what COG and other
13 operators in the area have charged for similar wells?

14 A. Yes, I believe so.

15 Q. For both the Bone Spring and Wolfcamp?

16 A. Yes.

17 Q. You ask that these administrative and overhead
18 courses be incorporated into any order resulting from this
19 hearing?

20 A. We do.

21 Q. Do you ask as well that it be adjusted in
22 accordance with the appropriate accounting procedures?

23 A. Yes.

24 Q. And with respect to uncommitted working interest
25 owners, do you request the Division impose a 200 percent

1 **risk penalty?**

2 A. We do.

3 **Q. Let's turn to COG Number 4. Is this an affidavit**
4 **signed by me including all the notice efforts required for**
5 **this hearing?**

6 A. Yes, it is. Also the second page of this we sent
7 this notice to multiple parties, and due to error in our
8 shop, we did not send notice to Oxy when they first round
9 went out. So we noticed Oxy, discussed this with their
10 landman, and the second page is e-mail confirmation that
11 they received notice of this hearing and acknowledged the
12 hearing that we are having today.

13 **Q. So besides Oxy which confirmed they are in**
14 **receipt of notice, there are notice letters and green cards**
15 **from the remaining parties?**

16 A. That's correct.

17 **Q. And Exhibit 5, is that an affidavit of**
18 **publication in the newspaper of general circulation in Lea**
19 **County?**

20 A. Yes.

21 **Q. And were Exhibits 1 through 5 either prepared by**
22 **you or compiled under your direction and supervision?**

23 A. Yes, they were.

24 MS. MUNDS-DRY: With that, Madam Hearing
25 Examiner, we would move the admission of Exhibits 1 through

1 5.

2 HEARING EXAMINER ORTH: Objection?

3 MR. PADILLA: None.

4 HEARING EXAMINER ORTH: None. Exhibits 1 through
5 5 are admitted.

6 (Exhibits 1 through 5 admitted.)

7 MS. MUNDS-DRY: That concludes my examination of
8 Mr. Reker. I pass the witness.

9 HEARING EXAMINER ORTH: Mr. Padilla, do you have
10 questions?

11 MR. PADILLA: Yes, a few.

12 CROSS-EXAMINATION

13 BY MR. PADILLA:

14 Q. Mr. Reker, were you aware of a JOA comitting Oxy
15 to land in Section 28?

16 A. I'm not.

17 Q. 33. I'm sorry.

18 A. I am not. I talked to Oxy earlier this week, and
19 they had said they didn't have anything signed, but I guess
20 that could have changed in the last few days. I'm not aware
21 of that.

22 Q. You're not aware of a 1987 JOA --

23 A. No.

24 Q. -- which binds all of these lands?

25 A. So that JOA did not come up on my title report

1 for Section 33. As far as the Section 28 lands, COG does
2 not seek to pool any of those lands today, and COG does have
3 an interest in there, so I'm unaware of what's going on in
4 Section 28, but that did not come up on my title report for
5 Section 33, no.

6 Q. You want to commit the W/2 of Section 40 your
7 well; right?

8 A. Yes, sir.

9 Q. Do you have any interest in Section 33?

10 A. No, we do not.

11 Q. So do you any -- in all of Section 33, you don't
12 have an interest; right?

13 A. That's correct.

14 Q. Are you aware of EOG's plans to drill two mile
15 laterals in Sections 33 and 28?

16 A. They made us aware of that fact after, I believe
17 after we had applied for this hearing, yes. They had a
18 different plan before, but --

19 Q. Are you aware they filed C-102s in September of
20 2019?

21 A. C-102s, okay.

22 Q. Ahead of yours?

23 A. I was not aware of that, no.

24 Q. Now, you had trade negotiations; correct?

25 A. That's correct.

1 Q. Did you turn down EOG's offers?

2 A. I'm sorry?

3 Q. Did you turn down EOG's offers for trade outs?

4 A. Yes, and they turned down some of ours as well.

5 Q. The latest round, who turned down who?

6 A. The last round they turned down us.

7 Q. And they also in September said that they would
8 not participate in your drilling proposals; correct?

9 A. Yes. That's correct.

10 MS. MUNDS-DRY: Mr. Padilla, can you clarify what
11 year, September 19.

12 MR. PADILLA: September 19, 2019.

13 A. Okay.

14 Q. Your were aware they had drilling plans to drill
15 their acreage?

16 A. And we had plans to drill this acreage that we
17 have applied for today, yes.

18 Q. And your Mastiff wells on the west side, you only
19 own 50 percent; right?

20 A. That's correct. I believe EOG would own the
21 other 35 percent that's on Exhibit 2. EOG would have 35
22 percent and Concho would have 50.

23 Q. Along the lease or the section line, are those
24 lots?

25 A. The section line?

1 **Q. Of Section 4?**

2 A. I believe -- they might be. I don't know it off
3 the top of my head. Typically on a township line there is,
4 but I don't know off the top of my head.

5 **Q. Okay. You don't know whether there are lots in**
6 **Section 4?**

7 A. No. It would be either lot 3 or 4 or the N/2 of
8 the NW/4.

9 **Q. So you wouldn't have exactly 320 acres?**

10 A. That's correct. I put more or less on here
11 because it's an estimation of the 640 acres, yes.

12 **Q. You are also aware that EOG plans to drill 1.5**
13 **mile laterals in the Double ABJ drilling prospect; right?**

14 A. Yes, they made that, that plan at a later date
15 after they had received our Mastiff proposals. They made me
16 aware of that upon receipt of our Mastiff proposals to them.

17 **Q. And on their proposal, they control considerable**
18 **acreage; correct?**

19 A. Yeah, I believe they have 70 percent of that --
20 of the SW/4 of Section 9. I don't have data in front of me
21 that's south of that to testify to that because Concho
22 doesn't have an interest in that. That's not what we are
23 seeking to pool today.

24 **Q. You are familiar with your applications; correct?**

25 A. Yes.

1 Q. In your applications, I believe at Paragraph 5
2 states something to the effect that you want to get your
3 fair share of hydrocarbons in Section 33; correct?

4 MS. MUNDS-DRY: Can we see that application?

5 Q. In your statement.

6 A. I don't have that application in front of me.
7 What's the exact verbiage?

8 Q. Well, the paragraph says, "In order to permit
9 applicants to obtain it's just and fair share of gas
10 underlying -- which includes your proposed spacing unit, all
11 uncommitted interest in the horizontal spacing should be
12 pooled and applicants should be designated the operators for
13 this proposed horizontal well spacing unit."

14 A. Uh-huh.

15 Q. And I asked you whether you had an interest in
16 Section 33, you said that you had no interest there.

17 A. Correct.

18 Q. So you would acquire 100 percent or the majority
19 of EOG's interest and Oxy's interest in that W/2 of Section
20 33?

21 A. I'm not intending to acquire it. I would like
22 them to voluntarily join the well if that's what they want
23 to do, but if they do not, we have to have a means to move
24 forward, and that's why we are having this hearing today.

25 Q. You have no interest no those lands; right?

1 A. Section 33, no. We have interest in Section 34.

2 **Q. And that's half your spacing unit?**

3 A. Correct.

4 MR. PADILLA: I don't have any further questions.

5 HEARING EXAMINER ORTH: Thank you, Mr. Padilla.

6 Mr. Lowe, questions of Mr. Reker?

7 EXAMINER LOWE: I have a few questions.

8 THE WITNESS: Okay.

9 EXAMINER LOWE: Good morning.

10 THE WITNESS: Good morning.

11 EXAMINER LOWE: For all of these cases together,
12 there's about, I think you verbalized, 27 wells?

13 THE WITNESS: That's correct.

14 EXAMINER LOWE: And after they were announced I
15 got lost. But on the first case, the 20923, how many wells
16 are represented in that case?

17 THE WITNESS: Be in our -- in the summary. Is
18 that in front of me somewhere?

19 EXAMINER LOWE: If you are counting.

20 THE WITNESS: I don't know if that's in front me
21 anywhere.

22 MS. MUNDS-DRY: I'm sorry, Mr. Lowe. Which case?

23 EXAMINER LOWE: The first one, 20923.

24 THE WITNESS: It's listed on that summary, right,
25 but I don't know if that's in front of me.

1 MS. MUNDS-DRY: Mr. Lowe, assuming my summary is
2 right, 12.

3 EXAMINER LOWE: 12, okay. And of that, of that
4 that 20923 case, which one is the proximity well?

5 THE WITNESS: It was the -- I went over that in
6 the testimony.

7 EXAMINER LOWE: It's not noted on the C-102s or
8 anything in here?

9 THE WITNESS: It would be by the footages, you
10 could tell by the footages, the one that was within the 330
11 of that west line, but off the top of my head --

12 MS. MUNDS-DRY: It's the 202, Mr. Examiner.

13 EXAMINER LOWE: 202, and then for the case Number
14 20924, what's the well for that one?

15 MS. MUNDS-DRY: It's 308.

16 EXAMINER LOWE: 308. And then for the 925, which
17 one is that one?

18 MS. MUNDS-DRY: 703.

19 EXAMINER LOWE: 703, and I finally got ahold of
20 the 20926, Well Number 708H is the well; correct?

21 MS. MUNDS-DRY: Correct, Mr. Examiner.

22 EXAMINER LOWE: Okay.

23 EXAMINER LOWE: 27 wells overall, and of all
24 these wells and all the purpose for today, you indicated two
25 pools, one was a Wolfcamp pool, Pool 98309, and the other

1 one was Pool Number 96229. What pool is that one?

2 MS. MUNDS-DRY: The Mesa Verde Bone Spring Pool.

3 EXAMINER LOWE: Okay.

4 THE WITNESS: And for the well names, if it helps
5 for clarification, the 2, 3 and 500 series wells will fall
6 within the Bone Spring pool and 700 series will fall within
7 the Wolfcamp pool.

8 EXAMINER LOWE: Okay. And on your Exhibit 2, all
9 the highlighted indicating that the parties are seeking to
10 pool --

11 THE WITNESS: Yes.

12 EXAMINER LOWE: -- are all the same for all of
13 them pretty much?

14 THE WITNESS: Yes. The interest is uniform for
15 all of them.

16 EXAMINER LOWE: I think that's all of it, then.
17 Okay. Thank you very much.

18 HEARING EXAMINER ORTH: All right. Thank you.
19 Do you have any follow-up?

20 MS. MUNDS-DRY: I do have one redirect, if I may.

21 HEARING EXAMINER ORTH: Go ahead.

22 REDIRECT EXAMINATION

23 BY MS. MUNDS-DRY:

24 Q. Mr. Reker, Mr. Padilla asked you about our
25 application and our assertion that we would like to obtain

1 our fair share of production. And do you recall when he
2 asked you if you were planning to acquire the reserves or
3 the production in Section 33?

4 A. Uh-huh.

5 Q. Does Concho keep that production it produces from
6 Section 33?

7 A. No.

8 Q. Are we required to pay all the shared production
9 to the interest owners that are entitled to it?

10 A. That is correct.

11 Q. So we are not acquiring anything?

12 A. That is correct.

13 MS. MUNDS-DRY: Thank you. That's all I have.

14 HEARING EXAMINER ORTH: Anything further from
15 anyone?

16 MR. PADILLA: Follow up to that?

17 RE CROSS-EXAMINATION

18 BY MR. PADILLA:

19 Q. You are asking for 300 percent penalty, aren't
20 you?

21 A. Yes. Not acquiring any interest though.

22 HEARING EXAMINER ORTH: All right. If there is
23 nothing further, thank you very much.

24 THE WITNESS: Thank you.

25 MS. MUNDS-DRY: Thank you. We would like to call

1 our next witness.

2 JOHN BERTALOTT

3 (Sworn, testified as follows:)

4 DIRECT EXAMINATION

5 BY MS. MUNDS-DRY:

6 Q. Good morning -- checking to make sure -- would
7 you please state your name for the record?

8 A. My name is John Bertalott.

9 Q. And whom do you work for?

10 A. COG Operating.

11 Q. What do you do for COG?

12 A. I'm a geologist.

13 Q. Have you previously testified before the
14 Division?

15 A. Yes, ma'am, I have.

16 Q. Were your credentials as a petroleum geologist
17 accepted and made a matter of record?

18 A. They were.

19 Q. And are you familiar with the applications filed
20 in this case?

21 A. Yes, ma'am.

22 Q. Have you conducted a study of the geology under
23 the subject lands that are part of this application?

24 A. I have.

25 MS. MUNDS-DRY: We would tender Mr. Bertalott as

1 an expert witness in petroleum geology.

2 HEARING EXAMINER ORTH: Objections?

3 MR. PADILLA: No objection.

4 HEARING EXAMINER ORTH: Any questions?

5 EXAMINER LOWE: No.

6 HEARING EXAMINER ORTH: He will be accepted.

7 BY MS. MUNDS-DRY:

8 Q. With that, we will turn to the exhibits, and we
9 have the hard copies and we will display on the screen for
10 you, whatever is easier to see.

