

STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION COMMISSION FOR  
THE PURPOSE OF CONSIDERING:

CASE NOS: 21273, 21274

IN THE MATTER OF THE APPLICATION OF MARATHON OIL  
PERMIAN LLC FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
COMMISSIONER HEARING, VOLUME 1  
Agenda Item  
August 13, 2020  
Santa Fe, New Mexico

BEFORE: ADRIENNE SANDOVAL, CHAIRWOMAN  
JORDAN KESSLER, COMMISSIONER  
DR. THOMAS ENGLER, COMMISSIONER  
MIGUEL LOZANO, ESQ.

This matter came on for virtual hearing before  
the New Mexico Oil Conservation Commission on Thursday,  
August 13, 2020 through the New Mexico Energy, Minerals, and  
Natural Resources Department, Webex Platform, Santa Fe, New  
Mexico.

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1                   CHAIRWOMAN SANDOVAL: Case Number 21273 and 21274  
2 will now continue.

3                   This is a hearing in case Number 21273 and 21274  
4 to continue -- to consider the application of Marathon Oil  
5 Permian LLC for compulsory pooling in Eddy County, New  
6 Mexico.

7                   These cases will be consolidated for hearing, but  
8 an order will be issued separately for each. BTA Oil  
9 Producers LLC has entered its appearance in opposition of  
10 this application and requested this de novo hearing before  
11 the Commission.

12                  Will the parties please make your appearances for  
13 the record, beginning with the applicant?

14                  MS. BENNETT: Good morning, Madam Commissioner  
15 and Commissioners, this is Deana Bennett for Marathon Oil  
16 LLC. You might need to unmute me.

17                  CHAIRWOMAN SANDOVAL: No, we can hear you.

18                  MS. BENNETT: Oh, okay. Thank you. With me  
19 today is Mr. Lance Hough. He is in the room with me,  
20 although off camera, and I also have several -- three  
21 Marathon witnesses, and there are other Marathon folks who  
22 are participating -- who are listening in, but not  
23 participating. Thank you.

24                  MS. HARDY: Good morning, Madam Chair and  
25 Commissioners. Dana Hardy with Hinkle Shanor on behalf of

1 BTA Oil Producers LLC. And Andy Blanco from my office will  
2 be present for parts of the hearing and to provide  
3 assistance if necessary. And I have three witnesses here  
4 for BTA, and other individuals from BTA who are also  
5 listening. Thank you.

6 CHAIRWOMAN SANDOVAL: This hearing will be  
7 conducted in accordance with the Commission's adjudication  
8 rules and follow the procedural rules set for the specific  
9 virtual hearing. It will be held in a fair, impartial  
10 manner so as to assure that the relevant facts are fully  
11 elicited and to provide a reasonable opportunity for all  
12 interested persons to be heard.

13 This hearing is being recorded both  
14 electronically and stenographically. A copy of the full  
15 transcript will be posted in the online case file on the OCD  
16 website.

17 The hearing will proceed as follows:

18 All testimony will be taken under oath. I will  
19 relevant evidence unless I determine the evidence is unduly  
20 repetitious (inaudible) or of little probative value.  
21 Anyone party that wishes to make a brief opening statement  
22 before presentation of the party's direct testimony may do  
23 so.

24 The applicant will present direct testimony  
25 first. Other interested or intervening parties who filed a

1     timely prehearing statement or notice of intent to present  
2     testimony may present testimony directly -- may present  
3     direct testimony.

4             Any parties appearing may cross-examine  
5     witnesses. Only Commissioners and participating parties  
6     have the right to cross-examine a witness. Cross-  
7     examination by a party will be conducted following  
8     cross-examination by the Commissioners. Redirect  
9     examination will be permitted, but such testimony is limited  
10    to the testimony (inaudible) that offered during  
11    cross-examination.

12            If time permits, and at my sole discretion, a  
13    party who wishes to give rebuttal testimony and produce  
14    closing argument may do so at the conclusion of the  
15    testimony in the same order as the direct testimony.

16            Any objection concerning the conduct of today's  
17    hearing may be received orally or in a hearing with the  
18    party raising the objection briefly stating the grounds for  
19    the objection. Any ruling I make on any objection and the  
20    reasons for it will be stated on the record.

21            We will now proceed with this hearing. Is there  
22    any initial evidence or facts stipulated by the parties?

23            MS. BENNETT: This is Deana Bennett for Marathon  
24    Oil. I know that both Ms. Hardy and I have exhibits that we  
25    intend to proceed through during the hearing, but we have

1 not stipulated to any of the exhibits.

2 MS. HARDY: That's correct.

3 CHAIRWOMAN SANDOVAL: You may now make a brief  
4 opening statement.

5 MS. BENNETT: Thank you. Good morning, again.  
6 As I mentioned, my name is Deana Bennett. I'm here on  
7 behalf of Marathon Oil Permian LLC. The Marathon and Novo  
8 orders which are the subject of the cases that you will hear  
9 later today that BTA is challenging represents a  
10 comprehensive development plan spanning the N/2 of four  
11 sections.

12 Marathon and Novo also have pooling orders  
13 covering the S/2 of those same sections which BTA has not  
14 challenged. Marathon and Novo both have definite plans to  
15 drill multiple 2-mile laterals that target the Bone Spring,  
16 Upper Wolfcamp and the Lower Wolfcamp formation. BTA's  
17 opposition to Marathon and Novo's orders is based only on a  
18 JOA that covers some but not all of the land Marathon  
19 and -- excuse me -- Novo seek to pool.

20 Of the four miles Marathon and Novo plan to  
21 develop, the BTA JOA covers only 1.5 miles of the four. The  
22 Division held a hearing on the N/2 cases which is what I'm  
23 calling the challenge cases, the N/2 cases, in November of  
24 last year. Both parties put on witnesses. The Division  
25 asked for prehearing briefing, and both parties -- all

1 parties submitted post hearing briefs.

2           The Division then issued Order Number 21251 to  
3 Marathon, which is the order that BTA is challenging here,  
4 and that order granted Marathon's N/2 pooling applications  
5 and designated Marathon as the operator of the N/2 unit of  
6 the wells in the unit. At the same time the Division issued  
7 Novo a similar order.

8           After the Division issued Marathon and Novo the  
9 pooling orders, the BLM then granted Marathon and Novo's  
10 development areas. BTA is challenging Order R1251, but that  
11 order is correct. The Division correctly concluded that  
12 BTA's JOA does not prevent the Division from pooling  
13 uncommitted interest in the N/2 unit and designating  
14 Marathon as operator.

15           Contrary to BTA's assertions before the  
16 Commission, the JOA does not prevent the Commission from  
17 doing the same. The Division's order is based on three  
18 principles which I will discuss briefly.

19           First the Division acknowledged the Oil & Gas Act  
20 mandates to pool when under the conditions present here the  
21 parties have not been able to reach voluntary agreement.

22           Second, the Division order cites prior Division  
23 Pooling Order Number R14140, which was an order issued in  
24 the Matador case. In that case Nearburg, another operator,  
25 asserted its JOA as a reason for the Division to decline

1 to -- or to dismiss Matador's pooling application. The  
2 Division rejected Nearburg on its JOA and instead granted  
3 Matador's pooling application. The same outcome is warranted  
4 here.

5 Finally, the Division cited its paramount duty to  
6 prevent waste and protect correlative rights. The Division,  
7 again, in its thorough and well-thought-out order noted that  
8 Marathon and Novo's applications would protect BTA's  
9 correlative rights.

10 With respect to waste, the Division correctly  
11 found that Marathon's 2-mile laterals would be more  
12 efficient, which is also consistent with Division precedent.

13 The Division also found that Marathon plans to  
14 develop the the N/2 and the S/2 would prevent the  
15 parent-child effect of depletion or drainage; whereas, BTA's  
16 approval may result in the parent-child effect because BTA's  
17 plan is only to develop the N/2.

18 The Division thus found that BTA's plan, if  
19 implemented, would result in waste because Marathon would  
20 have to drill shorter laterals. BTA's plans would result in  
21 more wells having to be drilled in the same acreage which  
22 results in unnecessary wells being drilled and more surface  
23 impact.

24 The Division's order is correct. Nothing that  
25 BTA has provided in its exhibits or that it can demonstrate

1 in its testimony today undermines or refutes the Division's  
2 core findings. There is still no voluntary agreement  
3 between the parties. BTA's JOA contract area is still  
4 smaller than Marathon's development area. BTA is still only  
5 proposing 1.5 mile laterals, and in fact, can only propose  
6 1.5 mile laterals because it would need to pool to do a  
7 2-mile lateral.

8 BTA still apparently has not finalized any plans  
9 to drill any wells other than the Lower Wolfcamp wells;  
10 whereas, Marathon and Novo are targeting Bone Spring, Upper  
11 Wolfcamp and Lower Wolfcamp. BTA's plans, if implemented,  
12 may result in waste. BTA's plans if implemented will result  
13 in more wells being drilled and more surface impact. And  
14 BLM still has not approved BTA's development plan for its  
15 JOA acreage.

16 Actually activities that postdate the November  
17 hearing actually support Marathon's here and the Division's  
18 order. As I mentioned a moment ago, the Division -- or BLM  
19 recently issued or granted Marathon and Novo's proposed  
20 development area, so Marathon and Novo are further along in  
21 the process than BTA is, and they have been further along in  
22 the process this whole time.

23 Also at the end of April 2020, the Division  
24 entered another hearing -- another order -- that is very  
25 similar to the orders that are being challenged today. And

1 in that order, which is Order Number 21308, the Division  
2 granted pooling applications over the objections of an  
3 operator that had a JOA.

4 And, in that case, as in our case, the Division  
5 cited Order Number R14140 as well as the Division's  
6 obligation to prevent waste and protect correlative rights,  
7 and the Division's obligation to pool when there is no  
8 voluntary agreement.

9 Speaking of exhibits to try to call into question  
10 Marathon's operatorship or its experience, that's what they  
11 primarily seem to be directed at, but Marathon is an  
12 experienced operator in this area. And Marathon did slow  
13 down as a result of the Coronavirus pandemic and as a result  
14 of the downturn of price in oil and gas. That's not  
15 surprising.

16 What may be surprising is BTA didn't, in the face  
17 of all other operators or a number of other operators  
18 slowing down. But Marathon is, you know, cautiously  
19 optimistic, as we all are, that things are going to return  
20 to the new normal and that Marathon will be able to return  
21 to its site in the New Mexico area in the Basin.

22 In conclusion, the Division got it right, and BTA  
23 has not and cannot show otherwise. The Commission should  
24 grant Marathon's application. Thank you.

25 MS. HARDY: Madam Chair, I also would like to

1 give an opening statement. Would you like me to do that now  
2 or when I'm beginning to present BTA's case?

3 CHAIRWOMAN SANDOVAL: You may go ahead and make  
4 an opening statement.

5 MS. HARDY: Thank you, Madam Chair. Marathon  
6 focuses on evidence and arguments that were presented by the  
7 parties and the determinations that were made at the  
8 Division hearing, but under the Oil & Gas Act and the  
9 Commission's rules, this a de novo hearing on Marathon's  
10 application. It's not an appeal of the Division's order;  
11 it's an entirely new hearing. So the evidence and arguments  
12 have to be considered separate and apart from those  
13 presented to the Division.

14 With respect to BTA's JOA, it should be honored  
15 and enforced. Marathon's application seeks to pool acreage  
16 in the N/2 of Section 7 that BTA controls under a joint  
17 operating agreement that governs approximately 480 acres  
18 which is BTA's Ochoa acreage.

19 The New Mexico law and prior Division decisions  
20 support a finding that BTA's JOA should be honored, and BTA  
21 should be permitted to proceed with development of its Ochoa  
22 acreage. BTA acquired the JOA specifically for the purpose  
23 of controlling and operating acreage. It controls 100  
24 percent of the interest and its operating rates are valuable  
25 to it.

1           The Oil & Gas Act requires the Commission to  
2     protect correlative rights, when (inaudible) collectively  
3     and according to this purpose, operating rights must be  
4     considered as a component of correlative rights, yet also  
5     establishes a preference for voluntary agreements.

6           New Mexico case law and appellate decisions, as  
7     well as public policy, similarly favor the enforcing of  
8     voluntary agreements. In past cases the Division has  
9     allowed operators to control 100 percent of their acreage,  
10    like BTA here, to proceed with development in response to  
11    challenges from parties seeking to suspend permits in order  
12    to pool.

13           And those cases include Number 2041-10 Order R  
14    20430 in which the Division denied Occidental's motion to  
15    stay administrative approval of drilling permits because Oxy  
16    intended to pool 2-mile laterals when the permit had been  
17    issued to an operator who was developing 1-miles.

18           Similarly, in Case 20298, the Division denied a  
19    motion to stay Mewbourne's permits when Mewbourne owned 100  
20    percent of the working interest in its unit, and that is  
21    addressed in Order 20467. So the Commission and Division  
22    have a past practice of recognizing operating rights when an  
23    operator controls 100 percent of its acreage, it does not  
24    need to pool the acreage in order to develop it.

25           Order R-14140 cited by Marathon is inapplicable.

1 It's a different situation. In that case Nearburg was a  
2 party to the JOA, but it was not -- the operator under the  
3 JOA was not raising its operator rights as an issue of  
4 correlative rights that should be honored.

5 I think Marathon's prehearing statement cited  
6 Orders R-12453 and R-12454, those orders were vacated by a  
7 subsequent order, Number 15245-B, so those orders have no  
8 force and effect. They are invalid.

9 Marathon asked the Commission to render BTA's JOA  
10 meaningless, but the Commission should not do so. BTA also  
11 has other objections to Marathon's applications that will be  
12 discussed by its witnesses. Its objection is not based  
13 entirely and solely on the JOA.

14 BTA's witnesses will explain that Marathon's  
15 application should be denied because BTA is a proved  
16 operator, and its development plan will more fully recover,  
17 more efficiently and fully recover the reserves underlying  
18 the Ochoa acreage.

19 Specifically BTA's witnesses will explain  
20 Marathon proposes to drill unnecessary wells. Marathon's  
21 plan will not fully develop the Ochoa acreage. It strands  
22 80 acres entirely and treats BTA differently than other  
23 parts of the development, specifically the S/2 of the  
24 development by placing fewer wells and more productive  
25 intervals in the N/2, which is where BTA has its interest.

