

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:

APPLICATION OF NOVO OIL & GAS, LLC                   CASE NOS. 16281,  
FOR A NONSTANDARD SPACING AND PRORATION       16282, 16283,  
UNIT AND COMPULSORY POOLING, EDDY               16285, 16286  
COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 9, 2018

Santa Fe, New Mexico

BEFORE:   SCOTT DAWSON, CHIEF EXAMINER  
          LEONARD LOWE, TECHNICAL EXAMINER  
          DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Scott Dawson, Chief Examiner, Leonard Lowe, Technical Examiner, and David K. Brooks, Legal Examiner, on Thursday, August 9, 2018, 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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1 (8:53 a.m.)

2 EXAMINER DAWSON: Okay. Moving along, the  
3 next cases are numbers 68, 69, 70, 71 and 72.

4 And I'm supposing that these will be  
5 consolidated?

6 MS. CALLAHAN: Yes.

7 EXAMINER DAWSON: Okay. These all are  
8 applications of Novo Oil & Gas, LLC for a nonstandard  
9 spacing and proration unit and compulsory pooling, Eddy  
10 County, New Mexico.

11 Call for appearances, please.

12 MS. CALLAHAN: Mr. Examiner, Candace  
13 Callahan for Novo Oil & Gas Northern Delaware.

14 EXAMINER DAWSON: Okay.

15 MS. BRADFUTE: Mr. Examiner Jennifer  
16 Bradfute on behalf of Marathon Oil Permian.

17 MS. KESSLER: Mr. Examiner, Jordan Kessler,  
18 from Holland & Hart, on behalf of EOG.

19 EXAMINER DAWSON: Okay.

20 MR. BRUCE: Jim Bruce of Santa Fe  
21 representing TDY Industries.

22 EXAMINER DAWSON: Okay.

23 So, again, these are Cases 16281, 16282,  
24 16283, 16285 and 16286.

25 When you're ready, Ms. Callahan.

1 MS. CALLAHAN: Thank you, Mr. Examiner.

2 EXAMINER DAWSON: Sure.

3 MS. CALLAHAN: These cases were heard on  
4 July 12th, and we were asked to supplement the record.

5 EXAMINER DAWSON: Okay.

6 MS. CALLAHAN: I have two witnesses to be  
7 sworn.

8 EXAMINER DAWSON: All right. Can your  
9 witnesses please stand up and be sworn in by the court  
10 reporter?

11 (Mr. Patrick and Mr. Fahler sworn.)

12 MS. CALLAHAN: I call Brandon Patrick to  
13 the stand, please.

14 BRANDON PATRICK,  
15 after having been first duly sworn under oath, was  
16 questioned and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. CALLAHAN:

19 **Q. Mr. Patrick, would you please state your name**  
20 **for the record, by whom you're employed and in what**  
21 **capacity?**

22 A. Brandon Patrick. I work for Novo Oil & Gas  
23 Northern Delaware, LLC, and I'm the land manager.

24 **Q. And how long have you been employed by Novo?**

25 A. A little over a year.

1           Q.    Have you previously testified before the  
2   Division as an expert in petroleum land matters?

3           A.    Yes.

4           Q.    Were your credentials as an expert in petroleum  
5   land matters accepted and made a matter of record?

6           A.    Yes.

7           Q.    Are you familiar with the applications that  
8   have been filed by Novo in these consolidated cases?

9           A.    Yes.

10          Q.    And are you familiar with the status of the  
11   lands which are the subject of this hearing?

12          A.    Yes.

13                   MS. CALLAHAN:  Mr. Examiner, I tender  
14   Brandon Patrick as an expert in petroleum land matters.

15                   EXAMINER DAWSON:  Any objections?

16                   Mr. Patrick will be admitted as an expert  
17   in petroleum land matters at this time.

18                   MS. CALLAHAN:  Thank you.

19          Q.    (BY MS. CALLAHAN) Mr. Patrick, would you please  
20   give us a brief description of the five cases?

21          A.    Yes.  There are three cases related to the Bone  
22   Spring Formation.  Those are Cases 16281, 16282 and  
23   16283.  And there are two cases related to the Wolfcamp  
24   Formation.  Those are Cases 16285 and 16286.  And all  
25   five cases involve the lands located in Sections 4, 5

1 and 6 of Township 23 South, Range 29 East in Eddy  
2 County, New Mexico.

3 Q. These cases have been consolidated for hearing  
4 purposes only; is that right?

5 A. Correct.

6 Q. And they were originally heard on July 12th?

7 A. Yes.

8 Q. The testimony and exhibits to be presented  
9 today are to supplement the record of the July 12th  
10 hearing; is that right?