11 Mr. Bertalott, if you can turn to COG 6 and
12 review it for the examiners.

13 A. Exhibit 6 is a location map on this map. I have
14 highlighted with two red polygons the two project areas that
15 have been outlined before you. The yellow acreage box
16 represent acreage that Concho has rights to -- or interest
17 in -- I'm sorry.

18 Q. This just gives us a general visualization of the
19 spacing unit in the area?

20 A. Yes, ma'am.

21 Q. Let's turn to COG 7, if you could review for the
22 Examiners?

23 A. So Exhibit 7 is once again you see a location
24 map. I have highlighted in red polygon the two project
25 areas. The orange solid lines represent drilled and

1 completed and producing existing Second Bone Spring Sand
2 wells.

3 Also shown is a structure map of the Second Bone
4 Spring Sand at a 50 foot contour interval. And the black
5 cross hairs represent the data points that went into the
6 construction of this map.

7 The takeaway from the analysis of the structure
8 map is that there are no structural complexities in the area
9 to develop the Second Bone Spring Sand.

10 **Q. Let's turn to COG 8. What do we show here?**

11 A. So once again you are looking at the same
12 location map on the previous exhibit. Once again showing
13 the project areas outlined in the red polygon. I have shown
14 a cross section, you will see on the subsequent exhibit, A
15 to A Prime, and I believe these four wells are
16 representative to show for the Second Bone Spring Sand
17 reservoir.

18 **Q. Turn to Exhibit Number 9.**

19 A. So this cross section A to A Prime we are going
20 to south to north, and several things to show here is the
21 cross section is hung on the top of the Second Bone Spring
22 Sand. I have outlined in orange arrows on two
23 representative type logs of areas where Concho has drilled
24 Second Bone Spring Sand wells in the area.

25 I have also highlighted in purple arrows where

1 other operators such as Oxy have also drilled their Second
2 Bone Spring Sand wells in this area. And the orange stars
3 are representing where our approximate target zones will be
4 for our Second Bone Spring Mastiff wells.

5 **Q. After reviewing the cross sections, do you see**
6 **any geologic barriers?**

7 A. There are no geologic barriers. You can see from
8 the cross section there is fairly uniform thickness and
9 continuity in the reservoir.

10 **Q. Let's turn to what's been marked Exhibit 10.**
11 **Please review it for the Examiners.**

12 A. Exhibit 10 is a location map. This time I am
13 showing in red bold lines the drilled, completed and
14 producing wells in the area for the Wolfcamp formation. The
15 structure map is hung on the top of the Wolfcamp, and it is
16 in 50 foot contour intervals.

17 The black cross hairs represent the data points
18 that went into the construction of this map, and just as in
19 the the Second Bone Spring Sand, there are no apparent
20 structural complexities to developing the Wolfcamp
21 formation.

22 **Q. Let's go to the Exhibit COG Exhibit Number 11.**

23 A. Exhibit 11 is the same location map. The project
24 unit outlined with the red polygon. I'm showing the cross
25 section B to B prime from north to south. The wells that

1 you will see on the subsequent cross section are
2 representative of the Wolfcamp formation.

3 **Q. And let's go to COG Exhibit 12, please review the**
4 **cross section.**

5 A. Yes, ma'am. So the cross section, B to B prime,
6 is roughly north to south. On this cross section I have
7 hung it on the top of the Wolfcamp formation. Several
8 things to note here. Once again the reservoir is fairly
9 uniform in thickness. There is continuity. There are no
10 geologic barriers to be concerned about with developing this
11 formation.

12 I have highlighted several things. The black
13 arrows are representative of where EOG has landed some of
14 their Wolfcamp wells in this area. On the far right, that
15 star denotes where Concho has recently drilled and completed
16 wells in the same interval within the same area. And then
17 the two wells on the left are representative type logs to
18 show where Concho would approximately drill their Wolfcamp
19 laterals.

20 **Q. And again here after reviewing the cross**
21 **sections, do you see any geologic issues in this area?**

22 A. No, ma'am.

23 **Q. Let's turn to COG Exhibit 13. What are you**
24 **showing?**

25 A. Exhibit 13 is just a follow-up -- I'm showing

1 just another cross section to once again show from C to C
2 Prime representative wells of the Wolfcamp in this area, and
3 once again you can see where all the Wolfcamp producers are
4 located at with the red solid lines.

5 **Q. And let's go ahead and turn to that cross section**
6 **which has been marked as COG Exhibit 14.**

7 A. Yes, ma'am. Cross section C to C Prime is hung
8 on the top of Wolfcamp formation. Once again what I'm
9 trying to demonstrate here is what Concho is proposing to do
10 is in line with our operators such as Oxy and EOG in this
11 area. And that's what the purple and black arrows are
12 representing is equivalent targets that have been drilled
13 and completed by Oxy and EOG. And the purple star on the
14 left represents where Concho would like to drill and
15 complete their Mastiffs.

16 **Q. Let's go to what's been marked as COG Exhibit 15**
17 **and take a trip back to the Bone Spring.**

18 A. Yes, ma'am. Exhibit 15 shows a location map of
19 once again with the project area outlined in red polygon.
20 This time the green solid lines represent Avalon producers
21 in this area. The structure map is hung on the top of the
22 Bone Spring, once again 50 foot contour interval, and the
23 black cross hairs represent the data points that went into
24 the construction of this map.

25 **Q. And what is COG Exhibit Number 16.**

1 A. 16 is a location map showing the approximate
2 location of our Mastiff project area outlined in red and
3 representative cross section from B to B prime.

4 **Q. Turn to that cross section which has been marked**
5 **as COG 17 and review for the examiners.**

6 A. Cross section B to B prime is hung on the top of
7 the Avalon Shale. What I would like to point out here is,
8 is the well on the left is to the south. That arrow is
9 showing where Concho has drilled and completed their Winward
10 project. The well on the right is to the north, and that
11 represents once again a arrow where Concho has drilled and
12 completed their project, and three yellow stars represents
13 where Concho intends to drill and complete their Avalon
14 Mastiff wells.

15 **Q. Do you see any geologic barriers in this area**
16 **from the Avalon?**

17 A. No, ma'am.

18 **Q. Okay. After we reviewed those exhibits and the**
19 **remainder of your geologic study of this area, have you**
20 **identified any geologic impediment developing this area**
21 **using two mile horizontal wells?**

22 A. I have not.

23 **Q. In your opinion, can the area be efficiently and**
24 **economically developed by horizontal wells?**

25 A. Yes, ma'am.

1 Q. And do you believe that each tract in the
2 proposed unit will contribute more or less equally to the
3 production from the wells?

4 A. I do.

5 Q. Will the completed intervals for the 27 wells
6 comply with all setback requirements under the horizontal
7 well rules?

8 A. Yes, ma'am.

9 Q. In your opinion, will the granting of COG's
10 application be in the best interest of conservation,
11 prevention of waste and protection of correlative rights?

12 A. I do.

13 MS. MUNDS-DRY: With that, Madam Hearing
14 Examiner, let me first ask.

15 Q. Were COG Exhibits 6 through 17 prepared by you or
16 compiled under your direction or supervision?

17 A. Yes, they were.

18 MS. MUNDS-DRY: I ask that Exhibits 6 through 17
19 be admitted into evidence.

20 HEARING EXAMINER ORTH: Any objection?

21 MR. PADILLA: No.

22 HEARING EXAMINER ORTH: Exhibits 6 through 17
23 will be admitted.

24 (Exhibits 6 through 17 admitted.)

25 MS. MUNDS-DRY: I have nothing further of this

1 witness. I pass.

2 HEARING EXAMINER ORTH: Mr. Padilla, do you have
3 questions?

4 MR. PADILLA: Yes, I do.

5 CROSS-EXAMINATION

6 BY MR. PADILLA:

7 Q. I think I wrote your name down here, but I can't
8 find it.

9 A. John Bertalott .

10 Q. Bertalott?

11 A. Would you like me to spell it?

12 B-e-r-t-a-l-o-t-t.

13 Q. Okay. Did you consider drilling your well just
14 in Section 4?

15 A. So one mile wells we have considered, but the
16 development team that I work on, we feel it is the most
17 effective way to develop this reservoir is two mile
18 laterals.

19 Q. You have already drilled a one mile lateral in
20 Section 4, haven't you?

21 A. Yes, sir, we have.

22 Q. And that was developed and operated by you all
23 this time and a valid proration unit; correct?

24 A. That well was drilled, I believe, back in 2012.
25 I don't know the specifics of that well and the issues

1 surrounding when it was drilled.

2 Q. Let me call your attention to your Exhibit
3 Number 7.

4 A. Yes, sir.

5 Q. I see quite a few one mile wells in that exhibit.
6 Is that fair to say?

7 A. I would say there is a mixture of one mile and
8 two mile wells and even a few mile and a half wells.

9 Q. And from my eyeballs, there are more one mile
10 wells than two mile wells?

11 A. I have not taken the time to count the exact
12 number, but I would say looking at the map, there are
13 probably slightly more one mile wells on the map.

14 Q. When I look at your Exhibit 8, you have a one
15 mile well in Section 4, and you own 100 percent of that
16 section; right?

17 A. A hundred percent of Section 4?

18 Q. Yes.

19 A. I believe our landman testified to that.

20 Q. Okay. So if EOG proposes to drill a well into
21 Section 33 and Section 28, your testimony is there will be
22 no geologic impediments to drilling a well of that nature?

23 A. In this reservoir, with my assessment, there are
24 no geologic impediments to developing this reservoir.

25 Q. Both in the Wolfcamp and the Bone Spring?

1 A. Yes, sir.

2 Q. Where are the, other than the well in Section 4,
3 where does COG operate its wells that are one mile laterals
4 in this Exhibit Number 8?

5 A. So I believe we have one mile wells down in
6 Section 30 and 31, of 24, 32. One mile wells in Section 29
7 of 24, 32. One mile wells in Section 23 of 24, 32, as well
8 as Section 26 and 35 at 24, 32.

9 Q. In fact, all of your exhibits, structure maps,
10 show one mile laterals in all of those maps; right?

11 A. For which reservoir, all of them?

12 Q. For Wolfcamp.

13 A. For Wolfcamp?

14 Q. Yeah. Let's look at Exhibit 10.

15 A. Yes, sir. Could you repeat your question about
16 the exhibit?

17 Q. My question I believe was that there are a number
18 of one mile laterals in the Wolfcamp in sections to the east
19 and southeast; correct?

20 A. I would say in all the structure maps, especially
21 the Wolfcamp exhibit you are referring to now, there is a
22 combination of one mile and two miles, and in some cases,
23 mile and a half wells used to develop these reservoirs.

24 Q. My question was with regard to the east and
25 southeast.

1 A. I believe the wells on this map to the east and
2 southeast are drilled at one mile wells, and I believe the
3 majority of them are EOG wells.

4 Q. Are any of your cross sections tied to any of the
5 wells on the east side of this Exhibit 10?

6 A. No, sir. The cross section is what I put in
7 here.

8 Q. Do you know whether your well in Section 4, the
9 one mile lateral, has that produced sufficiently to pay up?

10 A. I can't speak to the economics of the well, so I
11 do not know.

12 Q. Do you know how much it has produced to date?

13 A. No, sir, not off the top of my head.

14 Q. Okay. What effect does that well have on
15 drilling your proposed wells, the one in Section 4?

16 A. What effect does that existing well have on our
17 proposal?

18 Q. Yes.

19 A. I believe that in the development of our well
20 spacing, working with the development team, we have taken
21 into account and tried to mitigate any risk that may exist
22 by drilling additional Second Bone Spring Sand wells in the
23 W/2 of Section 4.

24 Q. Has that well produced pressure in Section 4 that
25 you want to commit to your spacing unit?

1 A. That would be a question for reservoir engineers.
2 I cannot testify to that.

3 Q. You don't know whether it's had any effect on
4 Section 4; correct?

5 A. No, sir.

6 Q. That portion that you want to include in your
7 spacing unit?

8 A. No, sir, I do not know of any effects.

9 Q. That's all I have.

10 HEARING EXAMINER ORTH: Thank you, Mr. Padilla.
11 Mr. Lowe, do you have questions for Mr. Bertalott?

12 EXAMINER LOWE: No, I do not.

13 HEARING EXAMINER ORTH: Any follow-up Ms. Munds.

14 MS. MUNDS-DRY: I have no follow-up.

15 HEARING EXAMINER ORTH: Thank you very much
16 Mr. Bertalott.

17 MS. MUNDS-DRY: That concludes our application.

18 HEARING EXAMINER ORTH: All right. Thank you.

19 Do we turn then to EOG, and I believe, Mr. Padilla, you
20 stated that you have three witnesses.

21 MR. PADILLA: Yes.

22 HEARING EXAMINER ORTH: All right. We can keep
23 going a little bit longer before we break for lunch.

24 MR. PADILLA: That's fine.

25 MS. MUNDS-DRY: Do we need to switch.

1 MR. PADILLA: I think maybe we need to switch.

2 We have hard copies, so I don't know whether --
3 it's your discretion. We will put them both on.

4 HEARING EXAMINER ORTH: I think it's helpful to
5 other people to see the screen. Let's take five minutes.

6 MS. MUNDS-DRY: We will just switch.

7 (Recess taken.)

