

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: 20865, 20866

Application of Marathon Oil Permian LLC
for Compulsory Pooling,
Eddy County, New Mexico.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING, VOLUME 1

November 14, 2019

SANTA FE, NEW MEXICO

This matter came on for hearing before the New Mexico Oil Conservation Division, EXAMINERS LEONARD LOWE, KATHLEEN MURPHY, PHILLIP GOETZE, DYLAN COSS and LEGAL EXAMINER ERIC AMES, on Thursday, November 14, 2019, 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 HEARING EXAMINER LOWE: We will call Case Number
2 20865 and 20866.

3 MS. BENNETT: Our witnesses are actually out in
4 the hallway. Do you mind if we step out and grab them?

5 HEARING EXAMINER LOWE: Sure.

6 MS. BENNETT: So a point of clarification, are we
7 going to go ahead and get started with them now and continue
8 with them in the morning if we don't finish, or should we
9 start tomorrow fresh? Just curious.

10 HEARING EXAMINER LOWE: You have two witnesses?

11 MS. BENNETT: I have three witnesses. I
12 understand Mr. Larson has --

13 MR. LARSON: I have two witnesses.

14 HEARING EXAMINER LOWE: Oh, okay.

15 MR. AMES: We have an hour, at least an hour.
16 Why don't we see where we are in an hour, and perhaps you
17 will be far enough long to complete your part of the case,
18 and we can go from there. Maybe you will be in the middle
19 of your witnesses, but why don't we take advantage of the
20 time we have.

21 MS. BENNETT: Great. I will be right back then.

22 (Pause to gather witnesses.)

23 HEARING EXAMINER LOWE: Call for appearances.

24 MS. BENNETT: Good afternoon. My name is Deana
25 Bennett, and I represent Marathon Oil Permian LLC. And also

1 with me today is Jennifer Bradfute, senior attorney at
2 Marathon Oil Permian LLC, and she is -- we entered her
3 appearance yesterday, and she'll be sitting with me at
4 counsel table.

5 MR. LARSON: Gary Larson and Dana Hardy of the
6 Santa Fe office of Hinkle Shanor for BTA Oil Producers, and
7 we have two witnesses.

8 MR. FELDEWERT: Mr. Examiner, Michael Feldewert
9 of the Santa Fe office of Holland & Hart appearing on behalf
10 of Oxy USA Inc. In reviewing the records, it appears I
11 should also be appearing for Oxy-Y-1 Company, which is the
12 interest owner in this acreage. I have no witnesses.

13 HEARING EXAMINER LOWE: Okay. Would all the
14 witnesses please stand and be sworn.

15 (Oath administered to all witnesses.)

16 MS. BENNETT: We would like both parties to
17 exchange exhibits and that way one party doesn't have the
18 exhibits overnight and the other party has nothing, kind of
19 like pre-discovery, if one party gets the exhibits tonight
20 and the other party not having the --

21 MR. LARSON: This is the problem with starting
22 and finishing part way through, or stopping part way
23 through.

24 MR. AMES: Is there an objection to providing
25 your exhibits now?

1 MR. LARSON: Without the testimony, yes.

2 MS. BRADFUTE: Maybe we give our exhibits that we
3 are looking at to Gary as we use them, and that way it's
4 equal and fair for both parties.

5 MR. AMES: You can proceed that way if you would
6 like.

7 MR. LARSON: I'm sorry, I didn't catch that.

8 MS. BRADFUTE: We'll hand you the exhibits as
9 they come in.

10 MR. LARSON: Fair enough.

11 HEARING EXAMINER LOWE: You may proceed.

12 MS. BENNETT: Thank you.

13 Before we call our first witness, I did want to
14 just make a brief opening statement about why we are here
15 today and to lay some foundation for the Examiner, given the
16 contested nature of -- contested nature of this case.

17 So we are here today -- we are here today,
18 actually, on Marathon's application for compulsory pooling.
19 Marathon filed applications to compulsory pool certain
20 working interest owners in both the N/2 and the S/2 of the
21 sections that we are talking about, Section 7 and Section
22 12. And we heard the S/2 cases this morning, as you may
23 recall. Those cases were uncontested.

24 So Marathon is proposing a comprehensive
25 development plan that will cover -- that has four different

1 spacing units. There is Bone Spring wells, there's Upper
2 and Lower Wolfcamp wells. Altogether, when you look at the
3 entire view of what Marathon is preparing wholistically,
4 it's 1280 acres. It's the whole section of Section 7 and
5 the whole section of Section 12. So it's a large,
6 comprehensive development plan targeting three different
7 formations.

8 The why of the why we are here today is because
9 BTA entered it's appearance in these two cases specifically
10 that we are discussing now and submitted a prehearing
11 statement.

12 And in the prehearing statement BTA stated that
13 it had an old -- an existing JOA, and that the existing JOA
14 appears to cover some of the same lands that are at issue in
15 Marathon's pooling application. It's a much smaller
16 footprint than what Marathon is proposing in its compulsory
17 pooling application. Marathon's proposal, as I mentioned,
18 wholistically is 1280 acres. BTA's, the contract area for
19 the JOA is around 480 acres.

20 The JOA -- so BTA's opposition to this case, as
21 I understand it from the prehearing statement, and we might
22 hear more about that today, is based on the existence of the
23 JOA.

24 The JOA does not control the Division
25 determination about whether to issue Marathon a pooling

1 order. The JOA is, in fact, irrelevant. It's not an
2 impediment to the proceedings today. It's not an impediment
3 to an order issued by the Division pooling the interest that
4 Marathon seeks to pool in the spacing units in the N/2.

5 The Division, as you are all aware, is required
6 to prevent waste and protect correlative rights under the
7 Oil and Gas Act. Marathon's proposal does just that.
8 Marathon's proposal, as we'll set forth with our witnesses,
9 is designed to prevent waste.

10 As I mentioned, Marathon's proposal is targeting
11 three formations, one Bone Spring formation, Upper Wolfcamp
12 and Lower Wolfcamp. Whereas, BTA's proposal, to the extent
13 we have seen it, appears to be targeting a single formation,
14 the Lower Wolfcamp.

15 Marathon is also proposing 2 mile laterals, which
16 are more efficient and the Division recognized that in prior
17 cases. BTA is proposing, again, based on our limited
18 knowledge of what we have seen, 1.5 mile laterals.

19 So the 2 mile lateral is more efficient, will
20 leave fewer surface impacts, and overall will eliminate
21 waste because there will be fewer -- there will be fewer
22 stranded acres due to fewer setbacks.

23 The Division is also required to protect
24 correlative rights, and Marathon's proposal does that. The
25 uncommitted -- BTA's uncommitted interest in the proposed

1 spacing units that Marathon is proposing will be protected
2 by virtue of being a pooled party or signing a JOA where BTA
3 isn't desirous of doing that.

4 So there is no impact on BTA's correlative
5 rights. In fact, as we will show, there may be a benefit to
6 BTA's correlative rights because we don't have to worry
7 about the setbacks that would be stranded under BTA's
8 proposal.

9 And one thing that I think is interesting here is
10 you keep hearing me say, "Well, it's appears this way," or
11 "Based on the limited information we have before us," that's
12 because BTA doesn't have competing pooling applications
13 before the Division. That's why this isn't truly a
14 competing proposal case. We are really here on Marathon's
15 compulsory pooling application.

16 BTA hasn't provided, hasn't submitted a
17 compulsory pooling application. There is no application for
18 the Division to review and weigh against Marathon's
19 proposal.