1           As a result Marathon's application will infringe  
2   on BTA's correlative rights. BTA's proposed development  
3   plan will result in more efficient and economic production  
4   for the Ochoa acreage. As BTA's witnesses will explain, BTA  
5   can achieve greater and more efficient production with fewer  
6   wells than Marathon proposes here.

7           Bta has the ability to timely locate and complete  
8   its wells, while Marathon's official public statement  
9   provides it suspended all drilling activity in the Northern  
10   Delaware and also released its rigs. Because Marathon  
11   suspended its drilling activity, approving its application  
12   will prevent BTA from developing the Ochoa acreage and  
13   impairs BTA's correlative rights.

14           BTA'S witnesses will explain that BTA is ready,  
15   willing and able to commence development of this acreage  
16   when these cases are resolved, and it intends to do so if it  
17   has the opportunity.

18           BTA's wellsite has been approved by the BLM, and  
19   BTA has spudded 28 wells in New Mexico in 2020, has rigs  
20   available and can commence drilling once it's able to do so  
21   once this case is resolved.

22           Further and finally, BTA's witness also explain  
23   Marathon's witness did not negotiate with BTA in good faith  
24   prior to pooling.

25           So for all of those reasons, as will be explained

1 by BTA's witnesses, Marathon's applications would impair  
2 BTA's correlative rights and result in waste, and they  
3 should be denied.

4 Thank you very much.

5 CHAIRWOMAN SANDOVAL: Thank you. Marathon may  
6 now present its direct testimony according to its  
7 application. Each witness will need to be sworn in at the  
8 beginning of his or her testimony.

9 MS. BENNETT: Thank you, Madam Chair. At this  
10 time I would like to call Mr. Chase Price.

11 (Oath administered.

12 CHAIRWOMAN SANDOVAL: You may proceed with the  
13 witness testimony.

14 MS. BENNETT: Thank you. Before I proceed with  
15 the witness testimony, I would like to make sure that  
16 everyone has Marathon's exhibits in front of them. Mr. Rice  
17 will be testifying about Exhibits 1 through 10, and so I  
18 will do my best to alert and give guideposts to both the  
19 Commission, Ms. Hardy and the witness about which exhibits  
20 we'll be talking about and understanding the limits of this  
21 virtual platform.

22 So if at any time anyone is not sure which  
23 exhibit we are talking about, please just let me know and I  
24 will reorient everyone to the exhibit materials, not just  
25 for Mr. Rice, but for the other two witnesses as well today.

1                   So I appreciate your patience as we sort of work  
2                   through this virtual scenario together.

3                                   CHASE RICE

4                                   (Sworn, testified as follows:)

5                                   DIRECT EXAMINATION

6                   BY MS. BENNETT:

7                   Q.     Mr. Rice, will you please state your name for the  
8                   record?

9                   A.     Chase Rice.

10                  Q.     And for whom do you work and in what capacity?

11                  A.     Marathon Oil Permian LLC as a landman.

12                  Q.     What are your responsibilities as a landman for  
13                  Marathon?

14                  A.     Trade negotiations, lease acquisitions. I do  
15                  vestitures, curative, title, coordinating with brokers.

16                  Q.     Have you previously testified before the Oil  
17                  Conservation Division?

18                  A.     Yes.

19                  Q.     And were your credentials as an expert accepted  
20                  as a matter of record?

21                  A.     Yes, they were.

22                  Q.     And how long have you worked at Marathon?

23                  A.     I worked for Marathon for almost eight years, and  
24                  previously I worked for Devon for six years.

25                  Q.     When these cases were heard before the Division,

1     **did you testify in these cases?**

2           A.     Yes.

3           **Q.     Are you familiar with the applications that**  
4     **Marathon filed in these cases?**

5           A.     Yes.

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

8           A.     Yes, I am.

9                   MS. BENNETT:  At this point I would like to  
10    tender Mr. Rice as an expert in land matters.

11                  CHAIRWOMAN SANDOVAL:  Do the Commissioners have  
12    questions regarding his expertise?

13                  COMMISSIONER KESSLER:  None.

14                  COMMISSIONER ENGLER:  No.

15                  CHAIRWOMAN SANDOVAL:  Are there any objections  
16    from the other parties regarding the witness' expertise?

17                  MS. HARDY:  No objection, Madam Chair.

18                  CHAIRWOMAN SANDOVAL:  Mr. Rice is certified as an  
19    expert in this area.

20    BY MS. BENNETT:

21           **Q.     Thank you, Mr. Rice.  Before we start discussing**  
22     **the exhibit, could you explain why, in your own words, why**  
23     **we are here today?**

24           A.     Sure.  BTA filed a de novo application hearing  
25     with the OCC regarding Order R-21251.  That's the order that

1 the Division issued in Marathon's Case Numbers 20865 and  
2 20866.

3 Q. Can you describe what Marathon sought in its  
4 applications in those two cases?

5 A. We sought pooling applications (inaudible)  
6 applications in those two cases that were heard back in  
7 November of 2019.

8 Q. And did Marathon seek to be designated as  
9 operator over two units in the N/2 of Section 7 and Section  
10 12 in two different townships and ranges?

11 A. Yes.

12 Q. What was -- what formations or what targets is  
13 Marathon proposing in those applications?

14 A. In those applications we are targeting the Bone  
15 Springs and Wolfcamp formations and then starting the sub  
16 formations of those formations.

17 Q. So the Bone Spring, Upper Wolfcamp and Lower  
18 Wolfcamp?

19 A. Correct.

20 Q. So those cases, Case Numbers 20865 and 20866, is  
21 that the OCD case numbers that cover the N/2 units; is that  
22 right?

23 A. Correct (inaudible) operating the N/2 units.

24 Q. Are there Valkyrie S/2 units?

25 A. Yes. Marathon also submitted applications for

1 cases that involve the S/2 of Section 12, Township 23 South,  
2 Range 28 East, S/2 of Section 7 of 23 South Range 29 East in  
3 Eddy County. Again we were targeting Bone Springs, the  
4 Wolfcamp and Lower Wolfcamp, and these were 2-mile laterals.

5 Q. Great. Does BTA protest the S/2 cases?

6 A. They do not.

7 Q. Did OCD issue Marathon a pooling order for the  
8 S/2 cases?

9 A. Yes, they did.

10 Q. So Marathon has been designated the operator of  
11 the S/2 units and the wells within the S/2 unit?

12 A. Correct.

13 Q. Let's talk again about the N/2 cases, which are  
14 the subject of this hearing today. Did Marathon request to  
15 be operator of the units and wells in the N/2 cases?

16 A. Yes, we did, and the Division granted Marathon's  
17 operatorship.

18 Q. Did Novo also have cases heard by the Division in  
19 November?

20 A. They did. Novo was granted operatorship over two  
21 miles which dovetailed with our 2-mile development plan.

22 Q. And did the Division find that pooling  
23 uncommitted in the N/2 unit would prevent waste and protect  
24 correlative rights?

25 A. Yes.

1           Q.     Did BTA participate in the November hearing?

2           A.     Yes, BTA was there. They opposed both Marathon's  
3     and Novo's proposals. BTA's sole plan was to develop their  
4     1.5-mile horizontals within the JOA area that they have.  
5     Obviously, we were not seeking to pool all the JOA area.  
6     Where we are seeking 2-mile laterals, and Novo will go the  
7     other way with 2-mile laterals, which will develop all of  
8     BTA's interests within their area.

9           Q.     So just to be clear, the two -- and I think you  
10    have a slide that will show this in a few minutes, but  
11    between Novo's and Marathon's proposals, those proposals  
12    cover four miles of which the BTA's JOA acreage is 1.5  
13    miles?

14          A.     Correct.

15          Q.     Do you know how many acres are in the BTA JOA?

16          A.     On a gross basis, approximately 440 acres.

17          Q.     And how about Marathon's N/2 unit, how many acres  
18    does that cover?

19          A.     Approximately 640, 640 acres in the Wolfcamp, and  
20    then 320 in the Bone Springs pool.

21          Q.     Has the Division -- so the Division issued an  
22    order for the two cases -- I think we covered that  
23    already -- for the two Marathon N/2 units; is that right?

24          A.     Correct.

25          Q.     And that order also established Marathon as the

1 operator of the N/2 unit?

2 A. Yes.

3 Q. So big picture, before BTA filed its request for  
4 the de novo application, the Division had issued Marathon  
5 pooling orders over the S/2 and the N/2 of Section 7 and 12?

6 A. Right, a total of five spacing units, two for the  
7 Wolfcamp and three covering the Bone Springs.

8 Q. Does the Division conclude in its N/2 order which  
9 is the one BTA (inaudible) today that BTA's correlative  
10 rights will be protected?

11 A. Yes, they did.

12 Q. Okay. Thanks. Now we will turn to the exhibits  
13 that we provided. And Mr. Rice, you have the exhibits in  
14 front of you?

15 A. Yes, I do.

16 Q. Let's start with Exhibit Number 1, and that's on  
17 Page 1. Could you please explain to -- well, let's talk  
18 about 1, 2, 3, generally, first. Could you explain to the  
19 Commissioners what Exhibits 1 through 3 are, please?

20 A. Sure. These are letters of support from  
21 companies that have acreage within Marathon's operated area  
22 in the N/2 units, as well as one from Novo for which we  
23 coordinated so that we could develop the acreage  
24 sufficiently.

25 Q. And to your knowledge, have the companies revoked

1 or otherwise indicated to you they have changed their  
2 position with respect to their support for Marathon?

3 A. Not to my knowledge, no.

4 Q. Okay. Thanks. Let's talk about the Oxy letter  
5 which is -- which is Exhibit 2 on Page 2. What is Oxy's  
6 interest in this area?

7 A. Oxy has an interest that lies within the JOA,  
8 Ochoa JOA, so they have interest in the Marathon plan and  
9 Novo plan.

10 Q. So Oxy is a party to the JOA that BTA is relying  
11 on?

12 A. Correct.

13 Q. But Oxy supports Marathon being the operator of  
14 the N/2 Valkyrie unit including the acreage that's subject  
15 to the JOA?

16 A. Correct. Oxy, we are in the process of closing  
17 out a trade for the remainder of Oxy's interest in the JOA.  
18 And they have provided us a letter of support, and to my  
19 knowledge, continues to support that Marathon be the  
20 operator.

21 Q. And in their letters of -- letter of support,  
22 did it say that Marathon had a right to represent its  
23 interest in the --

24 A. Yes.

25 Q. -- proceeding? Let's now look at Exhibit Number

1     **4. If you could turn to that, which is also Page Number 4.**

2     **Did you -- did you prepare this?**

3         A.     I prepared that, yes.

4         **Q.     And what is Exhibit 4?**

5         A.     This is just simply showing the Wolfcamp or --  
6     well, the yellow boxes outline BTA's JOA area. The red box  
7     outlines Marathon's north -- Valkyrie north Wolfcamp unit,  
8     and the blue box is Novo's proposed -- or Novo's operated  
9     2-mile spacing unit.

10        **Q.     So the red box shows the Valkyrie unit, and the**  
11 **blue box shows Novo's Astrodog unit?**

12        A.     Right. The red box shows the Marathon Wolfcamp  
13     operating unit. The Bone Springs is the S/2 of the N/2, but  
14     those are those two sections.

15        **Q.     Uh-huh. And then the yellow shows the 1.5 mile**  
16 **JOA area.**

17        A.     Correct.

18        **Q.     So this slide also shows a big picture of what**  
19 **Novo's proposal is that Novo will be talking about later**  
20 **today?**

21        A.     Yes.

22        **Q.     And earlier you mentioned that OCD had approved**  
23 **Novo's pooling applications as well; is that right?**

24        A.     That's correct.

25        **Q.     Have you had a chance to review BTA's exhibits?**

1           A.       I have gone through them, yes.

2                   MS. BENNETT: I would like to ask Mr. Rice a  
3 question about one of BTA's exhibits, recognizing it hasn't  
4 been admitted and so it could still be subject to some  
5 challenges about foundation and other challenges, but if the  
6 Commission would permit, I would -- I think it might be more  
7 efficient use of our time if I'm able to ask him the  
8 question now rather than recalling him after BTA's  
9 testimony.

10                  CHAIRWOMAN SANDOVAL: Go ahead and proceed.

11 BY MS. BENNETT:

12           Q.       **Mr. Rice, can you turn to BTA's Exhibit Number 2.**

13           A.       Okay.

14           Q.       **And do you have that in front of you?**

15           A.       I do.

16           Q.       **What is BTA's Exhibit Number 2?**

17           A.       This looks to be a similar kind of development  
18 area idea that is similar to our Exhibit 4. It's just  
19 showing, in blue, looks like BTA's JOA area, and then Novo  
20 and not -- or the NE/4 of 8 and north of 9, and then  
21 Marathon in the N/2 of 12. I'm not really sure other than  
22 that what they intend to explain with it.

23           Q.       **What else do you --**

24           A.       I mean, I think it's a bit misleading. It  
25 doesn't take into account that Marathon is in the process of

1 closing certain transactions with Oxy and Chevron. Like I  
2 said, we were acquiring the remainder of Oxy's interest in  
3 Section 7 and 8 and as well as Chevron's interest in Section  
4 12 in order to reflect the acres that Marathon sought to  
5 pool, that pool order was R-21251, which would be all the  
6 N/2 -- it would be the N/2 of 7 and the N/2 of 12.

7 Q. And when I look at this, I think this map may  
8 also help or this slide may also help discuss the shorter  
9 laterals that Marathon and Novo would have to drill if BTA's  
10 plans were implemented because this does show the three  
11 different sets of acreage and how BTA likely would want to  
12 see this acreage developed. Can you explain that a little  
13 bit more for the Commissioners?

14 A. Sure. I mean, they are trying to attempt to  
15 show that Marathon can drill 1-mile laterals in the north of  
16 12. BTA could drill 1.5 mile laterals in the N/2 of 7, and  
17 then Novo can drill 1.5 mile laterals in the northeast of  
18 Section 8 and the north of Section 9, 23 South, 29 East.  
19 That doesn't really affect the actual surface on the ground.  
20 This is all in or near the potash area.