11 A. Yes.

12 Q. For clarification, although these applications  
13 were filed by Novo Oil & Gas, LLC, it is Novo Oil & Gas  
14 Northern Delaware, LLC as a wholly owned subsidiary of  
15 Novo Oil & Gas, LLC which will be the operator of the  
16 wells and which submits these applications?

17 A. Yes.

18 Q. Let's look at Exhibit 12. To bring context to  
19 the testimony today, before we get into the details of  
20 the applications and the reasons behind what Novo is  
21 seeking specifically in its Bone Spring applications,  
22 Mr. Patrick, would you please walk us through Exhibit  
23 12?

24 A. Yes. Exhibit 12 is the same for all five  
25 cases. So there is only need to look at the first one,

1 if you'd like.

2           The first page on Exhibit 12, you'll see an  
3 aerial map that shows the surface and archeological  
4 constraints for this area that we're talking about. As  
5 you can see, the topography is very challenging. There  
6 is a big salt lake that covers part of this acreage.  
7 Also, there are archeological issues. There are bluffs  
8 and things like that that, you know, this has been a  
9 spot for archeological concern. It's also within the  
10 potash. This is within the 2012 Secretary's potash  
11 order. And the reason for bringing that up is because  
12 it's very difficult to find a surface location to  
13 develop the oil and gas resource out here. And that's  
14 evident by just the presence of all the well pads over  
15 in the western part of this aerial map, and then there  
16 is just absolutely no well pads over further to the  
17 east.

18           And the reason why I bring that to your  
19 attention is that Novo has worked with the BLM and all  
20 the offset operators and the surface owners and the  
21 potash company to find drill islands, and we've secured  
22 drill islands to develop this acreage.

23           And so the next page is just a potash map  
24 that was provided by the BLM just to show this acreage  
25 and where some of these drill islands that Novo secured

1 are located.

2 The third page shows a zoomed-in version of  
3 where those drill islands are located, and these are the  
4 drill islands that Novo is going to use to drill its  
5 wells that are in these applications.

6 The fourth page is a full development plan  
7 for the 2nd Bone Spring bench only, no other formations.  
8 And I went ahead and put some callouts for 16281, the  
9 2nd Bone Spring well that Novo has plans to drill. It's  
10 a 1.75-mile lateral. It goes across the north half of  
11 the north half of Section 6 and the northern part -- it  
12 stops three-quarters of a mile into Section 5.

13 And then another case that we're going to  
14 do -- it's not in this hearing today but another case  
15 coming actually in a couple of weeks, 16284, that's  
16 going to be another 2nd Bone Spring well. And we also  
17 provided the future locations that Novo plans to drill  
18 just to show that we are going to develop the entire  
19 resource. That's our plan. We're not going to strand  
20 anything for the 2nd Bone Spring. That's our plan.

21 And we also had to honor the existing 2nd  
22 Bone Spring well that is in this section. Concho  
23 drilled that well back in 2011, and since then, their  
24 interest in the section has diminished just due to  
25 stopping drilling. And so anyway, this is the

1 development plan for the 2nd Bone Spring.

2 On the next page we'll show how Novo plans  
3 to drill all of the other benches, Bone Spring and  
4 Wolfcamp. This is the scheme that Novo's going to use  
5 to make sure that all the acreage is developed in this  
6 area. And we went to great lengths to come with this  
7 plan with the other operators just due to the surface  
8 constraints and us trying to not strand any acreage.

9 **Q. Following the initial filing of Novo's**  
10 **applications, was Novo required by the BLM to revise the**  
11 **names of each of the wells proposed to accommodate the**  
12 **limitations of the BLM's system?**

13 A. Yes.

14 **Q. Revised C-102s have been submitted and filed on**  
15 **the OCD database for each of these cases reflecting the**  
16 **corrected well names in each case; is that right?**

17 A. Yes.

18 **Q. And the revised C-102s are also included in the**  
19 **packets provided today?**

20 A. Yes. They're in Exhibit 1 of each of the  
21 cases.

22 **Q. Is the only difference between the revised**  
23 **C-102s provided in today's packet and notice submitted**  
24 **on July 12th the well name?**

25 A. Yes.

1 Q. Notices of hearing on these applications were  
2 sent not only to parties you seek to pool but also to  
3 offset or affected parties; is that right?

4 A. Yes.

5 Q. Let's turn to Exhibit 6 in these cases. What  
6 is Exhibit 6?

7 A. It's an Affidavit of Notice.

8 Q. Has Exhibit 6, as provided today, been modified  
9 from the Exhibit 6 admitted on July 12th? Has it been  
10 reorganized?

11 A. Yes. It's just been reorganized.

12 Q. Are the return-receipt cards attached to the  
13 affidavit in each of these cases the same as those  
14 tendered on July 12th?