20 The other thing I wanted to point out, and I
21 alluded to this moments ago, is that, under Division
22 precedence, there is no impediment to approving a compulsory
23 pooling order even when there is an existing JOA. So there
24 is a Division case, Case Number 15433, which is Order Number
25 14140, and that case, in my mind, is directly on point. In

1 that case, that order was issued just in March 2016.

2 That was a case between Matador and Nearburg.
3 Matador brought a compulsory pooling application to the
4 Division. Nearburg opposed because it had an existing JOA.
5 Nearburg then sought to dismiss Matador's pooling
6 applications arguing that there was already an existing JOA.
7 And the Division rejected Nearburg's argument and named
8 Matador as the operator.

9 Like here, Matador proposed to drill a horizontal
10 well that would be completed both within and without, so it
11 would include acreage that was subject to the JOA and
12 acreage not subject to the JOA. And that's what Matador
13 proposed in that case, and the Division named Matador the
14 operator of those horizontal spacing units. That's what we
15 have here.

16 Marathon is proposing horizontal wells that
17 traverse acreage that's larger than the JOA contract area
18 and that will produce -- will produce from acreage both
19 within and without the contract area.

20 And the Division found in that case as well that
21 the Matador proposal would prevent waste and protect
22 correlative rights. The same is true here.

23 As I mentioned earlier, here, if we just try to
24 compare apples to apple, it's a bit difficult under the
25 situation. Marathon's Wolfcamp N/2 proposal is 640 acres

1 for a horizontal spacing unit. Matador's Wolfcamp
2 horizontal -- or the contract area, excuse me, is 480 acres.
3 So just by virtue of the amount of acreage alone, Marathon
4 will be pooling a larger -- larger amount of acreage and
5 will have higher productivity from those acres.

6 In other cases the Division has also acknowledged
7 the benefit of 2 mile laterals. I'm thinking about in
8 particular this Case Number -- well, the order number is
9 20233, and, granted, that case was distinguishing between 2
10 mile and 1 mile laterals, but by analogy, the same would
11 apply to 2 mile versus 1.5 mile laterals. And the Division
12 found that longer laterals are generally more effective
13 because the increased length can have a production and
14 economic advantage and thereby prevent waste, and here again
15 Marathon is proposing 2 miles versus BTA's 1.5 mile
16 laterals.

17 The Division also noted that there will be fewer
18 surface impacts that includes overburden, pumping equipment,
19 power lines, pipeline hookups, and that's in the abstract,
20 but that's sort of what the Division has already noted, that
21 there are benefits to longer laterals.

22 What our witnesses will demonstrate through their
23 testimony today is that Marathon's proposals are efficient.
24 Marathon is a prudent operator. Marathon has developed
25 development plans that are designed to prevent waste and

1 protect correlative rights.

2 And, simply put, BTA's JOA is irrelevant under
3 the Division's precedent and is not an impediment to the
4 Division granting Marathon's application naming Marathon as
5 the operator.

6 Marathon respectfully requests that the Division
7 should deny or reject any of BTA's concerns and grant
8 Marathon's pooling application and name Marathon the
9 operator.

10 And with that, I will call my first witness.

11 MR. LARSON: I would like a chance to respond
12 briefly. I would also like to reserve the opportunity for a
13 closing statement.

14 HEARING EXAMINER LOWE: We will give you a chance
15 to respond after they present their case.

16 MR. LARSON: Understood.

17 MS. BENNETT: Thank you. And just to clarify, at
18 the end of the hearing, I imagine we will both have a chance
19 to provide a closing statement if necessary.

20 MR. AMES: There's quite a lot of legal argument,
21 Counsel. I was not anticipating that opening statement in
22 that form. We might actually want to ask the parties to
23 provide findings of fact, conclusions of law and legal
24 argument when this is all done depending on what Mr. Larson
25 has to say.

1 I think we should proceed with witnesses now.

2 MS. BENNETT: Thank you.

3 At this time I would like to call my first
4 witness, Mr. Chase Rice.

5 CHASE RICE

6 (Sworn, testified as follows:)

7 DIRECT EXAMINATION

8 BY MS. BENNETT:

9 Q. Mr. Rice, will you please state your name for the
10 record?

11 A. Chase Rice.

12 Q. And who do you work for and in what capacity?

13 A. Marathon Oil Permian as a landman.

14 Q. How long have you worked for Marathon as a
15 landman?

16 A. Approximately seven years.

17 Q. Have you previously testified before the
18 Division?

19 A. I have.

20 Q. Were your -- have you been qualified as an expert
21 in land matters before the Division?

22 A. Yes.

23 Q. So your credentials were accepted as a matter of
24 record?

25 A. Yes.

1 Q. Does your area of responsibility at Marathon
2 include the areas of Eddy County in New Mexico?

3 A. Yes.

4 Q. Are you familiar with the applications that
5 Marathon filed in these two matters?

6 A. Yes.

7 Q. Are you familiar with the status of the lands
8 that are the subject of these applications?

9 A. Yes.

10 MS. BENNETT: With that, I would like to tender
11 Mr. Rice as an expert in land matters.

12 HEARING EXAMINER LOWE: Mr. Rice is so
13 qualified -- any objection?

14 MR. LARSON: No objection.

15 MS. BENNETT: Thank you.

16 BY MS. BENNETT:

17 Q. Before we get started today -- and I think I
18 might have stolen some of your thunder, but if you would
19 like to just briefly reiterate why we are here today.

20 A. Marathon is seeking to compulsory pool certain
21 working interest owners in two horizontal spacing units,
22 Cases Number 20885 and 20886.

23 Q. Let's take a look at Exhibit 1. Is Exhibit 1 a
24 gun barrel view of the proposed wells that Marathon is
25 proposing in these applications?

1 A. Yes, correct.

2 Q. Is it limited to just those, just the
3 applications of the wells that are the subject of these two
4 applications, or does it show all of the wells that Marathon
5 is proposing for the whole --

6 A. It shows all of Marathon's wells we are proposing
7 for the full 1280 development area. And it shows some
8 existing wells, and it shows that we've marked BTA's
9 development plans for their JOA area, contract area.

10 Q. Thank you. So when I look at this I see some
11 Marathon development box, and then the BTA development box;
12 is that right?

13 A. Yes.

14 Q. And then what I understood you to say is that the
15 Marathon development -- which MRO stands for Marathon --
16 that includes all of the wells that are the subject of the
17 N/2 and the S/2 applications?

18 A. Correct.

19 Q. And then there's some, green and red and gray
20 areas around those Marathon wells. What does that denote?

21 A. This will be a phased development approach. Our
22 first phase will target the Upper Wolfcamp portion of the
23 Wolfcamp Purple Sage formation. Phase 2 will be targeting
24 the Lower Wolfcamp, and Phase 3 will target the Bone Spring
25 formation.

1 Q. One thing that kind of threw me for a loop on
2 this exhibit is the red dot that says, "Existing, WPX's
3 Longview." Can you explain what that is?

4 A. WX has four horizontal wells that go in a
5 north-south direction with surface locations on the N/2 N/2
6 of Section 12 of 23, 28. And from our understanding, it
7 looks like those horizontal portions penetrated the N/2 N/2.

8 So for right now, until we get a better
9 understanding for anti-collision issues, that we are not
10 planning a Second Bone Springs well that may intersect those
11 wells at this time.

12 Q. And so you, just a moment ago, said that WPX's
13 Longview are north-south orientation. And is Marathon
14 proposing north-south or east-west?

15 A. East-west.

16 Q. Thank you. So when I look at this, there's
17 approximately 15 wells that Marathon is proposing in both
18 cases that are in four cases. Is that about right?