21 Right now there is only one drill island located  
22 in the NW/4 of Section 7, the N/W N/W of Section 7, I  
23 believe. So it looks nice on paper, but the reality on the  
24 ground is it would require even more surface use even if  
25 Novo was able to get additional surface access from the

1 potash company.

2 Q. So what you just described, that would be 1-mile  
3 wells in 12, 1.5 mile wells in 7 and 1.5 mile wells in 8, as  
4 opposed to what the Division -- what Marathon and Novo have  
5 proposed and what the Division granted, which is 2-mile  
6 laterals, two sets of 2-mile laterals instead of three sets  
7 of shorter laterals; is that right correct?

8 Q. Marathon has leasehold interest in 12; is that  
9 right?

10 A. Correct.

11 Q. Where is BTA planning on putting its surface  
12 location?

13 A. I believe that at one point they were trying to  
14 utilize that drill island which would be detrimental to  
15 drill anything to the east. Now they are looking to obtain  
16 surface locations on the E/2 area of Section 12 proceeding  
17 to drill to the east across the N/2 of 7 and the N/W of 8.

18 Q. So if their plan was implemented, it would  
19 actually -- their surface locations would be on Marathon's  
20 leasehold interest, as you understand it?

21 A. As I understand it, yes, that's what it looks  
22 like.

23 Q. And early -- did -- has BLM approved Marathon's  
24 development area?

25 A. Yes, they did.

1           Q.     And does that development area encompass or take  
2     into account the 2-mile laterals that Marathon wants to  
3     drill?

4           A.     It does.

5           Q.     To your knowledge, has BLM approved Novo's  
6     development plan?

7           A.     Yes, to my knowledge, they did.

8           Q.     So BLM has effectively approved the 2-mile  
9     lateral spacing of Marathon and Novo for the full  
10    development of 12 and 7 and then 8 and 9.

11          A.     Generally speaking, yes.

12          Q.     Okay. Thank you for talking about that exhibit.  
13    I appreciate that.

14                MS. BENNETT: If you -- if there is anything that  
15    comes up with this exhibit or any other exhibit that BTA  
16    introduces, I reserve the right to recall Mr. Rice at the  
17    appropriate time if necessary.

18          Q.     Let's turn now, Mr. Rice, back to our Marathon  
19    exhibits, and let's look at Exhibit 5. Quickly, can you  
20    tell the Commissioners what Exhibit 5 is?

21          A.     Okay. These are the C-102s for the proposed  
22    wells that we submitted in the November hearing. The first  
23    C-102 is for the Valkyrie 12 SP Fed Com 13H, which is the  
24    Second Bone Springs well. The remaining C-102s are for the  
25    Wolfcamp development.

1           Q.     Okay, great. Thank you. Let's look now at  
2     Exhibit 6, and that's Page 12 of our materials. Can you  
3     explain what Pages 12 and 13 are?

4           A.     This is a lease tract map for the Bone Springs  
5     pool, the 2-mile pool. It comprises of at least two fed  
6     leases in this.

7           Q.     Okay. And then let's look at Page 13. What is  
8     the second page?

9           A.     The second page is Marathon's interest in this  
10    Bone Spring pool, and the interest of the pooled parties.  
11    I'm showing that Marathon has 37 -- approximately 37.84  
12    percent working interest. I've denoted Chevron and Oxy's  
13    interest in this pool area which brings us to about 55  
14    percent, more or less, as Marathon's interest, but as  
15    reflected these parties were also pooled at the November  
16    hearing.

17          Q.     So that's why you call the caption committed  
18    slash pool working interest because Marathon was obviously  
19    not pooled, but it's committed, and then the rest were  
20    pooled?

21          A.     Correct.

22          Q.     And then Chevron and Oxy, though, have submitted  
23    a letter of support that you denote by the asterisk?

24          A.     Yes, that's what I was going for.

25          Q.     Okay. So together Marathon's interest when

1 combined with Chevron and Oxy's interest is approximately  
2 more than 50 percent?

3 A. About 50 percent.

4 Q. Let's look at the next exhibit, which is Exhibit  
5 7 and starts on Page 14 and continues on to Page 15. Can  
6 you explain what these two cases are?

7 A. This is the lease tract map for the Wolfcamp  
8 Pool, the 2-mile Wolfcamp Pool. It has fed leases as well.  
9 The second page after that is a breakdown of the interest  
10 and the interest of the pooled parties. Similarly to the  
11 previous exhibits, combined, Marathon, Chevron, Oxy is about  
12 58 percent. I similarly did a breakdown of committed of all  
13 the parties that were pooled at the previous hearing.

14 Q. Okay, thanks. So again, here when you combine  
15 Marathon, Chevron and Oxy, it's approximately 58 percent of  
16 interest in the unit?

17 A. Correct.

18 Q. Could you summarize for the Commissioners the  
19 efforts Marathon made to obtain voluntary joinder, a  
20 voluntary joinder in the wells in the units that Marathon  
21 proposed?

22 A. So Marathon proposed 2-mile laterals. We  
23 communicated and worked with Novo so that (inaudible) use  
24 the surface efficiently and protect our correlative rights.  
25 BTA really didn't have any desire to work in that manner

1 with us at the time. And only when it came down closer to  
2 the hearing did they start talking about potential trades.

3 Unfortunately that didn't go anywhere. And  
4 recently, about a month ago, you know, BTA communicated with  
5 Marathon about trading, first trading for some other  
6 acreage, and then trading out of this Valkyrie north area,  
7 and there was also some additional suggestions and/or  
8 additional offers and that's kind of where we're at.

9 **Q. So you met with the -- or you had communications**  
10 **with BTA prior to the hearing in November and prior to this**  
11 **hearing?**

12 **A. Correct. With Mr. Willis Price, the land**  
13 **manager.**

14 **Q. And to date, those discussions have been -- you**  
15 **have had discussions, but they haven't led to anything**  
16 **formal?**

17 **A. Nothing formal. Marathon is always willing to**  
18 **discuss commercial alternatives and reach a mutually**  
19 **agreeable solution, but, to date, nothing formal has been**  
20 **agreed to.**

21 **Q. Thanks. Is Exhibit 8, which is on Page 16, a**  
22 **communication log showing what communications Marathon had**  
23 **prior to the Division hearing?**

24 **A. The Division hearing in November.**

25 **Q. In November.**

1           A.     Yes.

2           Q.     And that's the communications between Marathon  
3 and Chevron and Oxy and BTA?

4           A.     Right. To the -- prior to November, correct.

5           Q.     But as you just mentioned a moment ago, you  
6 continued to have discussions even after the hearing in  
7 November?

8           A.     Correct. After the -- the Division issued the  
9 orders, and then obviously we have had some Covid and other  
10 things going on, but BTA's reached out about a month ago and  
11 we have communicated back and forth a bit on maybe some  
12 commercial solutions.

13          Q.     Okay. Thanks. And this summary that we just  
14 talked about, 8, I think I may have asked you this, but to  
15 be clear, you did provide this summary to the Division when  
16 we had the hearing in November; is that right?

17          A.     Correct.

18          Q.     In your opinion, has Marathon made a good-faith  
19 effort to obtain voluntary joinder in the units in the  
20 wells?

21          A.     I believe so. As we pointed out, we've  
22 negotiated a trade with Oxy, and we negotiated a trade with  
23 Chevron. We've worked and worked with parties as well, and  
24 so, yes.

25          Q.     Great. And did the Division's order find that

1     Marathon had entered into good-faith negotiations to obtain  
2     voluntary joinder?

3             A.     Yes, it did.

4             Q.     In your opinion, has Marathon made a good-faith  
5     effort to negotiate with BTA?

6             A.     I believe we have, and we will continue to do so  
7     as long as BTA makes a good-faith effort as well.

8             Q.     Thank you. And did the Division's N/2 order find  
9     that Marathon made a good-faith effort to negotiate with  
10    BTA?

11            A.     Yes.

12            Q.     Great. All right. Let's turn to Exhibit 9.  
13    Does Exhibit 9 contain the well proposals letters that were  
14    sent out for these wells?

15            A.     These contain the well proposal letters that were  
16    sent out in conjunction with the November 19 hearing.

17            Q.     And is that -- this is an example of the letter.  
18    Obviously, we didn't include all the letters in the packet.

19            A.     Sure, that's correct.

20            Q.     And then also a proposal letter was sent to each  
21    working interest owner; is that right?

22            A.     Each working interest owner within our proposed  
23    spacing area?

24            Q.     Did the well proposal letters include AFEs for  
25    the wells?

1           A.     Yes, they did.

2           Q.     And if you turn to Page 10 of our materials,  
3     starting on page -- I'm sorry, Exhibit 10, Page 21 through  
4     34, are those the AFEs that Marathon included with its  
5     proposals letters?

6           A.     It is.

7           Q.     And can you briefly summarize the escalating cost  
8     as of July 11, 2019, when these AFEs were prepared?

9           A.     Sure. So as of July 11, 2019, the AFEs  
10    (inaudible) estimated cost of approximately \$9 million. And  
11    the next AFEs are for the Upper Wolfcamp, what we call the  
12    WXY wells, those are estimated cost of drilling of 9.5  
13    million, and the final AFEs are for the Wolfcamp D wells  
14    which Marathon -- Lower Wolfcamp wells are the deeper  
15    Wolfcamp wells, and those are estimated costs are  
16    approximately 10.5 million.

17          Q.     When Marathon proposed those back in July of  
18    2019, were those costs in line with costs of other  
19    horizontal wells drilled to this length and depth in this  
20    area of New Mexico?

21          A.     Yes. Back in 2019 these were a good estimate of  
22    costs.

23          Q.     What about now, are these Marathon's best  
24    estimates, or what's happening, given everything that's  
25    going on in the world right now?

1           A.     Marathon honestly has third-party vendors, and  
2     they are reviewing all our AFEs and working with those  
3     parties, and we expect those costs to decrease and be more  
4     in line with what maybe operators are seeing in the Basin at  
5     this time due to supply and demand of services.

6           Q.     Thank you. Earlier today you may have heard Ms.  
7     Hardy say that Marathon CEO has said that Marathon has taken  
8     a step back right now from drilling operations in New  
9     Mexico, and ultimately (inaudible) number of wells that BTA  
10    has been drilling.

11                   I really want to just focus right now on what  
12    agreements Marathon has in place that will enable Marathon  
13    to effectively and efficiently drill these wells in the N/2.  
14    Does Marathon have agreements in place that will assist  
15    Marathon in timely drilling these wells?

16                   I mean, first we have our DA approved,  
17    DA-2020-025. One of the first items is the drill area. We  
18    surveyed these locations. We have (inaudible) these  
19    locations. We have our third-party marking agreements in  
20    place that cover the water, the gas and oil production. You  
21    know, we -- when BTA asked for the de novo, we decided to  
22    hold off on submitting permits or applications for permits.  
23    I believe that was also an agreement between the parties  
24    that no party would attempt to drill until this hearing was  
25    decided, and so we are waiting for this to be settled and

1 move forward with our plans.

2 Q. Thank you. Earlier you may have heard Ms. Hardy  
3 say that the BLM has approved BTA's site, and I'm a little  
4 confused about that. Has BLM issued any APDs, that you know  
5 of -- and, obviously, if we are incorrect about this, I will  
6 stand -- I am ready to be corrected, but, to your knowledge  
7 has BLM issued BTA any APDs for its wells?

8 A. To my knowledge, they have not. I believe what  
9 Ms. Hardy was referring to was that BTA attempted to go out  
10 there and and do a BLM onsite over there in Section 12, but  
11 their APD was not approved by the BLM, but I don't know if  
12 their APDs have been approved. To my knowledge they have  
13 not.

14 Q. Okay. But you did just mention that, to your  
15 knowledge, also, BLM has not approved the development area  
16 for BTA?

17 A. Correct.

18 Q. And onsite with the BLM, was that for four  
19 wells -- for the four Lower Wolfcamp 1.5-mile laterals? Do  
20 you know?

21 A. If you are referring to BTA's, I have -- I assume  
22 it was because that's all they proposed or that we know that  
23 they proposed, so I assume that's what it was for, but I  
24 don't have -- I don't know.

25 Q. Okay. Thanks. Do you know of any discussions

1     between BTA and BLM or BTA and Oxy about any other wells  
2     that BTA has proposed other than the four Lower Wolfcamp  
3     wells?

4           A.     We have reached out to Oxy and asked if they have  
5     received any additional proposals from BTA, and they  
6     responded that they have not, so I will assume that nothing  
7     else has been proposed by BTA.

8           Q.     So the Division, after -- and I understand this  
9     is a de novo hearing, but I do think the Division's analysis  
10    and findings are relevant to this hearing.

11                   The Division appointed Marathon as operator of  
12    the wells in the N/2; is that correct.

13           A.     What we refer to as the N/2, yes, yes.

14           Q.     Do you have a recommendation for the amount that  
15    Marathon should be paid for supervision and administrative  
16    expenses?

17           A.     Marathon is requesting 7000 per month to be  
18    allowed for drilling a well, and 700 per month be allowed  
19    for producing a well.

20           Q.     Are these amounts in line with amounts that other  
21    operators charge and that Marathon charges in this area for  
22    horizontal wells of this length or depth?

23           A.     This is a little bit less than what we typically  
24    ask for, but it is in line with what other operators ask  
25    for.

1           Q.     Thank you. Do you request that these rates be  
2     adjusted periodically as provided by COPUS accounting  
3     procedure?

4           A.     Yes.

5           Q.     Do you request that Marathon requests the maximum  
6     cost plus a 200 percent risk charge if any pooled working  
7     interest owner fails to pay its share of cost for drilling,  
8     completion and equipping the wells?

9           A.     Yes.

10          Q.     In your opinion, is the granting of Marathon's  
11     application in the interest of conservation and the  
12     prevention of waste?

13          A.     Yes.

14          Q.     Is it Marathon's contention that operators have  
15     to drill 2-mile laterals or that Marathon no longer drill  
16     shorter laterals?

17          A.     No. As we discussed, Marathon, as well as their  
18     1-mile, 1.5 mile, there is a number of factors that  
19     include the lateral length, leasehold interests, other wells  
20     that have already been drilled that permit from drilling  
21     longer laterals. Geology might also be a factor, but I'll  
22     let the geologists talk to that.