8 HEARING EXAMINER ORTH: Let's come back from the
9 break, please. All right we are back after a break, and Mr.
10 Padilla --

11 MR. PADILLA: So we didn't tab, but I will
12 explain as we go along, but these are different.

13 HEARING EXAMINER ORTH: Okay, thank you.

14 MR. PADILLA: Madam Examiner, we have three
15 witnesses to be sworn.

16 HEARING EXAMINER ORTH: All right. If they would
17 indicate who they are. All right, all three of you. If you
18 would raise your right hands. Do you and each of you swear
19 or affirm that the testimony you are about to give will be
20 the truth, the whole truth and nothing but the truth?

21 WITNESSES: (Collectively) I do.

22 HEARING EXAMINER ORTH: That was all three of
23 your witnesses. Who are you calling first?

24 MR. PADILLA: We are calling Chloe Sawtelle.

25

1 CHLOE SAWTELLE

2 (Sworn, testified as follows:)

3 DIRECT EXAMINATION

4 BY MR. PADILLA:

5 Q. Ms. Sawtelle, would you state your full name?

6 A. Chloe Sawtelle.

7 Q. And where do you work?

8 A. EOG Resources.

9 Q. How long have you worked there?

10 A. Since 2011.

11 Q. Have you testified before the Oil Conservation
12 Division in the past?

13 A. I have not.

14 Q. Can you tell us about your education pursuits
15 starting from college?

16 A. Okay. I graduated from Texas A & M in 2010,
17 and -- I graduated from Texas A & M in 2010 and I started
18 working for EOG in 2011. I started in our San Antonio
19 division working Eagleford assets, and then I transferred to
20 our Midland division in 2014, and started working Texas
21 Delaware, and most recently in New Mexico.

22 Q. Ms. Sawtell, have you -- you're working now in
23 southeast New Mexico; correct?

24 A. That's correct.

25 Q. And how long have you been working there?

1 A. Since summer of 2019.

2 **Q. Is there any difference between the work that you**
3 **did in the Eagleford in Texas and southeast New Mexico in**
4 **terms of ownership of properties, and oil and gas leases,**
5 **assignments, and that sort of thing?**

6 A. I reviewed and prepared drill locations in
7 San Antonio and Texas and New Mexico.

8 **Q. Are you familiar with the oil and gas interests**
9 **involved in this case?**

10 A. I am.

11 MR. PADILLA: I tender Ms. Sawtell as an expert
12 in petroleum land matters.

13 HEARING EXAMINER ORTH: Objection?

14 MS. MUNDS-DRY: No objection.

15 HEARING EXAMINER ORTH: Questions regarding
16 qualifications?

17 EXAMINER LOWE: All your time at EOG, have you
18 been a landman?

19 THE WITNESS: I started as a land tech in the
20 San Antonio Division and have been a landman since I have
21 been at the Midland Division in 2014.

22 EXAMINER LOWE: Okay. Thank you.

23 THE WITNESS: You are welcome.

24 HEARING EXAMINER ORTH: She'll be recognized as
25 an expert petroleum landman.

1 BY MR. PADILLA:

2 Q. Ms. Sawtell, give us a brief understanding of why
3 we are here today.

4 A. EOG is here today because the Mastiff plans that
5 were just previously discussed are basically destroying
6 EOG's plans in the area, and you can see that on the
7 upcoming exhibits.

8 Q. Let's turn to Exhibit Number 1, which is a map of
9 EOG's acreage. And tell the Examiners what it is and what
10 it contains.

11 A. So the first exhibit is leasehold ownership for
12 EOG in the W/2 of Section 28 and 33, in Township 23 South,
13 32 East, Lea County, New Mexico, and in the SE/4 of
14 Section 9 and the E/2 of Section 16, 24 South, 32 East, Lea
15 County, New Mexico.

16 Q. Now, you have a federal lease; is that correct?

17 A. Yes. We have two federal leases and one state
18 lease, and those are denoted in the table.

19 Q. But the ones, the lease in Section 28 and 33, is
20 that one -- one lease?

21 A. That's correct.

22 Q. And is it fair to say that you control that
23 acreage shown in blue?

24 A. That's correct.

25 Q. And you have indicated in your map that this is

1 **EOG's Igor spacing unit?**

2 A. That's correct.

3 Q. And how many acres does that spacing unit cover?

4 A. It's comprised of 640 acres.

5 Q. Okay. Now, in the box on the left, you say that
6 **EOG has 70 percent working interest in that unit?**

7 A. That's correct.

8 Q. 30 percent is owned by Oxy Y-1 Company?

9 A. That's correct.

10 Q. And you also have Concho owning zero; correct?

11 A. That's correct.

12 Q. So how do you -- what's your understanding of how
13 **you want to develop this spacing unit?**

14 A. So our Igor development plan is two mile laterals
15 that encompass the W/2 of Section 28 and 33. It's one
16 federal lease, and although communitization is allowed with
17 federal leases, it seems that lease development is optimal.

18 Q. Do you have a voluntary agreement as to this
19 **acreage in Sections 28 and 33?**

20 A. We do. We have an existing JOA that covers both
21 EOG and Oxy's interest.

22 Q. So Oxy is a party to that JOA?

23 A. They are.

24 Q. Let's go on down to the spacing unit further
25 **south which you labeled as EOG's Double ABJ spacing unit.**

1 **Tell us how that's comprised.**

2 A. It's comprised of the SE/4 of section 9 and the
3 E/2 of Section 15.

4 **Q. Who owns that?**

5 A. The federal lease is owned between EOG, Tom
6 Jennings and the First Roswell Company, with the majority of
7 the interest, 75 percent, being EOG.

8 **Q. And the state unit, the state portion?**

9 A. The state lease is 100 percent EOG.

10 **Q. Okay. And that's in Section 16?**

11 A. That's correct.

12 **Q. Okay. What do you intend, as far as you know,**
13 **what EOG's going to do in developing this, this acreage?**

14 A. We have 1.5 mile laterals planned in our Double
15 ABJ.

16 **Q. Let's go back up to the top. What's the latest**
17 **communication you have had with Oxy?**

18 A. Oxy has received the well proposals that we have
19 submitted for our Igor development, and they are pursuing an
20 agreement with EOG in the area and have asked for us to
21 represent their interests today.

22 **Q. Is that in the form of a letter or something?**

23 A. That is, and it's in an upcoming exhibit.

24 **Q. Okay. Let's look at the southern spacing unit.**
25 **Roswell Company and Tom Jennings are owners in that SE/4**

1 **Section. Am I correct?**

2 A. That's correct.

3 **Q. And what's your relationship currently with First**
4 **Roswell and Tom Jennings?**

5 A. Mr. Jennings and I have had multiple
6 conversations. He is also here today, and his intent is to
7 participate in EOG's development, and he is also opposing
8 Concho's proposed development for their Mastiff as well.

9 **Q. Is that protestation indication in writing?**

10 A. Yes, it is.

11 **Q. And will that be an exhibit later on?**

12 A. Yes, it will.

13 **Q. Do you have anything further on Exhibit Number 1?**

14 A. That's it.

15 **Q. Let's go to Exhibit Number 2 and tell us --**

16 A. So Exhibit Number 2 is basically the same map
17 that we showed as Exhibit 1, it just overlays Concho's
18 proposed spacing units and you can see why EOG is here today
19 trying to protect their interest.

20 **Q. Now, Concho or COG does not own any interest in**
21 **Section 33; is that right?**

22 A. That's correct.

23 **Q. And do they own any interest in your proposed**
24 **spacing unit for the AB -- Double ABJ proposal?**

25 A. Concho doesn't own any interest in our Igor

1 development or our Double ABJ development.

2 Q. Is it necessary for you to pool anyone through
3 compulsory pooling?

4 A. No, it is not. That's why we don't have a
5 contested case today.

6 Q. Anything further on Exhibit Number 2?

7 A. No.

8 Q. Okay. Let's go to Exhibit 3a1. Tell us what
9 that is.

10 A. This is a well proposal that was sent to Oxy-Y-1
11 for the Igor 33 Fed 200 series wells that are planned in the
12 W/2 of Section 28 and 33.

13 Q. Okay. If we go through this stack of well
14 proposals that comprise Exhibit 3, are they similar?

15 A. They are.

16 Q. Okay. This first well proposal -- I'm having
17 problems bringing this up on the screen -- but looking at
18 the hard copy of this thing, how many wells do you propose
19 for -- or are included in this proposal?

20 A. In our W/2 Igor development we have 20 wells
21 planned.

22 Q. And are they Bone Spring? Is it Wolfcamp wells?

23 A. They are both.

24 Q. Okay. Let's take this first well proposal and go
25 through it a little bit more precisely. First of all, what

1 is that date of that well proposal?

2 A. August 7, 2019.

3 Q. When did you receive proposals from COG?

4 A. The original Mastiff proposals were in October of
5 2018.

6 Q. So what else is included in this package?

7 A. We have a C-102 that identifies the location of
8 the laterals, as well as AFEs identifying the costs.

9 Q. If you look at Page 3a4 of that exhibit, is that
10 your AFE?

11 A. Yes, it is.

12 Q. And what's the bottom line on it, if you can read
13 it?

14 A. It looks like roughly 8.6 million.

15 Q. Okay. In your opinion, is that in conformity
16 with the wells drilled in the Bone Spring for that zone and
17 this area of southeast New Mexico?

18 A. To my knowledge, yes.

19 Q. All right. Let's look at the next Page, 3a5.
20 What is that?

21 A. It looks like a C-102 for the Igor 33 Fed 206.

22 Q. When was this C-102 prepared?

23 A. Looks like the survey date was 6-12-2019.

24 Q. Would it have been submitted about that time?

25 A. For an APD?

1 Q. Yes.

2 A. We began submission in August for both our Igor
3 and our Double ABJ developments.

4 Q. Okay. And you haven't had any, any decision by
5 the BLM?

6 A. No. Unfortunately, Concho is protesting our
7 current application.

8 Q. But in terms -- I think Mr. Reker testified that
9 their C-102s were completed in October of 2019. And yours
10 were a couple of months ahead of that; right?

11 A. Yes.

12 Q. All right. Now, is there a -- the rest of this
13 exhibit contains C-102s that are similar in design except
14 for well location.

15 A. That's correct.

16 Q. So if we go on to Exhibit 3b, which is the --
17 well, let me back up a minute before we move on. This first
18 well proposal is for 200 series wells; right?

19 A. Yes.

20 Q. And those are for First Bone, or what you call
21 the Leonard -- if you know that?

22 A. It looks like these are for the Leonard Shale,
23 others refer to it as Avalon.

24 Q. When we talk about 200 series, it means the upper
25 level of the Bone Spring?

1 A. That's correct.

2 Q. If we go to the next exhibit that's marked 3b14
3 at the bottom, or Page 3b14, if we go through the same
4 exercise, we are going to find that the well surface
5 location, the first take point, last take point, total
6 vertical depth and measure depth; right?

7 A. That's correct.

8 Q. And this tells somebody -- and this letter is
9 addressed August 7 to Oxy.

10 A. That's correct.

11 Q. If we go through the guts of this thing, we will
12 find AFEs for every well, and we'll find C-102s as well;
13 correct?

14 A. That's correct.

15 Q. Okay. Let's jump ahead and let me see if I can
16 find the Wolfcamp wells, and that would be roughly Page --
17 okay. Let's go to Page 3e38.

18 A. Okay.

19 Q. And that contains the same information, but this
20 is for the 7 series wells; right?

21 A. Yes, and those are Wolfcamp wells.

22 Q. Those are Wolfcamp.

23 A. Right.

24 Q. How many Wolfcamps are you drilling?

25 A. Looks like we are proposing five wells.

1 Q. Now the AFEs, as you go deeper, are going to
2 change somewhat; right?

3 A. Yes, sir, the costs should be increased.

4 Q. So if we look at these you are going to have --
5 what's the bottom line for Wolfcamp wells?

6 A. Our reservoir engineer would probably be able to
7 speak a little bit.

8 Q. But taking a figure from your AFE, what figure do
9 you come up with?

10 A. Looks like 9.2 million.

11 Q. So we are talking about a million more for
12 Wolfcamp wells?

13 A. That's correct.

14 Q. All right. Now, when we jump ahead to the
15 southern well proposal, the Double ABJ wells, you are going
16 to see pretty much the same thing; right?

17 A. That's correct. The proposals are directed at
18 the First Roswell Company and Tom Jennings individually.

19 Q. Okay. Now, you sent this proposals about a week
20 later in August. They are dated August 12; right?

21 A. Yes, it looks like five days later.

22 Q. How many wells are you going to drill in the
23 Double ABJ?

24 A. We have 23 wells total planned in Double ABJ.

25 Q. So you have proposals for all of these wells?

1 A. That's correct.

2 Q. And it's your signature at the bottom of this
3 letter.

4 A. That's correct.

5 Q. And you sent all of those well proposals to the
6 various parties; correct?

7 A. Yes, to the interest owners, the working interest
8 owners.

9 Q. I think we can skip through all of the other well
10 proposals in Exhibit 3 because they contain pretty much the
11 same thing.