19 A. Yes.

20 Q. When did Marathon propose these wells?

21 A. In July of 2019.

22 Q. And although, again, just to be clear, although
23 this gun barrel view does show the S/2 and the N/2, the only
24 wells we are talking about right now are the N/2 wells?

25 A. Correct.

1 Q. But the N/2 is part of a comprehensive
2 development that includes the S/2?

3 A. Yes.

4 Q. When did you first learn that, formally, that BTA
5 was opposing these two cases?

6 A. On Thursday, last Thursday. A week ago from
7 today.

8 Q. And that was when I e-mailed or called you and
9 let you know that BTA had filed a prehearing statement?

10 A. Correct.

11 Q. Did Marathon offer to continue these two cases to
12 allow the parties to continue negotiations?

13 A. We did.

14 Q. And what were the results of that offer?

15 A. BTA did not want to continue these cases.

16 Q. Before we move on to the next exhibit that we
17 have in your packet, do you have anything else to add about
18 why we are here today?

19 A. No.

20 Q. Okay. Are there other companies that have
21 indicated support for Marathon's proposal?

22 A. Yes. There are two other companies that have
23 working interest in our development area, Chevron and Oxy.

24 Q. And if we turn to Exhibit 2, is Exhibit 2 a
25 letter from Chevron?

1 MR. AMES: Ms. Bennett, do you intend to move
2 Exhibit 1?

3 MS. BENNETT: I thought I would move them all --
4 maybe I will move the exhibits that we get through at the
5 end of his testimony, or I can move it as we go. It's the
6 Division's preference.

7 MR. AMES: I think I would prefer to hear them
8 moved now so we can deal with any objections in a timely
9 manner.

10 MS. BENNETT: That makes sense to me. At this
11 time I would like to move the admission of Exhibit 1.

12 MR. LARSON: No objection.

13 HEARING EXAMINER LOWE: Exhibit 1 will be
14 accepted for the case.

15 MS. BENNETT: Thank you.

16 (Exhibit 1 admitted.)

17 MS. BENNETT: And just so I'm clear, these
18 exhibits pertain to both cases, so I will be asking for a
19 standing request that they be admitted in both cases, 20885
20 and 20886 -- or 20865 and 20866.

21 HEARING EXAMINER LOWE: They will be accepted for
22 20885 and 20886.

23 MS. BENNETT: Thank you.

24 BY MS. BENNETT:

25 Q. So moving on to Exhibit 2 then, is Exhibit 2 a

1 support letter that you received from Chevron?

2 A. Yes.

3 Q. And have you had a chance to review this letter?

4 A. We have.

5 Q. Can you briefly summarize its contents?

6 A. Chevron USA is granting Marathon the right to
7 represent its interest in the N/2 of Section 12, and they
8 support us as the designated operator as to the two cases.

9 Q. So Chevron is a working interest owner that has a
10 leasehold interest in the N/2 of Section 12 and they're
11 supportive of Marathon being designated the operator?

12 A. Correct.

13 Q. And they have also authorized Marathon to
14 represent its interest at the hearing?

15 A. Yes.

16 MR. LARSON: Objection. The letter speaks for
17 itself.

18 HEARING EXAMINER LOWE: Overruled. We will let
19 the witness testify.

20 MR. LARSON: She's testifying.

21 MR. AMES: Ask that question.

22 MS. BENNETT: I will just rephrase my question --
23 I don't think I need to rephrase my question, I think he has
24 already answered. Thank you.

25 BY MS. BENNETT:

1 **Q. Let's move on to Exhibit 3.**

2 MS. BENNETT: Actually, I'm sorry, at this time I
3 would like to move the admission of Exhibit 2 in the two
4 cases we are here for today.

5 MR. LARSON: No objection.

6 HEARING EXAMINER LOWE: Mr. Feldewert?

7 MR. FELDEWERT: No objection.

8 HEARING EXAMINER LOWE: Exhibit 2 is accepted for
9 both cases.

10 (Exhibit 2 admitted.)

11 BY MS. BENNETT:

12 **Q. Now I would like to move to Exhibit 3. Mr. Rice,**
13 **is this -- can you please explain to the Hearing Examiners**
14 **what is Exhibit 3?**

15 A. Exhibit 3 is a letter of support from Novo Oil
16 and Gas, Northern Delaware, granting support to Marathon for
17 Case Numbers 20866 and 20865.

18 **Q. And what is Novo's basis to support Marathon's**
19 **proposal?**

20 A. Novo's basis is that their development plan for
21 their Astrodog cases coincide well with Marathon's
22 development plan for the N/2 and the utilization for the
23 drill island in the potash area.

24 **Q. Thank you. And do you know if the Astrodog cases**
25 **are the cases that are being heard after the two Valkyrie**

1 **cases?**

2 A. Yes.

3 **Q. Do you know if BTA has entered its appearance and**
4 **is objecting to the Astrodog cases?**

5 A. They have.

6 MS. BENNETT: At this time I would like to move
7 the admission of Exhibit 3.

8 MR. LARSON: No objection.

9 MR. FELDEWERT: No objection.

10 HEARING EXAMINER LOWE: Exhibit 3 is admitted for
11 both cases.

12 (Exhibit 3 admitted.)

13 BY MS. BENNETT:

14 **Q. A moment -- a little bit earlier today we**
15 **received a supplemental, an additional letter of support,**
16 **which I would like to have marked as Exhibit 3A, and I will**
17 **be passing that out now.**

18 (Exhibit 3A marked.)

19 MS. BENNETT: And it's not in the materials, but
20 we will make sure and scan the version as an exhibit in
21 order.

22 MS. BRADFUTE: I apologize. I marked for the
23 court reporter and opposing counsel a copy with the exhibit
24 number, but the others are not marked with the 3A exhibit
25 number.

1 MS. BENNETT: We will mark this Exhibit Number
2 3A.

3 BY MS. BENNETT:

4 Q. Mr. Rice, can you please explain to the Examiners
5 what Exhibit 3A is?

6 A. It's A letter from Occidental Petroleum granting
7 Marathon a letter of support and right to represent its
8 interest in supporting the designation of Marathon as the
9 operator for the subject land.

10 Q. And which land -- the N/2 cases are Section 12
11 and Section 7; right?

12 A. Correct.

13 Q. Which land does Oxy have an interest in?

14 A. Interest in the N/2 of 7, Section 7.

15 Q. And then Chevron, which land does Chevron have an
16 interest in?

17 A. The N/2 of 12.

18 Q. Has Marathon received support letters for both
19 the N/2 of Section 7 and the N/2 of Section 12?

20 A. Yes.

21 Q. Do you know which section is subject to the JOA?

22 A. The N/2 of Section 7.

23 Q. Thank you. Let's turn to Exhibit 4, please.

24 MS. BENNETT: I'm sorry, I would like to move the
25 admission of Exhibit 3A.

1 MR. LARSON: No objection.

2 MR. FELDEWERT: No objection.

3 HEARING EXAMINER LOWE: Exhibit 3A is accepted to
4 both cases.

5 (Exhibit 3A admitted.)

6 BY MS. BENNETT:

7 Q. At this time I would like to turn to Exhibit 4.

8 And, Mr. Rice, you prepared Exhibit 4, didn't you?

9 A. Yes.

10 Q. Can you walk the Examiners through what Exhibit 4
11 shows?

12 A. This just outlines the development plans of
13 Marathon, Novo, and also represents BTA's JOA contract area.
14 The red outline is the N/2 of Section 12 and the N/2 of
15 Section 7.

16 Novo's development plan in blue is the N/2 of
17 Section 9 and the N/2 of Section 8.

18 All the yellowish color is the JOA contract area
19 that BTA has, and I assume that their development plan would
20 be to drill mile and a half laterals.