15 A. Yes. No additional cards have been returned.

16 Q. Does Exhibit 6 in each case now, since it's  
17 been reorganized, clearly identify the affected or  
18 offset parties, and are the return-receipt cards  
19 returned for notices to those parties?

20 A. Yes.

21 Q. Does Exhibit 6 in each case identify the pooled  
22 parties and the return-receipt cards for notices to  
23 those parties?

24 A. Yes.

25 Q. Were return-receipt cards returned for all

1 parties to be pooled in Cases 16281, 16282 and 16283?

2 A. Yes.

3 Q. And were return-receipt cards returned for all  
4 unaffected -- all affected or offset parties in 16281 or  
5 162- -- I'm sorry -- 16281, 16282 and 16283?

6 A. Yes.

7 Q. Does Exhibit 6 Cases 16282 and 16283 include  
8 return-receipt cards from COG Operating, LLC reflecting  
9 that COG received notice of Novo's application for the  
10 proposed 3rd Bone Spring wells in Cases 16282 and 12683?

11 A. Yes.

12 Q. Other than COG in Cases 16282 and 16283, are  
13 there any other mineral interest owners to be pooled or  
14 who will be affected by Novo's development proposals as  
15 far as the lands' depth severances?

16 A. No. Novo owns 100 percent of the mineral  
17 interests below the depths owned by Concho in the west  
18 half of the southeast in Section 5.

19 Q. And what are those lands?

20 A. The west half of the southeast -- oh -- yeah.  
21 The west half of the southeast of Section 5 is what  
22 Concho owns, from the surface down to 8,773 feet.

23 Q. And Novo owns 100 percent of the depth below  
24 that; is that right?

25 A. Correct.

1           **Q.    Okay.  Let's look at Exhibit 13.  Would you**  
2 **please describe what is reflected in Exhibit 13?**

3           A.    Yes.  Exhibit 13 is also the same for the other  
4 cases, so you can just look on the first case.

5                         But Exhibit 13 it's just -- it shows what  
6 Concho's ownership was in 2011, whenever they drilled  
7 that Road Lizard 2nd Bone Spring well in Section 5.  And  
8 then it shows what Concho's ownership is today.

9                         Just to provide some history on how  
10 Concho's interest came to be, they originally owned a  
11 term assignment in Section 5 covering the same interests  
12 that Novo now owns today.  And then they also had an  
13 oil-and-gas lease covering Sections 8, 9 and 10 -- part  
14 of 10.  And that's what's shown.  That's what the orange  
15 is on that map on the left side of this exhibit.

16                         And they drilled the Road Lizard well, and  
17 it was the Pugh clause -- the retained-acreage clause in  
18 that term assignment that covers Section 5 said that the  
19 depths below -- 100 feet below the deepest perforation  
20 would terminate if Concho were to stop.  So they didn't  
21 drill any more wells.  The Road Lizard was the only well  
22 they drilled, and so rightfully the depths below 8,773  
23 terminated.  And so today -- today, that's what Concho  
24 owns in Section 5, and that's what's shown on the right  
25 side of this exhibit, the orange boundary.  And Novo

1 owns the rest of the interest in Section 5 except for  
2 the small piece in the southeast-southeast that's owned  
3 by Marathon.

4           And then just proof that 8,773 is the  
5 correct depth -- actually if you flip to the next page,  
6 Concho actually executed a transfer of operating rights.  
7 They reassigned the interest back to now Novo's  
8 predecessor earlier this year. They executed a federal  
9 transfer of operating rights to transfer back the  
10 interest that had Pughed out. And so those  
11 reassignments -- those transfer of operating rights are  
12 attached to this same exhibit.

13           **Q. So just to be clear, all that COG owns in this**  
14 **area is within the spacing unit for the 2nd Bone Spring**  
15 **well from the surface to the 8,773?**

16           A. That's correct.

17           **Q. Okay. Let's turn to Exhibit 14. Would you**  
18 **please describe what is reflected by Exhibit 14?**

19           A. Yes. That is some correspondence between Novo  
20 and COG leading up to the filing of our applications.  
21 This just shows that we were working with COG to  
22 actually get this -- get those transfer of operating  
23 rights executed to cure the title, because Novo acquired  
24 a term assignment from the same company that Concho had  
25 previously acquired it from. So this is just the

1 correspondence that lets -- that lets you know that  
2 Concho and Novo have been talking about not only the  
3 title issue but Novo's plan development. So we've been  
4 talking with them since -- at least this email  
5 correspondence shows back to January.

6 **Q. So in those discussions, you talked about your**  
7 **development plans for the 3rd Bone Spring; is that**  
8 **right?**

9 A. Correct.

10 **Q. Let's look at Exhibit 15. Would you please**  
11 **tell us what is reflected in Exhibit 15?**

12 A. Yes. It's an email from COG acknowledging  
13 notice and the fact that COG does not in any way oppose  
14 Novo's development plans reflected in Cases 16282 and  
15 16283.