12 Let's go to Exhibit 4. What is Exhibit 4?

13 A. Exhibit 4 is a letter directed to the director of
14 the OCD regarding First Roswell Company and Tom Jennings'
15 plans to participate in EOG's proposed development for the
16 Double ABJ wells and that they are objecting to being pooled
17 in Concho's planned development.

18 Q. What does this indicate, this letter indicate to
19 you?

20 A. It indicates to me that they would be open to
21 coming to a voluntary agreement with the EOG.

22 Q. And do you have a voluntary -- are you working or
23 have a voluntary agreement already in progress?

24 A. We are working towards a voluntary agreement.

25 Q. Okay. And that would be in the form of a JOA?

1 A. That's correct.

2 Q. Okay. So you don't see any impediments with the
3 Jennings group at this point?

4 A. I do not.

5 Q. Okay.

6 A. In EOG's development, I do not.

7 Q. Let's move on to Exhibit Number 5.

8 A. This is another letter directed to the director
9 of the OCD regarding Oxy's plans for the area.

10 Q. Who is -- who wrote this letter?

11 A. John Schneider.

12 Q. And his title seems to be land manager, New
13 Mexico; correct?

14 A. That's correct.

15 Q. And what does the letter say?

16 A. It says that --

17 Q. You don't have to read it, but just go ahead and
18 tell us what it contains.

19 A. They are working towards an agreement with EOG
20 regarding the W/2 of Section 28 and Section 33.

21 Q. And they are subject -- well, they are a party
22 to the joint operating agreement --

23 A. That's correct.

24 Q. -- already in existence?

25 A. That's correct.

1 Q. So going back to Exhibit Number 1, you control
2 all of the W/2 of Section 28 and 33 where you plan to drill
3 two mile laterals; correct?

4 A. We are deemed the operator under the operating
5 agreement and we have the support of the non-operators under
6 that agreement in our development.

7 Q. And would you be the operator in the proposed
8 joint operating agreement with the First Roswell Company and
9 Tom Jennings?

10 A. We would.

11 MR. PADILLA: At this time, Madam Examiner, we
12 would offer Exhibits 1 through 5.

13 HEARING EXAMINER ORTH: Objection?

14 MS. MUNDS-DRY: Oh, sorry, no objection.

15 HEARING EXAMINER ORTH: Thank you Exhibits 1
16 through 5 are admitted.

17 (Exhibits 1 through 5 admitted.)

18 MR. PADILLA: We would tender the witness for
19 cross.

20 HEARING EXAMINER ORTH: Ms. Munds-Dry, do you
21 have cross-examination for the witness.

22 MS. MUNDS-DRY: Thank you, Madam Hearing
23 Examiner.

24 CROSS-EXAMINATION

25 BY MS. MUNDS-DRY:

1 Q. Ms. Sawtell, if you can look at Exhibit 1, if you
2 would, please.

3 A. Sure.

4 Q. Before we turn to this exhibit, you indicated in
5 your testimony that EOG -- I want to make sure I understand
6 it correctly -- EOG objects to Concho's proposal because we
7 destroying EOG's plans?

8 A. That's correct.

9 Q. Which are reflected here on Exhibit 1?

10 A. That's correct.

11 Q. Is EOG claiming that Concho is stranding EOG in
12 some way?

13 A. What do you mean by stranding?

14 Q. That it will -- that COG's will prevent EOG from
15 developing acreage in some other way?

16 A. It's obstructing our plans for development on the
17 acreage.

18 Q. But you would agree with me it doesn't prevent
19 you from planning development in other directions or other
20 ways, does it?

21 A. For which section?

22 Q. Well, you could go north to 28, for example. You
23 have that lease; correct?

24 A. We do have that lease. We also have a lease in
25 Section 33 and plan to develop that.

1 Q. But my question is that you could go north to 28,
2 could you not, and drill one mile wells?

3 A. I think we have the option as well, yes.

4 Q. You stated that you have control over the acreage
5 for the Igor. Is that how you say it?

6 A. Yes, Igor .

7 Q. And that's the one lease that's the W/2 of the 28
8 and 33; is that correct?

9 A. There are other lands that are included in that
10 lease, but yes, 28 and 33, as included in the spacing unit
11 is one lease.

12 Q. And you stated that part of the consideration for
13 your proposal is that lease development is the optimal way
14 for you to develop that acreage; is that correct?

15 A. I think that that is correct, yes.

16 Q. It's possible, though, for EOG and any operator
17 to seek a communitization agreement; correct?

18 A. That is correct.

19 Q. In fact, you will have to do it for your south
20 half development since you two different leases; is that
21 correct?

22 A. That is correct.

23 Q. So that's not a consideration for your south half
24 lease. You will have to combine -- I'm going to call it the
25 green lease and purple lease?

1 A. Any extended lateral regarding the E/2 of Section
2 4, 9 and 16 would require communitization.

3 Q. So there is no reason you are prevented from
4 seeking a communitization agreement when you are combining
5 acreage for leases; correct?

6 A. I'm sorry, I didn't understand the question.

7 Q. There is nothing preventing EOG from seeking
8 proposals or plans that would require you to combine these
9 leases?

10 A. I think we drilled both lease wells and wells
11 that are under the communitization agreements.

12 Q. Okay. Thank you. Exhibit 1 also shows that
13 EOG's proposed Double ABJ spacing unit, and those look to me
14 like mile and a half wells; is that correct?

15 A. That's correct.

16 Q. Why is, why is EOG not seeking two mile laterals
17 in this proposal?

18 A. EOG is not seeking two mile laterals because that
19 leasehold doesn't allow for two mile laterals, and I believe
20 Concho indicated in the past they did not want to
21 participate in our development as we do not want to
22 participate in theirs.

23 Q. To your point, that was an option for you, isn't
24 it?

25 A. It is an option.

1 Q. Would you agree with me that two mile laterals
2 are more efficient and economic than one and a half mile
3 wells?

4 A. I would suggest you ask our reservoir engineer
5 about that.

6 Q. I will do that, thank you. Let's go to what's
7 been marked as EOG Exhibit 3.

8 A. Okay.

9 Q. If we can find it. I believe it's all the stack
10 of well proposals, right, for the Igor and Double ABJ.

11 A. That's correct.

12 Q. Let me make sure I understand the timing here. I
13 don't think I heard -- and forgive me if I missed it -- when
14 did EOG file APDs to the BLM for the Igor wells?

15 A. We began submission in August of 2019.

16 Q. Of 2019?

17 A. That's correct.

18 Q. And I think in your testimony you said you filed
19 20 of those applications?

20 A. I did not, I did not say that. I said that we
21 began submitting. We have 20 wells planned. We started
22 submission of those APDs, and I believe we have the 500
23 series submitted and the 700 series submitted, and I believe
24 we have 200 and 300 started.

25 Q. Okay. So a portion of those -- I won't make

1 you --

2 A. Okay.

3 Q. A portion of those 20 have been -- aPDs have been
4 submitted?

5 A. That's correct.

6 Q. Okay. Let me make sure I understand this. EOG
7 submitted a proposal to concho for Igor and Helga wells.
8 Were you a part of that submitting of those well proposals?

9 A. I was not.

10 Q. Are you familiar with those proposals?

11 A. I am familiar.

12 Q. I think the timing of that was in September or
13 October of 2018. Does that sound right to you?

14 A. That sounds about right.

15 Q. And those well proposals included one mile wells
16 that were dubbed the Helga wells in the E/2 of Section 9.
17 Is that your understanding?

18 A. I don't know the specifics, but I know that there
19 were well proposals that were sent. And I believe that
20 Concho indicated they did not want to participate in those
21 wells, and EOG had modified their plans to develop their
22 leasehold at that time.

23 Q. EOG had submitted proposals to Concho around that
24 time period, September or October of 2018, and that included
25 Igor wells. Is that your understanding?

1 A. What was the --

2 **Q. The Igor and Hela wells?**

3 A. I believe there was a version of Igor wells that
4 were submitted to Concho, that's correct.

5 **Q. Did those Igor well proposals include two mile**
6 **laterals covering all of Section 33 and Section 4?**

7 A. I do not know the specifics of those well
8 proposals.

9 **Q. Okay. And EOG has, I believe, withdrawn those**
10 **well proposals after Concho indicated it didn't want to**
11 **participate?**

12 A. That's correct.

13 **Q. Is it your understanding that Concho proposed the**
14 **Mastiff wells in response to EOG's original well proposals**
15 **for the Igor and Helga wells?**

16 A. That the Concho proposals were submitted after
17 EOG's proposals? Is that what you are asking?

18 **Q. Yes.**

19 A. Yes.

20 **Q. And Concho and EOG have been trying to come to**
21 **some sort of agreement since the Mastiff well proposals were**
22 **submitted in October of 18?**

23 A. I would say that we have been trying to come up
24 with some kind of trade. I don't think that we have ever
25 indicated that we would want to participate and are seeking

1 that kind of voluntary agreement.

2 Q. Fair enough. We were trying to come to some sort
3 of arrangement.

4 A. Yeah.

5 Q. Is that a better way to say it?

6 A. Sure.

7 Q. Have you been involved in those conversations?

8 A. I have.

9 Q. With Mr. Reker?

10 A. Yes, I have.

11 Q. Who is awkwardly sitting next to me?

12 A. I have.

13 Q. Would you have those conversation, would you say,
14 on an ongoing basis up until this hearing?

15 A. I would say so.

16 Q. But to date, we have not reached any sort of
17 arrangement or agreement that you're aware of?

18 A. That is correct.

19 Q. Let's go to Exhibit 4, and -- let's go to Exhibit
20 4, if we could, please.

21 A. Sure.

22 Q. I think that's the letter from Mr. Jennings to
23 the OCD?

24 A. That's correct.

25 Q. It doesn't look to me like Concho was copied or

1 sent this letter. Does it look like Concho was copied on
2 this letter to you?

3 A. No. We actually just received this letter
4 yesterday.

5 Q. Did EOG sent a copy of this letter was received
6 yesterday to Concho?

7 A. No, we did not.

8 Q. Mr. Jennings indicates that he is supporting
9 EOG's development plan. Does EOG have a signed agreement
10 with Mr. Jennings?

11 A. What kind of signed agreement? An operating
12 agreement.

13 Q. Operating agreement, any kind of operating
14 agreement that they agreed to the development of this well
15 proposal?

16 A. This is only existing agreement, but we have a
17 JOA prepared, and we have been talking participation with
18 Mr. Jennings.

19 Q. Mr. Jennings has not signed that JOA yet, has he?

20 A. No, he has not.

21 Q. If for some reason that JOA doesn't come to
22 fruition and you are unable to execute that, will EOG force
23 pool Mr. Jennings?

24 A. I can't say at this time.

25 Q. If Mr. Jennings does not agree to participate in

1 the well, you would have to, wouldn't you?

2 A. If I was going to drill the well?

3 Q. Yes.

4 A. Then yes.

5 Q. Let's go to Exhibit Number 5. Again it appears
6 Concho was not copied on this letter. Do you agree?

7 A. Yes.

8 Q. And again, it says that Oxy is working towards an
9 agreement with EOG. Do you have an executed agreement of
10 some sort with Oxy for these well proposals?

11 A. We do. An existing JOA.

12 Q. That covers the acreage?

13 A. It does.

14 Q. Why do you have to work towards a new agreement
15 with Oxy?

16 A. It's not necessarily an operating agreement. It
17 may involve some other kind of transaction.

18 Q. Okay. But you don't have, whatever that other
19 transaction, it's not executed yet between the parties?

20 A. I don't know how that has any relevance to
21 whether or not we are able to operate the acreage.

22 Q. I didn't ask you with respect to relevance, I
23 asked you if you have a signed agreement.

24 A. We do have a signed agreement. It's an operating
25 agreement.

1 Q. Okay.

2 MS. MUNDS-DRY: That's all my questions, Madam
3 Hearing Examiner.

4 HEARING EXAMINER ORTH: Thank you, Ms. Munds-Dry.
5 Mr. Lowe, any questions of Ms. Sawtelle.

6 EXAMINER LOWE: good morning.

7 THE WITNESS: Good morning.

8 EXAMINER LOWE: How many wells were you proposing
9 again?

10 THE WITNESS: In which development?

11 EXAMINER LOWE: In the --

12 THE WITNESS: In Igor we have 20 wells, and in
13 Double ABJ we have 23. And those are both Bone Spring and
14 Wolfcamp.

15 EXAMINER LOWE: And you -- August 2019 you
16 submitted APDs for the 500 and the 700 wells series?

17 THE WITNESS: I know that we submitted the 500
18 and 700 of both the Double ABJ and Igor wells. I believe we
19 have also submitted applications with the BLM for additional
20 wells.