23                 Our position is that whenever available, 2-mile  
24     laterals are preferable just because of the benefits  
25     associated with longer laterals which the Division has

1 noted, such as production and economic advantage, preventing  
2 waste and protection of correlative rights, less surface  
3 use.

4 Q. And a moment ago we were talking a little bit  
5 about the slowdown that Covid had -- well, Covid didn't slow  
6 down, but Covid and the price war that occurred were kind of  
7 a double whammy for the oil and gas industry. What impact  
8 did that have on Marathon?

9 A. Just like every operator, when the price of --  
10 commodity prices go down, sometimes it's good to not invest  
11 capital in projects that aren't going to return a better  
12 rate of return. You know, we slowed down immediately. We  
13 learned our lesson from the previous large crash when I was  
14 here, we had locked in long-term drilling projects we  
15 couldn't get out of. Now we have a more flexible situation  
16 with our rigs where we are able to stand them up in a much  
17 quicker fashion. Marathon is a public company, and our  
18 obligations, we consider all operations in that light and  
19 act prudently with our investors' money and shareholders'  
20 money.

21 Pretty much every operator in the this Basin  
22 reduced activity from Chevron, Exxon, the biggest American  
23 companies, Oxy, one of biggest drillers out here, you know.  
24 Ms. Hardy mentioned a line from our CEO, and we did the  
25 prudent thing of -- well, we suspended drilling for 2020.

1           We are already back to completing some of our  
2   wells here in the second half of this year, and we are  
3   currently working on our 2021 drilling plans. Whether  
4   that's one rig or four rigs working in the Basin, you know,  
5   a lot of factors go into that. Marathon has multiple basins  
6   it operates in, so --

7           **Q.     Thank you for that explanation. I think that was**  
8   **helpful. Do you think -- and I'm just asking your opinion**  
9   **here, not a legal opinion -- do you think BTA's JOA is**  
10   **relevant to Marathon's pooling application?**

11          A.     No. Marathon and all other operations have a  
12   right to seek a pooling order, which we did, and in my  
13   opinion, the Division correctly granted. Marathon has had  
14   multiple JOA in which other operators proposed over them,  
15   and a lot of times were able to work out what needs to be  
16   done, you know. Also, we have established that Marathon's  
17   plan in conjunction with Novo's plan is the more efficient  
18   use of the land, fewer surface impacts, 2-mile development,  
19   et cetera.

20          **Q.     What would happen if Marathon's order was**  
21   **vacated, or let's put it another way -- if BTA prevailed and**  
22   **Marathon was not able to have the Valkyrie N/2 unit?**

23          A.     Marathon would be less efficient laterals, more  
24   surface waste and economic waste. BTA would -- I presume  
25   that the Novo orders would also be vacated so that BTA would

1 potentially drill 1.5 mile laterals, and Novo would be kind  
2 of, you know, I don't know if they will be able to drill 1.5  
3 mile laterals because of the potash, as you move into that  
4 direction it gets into the lake area. But at the end it's  
5 three set -- three spacing units, more surface and more  
6 setbacks.

7 Q. Earlier today you may have heard Ms. Hardy say  
8 that BTA's plan more efficiently developed the Ochoa acreage  
9 which is the BTA JOA acreage. Do you recall her saying  
10 that?

11 A. Yes.

12 Q. You think though that the -- and I guess the  
13 fundamental difference here between Marathon and Novo and  
14 BTA is whether JOA -- BTA's proposal efficiently develops  
15 the entire acreage that Marathon and Novo are proposing to  
16 develop. In other words, it seems like sort of a myopic  
17 view. What's your take on that?

18 A. I agree that they're first and foremost going to  
19 just drill what they have and not taking into consideration  
20 the surrounding area and situation, and you know, I know  
21 they haven't really proposed something like that to all the  
22 parties to work together as stringently as Marathon and Novo  
23 have.

24 Q. Thanks. Before I move to have the exhibits  
25 admitted, do you have any final thoughts you wanted to share

1     **before I have your exhibits admitted and before I turn you**  
2     **over for cross-examination?**

3           A.     Just that Marathon is a prudent operator. We  
4     drill a lot wells here in this basin, mostly in Eddy, not to  
5     mention across the United States. And we have worked with  
6     the other operators and other owners in this area, and this  
7     is the plan that Novo and Marathon has developed its acreage  
8     in the most efficient way possible given the acreage of this  
9     area.

10          **Q.     Thank you. Were Exhibits 4 through 10 prepared**  
11     **by you or under your supervision and compiled from company**  
12     **business records?**

13          A.     Yes.

14          **Q.     And are Exhibits 1 through 3 the letters that you**  
15     **received from Chevron, Oxy and Novo?**

16          A.     They are.

17                MS. BENNETT: At this time I would like to move  
18     the admission of Exhibits 1 through 10 into the record.

19                CHAIRWOMAN SANDOVAL: Are there any objections  
20     from any of the parties?

21                MS. HARDY: No objection.

22                CHAIRWOMAN SANDOVAL: Are there any objections  
23     from the Commissioners?

24                COMMISSIONER KESSLER: No objection.

25                COMMISSIONER ENGLER: No objection.

1 CHAIRWOMAN SANDOVAL: Exhibits 1 through 10 are  
2 now entered into the record.

3 (Exhibits 1 through 10 admitted.)

4 MS. BENNETT: And that concludes my direct  
5 questioning of Mr. Chase. As I mentioned at the outset, I  
6 would like to reserve the right to recall Mr. Chase if  
7 needed, and also reserve the right to ask him any redirect  
8 depending upon the questions or the questions of the  
9 Commission. Thank you.

10 CHAIRWOMAN SANDOVAL: Thank you. Ms. Hardy,  
11 would you like to ask the witness questions?

12 MS. HARDY: Yes, I would, Madam Chair.

13 CHAIRWOMAN SANDOVAL: Please proceed.

14 MS. HARDY: Thank you.

15 CROSS-EXAMINATION

16 BY MS. HARDY:

17 Q. Mr. Rice, you stated that Marathon and Novo's  
18 proposals will fully and comprehensively develop BTA's Ochoa  
19 acreage; is that correct?

20 A. I stated, correct, yes, to the extent of the  
21 situation on the ground.

22 Q. And Marathon only proposes one well in the Second  
23 Bone Spring.

24 A. Correct. South, the S/2 of the N/2 of 12 and 7,  
25 correct, 2-mile lateral.

1           Q.     And none are proposed by Novo; is that correct?

2           A.     In 12 and 7?

3           Q.     Correct.

4           A.     Their -- their development area is 8 and 9.

5           Q.     Okay.

6           A.     Eight and 9.

7           Q.     I'm sorry. In Novo's development area, do you  
8 know if they have any Second Bone Spring wells proposed in  
9 BTA's acreage?

10          A.     Novo has not proposed any Second Bone Spring  
11 wells at this time, but they do have plans to develop the  
12 Second Bone Spring wells in an E/W 2-mile fashion. I can  
13 give you some of the highlights of that with our discussions  
14 with Novo, or you can discuss it with them when they go to  
15 their hearing.

16          Q.     So at this time they haven't proposed those  
17 wells; is that correct?

18          A.     Correct.

19          Q.     And Marathon does not propose any wells that  
20 reach BTA's acreage in the S/2 of the NW/4 of Section 8; is  
21 that correct?

22          A.     Correct.

23          Q.     All right. And Novo's wells don't treat that  
24 acreage either, do they?

25          A.     Novo's currently proposed Bone Springs wells?

1           Q.     Correct.

2           A.     Right. I believe they propose a Third Bone well  
3     that will cross that S/2 of the N/2 2 mile. So if you are  
4     asking about Second Bone Springs, I don't believe they  
5     proposed a Second Bone Spring well as of yet.

6           Q.     Isn't it correct that between Marathon -- well,  
7     even if you consider both the proposals, that 80 acres in  
8     the S/2 of the S/2 of the NW/4 of Section 8 would be  
9     stranded?

10          A.     I do not believe that's correct. There is a  
11     horizontal well that is operating by Concho. It's called  
12     the Risky Lizard or Ready Lizard, but Novo has discussed  
13     with us what their plans are. Their plans are to work with  
14     Concho, and they are going to be able to drill a 2-mile  
15     east-west well that will capture that N -- the S/2 of the NW  
16     of Section 8 of the Second Bone Spring horizontal drilling  
17     perpendicular to that well.

18          Q.     Okay. But at this time between Marathon and  
19     Novo, there is no proposal that produces that acreage; isn't  
20     that correct?

21          A.     Not at this time.

22          Q.     I have some questions for you about BTA Exhibit 2  
23     that Ms. Bennett had asked you about.

24          A.     Okay, just a second. Go ahead.

25          Q.     That exhibit -- and I think you said it was

1     **misleading; correct?**

2           A.     I'm not really 100 percent sure of what your  
3     witnesses are going to say it means. To me, it just looks  
4     like what should be proposed developments areas, development  
5     areas or spacing units, but I don't know, I was just  
6     contemplating what it meant.

7           Q.     Okay. It states that it shows the leasehold  
8     rights of each operator. Isn't that correct?

9           A.     Yes.

10          Q.     Do you agree it correctly reflects those rights,  
11     to the best of your knowledge?

12          A.     Well, except -- I'm not sure all the nuances, but  
13     I guess it does, yes, as of today. It doesn't reflect the  
14     pooling orders that were issued previously at the previous  
15     hearing.

16          Q.     Okay. And it correctly depicts, doesn't it, that  
17     474.11 acres are subject to a voluntary JOA controlled by  
18     BTA; is that correct?

19          A.     That's what it depicts, yes.

20          Q.     And all working interest owners within the JOA  
21     have committed their acreage to the JOA. Isn't that right?

22          A.     Yes.

23          Q.     Okay. And even if Marathon's proposed trade with  
24     Oxy is consummated, Oxy's interest within that JOA acreage,  
25     if it's assigned to Marathon, would still be subject to the

1 JOA. Is that correct?

2 A. Acreage -- yes.

3 Q. You also stated, I think, that the surface  
4 wellsites would be located on Marathon's leasehold that are  
5 proposed by BTA. Is that correct?

6 A. From my understanding, that's where they had  
7 their onsite, which was on basically the E/2 E/2 of the NE  
8 of Section 12, somewhere in that area, you know, that --  
9 that's my understanding where they attempted to have a BLM  
10 onsite or had a BLM onsite. The acreage in Section 12 is  
11 Marathon's and Chevron's interest.

12 Q. And isn't it true that the leasehold of the  
13 mineral interest has no control or impact over the surface  
14 site of a well. Isn't that correct?

15 A. Correct. I mean, you know, they seek BLM  
16 approval. BLM has jurisdiction over that.

17 Q. Do you know if the BLM --

18 A. -- our site.

19 Q. Sorry. Do you know if the BLM did approve BTA's  
20 website -- wellsite?

21 A. I don't know if they approved the wellsites.  
22 They probably approved them at the BLM onsite. Of course,  
23 as we mentioned, BTA did not receive a development area  
24 approval from the BLM, so it might -- the sites really  
25 aren't valid at the moment until this is all settled.

1           Q.     You state in the response to Ms. Bennett's  
2     question that Marathon prefers to drill 2-mile laterals  
3     whenever available; is that correct?

4           A.     That is our preference, yes.

5           Q.     I wanted to ask you about some recent examples.  
6     Following the November 2019 hearing by the Division in these  
7     cases, did Marathon drill 1-mile laterals to the east of the  
8     acreage that is the subject of today's hearing, and that  
9     would be the Haides development?

10          A.     Correct. So Marathon drilled two 1-mile Bone  
11     Springs laterals due to the other leasehold around there.  
12     To the north, WPX has a 2-mile development plan, and to the  
13     south Chevron has 1.5 mile wells. They go up to that  
14     section. So it was landlocked. Novo is to the east with  
15     2-mile development. Marathon has a 2-mile development going  
16     N/S on the W/2 of that section. So in that situation the  
17     only thing to do is drill 1-mile wells.

18          Q.     So you drilled 1 mile to accommodate the other  
19     interest?

20          A.     Not to accommodate it. They were already  
21     drilling their plans together.

22          Q.     Did you seek to compulsory pool any of the  
23     interest to the north of those two wells to drill 2-mile  
24     laterals?

25          A.     To the north. At one point we did propose some

1 2-mile N/S. We worked with the operator and came to  
2 accommodation on some other stuff. So, you know, like I  
3 said, our attempt is to drill 2-miles whenever possible. In  
4 that instance, it wasn't necessarily possible. Those are  
5 Bone Springs wells as well. Part of it looking acreage in  
6 that section is going to Chevron where they are going to  
7 drill 2.5 mile laterals in the Wolfcamp, or that's their  
8 plan.

9 Q. So in that situation, you went ahead with a  
10 1-mile development?

11 A. We did that, and as well, the state lease, one of  
12 the state leases in there had an expiration date, so we also  
13 had to make some lease expiration issues.

14 Q. Thank you. Ms. Bennett referenced in her  
15 questioning the statements of Marathon CEO regarding the  
16 suspension of drilling in the Northern Delaware. Do you  
17 recall those questions?

18 A. Yes.

19 Q. Do you have in front of you BTA Exhibit 24?

20 A. Just a moment. Is it -- is it the first order  
21 release for Marathon?

22 Q. It is.

23 A. Yes.

24 Q. And then if you look at what I believe should be  
25 the second page of that exhibit, the highlighted portion, it

1 states Marathon has suspended further drilling activity in  
2 the Northern Delaware; correct?

3 A. Yes.

4 Q. Okay. And does this appear to you to be a true  
5 and correct copy of the report issued by Marathon for the  
6 2020 results?

7 A. It does.

8 Q. Okay. Marathon also states in the next sentence,  
9 doesn't it, that there will be a limited number of wells to  
10 sales expected through the balance of the year; is that  
11 correct?

12 A. Correct.

13 Q. And Marathon has complied with its plan as  
14 expressed here; is that correct?

15 A. To date, I assume, yes. Everything changes all  
16 the time, so this is a snapshot-in-time statement.

17 Q. Well, doesn't it state that they suspended  
18 drilling activity for the rest of 2020?

19 A. The companies -- Marathon Oil suspended further  
20 drilling activity in Northern Delaware. So that can change  
21 tomorrow.