16 EXAMINER BROOKS: I'm not sure that it  
17 matters, but there doesn't appear to be an Exhibit 15 in  
18 my notebook.

19 MS. CALLAHAN: Well, here, I'll pull one  
20 out.

21 THE WITNESS: Are you looking in 16282?

22 EXAMINER DAWSON: It's 16282.

23 THE WITNESS: I apologize for that.

24 EXAMINER BROOKS: 16282?

25 THE WITNESS: Correct. We've got it.

1 MS. CALLAHAN: COG isn't involved in the  
2 other acreage in 16281.

3 THE WITNESS: 16282, Exhibit 15.

4 EXAMINER BROOKS: Yeah. I've got that.

5 Q. (BY MS. CALLAHAN) So let's see. After  
6 reorganizing Exhibit 6, was it determined that we did  
7 not receive a return-receipt card for one of the parties  
8 to be pooled in 16285?

9 A. Yes. WPX Energy is the named party to be  
10 pooled in Case 16285, which is the Wolfcamp case, in the  
11 north half of 6 and 5. And we did not receive a  
12 return-receipt card for WPX.

13 Q. So let's look at Exhibit 17, A, B and C.

14 A. And now you need to be in Exhibit -- for 16285,  
15 Exhibit 17.

16 Q. Can you tell us what this is?

17 A. Yes. It's copies of email exchanges that I had  
18 with WPX's landman regarding Novo's Wolfcamp development  
19 in 16285.

20 Q. So it reflects that WPX had actual notice of  
21 Novo's application?

22 A. Yes.

23 Q. Are there continuing negotiations between Novo  
24 and WPX -- for joinder in 16285?

25 A. Yes. We are currently about to close on an

1 acreage trade regarding their interest.

2 Q. Okay. Let's turn to Exhibits 8, 9 and 10,  
3 please, in all five cases. What are Exhibits 8, 9 and  
4 10 in each of these cases?

5 A. Exhibits 8, 9 and 10 are a structure map, an  
6 isochore and a cross section for the respective wells  
7 for each case, and these were submitted on July 12th.

8 Q. Have these been revised in any way?

9 A. Yes, but only to add a text box to identify the  
10 respective well name and target for the proposed well in  
11 each case for just ease of reference.

12 Q. And this was done to respond to what you  
13 understood as a request made by the examiner at the July  
14 12th hearing; is that right?

15 A. Yes.

16 Q. Let's now look into the details of your  
17 proposals for the Bone Spring wells which are reflected  
18 in Case Numbers 16281, 16282 and 16283. Briefly, what  
19 does Novo request in Case 16281?

20 A. Novo requests pooling of all uncommitted  
21 mineral interests underlying the north half-north half  
22 of Section 6 and Lots 2 through 4 of Section 5 within  
23 the Bone Spring Formation, with the initial well  
24 proposed to be drilled in the 2nd Bone Spring.

25 Q. And, again, just to be sure we're all on the

1 same page, Lot 1 was not included in what is represented  
2 today because it's included in another case that's going  
3 to be presented later?

4 A. Correct, Case 16284.

5 Q. Okay. What does Novo request in Case 16282?

6 A. Novo requests approval of a nonstandard spacing  
7 and proration unit and the pooling of all uncommitted  
8 mineral interests underlying the south half-south half  
9 of Sections 4 and 5 but only as to the 3rd Bone Spring  
10 interval of the Bone Spring Formation.

11 Q. And what does Novo request in Case 16283?

12 A. Novo requests approval of a nonstandard spacing  
13 and proration unit and the pooling of all uncommitted  
14 mineral interests underlying the north half-south half  
15 of Sections 4 and 5 but only as to the 3rd Bone Spring  
16 interval of the Bone Spring Formation.

17 Q. In Cases 16282 and 16283, why is Novo seeking  
18 to pool only the uncommitted mineral interests in the  
19 3rd Bone Spring rather than the entire Bone Spring  
20 Formation?

21 A. The mineral ownership in the west half-  
22 southeast of Section 5, Concho's depth-severed interest,  
23 it's severed. The west half of the southeast of Section  
24 5 is severed.

25 Q. Let's look again at Exhibit 12 for reference.

1           A.     Okay.  Again, Exhibit 12 is the same for all.

2           **Q.     As a result of the reassignment by COG, COG's**  
3 **mineral ownership is limited, as we have said before, to**  
4 **the surface -- from the surface to 8,773 feet?**

5           A.     Yes.

6                     Actually, it might be better to look at  
7 Exhibit 13.

8           **Q.     Okay.**

9           A.     13 is a better -- will better show that.  
10 Apologies.

11                     So as a result of, yeah, the reassignment  
12 by Concho in January of 2018, COG's mineral ownership in  
13 the west half-southeast of Section 5 is defined as from  
14 the surface to 8,773.  Novo owns 100 percent of the  
15 minerals underlying the west half of the southeast of  
16 Section 5 below those depths.