21 EXAMINER LOWE: And your 200 and 300 series are
22 next in line?

23 THE WITNESS: Yes, sir.

24 EXAMINER LOWE: Okay. Okay. Thank you.

25 HEARING EXAMINER ORTH: Any follow-up, Mr.

1 Padilla?

2 MR. PADILLA: I have a couple.

3 REDIRECT EXAMINATION

4 By MR. PADILLA:

5 Q. Ms. Sawtell, do the Helga wells have anything to
6 do with the issues involved here today?

7 A. Not with any of our current plans.

8 Q. Okay.

9 MR. PADILLA: I believe that's it.

10 HEARING EXAMINER ORTH: Anything further?

11 MS. MUNDS-DRY: Nothing further.

12 HEARING EXAMINER ORTH: Thank you very much, Ms.
13 Sawtell. Is this a good time for a lunch break?

14 MR. PADILLA: It is a good time.

15 HEARING EXAMINER ORTH: Should we take an hour,
16 hour 15?

17 MS. MUNDS-DRY: An hour 15 just to get --

18 HEARING EXAMINER ORTH: Come back then at 1:15
19 and we'll take the second witness.

20 MR. PADILLA: Thank you.

21 (Lunch recess taken. The proceeding resumed at
22 1:15 as follows:)

23

24 HEARING EXAMINER ORTH: Let's come back from the
25 lunch break, please. Mr. Padilla?

1 MR. PADILLA: Ms. Examiner, we would like to
2 recall Chloe Sawtelle. I missed three exhibits that I need
3 to get in with her.

4 HEARING EXAMINER ORTH: All right.

5 CHLOE SAWTELLE

6 (Sworn, was recalled and testified as follows:)

7 DIRECT EXAMINATION

8 BY MR. PADILLA:

9 Q. Ms. Sawtell, let's look at Exhibit Number 6, I
10 believe. Can you tell us what that is?

11 A. It's a letter to Mr. Reker at Concho regarding
12 EOG's plan to develop the W/2 of Section 33 on our own, and
13 that we were not interested in participating in their plan.

14 Q. And that letter is dated September 19, 2019;
15 correct?

16 A. That's correct.

17 Q. Okay. The letter speaks for itself; right?

18 A. I believe so.

19 Q. Okay. On to the next exhibit, which is Exhibit
20 Number 7, tell the Examiner what that is.

21 A. It's a similar letter regarding the SE/4 of
22 Section 9 and EOG's plan to develop the Double ABJ wells and
23 their decline to participate in the Mastiff development.

24 Q. And what's Exhibit Number 8?

25 A. Exhibit Number 8 is a letter to the BLM regarding

1 EOG's plan to develop the W/2 of Section 33 with their Igor
2 wells, and it asks to deny the APD submitted for the Mastiff
3 development.

4 Q. And what's the date of that letter?

5 A. September 19, 2019.

6 Q. So way back there you formulated a plan, it's
7 fair to say, that you did not want to participate in that
8 proposal; correct?

9 A. That's correct.

10 Q. Let me ask you whether EOG is ready to drill its
11 wells?

12 A. EOG is ready to drill both Igor and Double ABJ as
13 soon as our permits are approved by the BLM.

14 Q. Okay.

15 MR. PADILLA: Ms. Examiner, we move to admit
16 Exhibits 6, 7 and 8.

17 HEARING EXAMINER ORTH: Any objection?

18 MS. MUNDS-DRY: No objection.

19 HEARING EXAMINER ORTH: 6, 7 and 8 are admitted.

20 (Exhibits 6, 7 and 8 admitted.)

21 MR. PADILLA: Pass the witness.

22 CROSS-EXAMINATION

23 MS. MUNDS-DRY:

24 Q. I have a couple of questions. On Exhibit 8, the
25 letter, do you have that in front of you?

1 A. I do.

2 Q. You submitted this letter dated September 19,
3 2019; correct?

4 A. Yes.

5 Q. But Concho didn't submit its APDs until October
6 2019, so what was EOG objecting here to the BLM?

7 A. I think we identified the wells that Concho had
8 proposed to EOG, so upon their submission, we are asking
9 that they reject those.

10 Q. It's like a pre-objection letter?

11 A. You could say that.

12 Q. Okay. You said that EOG is ready to drill its
13 wells as soon as it's proposal --

14 A. I'm sorry, what's the question.

15 Q. That EOG is ready -- your development plan you
16 are ready to go for the Igor and Double ABJ?

17 A. Yes.

18 Q. Does EOG have money allocated for those wells
19 this year?

20 A. For this year, I believe we can make adjustments
21 if it's not all ready.

22 Q. Is it on EOG's drill schedule for this year?

23 A. For this year I think we are waiting on our
24 permit approval, and right now they are being contested by
25 Concho.

1 **Q. It's not currently on EOG's drill schedule?**

2 A. I can't confirm that it's on or off. They have
3 been going on and off depending on the permits.

4 **Q. Has EOG made any efforts to looking at building**
5 **roads to get to this development on either of the plans?**

6 A. You would have to ask our surface landman about
7 that.

8 **Q. What about pipelines, have you considered how you**
9 **are going to take away the production from these wells?**

10 A. We have multiple wells planned in the area, and
11 that's always a consideration in our development plan.

12 **Q. Has EOG undertaken efforts to build well pads for**
13 **any of the proposed wells?**

14 A. No, you can't build well pads until you have
15 approved permits.

16 **Q. Do you know how any wells EOG intends to drill in**
17 **either the Igor or Double ABJ?**

18 A. That's completely dependent on whether or not we
19 have approved permits.

20 **Q. Is it fair to say that EOG doesn't have a plan to**
21 **drill this year?**

22 A. We can adjust our plan if it's not currently in
23 the plan so that they are added.

24 MS. MUNDS-DRY: Thank you. That's all the
25 questions I have.

1 HEARING EXAMINER ORTH: Mr. Lowe, do you have any
2 questions of Ms. Sawtelle related to her most recent
3 testimony?

4 EXAMINER LOWE: No, I don't. Thank you.

5 HEARING EXAMINER ORTH: Any follow-up, Mr.
6 Padilla?

7 MR. PADILLA: None.

8 HEARING EXAMINER ORTH: Thank you very much
9 again, Ms. Sawtelle.

10 MR. PADILLA: Ms. Examiner, we will call Denton
11 O'Neal at this time.

12 DENTON O'NEAL

13 (Sworn, testified as follows:0

14 DIRECT EXAMINATION

15 BY MR. PADILLA:

16 **Q. Mr. O'Neal, state your name.**

17 A. Denton O'Neal.

18 **Q. Mr. O'Neal, where do you work?**

19 A. I work at EOG Resources.

20 **Q. As what?**

21 A. As a petroleum geologist.

22 **Q. Have you testified before the Oil Conservation**
23 **Division as a geologist in the past?**

24 A. No, I have not.

25 **Q. Tell us about your educational background in**

1 **geology.**

2 A. I received my bachelor of science in geology from
3 University of the South in 2013, and my master's of science
4 in geology from the Colorado School of Mines in 2015.

5 **Q. Do you work in southeast New Mexico in the Bone**
6 **Spring and Wolfcamp prospects for EOG?**

7 A. Yes, sir.

8 **Q. How long have you been doing that?**

9 A. I have been working southeastern New Mexico since
10 July of 2018.

11 **Q. And can you tell the Examiner about how many**
12 **prospects you have developed for drilling in terms of**
13 **geology?**

14 A. I have looked at and helped assemble drilling
15 plans for about 70 wells or so.

16 **Q. Did you prepare certain geological maps for**
17 **presentation today?**

18 A. Yes, sir.

19 MR. PADILLA: We tender Mr. O'Neal as an expert
20 petroleum geologist.

21 MS. MUNDS-DRY: No objection.

22 HEARING EXAMINER ORTH: Any questions?

23 EXAMINER LOWE: No.

24 HEARING EXAMINER ORTH: He is so recognized.

25 BY MR. PADILLA:

1 Q. Mr. O'Neal, let's jump right into what is marked
2 as Exhibit Number 9. What is it?

3 A. Yes, sir. This a structure map on top of the
4 First Bone Spring Lime.

5 Q. Does this differ materially from COG's structure
6 maps?

7 A. Not at all.

8 Q. And as I recall COG's geologist, his testimony
9 was that there were no impediments to drilling in this area.

10 A. I would agree with that.

11 Q. Okay. So tell us, tell us a little bit about the
12 structure in this. What's labeled at the top, top of the
13 First Bone Spring; is that correct?

14 A. Yes, sir. The structure is very simple, as
15 Mr. Bertalott mentioned. It doesn't have -- it's has a
16 monoclinial dip to the east and no recognizable fault on the
17 structure.

18 Q. So there is really no contest, at least as far as
19 this concern about impediments or where you drill here in
20 Sections 28 and 33 in Section 4?

21 A. No, sir.

22 Q. Okay. I see a number of wells to the east. Are
23 those one mile laterals in the Bone Spring?

24 A. Yes, sir. There's a mixture of both Bone Spring
25 and Wolfcamp development to the east.

1 Q. Has COG -- who operates this west to east?

2 A. In certain -- I mean, different sections have
3 different operators, there's Cimarex, Concho, EOG, Devon,
4 XTO Chevron and some others.

5 Q. So there is considerable development for one mile
6 laterals?

7 A. Yes, sir.

8 Q. Let's move on to the next map. What is that?

9 A. This is an isopach of the gross Bone Spring
10 formation.

11 Q. You have a line across the section there you also
12 had in the structure map?

13 A. Yes, sir.

14 Q. What are you trying to show with this isopach?

15 A. The isopach, similar to Mr. Bertalott's
16 testimony, shows consistent thickness of the Bone Spring
17 across this area. He was a little more -- depicted more
18 surfaces and had more maps, but this is showing really the
19 exact same thing, that there is little thickness variation
20 across the sections in question and nothing to impede EOG's
21 drilling of either the Igor or Double ABJ.

22 Q. So in yellow is the EOG's acreage; right?

23 A. Yes, sir.

24 Q. Let's go on to the next, Page 3 of this exhibit,
25 and tell us what that is.

1 A. Similar to the Exhibit Number 1, this is the
2 structure map on top of the Wolfcamp, again showing
3 monoclinial dip to the east, no big structural influences,
4 nothing to impede our development in Sections 33 and 28
5 or --

6 Q. And this exhibit or page we see one mile Wolfcamp
7 wells also; right?

8 A. Yes, sir.

9 Q. Okay. Is there any reason, in your opinion, why
10 COG couldn't drill its wells in Section 4?

11 A. No.

12 Q. In fact, they have a well in Section 4 already
13 which is a one mile lateral; right?

14 A. That's correct. That well is a -- Concho drilled
15 that in -- completed it in 2016. That's their Mastiff Fed
16 Number 3H.

17 Q. When did they complete this well?

18 A. May of 2016.

19 Q. Okay. And do you know anything about its
20 production so far?

21 A. Yes, sir. That well has produced approximately
22 200,000 barrels of oil, almost 400 million cubic feet of
23 gas, and I can't remember how much water, but significant
24 water, too.

25 Q. Okay. Let's go on to the next exhibit. What is

1 **that?**

2 A. This is a gross isopach of the entire Wolfcamp
3 from the top of the Wolfcamp to the top of the Strawn,
4 indicating comparable thicknesses between the Igor and
5 Double ABJ section. You will note it does thicken slightly
6 to the south, but that's consistent with Mr. Bertalott's
7 testimony as well.

8 Q. Okay. But there is no impediment to drilling
9 your wells here?

10 A. No, sir.

11 Q. And no impediment to COG drilling its wells, one
12 mile laterals in Section 4; right?

13 A. No, sir.

14 Q. Okay. Let's go on to your cross section. This
15 is an A to A Prime cross section; correct?

16 A. Yes, sir.

17 Q. What are you trying to show here?

18 A. So this is showing a similar story as isopachs
19 and structure map in that there is benign structure through
20 here. And they have consistent thickness both through the
21 Bone Spring and Wolfcamp formation. And for simplicity, the
22 tops I picked are just the Bone Spring Sands.

23 So the Bone Spring Lime is BSPL, First Bone
24 Spring Sand is BSPG, Second Bone Spring Sand is BSPG2, Third
25 Bone Spring Sand is BSPG3 and Wolfcamp is WFMP.

1 Q. So on the right you have a green and sort of
2 amber colored differentiating the Bone Spring and Wolfcamp;
3 correct?

4 A. Yes, sir.

5 Q. Okay. Now, on the left you have some red arrows.
6 Tell the Examiner what those red arrows are.

7 A. Those red arrows are where we intend to drill our
8 laterals. We have a series of 200 wells which are in the
9 Leonard, otherwise known as Avalon Shale, that's the upper-
10 most target.

11 Next one down is First Bone Spring. After that
12 is Second Bone Spring Sand and the Third Bone Spring
13 Carbonate and finally the Upper Wolfcamp.

14 Q. Going back to the well proposals, when you have
15 wells you name them where you have the 200 numbers on them,
16 where would that be on the top?