21 Also you will note there is one drill island that
22 is available to utilize. Novo's plan is to drill off that
23 drill island going east and capturing the N/2 of 8 and N/2
24 of 9, while our surface locations are on the W/2 of Section
25 12 drilling east into Section 7.

1 Q. Thank you.

2 A. The purple line is the potash boundary.

3 Q. So Marathon's proposal, again, is from -- is it
4 from west to east or east to west?

5 A. West to east.

6 Q. So your surface locations will be in Section --

7 A. 12.

8 Q. -- 12. Is that within or without -- within the
9 potash area or outside of the potash area?

10 A. The surface locations are outside the potash
11 area.

12 Q. Now, when I looked at this map, and you
13 identified the Marathon development area as being in red.

14 A. Uh-huh.

15 Q. Is there anything that you can discern from this
16 map in terms of benefit of Marathon's proposal, as opposed
17 to a proposal or drilling within just this contract area of
18 the JOA in terms of setbacks or other production benefits?

19 A. Ours we had 2 mile proposals, theirs are mile and
20 a half. You know, it will decrease at least one setback
21 area on the unit lines, basically a 2 mile versus a mile and
22 a half development plan.

23 Q. When you say it will decrease at last one
24 setback, are you talking about where Novo's -- I'm sorry --
25 BTA's development would start at the section divider line

1 **between 12 and 7, there would would have to be a setback**
2 **there --**

3 A. Yes.

4 Q. -- for Novo's -- I'm sorry, for BTA's?

5 A. Yes, BTA's and Marathon's, if Marathon was forced
6 to drill a one mile in the N/2 of 12.

7 Q. And so when you look at this map then, or this
8 drawing that you prepared, and again it's based on the
9 information we have been able to find about BTA's proposal,
10 is -- you're testifying that there would not be an
11 additional setback if Marathon's proposal was accepted?

12 A. Correct.

13 Q. Is the drill island the only spot that's
14 available in this area for surface location if you're within
15 the potash area?

16 A. From my understanding, that drill island is the
17 only area that can be utilized to drill to the east further
18 into the potash area. As you move east, you get into the
19 lake, Salt Lake area.

20 Q. And does Novo, do you know if Novo has plans to
21 utilize that drill island for its develop of the Astrodog?

22 A. They do.

23 Q. Okay. Is there anything else that you would like
24 to discuss about this particular exhibit?

25 A. No.

1 **Q. Okay. With that sort of background information**
2 **in mind, let's turn to Exhibit 5.**

3 MS. BENNETT: I'm sorry, I'm just in such a habit
4 of admitting everything at the end. At this time I would
5 like to move the admission of Exhibit 4.

6 MR. LARSON: Did you produce this, create this
7 document, Mr. Rice?

8 THE WITNESS: Did I create that slide?

9 MR. LARSON: The map that's Exhibit 4.

10 THE WITNESS: Yes.

11 MR. LARSON: No objection.

12 MR. FELDEWERT: No objection.

13 HEARING EXAMINER LOWE: Exhibit 5 will be
14 accepted for both case.

15 MS. BENNETT: Just to clarify, that was Exhibit
16 4. I apologize, I will do a better job of moving every
17 time.

18 (Exhibit 4 admitted.)

19 BY MS. BENNETT:

20 **Q. So now we are turning to Exhibit 5. Mr. Rice,**
21 **could you please explain to the Examiners what Exhibit 5 is?**

22 A. It's an application where Marathon is seeking an
23 order from the Division pooling all uncommitted mineral
24 interests within the Bone Springs horizontal spacing unit
25 underlying the S/2 N/2 of Section 12 of Township 23 South,

1 Range 28 East, and Section 7, the N/2 S/2 of Section 7 of
2 Township 23 South, Range 29 East of Eddy County, New Mexico,
3 and the spacing unit will be dedicated to the Valkyrie 12 SB
4 Federal Com 13H.

5 Q. Thank you. And the SB, what does SB stand for in
6 the Marathon naming protocol?

7 A. Second Bone Springs.

8 Q. So this is a Bone Spring well that you are
9 proposing?

10 A. Yes.

11 Q. Will the producing area for this well be
12 orthodox?

13 A. It will be orthodox, yes.

14 Q. Are there any depth severances in the proposed
15 Bone Spring spacing unit?

16 A. No.

17 Q. Let's turn: --

18 MS. BENNETT: I would like to move the admission
19 of Exhibit 5.

20 MR. LARSON: No objection.

21 MR. FELDEWERT: No objection.

22 HEARING EXAMINER LOWE: Exhibit 5 is admitted.

23 (Exhibit 5 admitted.)

24 MS. BENNETT: Thank you.

25 BY MS. BENNETT:

1 **Q. I would like to now turn to Exhibit 6. And, Mr.**
2 **Rice, would you please explain what Exhibit 6 is.**

3 A. Exhibit 6 is -- Exhibit 6 is an application in
4 Case Number 20866 seeking an order from the Division for
5 pooling all uncommitted mineral interests in the Wolfcamp
6 horizontal spacing unit underlying the N/2 of Section 12,
7 Township 23 South, Range 28 East, and the N/2 of Section 7
8 of Township 23 South, Range 29 East, Eddy County, New
9 Mexico.

10 It will be dedicated to -- the spacing unit will
11 be dedicated to the Valkyrie 12 WXY Federal Com 1H, the
12 Valkyrie 12 WA Federal Com 3H, the Valkyrie 12 WXY Federal
13 Com 5H, the Valkyrie 12 WD Federal Com 2H, the Valkyrie 12
14 WD Federal Com 4H, and the Valkyrie 12 WD Federal Com 6H
15 wells.

16 **Q. Will the producing area for these wells be**
17 **orthodox?**

18 A. These will be unorthodox.

19 **Q. Why is that?**

20 A. We are seeking 100 foot setbacks from the unit
21 lines.

22 **Q. What pool are these wells targeting?**

23 A. The Purple Sage Wolfcamp.

24 **Q. And does the Purple Sage Wolfcamp have special**
25 **rules governing setbacks?**

1 A. Yes.

2 Q. And those are the rules that Marathon won't be
3 complying with in terms of the setback that you are
4 requesting here?

5 A. Yes.

6 Q. Will Marathon be submitting separate applications
7 for non-standard location approval?

8 A. Yes.

9 Q. Is Marathon in the process of preparing those
10 applications?

11 A. We are.

12 MS. BENNETT: At this time I would like to move
13 the admission of Exhibit 6.

14 MR. LARSON: No objection.

15 MR. FELDEWERT: No objection.

16 HEARING EXAMINER LOWE: Exhibit 6 will be
17 accepted for both cases.

18 MS. BENNETT: Thank you.

19 (Exhibit 6 admitted.)

20 BY MS. BENNETT:

21 Q. At this time I would like to turn to Exhibit 7.
22 Mr. Rice, could you explain for the Examiners what the first
23 page of Exhibit 7 is which is numbered 13.