22 Q. Okay. And at this point it hasn't changed  
23 since -- what Marathon is doing right now, it suspended  
24 drilling activity in this area?

25 A. Correct. I believe so, in this area.

1           Q.     I have some questions for you about your  
2   Exhibit 8.

3           A.     Eight, is that the communications log one?

4           Q.     It is.  Marathon began researching the tracts  
5   that are at issue here in February of '19; is that correct?

6           A.     Yes.  The tracts were in the development of  
7   Section 12 and Section 7.

8           Q.     When Marathon researches tracts it is interested  
9   in acquiring or pooling, does it obtain title information?

10          A.     Cursory title information to begin with, yes.

11          Q.     And does that involve a review of public filings  
12   regarding the acreage?

13          A.     That would, yes.

14          Q.     Would it verify its interest in its proposed  
15   spacing units, first interest.

16          A.     I don't know off the top of my head.  Probably --  
17   what year is this?  Probably late 2018, I think, if I  
18   recall, maybe early 2019.

19          Q.     Okay.

20          A.     That's the trade with Oxy, I believe, may be one  
21   of the transactions, if I recall.

22          Q.     Are you aware that in this case EOG had assigned  
23   its interest in the Ochoa acreage to BTA?

24          A.     Yes.  Once it was made of record, we knew it.

25          Q.     And if that trade was -- notice of the transfer

1     was publicly filed, it was effective November 1 of '18,  
2     Marathon would have been aware of that trade. Is that  
3     correct?

4           A.     Correct.

5           Q.     So when Marathon acquired its interest it was  
6     aware that BTA was a working interest owner in the Ochoa  
7     acreage; correct?

8           A.     Well, BTA -- not BTA -- Marathon's acquired  
9     interest is inside and outside the JOA area, so both  
10    transactions, yes. Or for the acreage that Oxy has in the  
11    JOA area that we're aware it is part of the JOA, and we are  
12    going in with our eyes wide open, I guess what I'm trying to  
13    say. It doesn't change the fact of better development.  
14    Does that answer your question? So the acreage is subject  
15    to the (inaudible) contributing to that JOA.

16          Q.     And you would have been aware that BTA was the  
17    operator under the JOA; is that correct?

18          A.     Correct.

19          Q.     And are you aware that Oxy ratified BTA as the  
20    operator of this Ochoa acreage or JOA acreage?

21          A.     Ratified it with a public filing, or just by  
22    signing a document?

23          Q.     With a public filing.

24          A.     That's fine, yes.

25          Q.     It would have been reasonable to assume, wouldn't

1     **it, that BTA wanted to operate the JOA acreage?**

2           A.     I would assume that they would like, it was their  
3     plan, yes.

4           **Q.     And Marathon does not hold an interest in the**  
5     **Ochoa acreage; is that right?**

6           A.     Marathon has a pooled interest, uncommitted  
7     interest, but record title, no, not at the moment.

8           **Q.     Do you know when BTA issued its well proposals**  
9     **for the Ochoa acreage?**

10          A.     No, I do not know off the top of my head. They  
11     sent that to the participants of the JOA. Oxy forwarded  
12     those to us. I would have to go back and look, but off the  
13     top of my head.

14          **Q.     Marathon sent out its well proposals on July 12**  
15     **of 2019; is that right?**

16          A.     Uh-huh -- yes, sorry.

17          **Q.     Can you look at your Exhibits 6 and 7, please.**

18          A.     Six and 7. Six would be the lease tract map for  
19     the S/2 N/2 Bone Springs pool?

20          **Q.     Yes.**

21          A.     Is that what you're referring to?

22          **Q.     Yes.**

23          A.     Yes, I'm there.

24          **Q.     And it's the next page of the exhibit where you**  
25     **(inaudible) working interest?**

1           A.     Yes.

2           **Q.     Are you aware that BTA traded Oxy for an**  
3           **additional 40 acres of the JOA acreage?**

4           A.     Yes, that's reflected in that calculation.

5           **Q.     You believe that that's reflected here?**

6           A.     Well, you are looking at the Second Bone Spring.  
7     Our pool area, the 2 miles, that is their working interest,  
8     that includes their interest in the north. They are  
9     claiming, they are doing their calculation on the 1.5 mile,  
10    under the 1 mile and 2-mile basis as to this pool area, so  
11    that's how the calculation.

12          **Q.     Okay.**

13          A.     It's not going to be the same as BTA because it's  
14    a different gross area; right? Does that make sense?

15          **Q.     So it's your testimony that Exhibit 6 and 7 on**  
16    **the ownership interest reflect the trade from Oxy to BTA in**  
17    **BTA's percentage of Marathon's units?**

18          A.     Correct. That's what I came up with, but I did  
19    adjust this from the previous hearing to reflect that  
20    transaction, so yes.

21          **Q.     And these exhibits don't reflect that Oxy's**  
22    **interest is subject to the JOA, committed to the JOA, do**  
23    **they?**

24          A.     Not seeking to do that. Seeking to pool a 2-mile  
25    lateral and the JOA doesn't have any relevance or bearing to

1     that, as far as I'm concerned, for our development plan.

2           **Q.     Then your exhibit basically and your testimony**  
3     **basically treats the JOA as a nullity; is that right?**

4           A.     I'm not proposing the wells in the JOA, so as far  
5     as I'm concerned, no, I'm not using -- I'm not looking to  
6     utilize that JOA to propose wells in the mile and a half.  
7     It's not my JOA.

8           **Q.     That's not a consideration for Marathon; right?**

9           A.     As far as operations of wells, no.

10          **Q.     With respect to Marathon's interest, the Bone**  
11     **Spring unit, Marathon holds 37.8 percent; correct?**

12          A.     Correct.

13          **Q.     Okay.**

14          A.     The interest is in the S/2 of N/2 of 12.

15          **Q.     And in the Wolfcamp, Marathon is about 18.9**  
16     **percent; correct?**

17          A.     I've got 58 with the committed interest, but --  
18     the ones that are reflected on this, the committed interest  
19     is 58 percent.

20          **Q.     I'm looking at the second page of Exhibit 7.**

21          A.     Second page of 7, right.   Okay.

22          **Q.     It lists Marathon as 18.9 percent roughly?**

23          A.     The rest is resold interest, and then we discuss  
24     the committed interest as well, and the committed interest  
25     is coming in to Marathon through these transactions.

1 Q. And --

2 A. -- support.

3 Q. So -- okay. And Marathon had to pool because of  
4 this percentage of interest; right?

5 A. Marathon is pooling because there is no governing  
6 document to drill the 2 miles except for the pool order. So  
7 we are pooling uncommitted or committed interests.

8 Q. Right. So Marathon obviously don't hold 100  
9 percent of the interest or it wouldn't be pooling; right?

10 A. Correct.

11 Q. And BTA does hold 100 percent of the -- control  
12 100 percent of the interest in Ochoa acreage; is that right?

13 A. BTA is the operator under a JOA that encompasses  
14 mile and a half that they call the Ochoa wells. So they are  
15 the operator, so they have a controlling document to drill  
16 1.5-mile wells over there solely within that mile and a half  
17 area.

18 Q. And they wouldn't need to pool to develop that  
19 acreage; is that correct?

20 A. If they are only going to drill mile and a half  
21 laterals, then they would not need to pool, no.

22 Q. Can you please look at your Exhibit Number 1,  
23 it's a letter from Chevron.

24 A. Uh-huh. Okay.

25 Q. That transaction between Chevron and Marathon

1     hasn't closed, has it?

2           A.     Not, not yet, no.

3           Q.     And let's look at Exhibit Number 2 which is the  
4     letter from Oxy.

5           A.     Uh-huh.

6           Q.     I think you have already said this, but I want it  
7     to be clear that Oxy is a party to the JOA and its interest  
8     is committed to the JOA; is that right?

9           A.     Oxy's interest is a party to the JOA, yes.

10          Q.     And the JOA remains in effect for purposes of  
11     determining title ownership, doesn't it?

12          A.     Contractual interest?

13          Q.     Yes.

14          A.     Yes.

15          Q.     A couple of questions for you again on the 1-mile  
16     lateral. Marathon does drill 1-miles in the surrounding  
17     sections; isn't that correct?

18          A.     Depending on how far you want to go out,  
19     east-west, north-south and there are 1-mile wells that  
20     Marathon is drilling.

21          Q.     And does that -- is that one reason there may be  
22     development constraints; correct?

23          A.     Correct.

24          Q.     Okay. And in those situations, Marathon views  
25     the 1-mile wells as economically viable, doesn't it?

1           A.     I would defer to the engineer or geologist to  
2 discuss those. I don't -- I don't run economics on those  
3 things.

4           **Q.     You would expect that Marathon would only drill**  
5 **wells that are economic, wouldn't you?**

6           A.     I mean, I think that is determined by the price  
7 of the commodity and recovery and things. I would probably  
8 have those questions for an engineer, not me, I'm no expert  
9 in that. But I would assume, in general, that any company  
10 doesn't invest capital in drilling and completing expects  
11 some type of return on their investment. Correct? With the  
12 variables in prices collapse or go up, that's just an  
13 unknown.

14          **Q.     If Marathon drilled 1-mile laterals here,**  
15 **Marathon and BTA could each develop their acreage; isn't**  
16 **that correct?**

17          A.     That is certainly a possibility, although I don't  
18 think Novo could, so you are cutting out one person.

19          **Q.     Well, Novo's application will be heard separately**  
20 **later today; is that right?**

21          A.     Yes. But like I said, Marathon and Novo work  
22 together to come up with a comprehensive development plan,  
23 so it's -- but you can talk to Novo or Novo will present  
24 their findings, I guess.

25          **Q.     With respect to operating rights, if given a**

1     **choice, does Marathon prefer to be an operator versus**  
2     **non-operator.**

3           A.     Yes. Marathon prefers to operate wells as  
4     opposed to not being an operator.

5           Q.     **And are operating rights valuable to Marathon?**

6           A.     Sure.

7           Q.     **With respect to the negotiations between BTA and**  
8     **Marathon, BTA initiated the initial meeting with Marathon to**  
9     **discuss options for the development plan; is that correct?**

10          A.     I think Mr. Price came down to Houston, yes, to  
11     discuss something, some mutually agreeable outcome.

12          Q.     **BTA made proposals that would have allowed**  
13     **Marathon and BTA to each development their acreage; is that**  
14     **correct?**

15          A.     Are you referring to the meeting in November  
16     or -- I can't recall what proposal you are referring to. I  
17     think the proposal was to let us drill our mile and a half,  
18     and you stay in your one area. Basically, you know, it was  
19     stay on your side and we'll stay on our side even though  
20     it's a wasteful situation.

21          Q.     **Each party could develop their acreage that way**  
22     **without pooling; is that right? Or Marathon could do it**  
23     **without pooling BTA's acreage?**

24          A.     Well, we can do it. We can drill a 2-mile  
25     lateral without pooling acreage or voluntary joinder.

1           **Q.     Right. But you could drill a one?**

2           A.     If it made economic sense, yes. Like I don't  
3 know, that's -- I don't know the area in the sense of that  
4 over here of, you know, the (inaudible) 1-mile versus  
5 2-mile, et cetera.

6           **Q.     Thank you, Mr. Rice, I don't believe I have any**  
7 **other questions.**

8           MS. HARDY: I would like to move the admission of  
9 BTA Exhibits 24 and 25.

10          CHAIRWOMAN SANDOVAL: I'm sorry, I --

11          MS. HARDY: I'm sorry, I think it's only 24.

12          CHAIRWOMAN SANDOVAL: Ms. Bennett?

13          MS. BENNETT: No objection.

14          CHAIRWOMAN SANDOVAL: Commissioners?

15          COMMISSIONER KESSLER: No objection.

16          COMMISSIONER ENGLER: Tom Engler, no objection.

17          CHAIRWOMAN SANDOVAL: Okay. Exhibit 24 is --  
18 BTA'S Exhibit 24 is admitted.

19          (Exhibit BTA 24 admitted.)

20          CHAIRWOMAN SANDOVAL: Commissioners, do you have  
21 questions for the witness?

22          COMMISSIONER KESSLER: I have some questions.  
23 Dr. Engler, do you mind if I go first?

24          COMMISSIONER ENGLER: (inaudible).

25          COMMISSIONER KESSLER: Good morning, Mr. Rice.

1 THE WITNESS: Good morning.

2 COMMISSIONER KESSLER: I want to make sure that I  
3 have a good understanding as to the proposed development  
4 plans. As I understand it, Marathon is proposing one Bone  
5 Spring well, not the Second Bone Spring well, but a Bone  
6 Spring well, and Wolfcamp well; is that correct?

7 THE WITNESS: We are proposing one Second Bone  
8 Springs well. It will be in the S/2 of the N/2 of Section  
9 12 and the S/2 and the N/2 of 7, and then -- sorry, let  
10 me -- what well did you ask about?

11 COMMISSIONER KESSLER: What you are proposing.

12 THE WITNESS: Yes, that's correct, I believe so,  
13 it would target the Wolfcamp in the N/2 of 12, n/2 of 7.

14 COMMISSIONER KESSLER: Are the proposed wells  
15 targeting BTA and their (inaudible) are they targeting  
16 different sections of the respective intervals?

17 THE WITNESS: Right now my understanding is that  
18 BTA is only targeting the deeper Wolfcamp of the Wolfcamp  
19 formation, what Marathon calls the Wolfcamp D. Other  
20 companies have different sub numbers.

21 Marathon's plan is to target one of the phase  
22 plans that will incorporate the S/2 units and N/2 units  
23 targeting the Upper Wolfcamp sub interval and the Bone  
24 Springs interval and target the deeper Wolfcamp.

25 COMMISSIONER KESSLER: And has Marathon brought a

1 geologist who will testify to Marathon's plan.

2 THE WITNESS: Yes.

3 COMMISSIONER KESSLER: Looking at the ownership  
4 exhibit, Marathon's Exhibit 2, it looks like Marathon has  
5 some percent (inaudible) about why Chevron and Oxy have  
6 letters of support from (inaudible).