17 A. Yes, sir. That would be around 9500 TVD. That's
18 the upper-most target arrow.

19 Q. Where would the 300s be?

20 A. The second one down.

21 Q. Second, okay. Now, you have two arrows there
22 in -- is that the Third Bone Spring?

23 A. No, sir. The third one down is Second Bone
24 Spring Sand. Fourth one down is Third Bone Spring
25 Carbonate.

1 Q. Okay. So you're -- what is the the -- what is
2 the thickness of that, where the two arrows are?

3 A. That overall gross thickness as shown between two
4 tops is about 1500 -- 1200 to 1500 feet.

5 Q. Can you tell the Examiner why you are testing or
6 targeting both twice in that interval?

7 A. Yes, sir. We believe we will most adequately
8 drain the oil and gas in this stratigraphy by having two
9 targets in here.

10 Q. And obviously the bottom one is the upper
11 Wolfcamp; right?

12 A. Yes, sir.

13 Q. And how many wells have you proposed in there?

14 A. In the Igor section we have five proposed wells,
15 and in the Double ABJ we also have five.

16 Q. Okay. You have anything further to add to this
17 exhibit or this cross section?

18 A. No, sir.

19 MR. PADILLA: I don't have any further questions.
20 We offer Exhibit Number 10.

21 HEARING EXAMINER ORTH: We have been discussing
22 Exhibit 9.

23 MR. PADILLA: 9, I'm sorry.

24 HEARING EXAMINER ORTH: All right. Objections?

25 MS. MUNDS-DRY: No objection.

1 HEARING EXAMINER ORTH: Questions about
2 Exhibit 9?

3 EXAMINER LOWE: Yes, I have a couple questions on
4 your last page, Page 5.

5 THE WITNESS: Yes, sir.

6 EXAMINER LOWE: The red arrow on the left-hand
7 side, the first, the first one on the top is for what
8 category?

9 THE WITNESS: That's for the Leonard Shale or the
10 Avalon Shale.

11 EXAMINER LOWE: Second one?

12 THE WITNESS: First Bone Spring Sand.

13 EXAMINER LOWE: And then the third -- the third
14 and fourth one down are in the same --

15 THE WITNESS: Third is in Second Bone Spring Sand
16 and fourth is in the Third Bone Spring Carbonate.

17 EXAMINER LOWE: And then the last one is the
18 Wolfcamp?

19 THE WITNESS: Yes, sir, upper Wolfcamp.

20 HEARING EXAMINER ORTH: All right.

21 EXAMINER LOWE: Also in reference to the great
22 Michael McMillain, if you could send us a zoomed-in shot of
23 all of this information here, zoomed-in information on what
24 we got here because it's hard to read what we have here now.

25 THE WITNESS: Sure, yes, sir.

1 EXAMINER LOWE: You can send that via e-mail,
2 submit it to OCD hearing online, and then you can just
3 address the case numbers and then Exhibit Page 5, just this
4 page only.

5 THE WITNESS: Yes, sir, I can.

6 EXAMINER LOWE: So I can review it. When it
7 comes to writing the orders, we have to examine everything,
8 and I don't want to spend a week trying to get information.

9 THE WITNESS: It might have been the PDF
10 transmission. I apologize for that.

11 HEARING EXAMINER ORTH: So Exhibit 9 is admitted.
12 Thank you.

13 (Exhibit 9 admitted.)

14 HEARING EXAMINER ORTH: Ms. Munds-Dry, do you
15 have questions of this witness?

16 CROSS-EXAMINATION

17 BY MS. MUNDS-DRY:

18 Q. Good afternoon, Mr. O'Neal. If you could turn to
19 the first page of your Exhibit 9. Is there any impediment
20 to EOG drilling one mile wells in Section 28?

21 A. No, ma'am.

22 Q. Is there any geologic impediments for EOG
23 drilling one mile wells in Section 16?

24 A. No, ma'am.

25 Q. If you could turn to Page 5, which is your cross

1 **section. How many wells does EOG plan to drill for the Igor**
2 **project in the First Bone Spring?**

3 A. I believe we have four permits or four planned
4 wells in the First Bone Spring.

5 **Q. And how about for the Double ABJ Bone Spring**
6 **wells?**

7 A. Same, four.

8 MS. MUNDS-DRY: That's all the questions I have.
9 Thank you.

10 HEARING EXAMINER ORTH: Anything further, Mr.
11 Lowe?

12 EXAMINER LOWE: No.

13 HEARING EXAMINER ORTH: Any follow-up, Mr.
14 Padilla.

15 MR. PADILLA: No, and I think I did offer --

16 HEARING EXAMINER ORTH: You did. Yes, 6, 7 and 8
17 came through your last witness, and 9 has come in through
18 Mr. O'Neal.

19 MR. PADILLA: Very good.

20 HEARING EXAMINER ORTH: Thank you very much.

21 MR. PADILLA: We call our engineering witness at
22 this time.

23

24

25

1 DAVID CARLOS SONKA

2 (Sworn, testified as follows:)

3 DIRECT EXAMINATION

4 BY MR. PADILLA:

5 Q. **Mr. Sonka, please state your full name.**

6 A. David Carlos Sonka.

7 Q. **Mr. Sonka, have you testified before the Oil**
8 **Conservation Division as a petroleum landman?**

9 A. As a petroleum engineer I have.

10 Q. **Engineer, I'm sorry. Let's acquaint the**
11 **Examiners with your qualifications and educational**
12 **background.**

13 A. In 2016 I graduated from Texas A & M with a
14 degree in petroleum engineering and began work in Lea
15 County, New Mexico, supporting petroleum engineering related
16 to EOG's operations in the area. In spring of 2018, I began
17 constructing development plans in the subject area as well
18 as in surrounding areas and supporting reservoir engineering
19 operations.

20 Q. **Do you deal with economic evaluations including**
21 **well costs and that sort of thing?**

22 A. Very thoroughly, a big part of my job.

23 MR. PADILLA: We tender Mr. Sonka as a petroleum
24 engineer.

25 MS. MUNDS-DRY: No objection.

1 HEARING EXAMINER ORTH: Questions about his
2 qualifications?

3 EXAMINER LOWE: No.

4 HEARING EXAMINER ORTH: So recognized.

5 BY MR. PADILLA:

6 **Q. Mr. Sonka, let's turn to what we have marked as**
7 **Page 1 of Exhibit 10. Tell us what that is.**

8 A. What this is introducing is a study on the
9 correlative rights and potential for waste related to
10 operatorship of the EOG's Igor drilling area. And so within
11 this proposal, there will be a comparison of series of
12 wells, some of which won't necessarily target the exact
13 geologic equivalent, but are just broken out so that it's
14 not a huge bite to digest all at once.

15 We will just go naturally through the 200 series
16 and progress deeper. And for each series there will be a
17 presentation on the economic impact over that series, and so
18 everything in this is public data in terms of the production
19 of actual wells, and then the costs used were AFEs that have
20 been published to third-party working interest owners by
21 each operator with some adjustments due to difference and
22 consideration and potential battery costs, as well as
23 artificial lift between the two operators.

24 So EOG's agency costs will not match AFEs because
25 I had to add some costs to make it comparable to Concho's

1 AFE, so our cost will be higher in this presentation
2 slightly. And then there's a portion of this that is my
3 interpretation, which is the fit of tight curves to the
4 actual data. And for each tight curve that is used in this
5 situation, I have presented the actual data with the fit of
6 the tight curve so that questions about that interpretation
7 can be readily observed by anyone.

8 **Q. Mr. Sonka, let's get back to Page 1 and tell the**
9 **Examiner what the green, blue, brown and purple represent.**

10 A. These represent the same geologic intervals that
11 Mr. O'Neal testified on with the green corresponding to
12 Leonard or the Avalon Shale. The blue is First Bone Spring.
13 The brown is the Second Bone Spring. The orange color is
14 the Third Bone Spring, and the pink is the Wolfcamp. The
15 triangles are a spatial representation of Concho's
16 proposals.

17 **Q. When you say spatial, you are looking at it**
18 **horizontally from the side view; right?**

19 A. So this would be a cross section through the area
20 and what the wells would look like going away away from you
21 or towards you. And so the white triangles are proposals,
22 and the blue triangle is Concho's existing one mile Second
23 Bone Spring well.

24 **Q. So in this area only the Concho well has been**
25 **drilled?**

1 A. That's correct.

2 **Q. And the white triangles are whose wells?**

3 A. So Mr. --

4 **Q. Proposed wells?**

5 A. -- Mr. O'Neal showed the target zones EOG plan to
6 drill. This is the target proposal sent to EOG from Concho.

7 **Q. Okay. The next page on this exhibit says Igor**
8 **200 series. That would be the wells that would be in the**
9 **green; right?**

10 A. Yes.

11 **Q. Okay. So looking at Page 3 of this exhibit, you**
12 **have a number of lines on a graph. Can you explain what**
13 **this graph represents?**

14 A. Yes. The colored lines on this graph represent
15 actual production data from Concho wells that are nearby and
16 completed recently, so after 2016, and the geologic
17 equivalent of their proposal in the Igor 200, and the wells
18 have been normalized to two mile lateral lengths. So this
19 economic evaluation considers a difference in a half -- a
20 two mile lateral drilled over Section 33.

21 And so to do that we have taken Concho wells that
22 are either one mile, mile and a half or two miles and scaled
23 them based on their actual lateral length to represent a two
24 mile well performance. And then the black line is the
25 average used to represent their performance.

1 Q. Okay. What's on the next page?

2 A. The black line is the same black line --

3 Q. Page 4.

4 A. -- that we saw on the previous slide, and the
5 green is just a simple averaging of Concho's actual wells.
6 In red it's an average of EOG's actual wells normalizing to
7 two miles that make up our expectations for a development
8 plan and where we would drill our 200 series wells. And the
9 blue line is the tight curve, which is the interpreted part
10 of this study that is meant to fit to that data. So you can
11 see the difference that exists between the operators in
12 terms of well production.

13 Q. And you will analyze that difference in a later
14 exhibit; right?

15 A. Yes. The impact of that difference will be
16 discussed on the next page.

17 Q. Okay. So let's go to that page. What do you
18 have there?

19 A. On Page 5 we have considered in the top table the
20 output of an economic calculation based on those two tight
21 curves. The middle table is just considering the portion
22 that's attributable to the W/2 of Section 33, so it's one
23 half of the first table.

24 And then what I have done is multiplied the
25 portion that's attributable times the number of proposed

1 wells for each operator. And the results are summarized at
2 the bottom in the third table showing that due to more
3 expensive wells, working interest partners in the W/2 of
4 Section 33 will have to outlay almost \$4 million more
5 capital, the wells are expected to produce less ultimately,
6 and the value of the wells is down. So that's at the
7 bottom, working interest owners in that W/2 would suffer an
8 impairment to their correlative rights of approximately \$27
9 million, and that present value discounted ten percent per
10 year, and potential for waste would be reduced by almost 2
11 million barrels equivalent over that half section.

12 **Q. And this is based on the differences between your**
13 **operating and producing results versus Concho's producing**
14 **results; right?**

15 **A.** The first order driver of these differences is
16 the difference in production, and the second order driver is
17 the increased capital from Concho's proposals versus EOG's
18 proposals.

19 **Q. In terms of well costs, how do you compare the**
20 **two companies in drilling costs and completing costs?**

21 **A.** Concho's costs were higher overall.

22 **Q. By how much?**

23 **A.** Over these 200 series wells, it's \$1.5 million
24 per well.

25 **Q. Okay. Let's go to the 300 series, which is the**

1 next page, and then to Page 7, you have some more lines in
2 there. Can you explain what you are trying to portray with
3 the 300 series wells that you are comparing here?

4 A. In the 300 series our development plan was to
5 drill -- is to drill First Bone Spring Sand wells, whereas
6 Concho is planning a third set of Leonard wells.

7 So I was able to find nearby sections that had
8 comparable third set of Leonard wells, and those are in
9 colored lines on this chart, and then the average, once
10 again, represented by a thicker black line.

11 Q. Okay. So then we go on to another table; is that
12 right?

13 A. We have a comparison of the two operators on
14 Page 8.

15 Q. Okay.

16 A. So in this case once again the Concho actual well
17 performance is in green dots, represented by the dash black
18 tight curve for the economic calculations. EOG's actual
19 First Bone wells in the area are represented by the red line
20 and modeled in the economic calculations by the blue solid
21 line.

22 Q. Mr. Sonka, looking at this graph you could argue
23 that the performance after 150 days, that EOG's performance
24 dips below the average line.

25 A. Uh-huh.

1 **Q. And can you explain why that dip is shown on this**
2 **graph?**

3 A. So typically when we see a temporary dip and then
4 a subsequent recovery, the well was shut in for some
5 purpose. So that could be anything from an offset operator
6 fracking, the same operator fracking, artificial lift, and
7 any type of disruption that causes the well to be shut in.

8 And so I just left that. That impact could have
9 been taken out to represent these, but I just left that in.
10 But that recovery indicates, you know, at the end of this
11 one-year period, that EOG wells are back to outperforming
12 the Concho average.