24 A. This is the C-102 form for the Valkyrie 12 SB
25 Federal Com 13H.

1 Q. So this is the C-102 for the Second Bone Spring
2 well?

3 A. Yes.

4 Q. Has the Division identified a pool and a pool
5 code for this well?

6 A. Yes. The Culebra Bluff pool code 15011.

7 Q. Thank you. And as we -- well, so this pool is
8 governed by the statewide horizontal rules; is that right?

9 A. Yes.

10 Q. And will this well comply with those rules?

11 A. Yes.

12 Q. We turn now to Page 14, and looking at Pages 14
13 through 19, are those the -- what are those?

14 A. These are the C-102 forms for the Purple Sage
15 Wolfcamp horizontal wells.

16 Q. And do the C-102s identify the proposed surface
17 location first take point and last take point?

18 A. Yes.

19 Q. Do the C-102s identify the first take point and
20 last take point will be 100 feet from the outer boundary?

21 A. Yes.

22 Q. How many -- what's the dedicated acres on this
23 C-102 for the Wolfcamp spacing unit that you are proposing?

24 A. Dedicated acres?

25 Q. How many acres?

1 A. 640 acres.

2 **Q. More or less?**

3 A. More or less.

4 **Q. I'm not going to ask you individual questions**
5 **about all the C-102s, but they are all for the Wolfcamp**
6 **wells?**

7 A. Yes.

8 **Q. And they all have the -- they all are part of the**
9 **Purple Sage Wolfcamp gas pool?**

10 A. Correct. Pool code 98220.

11 **Q. Thank you.**

12 MS. BENNETT: With that I would move the
13 admission of Exhibit 7.

14 MR. LARSON: No objection.

15 MR. FELDEWERT: No objection.

16 HEARING EXAMINER LOWE: Exhibit 7 is accepted for
17 the cases.

18 (Exhibit 7 admitted.)

19 MS. BENNETT: Thank you.

20 BY MS. BENNETT:

21 **Q. Now I would like to turn to Exhibit 8. Could you**
22 **please turn to Exhibit 8? Exhibit 8 has four pages; is that**
23 **right?**

24 A. Yes.

25 **Q. Let's start with Page 20. And can you describe**

1 **for the Examiners what Page 20 represents?**

2 A. This is a lease tract map for the Bone Springs
3 pool that we are seeking to pool. There are three tracts,
4 Tracts 1, 2 and 3. Each are federal leases. It's a --
5 represents 317.03 acre pool area.

6 Q. **Great. And so then turning to Page 21, can you**
7 **explain what Page 21 is?**

8 A. This is a breakdown of the working interest of
9 the entities that will be in this pool.

10 Q. **And I noticed that you have several different**
11 **rows. You have committed working interest, supported**
12 **working interest, and then total committed/supported working**
13 **interest.**

14 **Could you go through those three percentages for**
15 **us first, and then we'll go to the uncommitted working**
16 **interest and talk about that.**

17 A. Okay. The Marathon Oil -- the committed working
18 interest for Marathon Oil Permian is 37.8 percent working
19 interest in that pool area.

20 As was given earlier, Oxy and Chevron have given
21 us letters of support. They would have about 19.5 percent
22 working interest in the pool area, so total committed
23 supported working interest within that Bone Spring pool,
24 Marathon would have 57.42 percent working interest, more or
25 less.

1 Q. And so what you've done there is you've added the
2 Oxy and Chevron interest to Marathon's interest to come up
3 with a total committed supported of working interest of 57?

4 A. Uh-huh.

5 Q. More or less?

6 A. Uh-huh. Correct.

7 Q. So and how -- then the next column is the
8 uncommitted working interest owners.

9 A. Uh-huh.

10 Q. There I see you have Chevron and Oxy listed there
11 as well. Can you explain why that is for the Examiners?

12 A. We are seeking to pool that interest as we work
13 on negotiations with them, but as we pointed out, they've
14 granted us letters of support to represent their working
15 interest in these cases.

16 Q. And if you wouldn't mind, could you let the
17 Examiners know what BTA's working interest is in this unit?

18 A. BTA would have 36 percent working interest, more
19 or less, in this pool area, in this Bone Springs pool.

20 Q. And there are a few smaller interests. Would you
21 tell this Division what those other interests are and how
22 much the percentages are?

23 A. Currently Devon Energy Production Company has
24 about a 3 percent working interest. Westall Oil and Gas has
25 a 1.5 percent, and Tap Rock Resources has a 1.5 percent

1 working interest.

2 Q. So what is your takeaway, or what would you like
3 to impress upon the Examiners from this slide in terms of
4 the total committed and supported working interest owners?

5 A. That the majority of the working interest owners
6 support Marathon's development plan, and they support us
7 being the operator of this, of the N/2 -- or N/2 S/2 of this
8 Bone Springs pool.

9 Q. And again, this Bone Spring pool covers both
10 Section 12 and Section 7?

11 A. Correct.

12 Q. And Section 7 is the part that's covered by the
13 JOA?

14 A. The portion of the JOA covers Section 7, yes.

15 Q. Let's turn to Page 22, and can you describe for
16 the Examiners what is Slide 22?

17 A. So it's a lease tract map for the Wolfcamp pool
18 area. There's five tracts that are represented by five
19 tracts. Each are a federal lease.

20 Q. Great. And then if we look at Page 23, turning
21 to that page, it's similar in that it has committed
22 supported, total committed supported, and then uncommitted
23 working interest, but the percentages are a little different
24 here. Is that right?

25 A. Correct.

1 **Q. Would you mind running through the committed and**
2 **supported and then total of those two for the Hearing**
3 **Examiners?**

4 A. Currently Marathon, within that Wolfcamp pool
5 area that we are proposing, has 18.9 percent working
6 interest. As we pointed out Chevron and Oxy have given us
7 letters of support. They have 41.6 percent interest within
8 that pool area, which represents about 60 percent, 60.5
9 percent working interest that supports Marathon or is
10 committed to Marathon for this pool area.

11 **Q. And then contrast that with BTA's interest, what**
12 **is BTA's interest in this pool area?**

13 A. We are showing it to be approximately 36 percent
14 working interest in this Wolfcamp pool area.

15 **Q. And the other minor interest holders, Devon,**
16 **Westall, Tap Rock, can you tell us what their interests are?**

17 A. Devon shows to be about 1.5 percent working
18 interest, Westall about half of that, .7 percent working
19 interest, and Tap Rock the same, .7 percent working interest
20 in the pool area.

21 **Q. And so what's your takeaway, again, from the**
22 **numbers here that you prepared on this slide?**

23 A. That the majority of the working interest owners
24 support Marathon as being operator of this pool area.

25 **Q. Thank you.**

1 MS. BENNETT: At this time I would like to move
2 the admission of Exhibit 8.

3 MR. LARSON: No objection.

4 HEARING EXAMINER LOWE: Mr. Feldewert?

5 MR. FELDEWERT: On Page 23, Mr. Rice --

6 THE WITNESS: Yes.

7 MR. FELDEWERT: -- you have Oxy and Chevron
8 listed twice.

9 THE WITNESS: Oxy and Chevron listed in the
10 support, supported working interest column, so to denote
11 that approximately 6 percent -- 60 percent of working
12 interest either is Marathon's or is a company that supports
13 Marathon. We also seeking to pool as they are not currently
14 under a JOA or pool order.

15 MR. FELDEWERT: Yeah, okay. Okay. All right.
16 Thanks.

17 BY MS. BENNETT:

18 Q. That's why you have asterisked them?

19 A. Correct.

20 Q. To delineate that they support, but they are not
21 yet committed in terms of signing the JOA?

22 A. Correct, or assigning their interest to Marathon.

23 MR. FELDEWERT: No objection.

24 HEARING EXAMINER LOWE: Is that Exhibit 8?

25 MS. BENNETT: Yes, Exhibit 8.

1 HEARING EXAMINER LOWE: Exhibit 8 is accepted for
2 the cases.

3 MS. BENNETT: Thank you.

4 (Exhibit 8 admitted.)

5 BY MS. BENNETT:

6 Q. So what type of interest --

7 MS. BENNETT: Do you want us to allow some time
8 between him finishing up some exhibits and starting again
9 tomorrow to allow you to ask questions, or do you want to
10 keep going until we run out of time?