7 THE WITNESS: We are in the process -- sorry,  
8 were you still asking your question?

9 COMMISSIONER KESSLER: I was just curious. The  
10 letters of support are dated back in November and August.  
11 Have those deals not been finalized?

12 THE WITNESS: We are getting close to finishing  
13 our Oxy trade. These trades are much larger than just this  
14 acreage, and they encompass other acreage, and Lea County as  
15 well as Eddy County, and it's just bigger companies take  
16 longer to finish up things, but they are still moving  
17 forward. We'd like to have these closed pretty soon.

18 COMMISSIONER KESSLER: Do you know what  
19 percentage of the JOA Marathon (inaudible)

20 THE WITNESS: I don't have that calculation in  
21 front of me. I'm sure it's in their exhibit what their  
22 working interest is within their JOA area, but I don't know  
23 what that is because we aren't seeking to pool the same  
24 area.

25 COMMISSIONER KESSLER: So one of the focuses of

1 my understanding of this hearing is additional of waste  
2 through 2-mile developments. Are there 2-mile wells in the  
3 area either in the Bone Springs or in the --

4 THE WITNESS: Marathon has recently drilled what  
5 we call our Blue Scale wells. They are 2-mile Wolfcamp  
6 wells down in Section 21 and 16. So about a mile to 2 miles  
7 away from this development area there are several other  
8 operators that drill 2-mile wells. The 2-mile development  
9 that's preferred by the industry just for return, economic  
10 returns, you know, less surface locations and that sort of  
11 thing.

12 COMMISSIONER KESSLER: With respect to the  
13 economic returns, did Marathon bring an engineer who will be  
14 testifying about 2-mile wells in the area versus 1.5 or  
15 1-mile wells?

16 THE WITNESS: I believe our engineer who is  
17 scheduled to testify can give you the answer to those  
18 questions.

19 COMMISSIONER KESSLER: Okay. Okay. We also  
20 talked some about good-faith negotiations. Looking at the  
21 time line, it looks like here is one BTA proposed their  
22 wells in a relatively similar time, is that correct?

23 THE WITNESS: Yes. I believe that's correct.

24 COMMISSIONER KESSLER: Okay. Can you please  
25 discuss what negotiations or communications Marathon had

1 with BTA assuming the July 12 proposal letter and the  
2 November (inaudible).

3 THE WITNESS: The discussions were mainly -- I  
4 think both parties, prior to the hearing, were expecting  
5 operatorships. So it wasn't geared toward how do we trade  
6 you out of the acreage or you trade us out of the acreage.

7 I can't recall all of the specifics that were  
8 were thrown about. And I don't know what, off the top of my  
9 head, I just can't remember all the specifics from the  
10 discussion, but essentially it was just trading out acreage.

11 COMMISSIONER KESSLER: Okay. And can you discuss  
12 why those communications either broke down or did not result  
13 in a trade?

14 THE WITNESS: I'm sorry. Could you repeat the  
15 question?

16 COMMISSIONER KESSLER: Yeah. Can you discuss why  
17 those communications stopped and any type voluntary  
18 agreement, was it just price per acre, or was it  
19 operatorship?

20 THE WITNESS: I mean, just like in any  
21 negotiation, you know, the meeting of the minds, and each  
22 party couldn't come to a mutually agreeable solution, BTA  
23 was pretty adamant they wanted to stay with their 1/2 mile  
24 plan, and that was really -- really wouldn't come off of  
25 that at the time, even though I think they know it that the

1 best way is for a 2-mile development, and with Novo and  
2 Marathon's plan, just, you know, we try to make a good-faith  
3 effort with the parties to negotiate a solution, come up  
4 with a solution. But unfortunately that didn't work out so  
5 far.

6 COMMISSIONER KESSLER: I have no more questions.

7 CHAIRWOMAN SANDOVAL: Dr. Engler, do you have any  
8 questions?

9 COMMISSIONER ENGLER: Yes, I do. Just a couple  
10 of quick ones, Mr. Rice. I'm following up on what  
11 Commissioner Kessler, on your Exhibit 7, from the Wolfcamp.

12 THE WITNESS: Yes, sir.

13 COMMISSIONER ENGLER: And then I know the second  
14 page you identified committed interests from Chevron and Oxy  
15 and you have support letters from those two companies.

16 THE WITNESS: Correct.

17 COMMISSIONER ENGLER: As of today, you do not  
18 have that assigned interest; is that correct?

19 THE WITNESS: Correct.

20 COMMISSIONER ENGLER: So what would happen if  
21 Chevron decides not to trade?

22 THE WITNESS: If they decide not to, we went to  
23 also will pool their interest in the original pooling area,  
24 so they would -- assuming that Marathon -- or continues to  
25 be the operator of the area, they would have that 28 percent

1 right to participate in a 2-mile development, which they  
2 might want to do that. I know they won't want to  
3 participate in 1-mile development.

4 COMMISSIONER ENGLER: Right. So I guess, at this  
5 point in time, you know, the -- if that happens, there  
6 could be further negotiations in terms of development.

7 THE WITNESS: I'm not quite following the  
8 question. If the Chevron trade fell through here in the  
9 next month, then you are asking if that changes Marathon's  
10 plans?

11 COMMISSIONER ENGLER: Correct. Yeah, that would  
12 be a better way to say that, yes.

13 THE WITNESS: No. We are fully committed to  
14 drilling 2-mile wells, you know, with the higher working  
15 interest that way you develop it at the lower working  
16 interest.

17 COMMISSIONER ENGLER: I have one other. There  
18 was discussion questions about this stranded 80 acres.

19 THE WITNESS: Uh-huh.

20 COMMISSIONER ENGLER: Second Bone Springs, I  
21 believe is what it was referring to.

22 THE WITNESS: Yes, sir.

23 COMMISSIONER ENGLER: And if I understand right,  
24 I guess I'm asking more clarification, you stated that --  
25 right now there is the -- there are supposed plans, I

1 think, from Novo to develop that, but it's not really  
2 committed or firm, and we don't have anything that suggests  
3 that today; is that correct?

4 THE WITNESS: By the end of the day, I imagine  
5 you will have more firm plans from Novo. I'm just kind of  
6 giving you my discussions with them. The 80 acres they are  
7 referring to is within Novo's development area.

8 But for my discussion, they will be able to  
9 access that Bone Springs acreage via horizontal drilling and  
10 drain that 80 acres. But that 80 acres doesn't fall within  
11 Marathon's proposal area or spacing area.

12 COMMISSIONER ENGLER: I agree, but I know you and  
13 Novo have developed a comprehensive plan across all the  
14 acreage, so that's what my question was. But I will hold  
15 that off for Novo so they can answer that later. No further  
16 questions, Madam Chair.

17 CHAIRWOMAN SANDOVAL: Thank you. I have no  
18 questions.

19 MS. BENNETT: Madam Chair, this is -- I  
20 apologize.

21 CHAIRWOMAN SANDOVAL: Do you wish to redirect,  
22 Ms. Bennett?

23 MS. BENNETT: Yes, I would appreciate that  
24 opportunity.

25 CHAIRWOMAN SANDOVAL: Go ahead.

REDIRECT EXAMINATION

BY MS. BENNETT:

Q. Mr. Rice, I wanted to follow up on a question that Commissioner Engler just asked you, and Ms. Hardy asked you about the Second Bone Spring development. I think a moment ago you mentioned that that's part of Novo's plan, and so there will be more discussion of that today. But, as far as you know, has BTA proposed a Second Bone Spring well?

A. No, they have not. Not to my knowledge.

Q. All right. Not in the N/2 of the N/2 and not in the S/2 of the N/2?

A. To my knowledge, they have not proposed any Bone Springs wells that would be in their JOA area.

Q. Okay, thank you. And Ms. Hardy asked you about the percentage of ownership and the leasehold interest map that BTA provided, which is BTA Exhibit 2. And you said that -- you got into a bit of discussion about the trade with Oxy and trade with Chevron, and Commissioner Engler asked you a moment ago about the trade with those two entities. Is there any reason in your mind that you know those trades will not go through?

A. Right now there is no reason that these trades will not be finished up here pretty soon. We are diligently working on finalizing it.

Q. And Commissioner Engler asked you also if your

1 plan would change if Chevron, for example, were to not enter  
2 into this trade with you, but Chevron also supports Marathon  
3 as operator of the 2-mile unit; is that right?

4 A. That's correct.

5 Q. So even if Chevron, if the trade didn't work out,  
6 there is still support from those operators, from Chevron  
7 and Oxy for you to be operator?

8 A. Correct.

9 Q. Thank you. I wanted to ask you a question about  
10 Ms. Hardy's line of questions to you about when you knew  
11 about BTA's JOA, and I just want to make sure that we are  
12 all on the same page there.

13 So my recollection -- and please correct me if  
14 I'm wrong, and I'm not trying to testify, I'm just trying to  
15 put things into context here. My recollection is that  
16 Marathon only acquired Oxy's interest in Section 12 in 2019;  
17 is that right? In other words, you didn't acquire any  
18 interest in Section 7?

19 A. We acquired Oxy's interest in Section 12 through  
20 a separate trade, and it either closed in late 2018 or early  
21 2019. So I don't have the specific date off the top of my  
22 head, but we acquired the interest and was working on  
23 acquiring additional interest in Section 7 with the intent  
24 of doing 2-mile development, not to drill 1-mile wells.

25 Q. At the time you acquired Oxy's interest in

1     Section 12, though, you would have run title on Section 12?

2           A.     Correct. Section 12 is not part of the JOA.

3           Q.     So the title work, assuming there is title work  
4     on the JOA, or title publicly available documents for the  
5     JOA, that would have come up in your title work for the  
6     Second?

7           A.     Not -- no, it would not be -- it would not.

8           Q.     Thanks. I think that is -- those are all the  
9     questions I have for you on redirect. I appreciate your  
10    time.

11                   MS. BENNETT: And as I mentioned, I reserve the  
12    right to call Mr. Rice if necessary on -- as a rebuttal  
13    witness.

14                   CHAIRWOMAN SANDOVAL: Thank you, Mr. Rice. I  
15    think we are going to take a ten-minute break, and we will  
16    come back at 11:10 and proceed with the next witness.

17                   MS. BENNETT: Thank you.

18                   CHAIRWOMAN SANDOVAL: Thank you.

19                   (Recess taken.)

20                   MS. BENNETT: We would like to call our next  
21    witness, Mr. Matt Baker.

22                                   MATTHEW BAKER

23                                   (Sworn, testified as follows:)

24                                   DIRECT EXAMINATION

25    BY MS. BENNETT:

1           Q.     Mr. Baker, thank you for being here today. Can  
2     you state your full name for the record, please?

3           A.     Matthew Baker.

4           Q.     Mr. Baker, for whom do you work?

5           A.     Marathon Oil.

6           Q.     In what capacity?

7           A.     I am a development geologist on the Permian team.

8           Q.     And as a development geologist for Marathon on  
9     the Permian team, what are your responsibilities?

10          A.     I perform geologic analysis of the basin, help  
11     maintain our plan of development, assist in trade  
12     evaluations and provide the information needed for well  
13     planning and permitting.

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

16          A.     Yes.

17          Q.     And were your credentials accepted as a matter of  
18     record when you testified before the Division?

19          A.     Yes.

20          Q.     Did I ask you how long you worked for Marathon?  
21     If not, I intended to.

22          A.     No, you did not.

23          Q.     How long have you worked for Marathon?

24          A.     About seven and a half years.

25          Q.     And during those seven and a half years, were you

1 a geologist?

2 A. Yes.

3 Q. And you haven't testified before the Commission  
4 before, though, have you?

5 A. Yes -- the Commission, no, I have not.

6 Q. Are you familiar with the applications that  
7 Marathon filed in this matter?

8 A. Yes, I am.

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

11 A. Yes.

12 Q. Are you familiar with Marathon's drilling plans  
13 that we will be discussing in a moment?

14 A. Yes.

15 MS. BENNETT: At this time I would like to tender  
16 Mr. Baker as an expert in geology matters.

17 CHAIRWOMAN SANDOVAL: Ms. Hardy, do you have any  
18 objection?

19 MS. HARDY: No objection.

20 CHAIRWOMAN SANDOVAL: Commissioners?

21 COMMISSIONER KESSLER: No objection.

22 COMMISSIONER ENGLER: Tom Engler. No objection.

23 CHAIRWOMAN SANDOVAL: Thank you. No objections  
24 from me, either. He is certified as an expert in the field.  
25 Thank you.

1 MS. BENNETT: Thank you.

2 BY MS. BENNETT:

3 Q. Before we start looking at the exhibits,  
4 Mr. Baker, I would like to ask you a few preliminary  
5 questions. Did you testify at the Division hearing on these  
6 cases in November?

7 A. No, I did not. Rebecca Horne did.

8 Q. Did she prepare a geologic study of the area  
9 embracing the Valkyrie N/2 spacing unit?

10 A. Yes, she did.

11 Q. Have you reviewed that study?

12 A. Yes, I have.

13 Q. Do you have any changes or additions that you  
14 would make to that study?

15 A. No, not at this time.

16 Q. Do you agree with her conclusions that she  
17 reached in that study based on your own independent review  
18 of her study?

19 A. Yes, I do.

20 Q. Thank you. Mr. Baker, do you have Marathon's  
21 exhibits in front of you?

22 A. Yes, I do.

23 Q. Let's start with Marathon Exhibit 11, and that's  
24 on Page 35 of the Marathon packet. Do you see Exhibit 11?

25 A. Yes, I do.

1           Q.     Can you explain to the Commissioners what Exhibit  
2     11 is?

3           A.     Yes. This is the approximate location of this  
4     unit in relation to the Capitan Reef. It also shows the  
5     approximate outline of the Delaware Basin.

6           Q.     Great, thank you. What is the well orientation  
7     that Marathon is proposing for these wells?

8           A.     We are proposing northeast.

9           Q.     And if you look at Exhibit 12, which is on Page  
10    36, is this the -- what is this exhibit, and why is it  
11    included?

12          A.     Yes. This is a map from Snee & Zobeck which  
13    shows the direction of maximum stress in the region. Where  
14    we are looking is indicated by the red dot, and this is  
15    showing that the max is approximately 45 degrees in this  
16    area of Eddy County, which means that you can drill a well  
17    either north-south or east-west and you should get roughly  
18    the same result.