13 **Q. Okay. So anything else from this graph?**

14 A. No, sir.

15 **Q. Look on Page 9, what do you show there?**

16 A. Page 9 once again considers the impact over the
17 300 series proposals whether that's four EOG wells in the
18 First Bone Spring Sand or three Concho wells in the Lower
19 Leonard.

20 Once again, the Concho wells are more expensive,
21 but in this case they are expected to produce slightly more
22 BOEs. That's related to the gas oil ratio of the Concho
23 wells in the Leonard. They are expected to produce less
24 oil, but more gas. That's shown in the top table.

25 Due to pricing and the additional capital, that

1 value is still expected to be lower for those wells. So
2 once again I have taken the entire well and attributed one
3 half of it to the W/2 of Section 33 and then multiplied by
4 the total number of proposals. And because EOG is proposing
5 an extra well, the per well produced BOE is overcome, and
6 working interest owners in the W/2 of Section 33 could
7 expect to have their correlative rights impaired by \$8.7
8 million, and there is slight expectation of waste of 81,000
9 barrels of oil equivalent.

10 Q. Not as bad as the 200 series?

11 A. The differences are smaller.

12 Q. So you have waste, potential waste?

13 A. Still expected to have slight waste.

14 Q. Okay. What do you have in the next series, the
15 500 series. 500 series are what level, what interval?

16 A. The Second Bone Spring. EOG's proposal is in the
17 Third Bone Spring.

18 Q. So what are you planning there?

19 A. This is a little bit more detail on the Mastiff
20 Federal Number 3H, which is a one mile Concho producing
21 well. That well, as of November of last year when the
22 latest public data had been published, that well had
23 produced 194,000 barrels of oil, 397 million cubic feet of
24 gas, and 475,000 barrels of water.

25 Q. Now, this is the well in Section 4 that's the one

1 **mile lateral; correct?**

2 A. Yes.

3 **Q. Okay. What's the effect of this well in locating**
4 **it where it is?**

5 A. This level of production is driven by pressure
6 reductions in the reservoir, and this magnitude of
7 production has created a significant region surrounding this
8 wellbore that has drawn down the pressure below the virgin
9 pressure.

10 So the effect of that depletion that a well
11 drilled in the Second Bone Spring within that region would
12 be expected to have lower production than a well drilled in
13 virgin acres. So within Concho's drilling unit, Concho
14 would be contributing to depleted acres and EOG would be
15 contributing acres of virgin pressure which are not
16 equivalent in terms of reservoir quality even though the
17 geology may be consistent over the area.

18 Another impact of that existing well is that it's
19 typically in the way of drilling a Second Bone Spring well,
20 so EOG has six proposals in the 500 series and Concho only
21 has two. So kind of filters through to the economic study
22 that a significant amount of value and reserves will be left
23 behind if the acreage is developed under Concho's proposed
24 drilling unit.

25 **Q. You don't have that problem in your spacing unit**

1 **because you have virgin pressure there?**

2 A. We don't have any wells setting up depletion in
3 our proposed drilling unit.

4 **Q. Are you done with this page?**

5 A. Yes.

6 **Q. Go on to Page 11. Tell us what that says.**

7 A. So this shows in green Concho wells that have
8 targeted geologic equivalent of their proposal in the 500
9 series, and the EOG wells that have targeted the equivalent
10 of our 500 series in red on an actual basis, and then
11 interpreted black tight curves to match Concho's data, and
12 blue tight curve to match EOG's data, and these are again
13 normalized to the two mile wells that would cover Section
14 33.

15 **Q. Okay. So now we see a big difference in**
16 **production.**

17 A. This difference is larger than the past series
18 and is wider once you consider the effects that the depleted
19 pressure would have on the oil performance.

20 **Q. Okay. So going into the next page we have a**
21 **table there, and first of all, let me point out on what we**
22 **have up here. And the computer is showing the title of**
23 **that, Gross EOG 500 Series versus Concho Lower 500 Wells**
24 **Economics. That title is incorrect; right?**

25 A. Yes. EOG has six in the 500 series and Concho

1 has two.

2 Q. I believe we made that correction on the --

3 HEARING EXAMINER ORTH: I see it, Page 12.

4 Q. Okay. Tell us what you have done on this table.

5 A. In this case we actually have three tight curves,
6 one to represent EOG's 500 series expected production, one
7 to represent Concho's expected production, and then an
8 additional one that represents the immediate offset to their
9 existing wells which would suffer depletion. I have broken
10 that out in a separate curve. And then averaged the two to
11 come up with a per -- well expectation for Concho's two
12 proposed wells.

13 In the middle series again we have the portion
14 attributable to the W/2 of Section 33 that working interest
15 owners -- actually, another mistake at the EOG's portion
16 should be 4.5 million in the first total capital.

17 Q. Can you show the Examiner where exactly the
18 number is?

19 A. This number right here in this middle table, the
20 bottom, that should be divided by two, and it's not.

21 And then at the end we have in this case quite a
22 large difference because of different number wells that the
23 result is that in this section working interest owners would
24 suffer an impairment to their correlative rights of almost
25 \$45 million in value, and overriding royalty interest

1 owners' impairment to correlative rights obviously would be
2 much greater, and the waste created by the proposed plan
3 would result in 2.7 million fewer barrels of oil equivalent
4 produced.

5 Q. Now, you do have the correct numbers in your
6 conclusion there; correct?

7 A. Yes.

8 Q. Okay. Let's go to the 700 series, which is the
9 Wolfcamp.

10 A. That's correct.

11 Q. All right. What do you -- what do you want to
12 tell us about Page 14?

13 A. So Mr. Bertalott, the Wolfcamp proposed wells for
14 each operator are comparable but there weren't quite enough
15 wells in the area that have been on for long enough to get
16 really close-by wells, so I had to expand the search
17 considerably.

18 So I expanded it to 15 miles, and within that
19 radius there were 41 EOG wells targeting the geologic
20 equivalent of our 700 series, and 23 Concho wells targeting
21 the geologic equivalent of their 700 series proposals, and I
22 was able to use those to come up with a tight curve of each
23 operator's performance with regards to the 700 series.

24 Q. Is that the next page?

25 A. Yes.

1 **Q. Page 15. What does that telling us?**

2 A. So once again, the actual production of Concho's
3 wells are in green, with the interpreted fit of their
4 production in black dash. The actual production of EOG's
5 wells are in red, with the interpreted fit in blue, and both
6 the actual wells of each operator and the tight curves are
7 scaled to represent two mile well performance.

8 **Q. Okay. And do you have a table that corresponds**
9 **to this thing next?**

10 A. I do. So similar to the previous series, I have
11 a comparison of five wells to five wells. The Concho wells
12 costing were 13.9 million. EOG's wells expected to cost 9.4
13 million. And the difference in recovery at the top on a
14 per-well basis, in the middle the portion attributable to
15 W/2 of Section 33 working interest owners, and at the
16 bottom, that middle table multiplied by the five proposed
17 wells, and the result is that, over the 700 series, Concho's
18 drilling plan would result in an impairment to EOG and all
19 working interest owners' correlative rights of \$28 million
20 and almost a million barrels fewer of oil equivalent
21 produced.

22 **Q. Next page applies to the Igor section; right?**

23 A. The next page is a summation of all the values
24 that were on the individual series, considerations just
25 collected for easy reference and then summed for total

1 impact.

2 Q. And this applies to the Concho proposed wells?

3 A. Right. So this considers the difference in the
4 W/2 of Section 33's performance economically in production
5 volumetrically depending on the operatorship of that half
6 portion.

7 Q. Okay. What's on Page 18?

8 A. The next due to the geologic consistency, the
9 same exact word flow and curves were used, with a slight
10 difference of comparing a quarter of a two mile well, to a
11 third of a one and a half mile well, due to the different
12 nature of the lateral lengths proposed. And over the Double
13 ABJ the cumulative impact to working interest owners would
14 be an impairment of \$56 million and the impact in terms of
15 waste comes to 3.4 million barrel of oil equivalent.

16 Q. If you -- will this be, 3.4, be oil that cannot
17 be recovered otherwise?

18 A. The 3.4 million will not be recovered by the
19 proposed Concho wells. You would have to drill additional
20 wells or come up with some sort of EUR method or spend
21 significant more capital to recover it.

22 Q. So you could say it's waste?

23 A. I think it's waste.

24 Q. Let's go on to Page 19. You have this combines
25 both spacing units?

1 A. This refers to the combined impact over the
2 consolidated case of both spacing units and indicates that
3 working interest owners will suffer an impairment to their
4 correlative rights of \$165 million in their present value
5 discounted ten percent, and the waste created will amount to
6 over 9 million barrels of oil equivalent.

7 **Q. And this is 9 million barrels of oil that would**
8 **be left in the ground and not recovered if Concho succeeds**
9 **in this application?**

10 A. Oil equivalent, yes.

11 **Q. Okay. How about royalty owners?**

12 A. The royalty owners are paid on the production as
13 well, so even though Concho wells being more expensive would
14 have no impact on them, the reduced production could have a
15 significant impact on the royalty interest owners.

16 **Q. Do you have -- let me ask this question. In**
17 **your opinion, would approval of the COG applications be in**
18 **the best interest of conversation of oil and gas?**

19 A. No, sir.

20 **Q. Would it prevent waste?**

21 A. I don't think so.

22 MR. PADILLA: I have no further questions, and we
23 offer Exhibit 10.

24 HEARING EXAMINER ORTH: Any objection?

25 MS. MUNDS-DRY: No objection.

1 HEARING EXAMINER ORTH: Exhibit 10 is admitted.
2 (Exhibit 10 admitted.)

3 MR. PADILLA: Pass the witness.

4 HEARING EXAMINER ORTH: Thank you. Do you have
5 questions?

6 MS. MUNDS-DRY: Yes. Thank you.

7 CROSS-EXAMINATION

8 BY MS. MUNDS-DRY:

9 Q. Good afternoon, Mr. Sonka. Am I saying it
10 correctly?

11 A. Yes, you are.

12 Q. I have a hard last name, so I try to be
13 sensitive.

14 A. Yes, I appreciate that.

15 Q. Were you involved in determining the lateral
16 length for the Igor development?

17 A. Yes, I was.

18 Q. And what did you base the lateral length on?

19 A. The consideration that goes into our development
20 plans, lateral length, the first order basis is our
21 ownership, and then if we have ownership that we would like
22 that isn't compatible with the lateral length that we would
23 like, then the second order is ability to trade into that or
24 reach some voluntary agreement to extend the lateral
25 lengths. That's ultimately they're -- in Igor we are

1 confined by our ownership.

2 Q. Were you also involved in determining the lateral
3 length of the Double ABJ project?

4 A. Yes.

5 Q. And would the same considerations be their
6 ownership?

7 A. Yes.

8 Q. Is a two mile lateral more economic than a one
9 and a half mile lateral?

10 A. Depends on how you define economic.

11 Q. Would it make more money than a one and a half
12 mile lateral?

13 A. That's dependent really on the difference in
14 capital outlay between the lateral lengths, and that's going
15 to be specific to every operator. And then there are other
16 considerations, most importantly probably completion design
17 that affect the performance of longer laterals, and so it
18 really depends on the operator.

19 Q. Did you perform an economic study for the
20 Igor development project?

21 A. Yes.

22 Q. Did you perform an economic study on the Double
23 ABJ project?

24 A. Yes.

25 Q. And do the Igor wells, do you anticipate the same

1 **well will be more economic than the Double ABJ wells?**

2 A. So the -- yes, but not necessarily due to lateral
3 length. EOG's Igor has 87.5 whereas the Double ABJ is only
4 79, and there is all sorts of other things that can impact
5 the economic quality of a prospect that may not be obvious.

6 **Q. You have more burden on the Double ABJ project?**

7 A. I don't -- I just take the input on from our
8 land department, and I have no understanding what burdens
9 encumber leases or anything like that.

10 **Q. But you mentioned that was a factor in comparing**
11 **economics to those wells; right?**

12 A. I take the effective NRI and how we arrive at
13 that NRI has no impact on my study.

14 **Q. Is there some reason EOG didn't consider**
15 **including that NE/4 in Section 9 to make it a two mile**
16 **lateral to Double ABJ?**

17 A. I had conversations with land about it, and my
18 understanding was that Concho would not voluntarily agree to
19 give up that quarter section to be in our two mile well.

20 **Q. Was that then the main consideration for why the**
21 **wells are one and a half miles?**

22 A. Yes.

23 **Q. If we can turn to your exhibit packet, please,**
24 **Mr. Sonka. You noted in the exhibits that they are based on**
25 **your interpretation; correct?**

1 A. The slides that are based on my interpretation
2 are the slides with EOG and Concho's actual well
3 performance, and then the solid lines in blue and black are
4 based on my interpretation. The rest of this is actual well
5 performance and AFEs received by the EOG.