11 MR. AMES: I think you should complete the
12 questioning of your witness and then we'll take up cross and
13 questions from the Examiners.

14 MS. BENNETT: Thank you.

15 BY MS. BENNETT:

16 Q. At this time would you please turn to Exhibit 9.
17 Is Exhibit 9 -- well, what is Exhibit 9?

18 A. This is a communication log of any interaction
19 we've had with uncommitted working interest owners or BTA.

20 Q. Does it include discussions with Oxy?

21 A. Yes.

22 Q. And Chevron?

23 A. Yes.

24 Q. And BTA?

25 A. Yes.

1 Q. When I look at this I see some discussions about
2 trades. Have you had discussions about trades with either
3 Oxy or -- well, have you had discussions about trades with
4 Oxy?

5 A. Yes.

6 Q. Are you still in those discussions?

7 A. Yes.

8 Q. Did Marathon propose a trade to BTA?

9 A. Marathon had some preliminary discussions with
10 BTA about the area.

11 Q. And did Marathon meet with BTA at Marathon's
12 office?

13 A. We did.

14 Q. What efforts did Marathon take to obtain
15 voluntary joinder in these wells? I see here you have the
16 communication. Did you also send out proposal letters?

17 A. Yes.

18 Q. Did you send the proposal letters to BTA?

19 A. We did.

20 Q. In your opinion, has Marathon made a good-faith
21 effort to obtain a voluntary joinder in the wells that are
22 the subject of these two spacing units?

23 A. Yes.

24 MS. BENNETT: With that I would like to move the
25 admission of Exhibit 9.

1 MR. LARSON: No objection.

2 MR. FELDEWERT: No objection.

3 HEARING EXAMINER LOWE: Exhibit 9 is accepted for
4 the cases.

5 MS. BENNETT: Thank you.

6 (Exhibit 9 admitted.)

7 BY MS. BENNETT:

8 Q. Like to turn to Exhibit 10. Is the exhibit --
9 well, what is Exhibit 10?

10 A. This is a copy of a well proposal letter for the
11 Valkyrie wells.

12 Q. Does this include all of the wells that Marathon
13 is proposing in the N/2 and the S/2?

14 A. It does.

15 Q. And so it's a bit over-inclusive for these two
16 cases, but it does include the wells that are the subject of
17 these two cases?

18 A. Yes.

19 Q. Does the proposal letter that Marathon sent out
20 have the proposed surface hole location and bottom hole
21 location?

22 A. Yes.

23 Q. Does it have the proposed TVD?

24 A. TVD?

25 Q. TVD.

1 A. Yes.

2 Q. Does it allow for separate elections into each
3 well?

4 A. It does.

5 Q. And is that on Page 27 and 28?

6 A. Yes.

7 Q. Does the proposal letter also identify the terms
8 of the JOA if the party were to agree to the JOA including
9 7,000 a month while drilling and 700 while producing?

10 A. Yes.

11 Q. And when was this proposal letter sent out again?

12 A. This, July 12, 2019.

13 Q. Okay. And was a proposal letter like this,
14 acknowledging this is an example, but was a proposal letter
15 like this sent to each of the working interest owners?

16 A. Yes.

17 Q. Did the proposal letter include an AFE for each
18 of the wells?

19 A. It did.

20 MS. BENNETT: With that, I would like to move the
21 admission of Exhibit 10.

22 MR. LARSON: No objection.

23 MR. FELDEWERT: No objection.

24 HEARING EXAMINER LOWE: Exhibit 10 is accepted
25 for the cases.

1 (Exhibit 10 admitted.)

2 MS. BENNETT: Thank you.

3 BY MS. BENNETT:

4 Q. Are the AFEs behind Tab 11 or in Exhibit 11?

5 A. Yes.

6 Q. And rather than going through the cost of all of
7 the wells, unless there is a desire for us to do that, I
8 would just ask you if you had a chance to, if you are
9 familiar with the cost that Marathon is proposing and
10 whether, in your opinion, those costs are reasonable and in
11 line with the costs of what other operators are charging for
12 wells of a similar length and depth in this area of New
13 Mexico.

14 A. Yes, I believe they are.

15 Q. And does each AFE identify, taking, for example,
16 Pages 29 and 30, does that AFE identify which well it's for?

17 A. Yes.

18 Q. Where is that, for the Examiner's benefit? Is
19 it --

20 A. It's highlighted on the top of the page of the
21 first part of the AFE.

22 Q. And how about the total cost, where is that?

23 A. It's on the second page of the AFE at the bottom.

24 Q. Is it also highlighted?

25 A. Yes.

1 **Q. Are there AFEs for each of the wells that are the**
2 **subject of these two cases in this packet?**

3 A. Yes.

4 MS. BENNETT: With that I would like to move the
5 admission of Exhibit 11.

6 MR. LARSON: No objection.

7 MR. FELDEWERT: No objection.

8 HEARING EXAMINER LOWE: Exhibit 11 will be
9 accepted in both cases.

10 (Exhibit 11 admitted.)

11 MS. BENNETT: Thank you.

12 BY MS. BENNETT:

13 **Q. Does Marathon have any agreements in place that**
14 **will enable Marathon to timely locate these wells and**
15 **operate on the surface?**

16 A. Marathon has done it's onsite and is moving
17 forward with building their pad for the Southern Valkyrie
18 wells that we have on our drill schedule. So, yes, we are
19 moving forward with plans to drill.

20 **Q. How about a contact with third parties for**
21 **marketing your hydrocarbons or disposing of saltwater or**
22 **anything like that?**

23 A. Marathon has marketing contracts for oil, gas and
24 water take away.

25 **Q. And that's for these particular wells?**

1 A. Yes.

2 Q. And a moment ago you mentioned that the S/2, you
3 are ready to build the pad on the S/2. So the S/2 is
4 already on your drilling schedule?

5 A. Yes.

6 Q. Will the N/2 be on your drilling schedule if this
7 is approved?

8 A. Yes.

9 Q. In your opinion, who should be appointed operator
10 of the wells?

11 A. Marathon Oil Permian.

12 Q. Why is that?

13 A. Marathon is an active driller out here. We're
14 set to drill these wells and fully develop it in the most
15 efficient and effective manner.

16 Q. When you say the most efficient and effective
17 manner, are you also referring to the length of the laterals
18 that Marathon is proposing?

19 A. The length of the laterals, and also the minimal
20 amount of surface disturbance.

21 Q. Will your proposal impact the potash area?

22 A. Our surface locations are not within the potash
23 area, so they will not impact the potash or portions of the
24 laterals go within the potash area, but the surface does
25 not.

1 Q. Do you have a recommendation for the amount that
2 **Marathon should be paid for supervision and administrative**
3 **expenses?**

4 A. Yes.

5 Q. And what is that?

6 A. We are seeking 7,000 per month be allowed for
7 drilling a well, and 700 per month be allowed for a
8 producing well.

9 Q. In your opinion, are these amounts equivalent to
10 **the amounts charged by Marathon and other operators in this**
11 **area for horizontal wells of this length and depth?**

12 A. Yes.

13 Q. Do you request that these rates be adjusted
14 **periodically as provided by the COPAS accounting procedures?**

15 A. Yes.

16 Q. Do you request the maximum cost plus a 200
17 **percent risk charge if any pooled working owner fails to pay**
18 **its share of cost for drilling, completing and equipping the**
19 **wells?**

20 A. Yes.

21 Q. Let's turn to Exhibit 12. I'm sorry -- yes,
22 **let's turn to Exhibit 12. Is Exhibit 12 an affidavit**
23 **prepared by me?**

24 A. Yes.

25 Q. Is that an affidavit showing that I attest to the

1 fact I sent out notice letters and that proof of receipt is
2 attached?