17           **Q.     So in light of the depth-severance issue, how**  
18 **does Novo propose to define the pool of nonstandard unit**  
19 **encompassing only the 3rd Bone Spring?**

20           A.     Novo proposes to define the proposed pool  
21 nonstandard unit as encompassing all depths below 8,773  
22 feet subsurface to the base of the 3rd Bone Spring.

23           **Q.     And if the Division grants Novo's application**  
24 **and determines it's preferable to pool the entire Bone**  
25 **Spring Formation in each of these two cases and include**

1 language addressing the depth-severance issue, might  
2 that also be acceptable to Novo?

3 A. Yes.

4 Q. Let's look at Exhibit 16 found in Case 16282.

5 A. Okay.

6 EXAMINER BROOKS: I'm sorry. What exhibit  
7 was that?

8 MS. CALLAHAN: 16.

9 EXAMINER BROOKS: For what case?

10 MS. CALLAHAN: 16282.

11 EXAMINER BROOKS: Thank you.

12 Q. (BY MS. CALLAHAN) What does this exhibit show?

13 A. This exhibit shows by tract each of the tracts  
14 that are within the spacing unit for Novo's proposed 3rd  
15 Bone Spring well. It shows here that the interest  
16 owners are going to be Novo and Marathon. And we just  
17 wanted to highlight the fact that COG Operating, LLC  
18 will not own an interest, so we showed side by side.  
19 And we wanted to show surface to 8,773, what the  
20 ownership is, and why it is below 8,773. And the 3rd  
21 Bone Spring is located below 8,773.

22 Q. Okay. Let's look at Exhibit 16 in 16283.  
23 Would you expand on that, please?

24 A. Yes. This is a similar exhibit showing by  
25 tract who owns inside the spacing unit for Novo's

1 proposed 3rd Bone Spring well for this case, 16283, and  
2 we just wanted to highlight that COG Operating, LLC will  
3 not own an interest. The interest owners in this well  
4 will be Novo, EOG Y Resources, EOG A Resources, EOG M  
5 Resources, as in Mary, and OXY-Y1 Company and XTO  
6 Energy.

7 Q. Have any of the mineral interest owners to be  
8 pooled in Cases 16282 and 16283 voiced any opposition to  
9 Novo's proposal to limit the pooled interval to the 3rd  
10 Bone Spring?

11 A. No.

12 Q. And the 2nd Bone Spring underlying the  
13 northwest-southeast of Section 5 has already been  
14 developed by COG, correct?

15 A. Yes.

16 Q. And as we've seen in Exhibit 15, COG also has  
17 no opposition to Novo's proposal to limit the pooled  
18 interval to the 3rd Bone Spring, correct?

19 A. Correct.

20 Q. Let's now refer to Exhibit 18 found in Case  
21 Numbers 16282, 16283 and 16286. Would you please  
22 discuss this exhibit for us?

23 A. Yes. It's the same exhibit for all three of  
24 those. You just want to find one.

25 EXAMINER BROOKS: What exhibit number,

1 please?

2 MS. CALLAHAN: 18. And it's 16282, 283,  
3 and 286.

4 EXAMINER BROOKS: 286.

5 MS. CALLAHAN: Yes.

6 THE WITNESS: They're identical.

7 EXAMINER BROOKS: Okay. Go ahead.

8 THE WITNESS: Exhibit 18 shows that Novo  
9 proposed a development area to the BLM. Because this is  
10 within the potash, it's subject to the 2012 Secretary's  
11 potash order. Novo was required to first establish  
12 drill islands and then subsequently establish  
13 development areas. And Novo proposed a development area  
14 for the south half of Section 4 and the south half of  
15 Section 5 for two-mile development. That development  
16 area proposal is attached in this exhibit, but the front  
17 page is really the most important part of this exhibit.  
18 It's an email from the BLM saying that Novo's  
19 development area was approved on July 26th, and so now  
20 the BLM has blessed this two-mile development.

21 Q. (BY MS. CALLAHAN) In your opinion, would  
22 Division approval of Novo's applications in Cases 16282  
23 and 16283 be consistent with the Commission's Order  
24 Number R-14023-A where the Commission granted COG's  
25 application to pool a fraction of the pool?