19          Q.     But Marathon is proposing east-west orientation;  
20    is that right?

21          A.     Correct.

22          Q.     And why is that?

23          A.     To maximize our lateral length given our acreage  
24    position.

25          Q.     Great. Let's turn to Exhibit 13. Exhibit 13

1 consists of one, two, three, four -- four pages; right?

2 A. Correct.

3 Q. And that's -- those are Pages 37 through 40; is  
4 that right?

5 A. Correct.

6 Q. What, just generally speaking, what are the  
7 documents in Exhibit 13?

8 A. This is a geologic study Ms. Horne prepared in  
9 our Second Bone Spring well proposal in the S/2 of the N/2  
10 of Section 12 and 7.

11 Q. So Ms. Horne prepared a geologic study for each  
12 of the target formations; is that right?

13 A. That's correct.

14 Q. And this is the first geologic study that we are  
15 going to review which is for the First Bone Spring well?

16 A. Correct.

17 Q. With that background in mind, let's talk about  
18 the first page, Page 37. What is Page 37?

19 A. Yeah. This is a structure map of the base of the  
20 Second Bone Spring Sand showing that the formation is  
21 dipping from west to east. The black dashed line represents  
22 a product area or unit we are proposing to develop with our  
23 Second Bone Spring Sand wellbore indicated in blue.

24 Q. Great. When you look at the structure map, do  
25 you see anything on the map that would show any sort of

1 pinch-out or impediment faulting?

2 A. No.

3 Q. Great, thank you. Is there a cross section of  
4 logs or did Ms. Horne select reference wells from which she  
5 gathered logs to create a cross section for this geology  
6 study?

7 A. Yes, she did. They are indicated by the pink  
8 circles and line on Page 38.

9 Q. And, in your opinion, are those wells  
10 representative of the Second Bone Spring in this area?

11 A. Yes.

12 Q. Is Page 39 the cross section then based on those  
13 logs?

14 A. Yes, it is.

15 Q. Would you briefly describe the components of the  
16 logs and of the upper logs on Page 39?

17 A. Yes. Sure. Looking at each log, each log has  
18 four tracts. Moving left to right is the gamma ray, then  
19 the depth track and TVD followed by resistivity and  
20 porosity.

21 Q. Okay. And is the Bone Spring target zone -- the  
22 Second Bone Spring Sand target zone identified on the cross  
23 section?

24 A. Yes, it is. It is highlighted or shaded in green  
25 here, authenticated by the red arrow.

1           Q.     And what does the cross section tell you about  
2     the acreage that is supposed to be dedicated to the Second  
3     Bone Spring well?

4           A.     That gross interval thickness should be  
5     relatively consistent moving from west to east across the  
6     entire unit.

7           Q.     Great, thank you. Let's turn then to Page 40.  
8     Can you describe for the Commissioners what Page 40 is?

9           A.     This is a gross isochore map which shows the  
10    gross thickness of the Second Bone Spring Sand. You will  
11    see here that it's showing that the thickness of the unit or  
12    the Second Bone Spring Sand should be relatively consistent  
13    across the entire 2-mile lateral.

14          Q.     Thank you. Based on your review of the geology  
15    in this area, in your opinion, are there any impediments to  
16    a horizontal well in the Bone Spring formation?

17          A.     No.

18          Q.     Thank you. Let's turn to the next exhibit, which  
19    is Exhibit 14. And Exhibit 14, like 13, consists of four  
20    pages; right?

21          A.     Correct.

22          Q.     41 through 44?

23          A.     Yes.

24          Q.     And is this a geology study that was prepared for  
25    the Upper Wolfcamp wells?

1           A.     Yes, it is.

2           Q.     And does this geology study follow the same  
3 layout or the same structure as the Bone Spring study?

4           A.     Yes.

5           Q.     So it has a structure map, a map showing cross  
6 section wells, a cross section and then gross interval  
7 isochore.

8           A.     Correct. Correct.

9           Q.     For the sake of time, let's just briefly go  
10 through the Wolfcamp, Upper Wolfcamp geology. When you look  
11 at the structure map for the Upper Wolfcamp wells, did you  
12 see anything in the structure map shown that would be an  
13 impediment to development of the Upper Wolfcamp, like  
14 faulting, pinch-out, any other sort of impediment?

15          A.     No.

16          Q.     The cross section wells that Ms. Horne selected  
17 shown on Page 42, in your opinion, are those representative  
18 of the Upper Wolfcamp in this area?

19          A.     Yes.

20          Q.     On Page 43, which is the cross section, does that  
21 show the producing area for the Upper Wolfcamp shaded in  
22 green with red arrows again?

23          A.     Correct.

24          Q.     What does this show you in terms of the area that  
25 Marathon or the geology that Marathon supposedly target?

1           A.     From A to A prime or from west to east, there is  
2     a slight thinning in the gross interval, but not enough to  
3     make any sort of difference, not (inaudible).

4           Q.     And then turning to the gross interval isochore,  
5     what does this tell you in terms of the geology again?

6           A.     Essentially the same thing. We see that slight  
7     thinning of the gross interval moving from west to east.

8           Q.     Based on your review of the geology study for the  
9     Upper Wolfcamp wells, in your opinion are there any  
10    impediments to the horizontal wells that Marathon is  
11    proposing in the Upper Wolfcamp formation?

12          A.     No, no.

13          Q.     Thank you. Turn then to Exhibit 15, and Exhibit  
14    15 is the (inaudible) study that Ms. Horne prepared for the  
15    Lower Wolfcamp wells; is that right?

16          A.     Correct.

17          Q.     And it has four pages also, just like the other  
18    two studies?

19          A.     Yes.

20          Q.     Let's talk about her -- this study for the Lower  
21    Wolfcamp wells then. On Page 15, which is the structure  
22    map, it identifies the three Lower Wolfcamp wells; is that  
23    right?

24          A.     Yes, in green.

25          Q.     In green. And based on your review of the

1     structure map for the Lower Wolfcamp wells, do you see  
2     anything shown structurally that would be an impediment to a  
3     horizontal well in this acreage?

4           A.     No.

5           Q.     No faulting, no pinch-outs or other impediments?

6           A.     No.

7           Q.     Let's turn then to Page 46. Does Page 46 show  
8     the reference wells that were used to create the log on Page  
9     47?

10          A.     Yes, it does.

11          Q.     And, in your opinion, are the reference wells  
12     representative of Lower Wolfcamp wells in this area?

13          A.     Yes.

14          Q.     Is Page 47 the cross section for the Lower  
15     Wolfcamp wells?

16          A.     Yes.

17          Q.     Does it show the producing zone or the target  
18     zone in green with the red arrow?

19          A.     Yes, it does.

20          Q.     Based on your review of the cross section, what  
21     are your conclusions about the acreage or the geology here  
22     that Marathon is targeting?

23          A.     Yeah. That the Lower Wolfcamp interval has a  
24     consistent thickness moving from west to east across the  
25     entire unit.

1           Q.     And finally, let's turn to Page 48. This is the  
2 gross interval isochore for the Lower Wolfcamp wells?

3           A.     Uh-huh, yes.

4           Q.     And what are your conclusions based on this  
5 slide?

6           A.     Showing the same thing as the cross section, that  
7 the thickness of the Lower Wolfcamp will be consistent  
8 across the entire unit.

9           Q.     Thank you. So based on your review of the  
10 geologic study for the Lower Wolfcamp wells, do you see any  
11 impediments to horizontal wells in the Lower Wolfcamp  
12 formation?

13          A.     No.

14          Q.     In your opinion, would the granting of Marathon's  
15 application be in the best interest of conservation, the  
16 prevention of waste, and the protection of correlative  
17 rights?

18          A.     Yes, it would.

19          Q.     Were Exhibits 11 through 15 compiled from  
20 Marathon's company business records?

21          A.     Yes.

22                 MS. BENNETT: At this time, I would like to move  
23 the admission of Exhibits 11 through 15.

24                 CHAIRWOMAN SANDOVAL: Ms. Hardy, are there any  
25 objections?

1 MS. HARDY: No objection.

2 CHAIRWOMAN SANDOVAL: Commissioners?

3 COMMISSIONER KESSLER: No objection.

4 COMMISSIONER ENGLER: No objection.

5 CHAIRWOMAN SANDOVAL: Marathon's Exhibits 11  
6 through 15 are now entered into the record.

7 (Exhibits 11 through 15 admitted.)

8 MS. BENNETT: Thank you.

9 Q. Before I pass Mr. Baker, I did want to ask  
10 Mr. Baker if he's had a chance to review BTA's exhibits  
11 generally.

12 A. Yes, I have, but I'm a bit unclear on what they  
13 are trying to get at on some of them, and I would like to  
14 hear their testimony before I can say anything about them.

15 Q. Have you seen anything in the materials that  
16 conflicts with the geology study that we just discussed it?

17 A. No, it doesn't seem to me that they have put  
18 anything on the record that they are contesting anything  
19 about the geology of the proposed unit.

20 MS. BENNETT: Okay, fair enough. As with Mr.  
21 Rice, I would reserve the right to recall Mr. Baker in the  
22 event that we have further questions or comments on BTA's  
23 exhibits after the BTA testimony. Before I pass  
24 Mr. Baker --

25 Q. Mr. Baker, speaking of BTA's exhibits, why don't

1 we turn to BTA Exhibit Number 10.

2 A. Exhibit 10.

3 Q. Can you, just to orient the examiners, BTA  
4 Exhibit 10 is called a Comparison Development Plan Marathon  
5 slash BTA. Do you have that in front of you, Mr. Baker?

6 A. Yes, I do. Exhibit 10?

7 Q. Uh-huh.

8 A. Yes.

9 Q. Were you present when Commissioner Kessler was  
10 asking Mr. Rice about the number of wells that Marathon was  
11 proposing?

12 A. Yes, I was.

13 Q. Does BTA Exhibit 10 identify Marathon's proposal  
14 for both the N/2 of the unit, the Valkyrie unit, and the S/2  
15 unit of the Valkyrie unit.

16 A. Yes. In the box with the red border.

17 Q. And would you say that, you know, they're  
18 approximately accurate?

19 A. Yes.

20 Q. When you look at the BTA plan, do you see that  
21 BTA has indicated Second Bone Spring and Wolfcamp Sand XY  
22 wells in their box? Do you see that?

23 A. Yes. Yes.

24 Q. Have you seen any indication that BTA has  
25 proposed Wolfcamp Sand XY wells?

1           A.     No, I have not.

2           Q.     Have you seen any indication that BTA has  
3 proposed Second Bone Spring wells?

4           A.     No, I have not.

5           Q.     In looking through BTA's materials, did you see  
6 anything in their materials that would support the location,  
7 i.e., specific footage for these Wolfcamp Sand or Second  
8 Bone Spring Sand wells?

9           A.     Not that I can recall.

10          Q.     Okay. Thank you.

11                 MS. BENNETT: And I wanted to just discuss this  
12 exhibit now, recognizing that we will likely have some  
13 objections to this exhibit at the time it's discussed, but  
14 to give the Commissioners a layout of the Marathon proposal  
15 to this and any questions they may have.

16                 So, with that, I pass the witness, although I  
17 reserve the right to do redirect if necessary.

18                 CHAIRWOMAN SANDOVAL: Thank you. Ms. Hardy, do  
19 you have questions for the witness?

20                 MS. HARDY: I do. Thank you.

21                         CROSS-EXAMINATION

22 BY MS. HARDY:

23           Q.     Mr. Baker, you discussed Marathon's development  
24 plan for the Second Bone Spring well; correct?

25           A.     Correct.

1           Q.     Okay. And Ms. Bennett just asked you about BTA  
2     Exhibit 10. So if you could please refer to that exhibit.  
3     Is it (inaudible) per unit Marathon is only proposing one  
4     well in the Second Bone Spring -- actually it's the north  
5     unit. In the north unit, Marathon is only proposing one  
6     Second Bone Spring well; is that correct?

7           A.     Correct.

8           Q.     And it's proposing two in the south unit; right?

9           A.     Correct. Yes.

10          Q.     And BTA's interest is in the north unit. Is that  
11     your understanding?

12          A.     In the north unit, in the N/2 of Section 7, yes.

13          Q.     So Marathon's proposed Bone Spring well  
14     development plan does not cover all of BTA's interval; is  
15     that right?

16          A.     I don't quite understand the question.

17          Q.     Okay. So if there is only one Bone Spring well  
18     that Marathon proposes in the north unit, it's not covering  
19     that entire interval of BTA's acreage, is it?

20          A.     Yeah, it would not cover the N/2 N/2 of  
21     Section 7.

22          Q.     Thank you. Can you please look at BTA Exhibit  
23     19. Do you have that available?

24          A.     Yes, I do. Sure. I do, yes.

25          Q.     Okay. And Marathon's proposed Bone Spring unit

1 does not reach the 80 acres that's highlighted there in  
2 yellow; isn't that correct?

3 A. Correct.

4 Q. And that's BTA's 80 acres in the S/2 of the NW/4  
5 of Section 8?

6 A. I believe so, yes.

7 Q. And to the east of that 80 acres there is an  
8 existing Second Bone Spring well. COG; right?

9 A. Correct.

10 Q. And are you aware that Novo's application does  
11 not propose a Second Bone Spring well that would cover the  
12 80 acres that are highlighted in yellow?

13 A. I do not believe they have proposed a Second Bone  
14 Spring well at this time.

15 Q. Thank you. If you could please refer back to  
16 Marathon's Exhibits 13 through 15.

17 A. Okay.

18 Q. In those exhibits you present several geologic  
19 maps and cross sections; correct?

20 A. Yes.

21 Q. Has Marathon drilled and completed any wells  
22 within the boundaries of those maps and exhibits?

23 A. Drilled and completed?

24 Q. Yes.

25 A. I do not believe so.

1           Q.     If Marathon's applications are denied, is there  
2     any geologic reason why Marathon could not drill 1-mile  
3     laterals?

4           A.     From a geologic standpoint, no.

5           Q.     I have some questions for you about Marathon's  
6     Hermes, Trebuchet and Mariner developments. Are you  
7     familiar with those developments?