3 A. Yes.

4 Q. Does this affidavit -- does this affidavit also
5 include an affidavit of publication, the back pages 63 to 66
6 showing that notice of this hearing was published in
7 Carlsbad Argus newspaper on October 31?

8 A. Yes.

9 MS. BENNETT: At this time I would move admission
10 of Exhibit 12.

11 MR. LARSON: No objection.

12 MR. FELDEWERT: No objection.

13 HEARING EXAMINER LOWE: Exhibit 12 will be
14 accepted in both cases.

15 (Exhibit 12 admitted.)

16 MS. BENNETT: Thank you.

17 BY MS. BENNETT:

18 Q. Does Marathon ask that it be allowed a period of
19 one year between when the first well is drilled and when the
20 rest of the wells are completed under the order?

21 A. Yes, we are.

22 Q. In your opinion, is the granting of Marathon's
23 applications in the interest of conservation and the
24 prevention of waste?

25 A. Yes.

1 Q. Were Exhibits 1 and Exhibits 5 through 12
2 prepared by you or under your supervision or compiled from
3 company business records?

4 A. Yes.

5 Q. And from that list I excepted Exhibits 2, 3 and
6 4, which are the letters of support that Marathon received,
7 which were not prepared by you or under your supervision,
8 but they have still been admitted into the record.

9 MS. BENNETT: So at this time, all of the
10 exhibits for which I have questions for Mr. Chase have been
11 admitted. At this time I pass the witness.

12 MR. LARSON: Is it Mr. Rice or Mr. Chase?

13 MS. BENNETT: I'm sorry, Mr. Rice.

14 MR. AMES: Mr. Larson, do you have an idea of how
15 much cross you have?

16 MR. LARSON: Ten or 15 minutes.

17 MR. AMES: Mr. Feldewert, will you have cross for
18 Mr. Rice?

19 MR. FELDEWERT: I just have one question.

20 MR. AMES: Why don't we proceed and get done with
21 Mr. Rice.

22 CROSS-EXAMINATION

23 BY MR. LARSON:

24 Q. Good afternoon, Mr. Rice. When did Marathon
25 acquire its interest in the N/2 of this area?

1 A. Around April, I believe, of 2019. Off the top of
2 my head, when we acquired Oxy's interest of our large area,
3 or that area and other areas.

4 **Q. At that time were you aware that BTA controlled**
5 **100 percent of the working interest in the N/2 of 7 and the**
6 **NW of 8?**

7 MS. BENNETT: Objection. That lacks foundation.

8 A. The trade involves --

9 MR. LARSON: Asking him about his knowledge.

10 MR. AMES: Don't say anything, Mr. Rice.

11 Mr. Larson, your response?

12 MR. LARSON: I can ask him about his knowledge,
13 knowledge about that.

14 MS. BENNETT: That it's controlled 100 percent of
15 the acreage, we don't have any information in the record.

16 MR. LARSON: I will rephrase the question.

17 BY MR. LARSON:

18 **Q. Were you aware when Marathon purchased the**
19 **acreage that there was a JOA in place for the N/2 of 7 and**
20 **the NW of 8 ?**

21 A. The trade that you are referring to earlier this
22 year did not involve Section 7 or Section 8, so I would not
23 have concerned myself with what was going on in Section 7 or
24 the NW/4 of Section 23, 29.

25 **Q. No, no. We are talking about N/2 of 7 here.**

1 A. Oh, you mean the trade that we are working on
2 now?

3 Q. No.

4 A. The trade that's --

5 Q. At the time you acquired your interest, which is
6 in April.

7 A. Of Section 12.

8 Q. Okay. When did you acquire interest in Section
9 7? You don't have interest?

10 A. We have committed -- committed letters of support
11 from the working interest owner.

12 Q. At the time you acquired your interest in Section
13 12, were you aware of the JOA in the N/2 of Section --

14 A. That trade did not involve acreage in Section 12
15 or Section 8 of 23, 29, so I wouldn't have concerned myself
16 with that at the time.

17 Q. And your communications with BTA, weren't those
18 initiated by BTA?

19 A. Yes. For this proposal, yes.

20 Q. And at that time did the BTA representative
21 inform you that there was a JOA in place for the N/2 of 7
22 and NW of 8?

23 A. I do not recall if that was the first time, at
24 that time was the initial time that they were representing
25 their JOA.

1 Q. But prior to last Thursday, you did know that the
2 JOA was in place; is that correct?

3 A. Yes.

4 Q. So if you know it's in place, why were you
5 surprised that BTA is opposing your pooling application?

6 MS. BENNETT: Objection, mischaracterizes the
7 witness' testimony. He never testified that he was
8 surprised that BTA was opposing the cases.

9 MR. LARSON: I will rephrase that.

10 BY MR. LARSON:

11 Q. You were asked when was the first time that you
12 learned that BTA was opposing the application, and that was
13 last Thursday. Am I stating your testimony correctly?

14 A. That was the first time that BTA opposed their
15 application, yes, was Thursday.

16 Q. But you knew previously it had a JOA in place?

17 A. Marathon has a lot of JOAs everywhere, so they
18 didn't oppose it and they might have wanted us to drill it.
19 I don't know.

20 Q. What I'm getting at is here your counsel is
21 trying to create the impression that the first time you knew
22 about BTA having a problem with your pooling application was
23 last Thursday.

24 What I'm driving at is, based on your knowledge
25 about the JOA, did you have any inclination that BTA might

1 **oppose your pooling application?**

2 A. I would say yes because they didn't sign the AFEs
3 to participate in Marathon's wells, so I would say that I --
4 we suspected that they may not want to go along with
5 Marathon's proposals.

6 Q. **Thank you. Looking at your Exhibit 1, which is**
7 **the map --**

8 A. The gun barrel views?

9 Q. **Yes. So what you are showing us here, Ochoa 8703**
10 **Fed, is that just the N/2 of 7?**

11 A. Those wells, from what we can tell, are proposed
12 within the N/2 of 7, and bottom hole in the NW/4 of Section
13 8. They are within the contract area of the JOA.

14 Q. **Okay. Understood. So you are showing them as 1**
15 **mile laterals?**

16 A. No. This is a gun barrel diagram, so they are
17 not showing 1 or 2 miles, they are like a -- they are
18 showing what formations they are targeting.

19 Q. **Is it your understanding that the Ochoa wells**
20 **would be mile and a half wells?**

21 A. Yes, that's my understanding.

22 Q. **In your experience as a landman, if a company is**
23 **an operator under a joint operating agreement and has 100**
24 **percent of the interest committed to the joint operating**
25 **agreement, does it have to pool to drill a well under the**

1 **JOA.**

2 A. Under the JOA, as 100 percent committed working
3 interest, if their wells are proposed only within the JOA
4 area, then, no, that would not be -- they would not need to
5 seek pooling.

6 **Q. So if BTA proposes to drill a mile and a half**
7 **well in this JOA, it doesn't have to file a pooling**
8 **application, does it?**

9 A. It does not have to seek pooling.

10 **Q. Has Marathon submitted a request for approval of**
11 **the development area to the BLM?**

12 A. We have.

13 **Q. And has it submitted APDs?**

14 A. Those are being submitted, yes, to BLM.

15 **Q. I will direct your attention to your Exhibit 4,**
16 **in particular the acreage in yellow there where the drill**
17 **island is indicated.**

18 A. Uh-huh.

19 **Q. Now, if I understand it correctly, you propose to**
20 **drill a 2 mile well in the N/2 of 12 and 7; is that correct?**

21 A. Correct. Surface hole will be on the W/2 of
22 Section 12 going east into 7, yes.

23 **Q. Okay. And so that NW of 8 shows as BTA acreage;**
24 **is that correct?**

25 A. It shows it's within the contract area of the

1 JOA.

2 Q. Okay. So if your 2 mile well is approved, isn't
3 BTA's acreage stranded?

4 A. No. It will be captured by Novo's Astrodog 2
5 mile plans.

6 Q. Well, you are assuming that Novo's application
7 gets approved. But if it doesn't get approved, will it be
8 stranded?