1           A.    Yes.

2           **Q.    If the applications in 16282 and 16283 are**  
3 **denied as a result of a depth-severance issue, is there**  
4 **any other means of developing the 3rd Bone Spring**  
5 **underlying the west half-southeast of Section 5?**

6           A.    No.  And the best way to describe that is just  
7 another peek back to Exhibit 12, which is identical to  
8 all the cases again.  So just to look at even just the  
9 first page, there's really no other way to be able to  
10 access this acreage.  We've gone out to this site twice  
11 with the BLM and had on-sites.  We've tried to work them  
12 to find alternative locations to develop this acreage,  
13 and this is the absolute best that we could find.  So in  
14 short, it's -- I'm afraid that if we're not granted  
15 this, then it might cause some acreage to be stranded.

16          **Q.    And that would result in waste; would it not?**

17          A.    Yes.

18          **Q.    And a substantial economic loss to Novo of the**  
19 **value of the reserves to be found in those 80 acres?**

20          A.    Yes.

21          **Q.    Mr. Patrick, in your opinion, is the granting**  
22 **of these applications in the best interest of**  
23 **conservation, the prevention of waste and the protection**  
24 **of correlative rights?**

25          A.    Yes.

1           **Q.    Were the revised Exhibits 1, 6 and 8 in each of**  
2 **the cases, 16281, 16282, 16283, 16285 and 16286,**  
3 **prepared by you, under your supervision or compiled from**  
4 **company business records?**

5           A.    Yes.

6                       MS. CALLAHAN: We tender Exhibits 1, 6 and  
7 8 for inclusion in the record.

8                       EXAMINER DAWSON: Any objections?

9                       Exhibits 1, 6 and 8 will be admitted to the  
10 record at this time.

11                      (Novo Oil & Gas, LLC Revised Exhibit  
12 Numbers 1, 6 and 8 are offered and admitted  
13 into evidence.)

14           **Q.    (BY MS. CALLAHAN) Were supplemental Exhibits 12**  
15 **through 19 prepared by you, under your supervision and**  
16 **compiled from company business records?**

17           A.    Yes.

18                      MS. CALLAHAN: We tender supplemental  
19 Exhibits 12 through 19 for inclusion in the record.

20                      EXAMINER DAWSON: Any objections?

21                      Exhibits 12 through 19 will be admitted to  
22 the record at this time.

23                      (Novo Oil & Gas, LLC Supplemental Exhibit  
24 Numbers 12 through 19 are offered and  
25 admitted into evidence.)

1 MS. CALLAHAN: Thank you.

2 EXAMINER DAWSON: Thank you.

3 Questions, Leonard?

4 EXAMINER LOWE: No, not at this time.

5 EXAMINER DAWSON: David?

6 CROSS-EXAMINATION

7 BY EXAMINER BROOKS:

8 Q. Let me get straight what you want to do on this  
9 depth severance. This applies only to a part of the  
10 units you're forming?

11 A. Yes.

12 Q. And what is the surface acreage that is going  
13 to -- not the number of acres, but what is the surface  
14 area that's going to be in the depth severance?

15 A. With the west half of the southeast of Section  
16 5, so it would be 80 acres.

17 Q. So it would be Section 5, and it would be the  
18 west half of the southeast quarter?

19 A. Correct. And maybe the best spot to look at  
20 that is on Exhibit 13.

21 Q. 13.

22 A. And that can be found on the first, 16281.

23 Q. Okay. Exhibit 13.

24 Well, I can't find the section line 5 on  
25 Exhibit 13, on the first page. Is there another page

1     **that shows it?**

2           A.    On the plat to the right on Exhibit 13 --

3           **Q.    Yeah.**

4           A.    -- Section 5 is the yellow section.

5           **Q.    Section 5 is all of the yellow?**

6           A.    Yes.  And Concho owns the orange boundary.

7           **Q.    Okay.**

8           A.    And it's limited -- that's the spacing unit for  
9     their Road Lizard well that they drilled.  So they own  
10    that orange boundary from surface down to 8,773 feet.

11          **Q.    Well, it looks like on this map, it's the west**  
12   **half of the southeast quarter and the west half of the**  
13   **southeast quarter of the northeast quarter; is that**  
14   **right?**

15          A.    That's correct.

16          **Q.    Okay.  So it's not 80 acres.  It's 120 acres.**

17          A.    They do own that in Section 5 as to these  
18    applications, for 16282 and 16283, those two  
19    applications only, collectively.

20          **Q.    So those applications don't include the south**  
21   **half?**

22          A.    They do include the south half.  They do not  
23    include the southeast quarter -- sorry -- the southwest  
24    quarter of the northeast quarter.

25          **Q.    But they only include the south half?  They**

1 don't include the north half?

2 A. Correct. Correct.

3 Q. So the spacing unit you're seeking to -- now,  
4 what case is that in which you're seeking the depth  
5 severance?