6 **Q. So the tight curve, for example, was for the**
7 **different series, those are based on your interpretation?**

8 A. Correct.

9 **Q. What is the standard that you used for your**
10 **interpretation?**

11 A. I'm not sure I understand.

12 **Q. Is there a standard that you would use to**
13 **interpret these tight curves?**

14 A. What do you mean by standard, checking the
15 quality of tight curve?

16 **Q. Is there a standard you're aware of used by other**
17 **reservoir engineers?**

18 A. The goal of the tight curve is to fit the data.
19 So plain inspection of any of these exhibits shows that the
20 variability between reservoir engineers would be pretty
21 minor in terms of appropriate tight curves. Maybe the
22 standard is the appropriateness.

23 **Q. Is that a standard that's recognized by other**
24 **reservoir engineers, the appropriateness?**

25 A. I don't know what other reservoir engineers

1 recognize or don't recognize, but this is how I construct my
2 tight curves.

3 Q. I want to make sure I understand. There is not a
4 standard within your peer group or industry that you used
5 to, to create these sort of interpretations and tight
6 curves?

7 A. There are standards, and there is just so many
8 different ones that you could export the variance between
9 the actual well production and tight curve, the expected
10 well production, and you could try to minimize the variance
11 over a 30-day period or 60-day period or any period you
12 want. There's all sorts of standard ways that you can
13 create these tight curves.

14 Q. Is it fair to say that your internal assessment
15 may differ from another company, another reservoir
16 engineer's internal assessment?

17 A. Yes.

18 Q. Is it fair to say that the metrics or benchmark
19 you use might be different from one company to another?

20 A. The metrics should be the same, but the
21 benchmarks could be different depending on the strategy of
22 the company.

23 Q. Okay. Fair enough. If you would please turn to
24 Page 3 of this exhibit. I don't see that you listed the
25 well that you used for to show the production; correct?

1 A. Correct.

2 Q. You you said that you used nearby Concho and EOG
3 wells; is that correct?

4 A. On this plot there is only Concho wells.

5 Q. Concho wells, okay. What is nearby?

6 A. So the wells used for this, some of them came
7 from the Ider package and Fajita package, and those are
8 approximately six to eight miles away.

9 Q. And I'm -- I can't see all the different colors
10 here very well, so how many wells did you use for Concho?

11 A. I can't remember off the top of my head, but once
12 you count the lines, I guess, but it was several.

13 Q. May we be provided with a list of wells that you
14 used for this production curve?

15 A. I would have to consult with the people at EOG.

16 Q. We would ask that we be provided with the names
17 of the wells. It's hard for us to determine what you used
18 here.

19 MS. MUNDS-DRY: So, Mr. Padilla, will you talk to
20 your client about that if we ask for that.

21 MR. PADILLA: We can supply that.

22 BY MS. MUNDS-DRY:

23 Q. On Page 4, Mr. Sonka, let me make sure I
24 understand what you did here. You used the offset Concho
25 wells that you showed on Page 3; correct?

1 A. Correct. Those are average to make the green
2 line.

3 **Q. And then what EOG wells did you use here?**

4 A. I used wells that are very close to either Anita
5 50 -- some of them are the Aries wells. We have Neptune
6 wells that target the geologic equivalent, so --

7 **Q. And so those are approximately within the eight**
8 **miles from EOG and COG?**

9 A. Those are more like seven to 10 miles. It's in
10 the same direction as the Concho wells.

11 **Q. Okay. Did you run the same analysis for**
12 **comparing EOG's wells to the Double ABJ, I see you used**
13 **Igor -- did you do the similar analysis for ABJ wells?**

14 A. The analysis is exactly the same except that
15 instead attributing half of a two mile well, we attributed a
16 quarter of a two mile Concho well, and a third of a mile and
17 a half EOG well.

18 **Q. Thank you. If you could turn to Page 10 of your**
19 **exhibit. What data did you use to determine significant**
20 **depletion in Section 4?**

21 A. The data is shown here. This is publicly
22 reported production from the Mastiff Federal Number 3, and
23 it is almost 700,000 barrels of -- barrels of fluid and
24 almost 400 million cubic feet of gas so, I consider that to
25 be significant.

1 Q. Have you run a reserve analysis on Section 4?

2 A. No, I have not.

3 Q. If you turn to Page 14. Did you -- probably more
4 appropriate for your geologist -- conduct a review of the
5 geology to determine if it remains similar to the proposed
6 area 15 miles away?

7 A. It's still similar, just less similar the further
8 out you go.

9 Q. It's still similar, but less similar?

10 A. Right. So the analogues are not as strong in the
11 700 series as in the other series because of the expanded
12 search radius. But that was driven by the well count
13 because there weren't sufficient wells that were close
14 enough.

15 Q. You note that you considered 41 EOG wells?

16 A. Yes.

17 Q. And 23 Concho wells?

18 A. Yes.

19 Q. On Page 16, if you could turn this there, please.
20 You picked five of the 41 EOG wells; is that correct?

21 A. No, ma'am. The tight curve is an average of all
22 the wells, all 41, multiplied by five to represent the five
23 that are proposed in the W/2 of Section 33.

24 Q. I see. I was confused by that, obviously. Thank
25 you. That is all my questions, thank you.

1 HEARING EXAMINER ORTH: Thank you. Mr. Lowe, do
2 you have questions?

3 EXAMINER LOWE: Uh-huh. Good afternoon, sir.

4 THE WITNESS: Good afternoon.

5 EXAMINER LOWE: On your Exhibit 10, on your first
6 page it's very hard to distinguish your numbers that you are
7 trying to display here and trying to determine -- what you
8 are trying to say from here. I'm not sure if you put these
9 together on your end or not.

10 THE WITNESS: Yes. I apologize. The blur is
11 probably caused by a transition of PDF. We can send a
12 higher resolution.

13 EXAMINER LOWE: I suggest for future and all
14 exhibits that we get at least good quality data for trying
15 to write up these orders, and especially in this case we are
16 trying to determine what information is presented to us
17 right now. Right now I can't read it.

18 THE WITNESS: Yes, sir.

19 EXAMINER LOWE: I go to Page 1, and in reference
20 to your chart the quality, it's the same scenario for pretty
21 much all of them, on Page 1, 3, 4 and 7, and I would
22 strongly suggest that you put legends in your charts to
23 indicate -- in a couple weeks when I'm trying to write this
24 up -- what this means. It's better to present everything up
25 front, you have all the opportunity now to present

1 everything up front like you are doing, but at least provide
2 information.

3 THE WITNESS: Yes, sir.

4 EXAMINER LOWE: Because there is no units for the
5 X axis on here on Page 3. And your -- as Ocean has
6 presented has asked about the data for all of us to see that
7 here, it's just verbal. Exhibit 10 should have information
8 behind it to present what you're trying to show here, so --
9 so that's for future and all things.

10 THE WITNESS: Just for the record the X axis is
11 the date the well production normalized to the date the
12 first well came on.

13 EXAMINER LOWE: That's fine.

14 THE WITNESS: Yes, sir.

15 EXAMINER LOWE: That's for all the charts. And
16 this will be at least identify the axis and give some
17 legends. And on Page 11, on the blue curve, what are the
18 red dots?

19 THE WITNESS: The red dots are the actual EOG
20 production.

21 EXAMINER LOWE: Is that EOG 500 series two miles
22 below it?

23 THE WITNESS: Yes, sir.

24 EXAMINER LOWE: Okay. And then on Page 12, you
25 said there was an error in one of the numbers here. Which

1 number is that?

2 THE WITNESS: In the middle table, the lower
3 number, EOG's capital attributable to W/2 interest owners
4 should be 4.5 instead of 9.

5 EXAMINER LOWE: Okay. And in reference to what
6 Ocean has brought up, we are going to have you submit the
7 data for what was presented that you requested about,
8 present it to us as well, too.

9 THE WITNESS: Sure.

10 EXAMINER LOWE: And data is for which.

11 MS. MUNDS-DRY: Can't tell what the wells are in
12 any of them.

13 HEARING EXAMINER ORTH: It was on Page 3, for
14 example. We don't know which, which wells.

15 EXAMINER LOWE: Yeah. Yeah. And this is
16 basically pretty much what states all the numbers on Page
17 10, we don't know where that came from. We are kind of
18 just, based on what you are basically saying right now, but
19 at the same time we need some credential behind it.

20 THE WITNESS: The production numbers.

21 EXAMINER LOWE: Yeah.

22 THE WITNESS: Okay.

23 EXAMINER LOWE: And that is all I have. Thank
24 you.

25 HEARING EXAMINER ORTH: Thank you. Any follow-up

1 Mr. Padilla.

2 MR. PADILLA: A couple questions.

3 REDIRECT EXAMINATION

4 BY MR. PADILLA:

5 Q. Mr. Sonka, you have been asked to supply
6 information, additional information on which wells you used
7 to come up with your graphs. Is there any reason that after
8 you produce those wells and locations, is there any reason
9 to imply or conclude that your findings would be any
10 different than what you have on your exhibits?

11 A. No, sir.

12 Q. Still be losses if Concho drills these wells?

13 A. Yes, sir.

14 Q. Okay.

15 MR. PADILLA: That's all.

16 HEARING EXAMINER ORTH: All right. Thank you.

17 Anything further from anyone? No? All right. Thank you
18 very much, Mr. Sonka.

19 MR. PADILLA: That concludes our case.

20 HEARING EXAMINER ORTH: Thank you.

21 MS. MUNDS-DRY: Madam Hearing Examiner, I might
22 have a few closing remarks if you think its appropriate now
23 to do that.

24 HEARING EXAMINER ORTH: Yeah. Let me ask the
25 technical examiner. Would you prefer closing remarks on the

1 transcript or prefer them in writing.

2 MS. MUNDS-DRY: I'm happy to do it either way.

3 EXAMINER LOWE: In writing because it takes a
4 while for the transcript to come in.

5 MS. MUNDS-DRY: In that case, we ask that the
6 case be taken under advisement.

7 HEARING EXAMINER ORTH: Okay. It will in fact be
8 taken under advisement. We just need to talk about when,
9 when we would expect the written, written closing arguments.
10 Do have you a proposal for that, a number of days following
11 the receipt of the transcript.

12 MS. MUNDS-DRY: If we could have three or four
13 days after the transcript, I don't need a whole lot.

14 HEARING EXAMINER ORTH: Okay.

15 MS. MUNDS-DRY: Maybe less than that.

16 HEARING EXAMINER ORTH: All right. Is that okay
17 with you, four days after we receipt of the transcript.

18 EXAMINER LOWE: That sounds good.

19 HEARING EXAMINER ORTH: Mr. Padilla?

20 MR. PADILLA: That would be fine. How will you
21 know -- how do we know when the transcript is ready?

22 HEARING EXAMINER ORTH: So as I understand it,
23 aren't the parties informed when the transcript is received
24 by the Division.

25 EXAMINER LOWE: I don't think so. From what I

1 can -- from what I have seen is, when we get it we just
2 upload it our system and on your end to be attentive to it,
3 which is --

4 MS. MUNDS-DRY: As far as I know we just check
5 the, the online system.

6 HEARING EXAMINER ORTH: Okay.

7 HEARING EXAMINER ORTH: Is there any question for
8 whom that would be a natural request?

9 EXAMINER LOWE: Request?

10 HEARING EXAMINER ORTH: A request of them to
11 inform counsel when it's received.

12 EXAMINER LOWE: I would like to do it, being that
13 I'm aware of this, I would like to, being that I will check
14 it as well, too, and keep -- once I see it, I will try to
15 present it, if given permission, because I don't know where
16 we are going now, but that's what I would like to do, but I
17 will be in the same boat.

18 MS. MUNDS-DRY: Understood.

19 EXAMINER LOWE: I'll be checking on line and
20 walking down the hall and ask if we've got them.

21 HEARING EXAMINER ORTH: After we are done here, I
22 can go upstairs and ask Florene if she can do that.

23 MS. MUNDS-DRY: She is usually very responsive.

24 HEARING EXAMINER ORTH: Let me make that request.
25 That's the way we do it in the other agencies I serve. The

1 parties are at least told the transcript is there, even if
2 they are not provided a copy.

3 EXAMINER LOWE: We said four days, but five is
4 good.

5 MS. MUNDS-DRY: Five, sure.

6 HEARING EXAMINER ORTH: Okay. So five days after
7 the transcript, and I will ask Florene to notify counsel
8 that the transcript has been uploaded, and counsel and Mr.
9 Lowe.

10 All right. Thank you all for that then, and we
11 will move on to our next set of cases.

12 (Cases taken under advisement.)
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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 REPORTER'S CERTIFICATE

5

6 I, IRENE DELGADO, New Mexico Certified Court
7 Reporter, CCR 253, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that the
9 foregoing pages are a true and correct transcript of those
10 proceedings that were reduced to printed form by me to the
11 best of my ability.

12 I FURTHER CERTIFY that the Reporter's Record of
13 the proceedings truly and accurately reflects the exhibits,
14 if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither employed by
16 nor related to any of the parties or attorneys in this case
17 and that I have no interest in the final disposition of this
18 case.

19 Dated this 20th day of February 2020.

20

21

Irene Delgado, NMCCR 253
License Expires: 12-31-20

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