9 A. We will look to drill from the -- in the N/2 of
10 8 and N/2 of 8 to the east, so it can be captured.

11 Q. And who would drill that well?

12 A. Well, Novo is the one that's proposed to drill
13 that DSU area. If they don't, then certainly there are
14 other operators that do that, yes, or BTA.

15 Q. And what kind of well would they drill?

16 A. They could drill a 2 mile lateral in the N/2 of 8
17 and N/2 of 9.

18 Q. They would have to pool in those acreages,
19 wouldn't they?

20 A. Unless they had voluntary joinder from Novo.

21 Q. This is all based on the assumption that your
22 pooling application is granted and Novo's application is
23 granted.

24 A. This represents the best development of the area
25 in the least amount of surface.

1 **Q. I know it's your perspective, but if your**
2 **application is granted, isn't BTA's acreage stranded?**

3 A. It would not be stranded --

4 **Q. -- based on that partial --**

5 MR. AMES: Let's speak separately, please, for
6 the court reporter's benefit, as well as the Hearing
7 Examiners. So, Counsel, let witness finish. Witness,
8 please let Counsel finish.

9 MR. LARSON: Point well taken. Understood.

10 MS. BENNETT: And I'm going to object to the
11 follow-up question. Mr. Rice has already answered that
12 question about whether the proposal would strand the acreage
13 or not, and his answer stands for itself.

14 MR. LARSON: Then I'll move on.

15 BY MR. LARSON:

16 **Q. Direct your attention now to Exhibit 3A, the**
17 **letter from Occidental to the Division. It's marked A at**
18 **the bottom.**

19 A. There we go.

20 **Q. Is Oxy-Y-1's interest subject to the JOA in the**
21 **N/2 of 7?**

22 A. It is.

23 **Q. And so if that interest is assigned to Marathon,**
24 **Marathon is then subject to the JOA as well?**

25 A. As to that interest, yes.

1 **Q. And in the general vicinity of your proposed**
2 **Valkyrie development, has Marathon drilled any one mile**
3 **lateral?**

4 MS. BENNETT: I would like to object --

5 A. Ask our engineer to do that. We have a lot of
6 wells, 1 mile, 2 miles. So is your 2 miles within this
7 development area or --

8 MS. BENNETT: If Mr. Larson would clarify what he
9 means by general vicinity.

10 **Q. Let's draw out four sections in either direction,**
11 **and I know it's hard for you to do that, but I don't have a**
12 **map to show you to help you.**

13 A. Marathon is drilling within the vicinity of the
14 area of both. We drill 1 mile laterals and we are drilling
15 2 mile laterals.

16 **Q. Are you also drilling mile and a half laterals?**

17 A. I do not believe, off the top of my head, there
18 are any 1 mile -- 1.5 mile wells that Marathon is drilling
19 in that area or within the vicinity. I'm not 100 percent
20 sure.

21 **Q. What's the determining factor in whether you**
22 **drill a 1 mile lateral?**

23 A. Well, first and foremost, there's already
24 development around it that prevents drilling longer laterals
25 than 1 mile, or mile and a half, or 2 mile. The desire to

1 drill 2 mile laterals is that that's the way to recover the
2 most reserves, or from my understanding. I'm not an
3 engineer.

4 Q. I understand. So there are situations where you
5 would drill 1 mile wells because of certain constraints of
6 the development land issues. Would that be correct?

7 A. Sure.

8 Q. And are those economic wells?

9 A. I'm not an engineer. I guess we've drilled
10 sometimes. I assume they would be. I'm not an engineer, so
11 I will wait for the engineer's testimony on that.

12 Q. And did Marathon recently file applications for 1
13 mile laterals in cases 20844 and 20855?

14 A. You would have to give me the well names. I
15 don't recognize the case number.

16 Q. Those are the case numbers.

17 A. I can't -- I don't know. I need some more
18 information than just the case numbers to answer it.

19 MR. LARSON: That's all I have. Thank you, Mr.
20 Rice.

21 HEARING EXAMINER LOWE: Mr. Feldewert?

22 CROSS-EXAMINATION

23 BY MR. FELDEWERT:

24 Q. Mr. Rice, I have a few questions.

25 A. Okay.

1 Q. But I think -- if I look at Exhibit 1. When I
2 look at your Exhibit 1, I see on the left side is broken up
3 between the N/2 acreage and then S/2 acreage; right?

4 A. Correct.

5 Q. I believe that the wells that you list in the S/2
6 acreage appear to be misnumbered; right?

7 A. Looks like it is a double -- they look to be
8 misnumbered, yes.

9 Q. Okay. All right. So the N/2 acreage would
10 appear to have the correct wells listed. If I look at your
11 application, the S/2 acreage appears to be -- should have, I
12 believe, different --

13 A. I believe you are correct, yes.

14 Q. Thank you. That was the confusion I had.

15 A. Looking at this, but, yes.

16 MR. FELDEWERT: Okay.

17 MR. AMES: We are talking about Exhibit 1;
18 correct? Would Marathon submit a revised Exhibit 1
19 reflecting the correct well numbers?

20 MS. BENNETT: We will.

21 MR. AMES: Thank you. Is that it, Mr. Feldewert?

22 MR. FELDEWERT: Yes, thank you.

23 HEARING EXAMINER LOWE: Do you have any
24 questions?

25 EXAMINER MURPHY: No, thank you.

1 EXAMINER COSS: I don't have any questions.

2 MR. AMES: I don't have any questions.

3 HEARING EXAMINER LOWE: I don't have any
4 questions myself.

5 MR. AMES: Ask for the witness to be excused?

6 MS. BENNETT: I would ask for Mr. Rice to be
7 excused.

8 MR. AMES: Forgot to ask if you have any
9 redirect.

10 MS. BENNETT: No, I don't have any redirect.

11 HEARING EXAMINER LOWE: You are excused.

12 I think this will conclude for today's docket,
13 and we will meet tomorrow morning about 9 o'clock.

14 MR. AMES: We will start with Mr. Bruce by
15 affidavit, and then we will start up again.

16 HEARING EXAMINER LOWE: We will start with
17 Mr. Jim Bruce at 8:15 tomorrow morning, and his are only
18 affidavit ones. When we conclude that, we will continue on
19 with this case.

20 MS. BENNETT: Thank you.

21 MS. BRADFUTE: Thank you.

22 MR. LARSON: Thank you, Mr. Examiner.

23 (Proceeding recessed at 5:10 p.m.)

24

25

1 STATE OF NEW MEXICO)
)SS
2 COUNTY OF SANTA FE)

3 I, IRENE DELGADO, certify that I reported the
4 proceedings in the above-transcribed pages, that pages
5 numbered 1 through 55 are a true and correct transcript of
6 my stenographic notes and were reduced to typewritten
7 transcript through Computer-Aided Transcription, and that on
8 the date I reported these proceedings I was a New Mexico
9 Certified Court Reporter.

10 Dated at Santa Fe, New Mexico, this 14th day of
11 November 2019.

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Irene Delgado, NMCCR 253
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