6 A. 16282 and 16283.

7 Q. Okay. In 16282 and 16283 -- 16282 is the south  
8 half-south half, and 16283 is the north half-south half.

9 A. Correct.

10 Q. So in these two, there's a depth severance.

11 Any depth severances in any of the others,  
12 or these are the only two with the depth severance?

13 A. Those are the only two with the depth  
14 severance.

15 Q. In the south half of the -- in the -- no, wait.  
16 What we should say is it's in the west half of south  
17 half of Section 5, right?

18 A. The west half of the southeast quarter of  
19 Section 5 would be --

20 Q. West half of the southeast quarter of Section  
21 5.

22 A. Yes.

23 Q. Thank you. I think that's all about the depth  
24 severance.

25 And the only depth severance is Concho's

1 interest?

2 A. Correct.

3 Q. I don't recall anything being said about  
4 overrides, notice to overrides in this case.

5 A. In the first hearing, we did address that. I  
6 believe you asked a question about that.

7 Q. I usually do.

8 A. (Indicating.)

9 Q. Thank you. I think that's all my questions.

10 CROSS-EXAMINATION

11 BY EXAMINER DAWSON:

12 Q. So everyone in the mineral estate was notified?

13 A. Correct.

14 EXAMINER BROOKS: Well, everyone -- I would  
15 assume that -- yeah.

16 Q. (BY EXAMINER DAWSON) In all cases?

17 A. Yes.

18 EXAMINER BROOKS: I'll accept that.

19 Q. (BY EXAMINER DAWSON) The other question I had,  
20 according to Exhibit 18 -- I'm just looking at Exhibit  
21 18, Case Number 16282.

22 A. Uh-huh.

23 Q. The Rana Salada 3 Development Area was approved  
24 July 26th, 2018, and it's supposed to expire on the 25th  
25 of August 2018; is that correct?

1           A.    No.  We submitted multiple development areas,  
2    so there are actually three development areas that we  
3    have proposed -- or possibly four, actually.  But this  
4    one that's covering the south half of 5 and the south  
5    half of 4 that's related to Cases 16282 and 16283, that  
6    has been approved, and it is not going to expire.

7           **Q.    All right.  I just wanted to clarify that.**

8                         **In the northeast-northeast of Section 5,**  
9    **who was notified for that -- in that tract?**

10          A.    So Novo owns 100 percent all depths of that  
11    tract, and so Novo didn't have to submit anything to  
12    anybody.

13          **Q.    They're the lessee?**

14          A.    We own a term assignment.  Yes.

15          **Q.    And all the 102s are -- the updated 102s, you**  
16    **said, are in the case file?**

17          A.    Yes.

18          **Q.    All right.  That's all the questions I have.**  
19    **Thank you very much.**

20                         EXAMINER DAWSON:  You may call your second  
21    witness.

22                         MS. CALLAHAN:  Thank you.

23   TIM FAHLER,

24           after having been previously sworn under oath, was  
25           questioned and testified as follows:

DIRECT EXAMINATION

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BY MS. CALLAHAN:

**Q. Would you please state your name for the record?**

A. Tim Fahler.

**Q. And by whom are you employed and in what capacity?**

A. Novo Oil & Gas, managing partner, CEO and engineer.

**Q. And how long have you been employed by Novo?**

A. Since the company was formed in August of 2016.

**Q. Have you previously testified before the Division?**

A. No, I have not.

**Q. Would you please outline your educational background?**

A. I graduated from Purdue University in 2002 with a Bachelor of Science in Chemical Engineering.

**Q. And would you outline your professional background?**

A. I worked for Exxon Mobil as an engineer from 2002 until 2008. Moved to Oklahoma City to work for SandRidge in 2008 until 2011. 2011 to 2013, I worked for Devon Energy, and in 2013 to 2016, I worked for Payrock Energy. And now I'm employed with Novo Oil &

1 Gas.

2 Q. Does your area of responsibility at Novo  
3 include the Permian Basin of New Mexico?

4 A. Yes.

5 Q. And have you had experience in the Permian  
6 Basin --

7 A. Yes, I have.

8 Q. -- as an engineer?

9 Are you familiar with the applications that  
10 have been filed by Novo in these cases?

11 A. Yes, I am.

12 MS. CALLAHAN: Mr. Examiner, I tender the  
13 witness, Mr. Tim Fahler, as an expert petroleum  
14 engineer.

15 EXAMINER DAWSON: Any objections?

16 He will be admitted as an expert petroleum  
17 engineer at this time.

18 Q. (BY MS. CALLAHAN) Would you please describe  
19 Exhibit 19, which is found in Cases 16282 and 16283?

20 A. Yes. They are identical exhibits in both  
21 cases. The exhibit is a well log. It's actually one of  
22 three logs taken from the cross section submitted  
23 previously in Exhibit 10, the Carthel Federal 2 in the  
24 northeast quarter of Section 5. This log is zoomed in  
25 to the Bone Spring Formation, 1st, 2nd and 3rd. The

1 tops are the same as what were submitted previously in  
2 the cross section.

3                   On this particular log, as we've zoomed in,  
4 we've also tried to illustrate material facts. The Road  
5 Lizard depths where it is landed is represented by a  
6 dashed line. That's about -- approximately 8,673 feet  
7 true vertical depth. Deeper in the log at approximately  
8 9,750 feet true vertical depth are Novo's proposed  
9 targets for our 3rd Bone Spring wells.

10                   We've also highlighted what we see as two  
11 very significant barriers preventing any interference  
12 from our proposed wells to the Road Lizard well. Those  
13 are the 260-foot box and 340-foot box, which are  
14 representative from the logs of massive carbonates that  
15 we believe will not allow a frac to grow beyond them  
16 into the Road Lizard.

17           **Q. Is this log representative of the Bone Spring**  
18 **Formation underlying the lands included in Novo's cases**  
19 **16281, 16282 and 16283?**

20           A. It is.

21           **Q. What is the approximate depth of the target**  
22 **that Novo will propose for the completion in the 3rd**  
23 **Bone Spring?**

24           A. 9,750 feet.

25           **Q. And what is the depth of the 2nd Bone Spring**

1 target in COG's completed Road Lizard?

2 A. 8,673 feet.

3 Q. How many vertical feet separate the target  
4 depth in COG's 2nd Bone Spring well and Novo's proposed  
5 3rd Bone Spring well?

6 A. Nearly 1,100 feet.

7 Q. In your opinion, given simply the 1,100 feet of  
8 vertical separation between COG's Road Lizard Fed 2H  
9 well and the target of Novo's proposed 3rd Bone Spring  
10 well, would Novo's drilling and completions operations  
11 in the 3rd Bone Spring Formation impact or affect in any  
12 way the 2nd Bone Spring Formation or production from  
13 COG's 2nd Bone Spring well?

14 A. No, it will not.

15 Q. In your opinion, is the granting of these  
16 applications in the best interest of conservation, the  
17 prevention of waste and the protection of correlative  
18 rights?

19 A. Yes.

20 Q. Was Exhibit 19 prepared by you or compiled  
21 under your direction and supervision?

22 A. Yes.

23 MS. CALLAHAN: Mr. Examiner, I move to  
24 admit Exhibit 19 in Cases 16282 and 16283.

25 EXAMINER DAWSON: Any objections?

1                   Exhibit 19, in Cases 16282 and 16283, will  
2 be admitted at this time.

3                   (Novo Oil & Gas, LLC Exhibit Number 19 in  
4 Cases 16282 and 16283 are offered and  
5 admitted into evidence.)

6 MS. CALLAHAN: I have no further questions.

7 EXAMINER DAWSON: Leonard, do you have any  
8 questions?

9 EXAMINER LOWE: No. I've got it. Thank  
10 you.

11 EXAMINER DAWSON: David?

12 EXAMINER BROOKS: No questions.

13 CROSS-EXAMINATION

14 BY EXAMINER DAWSON:

15           **Q. The only question I have is: Will your**  
16 **proposed target in the 3rd Bone Spring -- will it affect**  
17 **any of the ownership in the Wolfcamp?**

18           A. Will it affect any of the ownership of the  
19 Wolfcamp? No. If we sequence correctly, which is our  
20 intention, we don't believe it will.

21           **Q. Okay. That's all the questions I have. Thank**  
22 **you.**

23 MS. CALLAHAN: That concludes our case. We  
24 ask that you take all of these cases under advisement.

25 EXAMINER DAWSON: Okay. So at this time --

1 EXAMINER BROOKS: The other people --

2 EXAMINER DAWSON: No other appearances?

3 Okay. So at this time, 16281, 16282,  
4 16283, 16285 and 16286 will be taken under advisement.

5 That concludes these cases. Thank you very  
6 much.

7 We'll take a ten-minute break at this point  
8 and come back at ten until 10:00. Thank you.

9 (Case Numbers 16281, 16282, 16283, 16285  
10 and 16286 conclude, 9:49 a.m.)

11 (Recess, 9:49 a.m. to 10:07 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

13 I FURTHER CERTIFY that the Reporter's  
14 Record of the proceedings truly and accurately reflects  
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither  
17 employed by nor related to any of the parties or  
18 attorneys in this case and that I have no interest in  
19 the final disposition of this case.

20 DATED THIS 16th day of August 2018.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2018  
Paul Baca Professional Court Reporters

25