8           A.     I am.

9                   MS. BENNETT: This is Deana, before -- I'm sorry  
10    -- Bennett -- before you start asking questions, Ms. Hardy,  
11    I would like to object, at least initially object to the  
12    relevance of these questions to the matter at hand as the  
13    party is about to ask questions about other units that  
14    aren't involved in this case. So I, I would just like to  
15    raise a relevance objection to her line of questioning.

16                   MS. HARDY: May I respond?

17                   CHAIRWOMAN SANDOVAL: Overruled. You can  
18    continue with your line of questioning.

19                   MS. HARDY: Thank you.

20    BY MS. HARDY:

21           Q.     In the Hermes development, Marathon completed two  
22    wells in the Bone Spring; is that correct?

23           A.     Yes, in the Third Bone Spring, I believe.

24           Q.     And in the Trebuchet development, Marathon  
25    drilled one Bone Spring well that it did not complete; is

1     that right?

2           A.     Correct.

3           Q.     And in the Mariner development, Marathon drilled  
4     three Bone Spring wells and didn't complete them; is that  
5     right?

6           A.     Correct.

7           Q.     Would the failure to complete the wells in  
8     Trebuchet and Mariner developments a result of poor  
9     performance of the Hermes development?

10          A.     I think we would have to redirect that question  
11     to our engineer.

12          Q.     Okay.

13                 COMMISSIONER KESSLER:  Ms. Hardy, is there a map  
14     orienting us to the well?  I'm looking through these  
15     exhibits, and I hear your questions, but I'm not following.  
16     Where are we  --

17                 MS. HARDY:  So BTA Exhibit 14 shows those  
18     developments.

19                 COMMISSIONER KESSLER:  Thank you.

20                 MS. HARDY:  You're welcome.

21                 I think those are all the questions I have right  
22     now, subject to questions regarding rebuttal and Marathon's  
23     rebuttal exhibits if there are any.  Thank you.

24                 MS. BENNETT:  So, thank you.  If appropriate, I  
25     would like to do some quick redirect, or I can wait until

1 after the Commissioners have had their opportunity to ask  
2 Mr. Baker questions.

3 CHAIRWOMAN SANDOVAL: We are trying to  
4 (inaudible).

5 MS. BENNETT: Thank you.

6 CHAIRWOMAN SANDOVAL: Sorry, please proceed --  
7 oh, Commissioners, do you have any questions?

8 COMMISSIONER KESSLER: I do have some questions.  
9 Let's see. I would like for you to go to BTA's exhibit that  
10 shows the sand (inaudible) in the south unit under  
11 (inaudible) not sure -- this was not your exhibit. I'm just  
12 trying to identify -- let's see, it looks like -- we are  
13 looking at Exhibit 10, BTA Exhibit 10, it looks like  
14 Marathon had sent follow-up for Upper Wolfcamp where BTA  
15 does not. Can you discuss that target just in a little bit  
16 more depth.

17 THE WITNESS: Yeah, sure. We kind of employed  
18 this staggered development, the Wolfcamp XY Sand and then  
19 what they call the the Upper Wolfcamp which is what we call  
20 the Wolfcamp A in other parts of Eddy County. And we have  
21 had some success with that sort of development, which is  
22 essentially based on a concept that once we complete a well,  
23 most of our, you know, fractured wells and accumulated gas  
24 volume goes upward.

25 And for the case of the Wolfcamp XY Sand wells,

1     you don't get a lot of downward growth into that productive  
2     Wolfcamp A zone, so we like to put some wells in there to  
3     also get production from the Wolfcamp A. Did that answer  
4     the question?

5                 COMMISSIONER KESSLER: What is the scheduled time  
6     frame for developing these, would they be (inaudible)

7                 THE WITNESS: Yeah, our plan would be to develop  
8     the north and south unit at the same time, and I think it  
9     would come in three phases. So the XY and Wolfcamp A wells  
10    would be part of the first phase, and then the Lower  
11    Wolfcamp would be part of the second phase, and then Second  
12    Bone Spring would be kind of a third phase of development.

13                COMMISSIONER KESSLER: Is there any concern about  
14    interference or parent-child effects if you do not develop  
15    the Bone Spring and Wolfcamp wells simultaneously?

16                THE WITNESS: Not to the Second Bone Spring and  
17    the Upper Wolfcamp, no.

18                COMMISSIONER KESSLER: There's been a lot of  
19    discussion about whether or not there are 2-mile wells in  
20    the area. Is there anything, based on the geology that  
21    would affect the 1.5 versus the 2-mile well for this  
22    particular spacing unit?

23                THE WITNESS: No. No. Not in this area.

24                COMMISSIONER KESSLER: The last witness, Marathon  
25    also raised an additional set of setbacks for three wells

1 (inaudible). Will you or another Marathon witness quantify  
2 the amount of (inaudible).

3 THE WITNESS: I can't really speak to that at  
4 this time. I'm not sure if our engineer can take a shot at  
5 that question or not.

6 COMMISSIONER KESSLER: Okay. That's all the  
7 questions that I have. Thank you.

8 CHAIRWOMAN SANDOVAL: Dr. Engler, do you have any  
9 questions?

10 COMMISSIONER ENGLER: Yes, I do. Thank you,  
11 Mr. Baker, for giving me some science to look at.

12 THE WITNESS: You're welcome.

13 COMMISSIONER ENGLER: I do have some follow-up  
14 questions and some others. Going back to a statement you  
15 just made for Commissioner Kessler, you were talking about  
16 the XY and Upper Wolfcamp development, citing a wine rack  
17 pattern, and you were talking about fracking and how you get  
18 height growth. And so my question is related to, to start  
19 with on that subject is, is the XY in the Upper Wolfcamp are  
20 very close to each other, so Marathon wants to develop, but  
21 has the -- the background to say that you won't get  
22 interference from the fracking between the two zones?

23 THE WITNESS: I think, you know, depending on the  
24 spacing between the laterals, you may see some interference.

25 COMMISSIONER ENGLER: Do you, in your work from a

1 geological standpoint, do you see, is there better advantage  
2 of completing the Upper Wolfcamp and having it go up into  
3 the Wolfcamp XY and developing the XY directly?

4 THE WITNESS: That would probably be a better  
5 question for our engineer.

6 COMMISSIONER ENGLER: Good answer. I'll ask him  
7 when he comes.

8 THE WITNESS: All right.

9 COMMISSIONER ENGLER: Same thing for the Wolfcamp  
10 XY, you know, when you frac you typically get height growth  
11 dominates. Will it grow into the Third Bone Spring Sand?

12 THE WITNESS: We have -- and I'm sure you can ask  
13 our engineer the same question -- from our, from our frac  
14 modeling, you do see some sort of fracture growth in that  
15 area. Whether or not it's actually part of the stimulated  
16 rock volume, it's kind of up for debate. He would probably  
17 be the better person to ask that question as well.

18 COMMISSIONER ENGLER: Yeah, I appreciate that.  
19 Let me ask some real active geology questions. On the --  
20 your gross interval isochore maps that were generated for  
21 different horizons, and this goes back to your exhibits, one  
22 of the exhibits, whatever, 12, 14, whatever they they are.

23 THE WITNESS: Uh-huh.

24 COMMISSIONER ENGLER: How representative do you  
25 think is the gross isochore to the actual zone of interest

1     that's being targeted and, and for the landing, and for the  
2     fracking?

3                 THE WITNESS:   I mean, I would say, you know, for,  
4     for the Upper Wolfcamp it's fairly representative.   The  
5     Second Bone, you know it's always nice when it comes with a  
6     Second Bone because it can change rather quickly as you move  
7     laterally just seeing, you know, even from a gross thickness  
8     standpoint, seeing something that's consistent over a 2-mile  
9     range is, you know, honestly kind of rare.   And normally you  
10    will see significant thickness changes in the Second Bone  
11    just on a growth basis and moving that far laterally.

12                And then against the lower, the lower tends to  
13    be, you know, relatively consistent thickness, but that's  
14    not necessarily true, but it does not change nearly as  
15    rapidly as some of the shallow lower formation.   So I  
16    don't -- I feel like landing zone and things like that, I  
17    don't know how much it's going to tell you about the Lower  
18    Wolfcamp.

19                COMMISSIONER ENGLER:   Do you or does Marathon do  
20    any mapping of say zones instead of just the gross  
21    thickness?

22                THE WITNESS:   Yes, we do.

23                COMMISSIONER ENGLER:   So from that, you would  
24    probably have a better idea of how these intervals actually  
25    migrate?

1           THE WITNESS: Yeah, like the producing zones, is  
2   that what you are asking?

3           COMMISSIONER ENGLER: Correct.

4           THE WITNESS: Yes.

5           COMMISSIONER ENGLER: One final thought of  
6   questions. On the -- still on the same exhibits, on your  
7   maps that you have, whether it's your structure maps or your  
8   reference maps, for any given horizon for each map you  
9   indicate the producing wells within that map area for that  
10   particular reservoir. Is that all producing wells in that  
11   area?

12          THE WITNESS: No. Now these are just proposed  
13   wells that are located on the structure maps.

14          COMMISSIONER ENGLER: So, I guess, let me  
15   refer -- so I understand.

16          THE WITNESS: Are you talking about the access?

17          COMMISSIONER ENGLER: Let's look at -- it's your  
18   Page 46, which is Exhibit 15, Page 46, Wolfcamp.

19          THE WITNESS: I gotcha, yes.

20          COMMISSIONER ENGLER: And on there you have  
21   producing Wolfcamp D wells, and there is what, three or  
22   four.

23          THE WITNESS: Oh, yes.

24          COMMISSIONER ENGLER: And my question is, is  
25   that -- within that map domain, is that all, the only

1     Wolfcamp D producing wells in that domain?

2                   THE WITNESS:   You know, currently probably not.

3     I think it's possible that at the time this was made, they  
4     were, but I do believe there is a producing Wolfcamp D well  
5     in the southern portion of Sections 5 and 4, just to the  
6     northeast of our proposed unit.

7                   COMMISSIONER ENGLER:   So there has been activity  
8     or more recent developments, so there is probably, for each  
9     one of these, more wells that are producing in that horizon;  
10    is that correct?

11                  THE WITNESS:   Yes.

12                  COMMISSIONER ENGLER:   Okay.   Thank you very much.  
13    No further questions.

14                  CHAIRWOMAN SANDOVAL:   Thank you.   I just have one  
15    question.   You referred to developing the N/2 unit in  
16    phases.   What's the timing of those phases?

17                  THE WITNESS:   Honestly, I can't really speak to  
18    that at this point in time.   We're kind of going through  
19    restructuring our drill schedule for 2021 and 2022.   As far  
20    as timing between phases, I really don't know at this point  
21    in time.

22                  CHAIRWOMAN SANDOVAL:   Okay.   Ms. Bennett, do you  
23    have any follow-up questions?

24                  MS. BENNETT:   I do, just a couple.   Thank you.

25                                 REDIRECT EXAMINATION

1 BY MS. BENNETT:

2 Q. Mr. Baker, can you take a look at -- a moment ago  
3 Ms. Hardy asked you about developing the N/2 N/2 with the  
4 Bone Spring wells and, and identified that Marathon is not  
5 proposing a N/2 N/2 Bone Spring well. And so can you take a  
6 look at BTA Exhibit Number 4?

7 A. Okay.

8 Q. Does BTA Exhibit 4 show some wells in Exhibit 12  
9 that have already been drilled?

10 A. Yes, yes. There's four Second Bone Spring Sand  
11 wells drilled from north to south or south to north and in  
12 the N/2 N/2 of Section 12 and Section 1.

13 Q. And -- okay, so there are already existing Bone  
14 Spring wells in N/2 N/2 of Section 12?

15 A. Correct. That's why we didn't propose the Second  
16 Bone Spring wells there.

17 Q. Okay. And then Ms. Hardy asked you about  
18 Novo's -- I'm sorry about the 80 acres that may potentially  
19 in their mind be stranded. And that was the -- I think she  
20 was referring to Novo -- Im sorry, BTA's Exhibit 19.

21 A. 19.

22 Q. Yeah. That 80 acres is outside of the Marathon  
23 Bone Spring unit; is that right?

24 A. Yes, it is.

25 Q. So that's not even part of Marathon's pooling

1 application, is it?

2 A. Right. No.

3 Q. A moment ago Commissioner Kessler asked you about  
4 the potential for parent-child effect between the Bone  
5 Spring and the Upper Wolfcamp. And this may be a question  
6 that's more appropriately directed at the engineer, but to  
7 the extent that you can answer it, is there a chance a  
8 parent-child effect as between developing the N/2 and then  
9 developing the S/2, I think you mentioned that Marathon's  
10 plan is to back drill, so it's not necessarily parent-child  
11 between Bone Spring and Wolfcamp, but between N/2 and S/2.  
12 Do you feel comfortable talking about that, or is that  
13 something I should ask Mr. Rodionov.

14 A. Yes, you would see parent-child effects between  
15 the N/2 and S/2 if you developed them at different times. I  
16 mean, he can probably give more details on that, but, yes,  
17 you will see parent-child effect.

18 Q. Great. And although I don't want to talk about  
19 BTA Exhibit 14 right now because I don't think it was within  
20 the scope of my direct examination, let's take a quick look  
21 at Exhibit 14 which Ms. Hardy asked you about, BTA 14. And  
22 she asked you about some questions about Trebuchet, Mariner,  
23 Hermes, about how far away are those from Valkyrie units?

24 A. As the crow flies, roughly three or four miles.

25 Q. And does this Exhibit 14 -- and we will get into

1     this more with Mr. Rodionov, but does this Exhibit 14 show  
2     all of Marathon's units in that area?

3           A.     No.    It's -- looks like the Gravel Grinder unit  
4     was left out.

5           Q.     Okay.   And we prepared a rebuttal exhibit that we  
6     will talk about with Mr. Rodionov about that Gravel Grinder  
7     unit?

8           A.     Yes.

9           Q.     Thank you.

10           MS. BENNETT:   That's all the redirect I have.  
11     Thank you.

12           MS. HARDY:    I have one question, if I may ask it.

13           CHAIRWOMAN SANDOVAL:   Of this witness, or in  
14     general?

15           MS. HARDY:    Of the witness.

16           MS. BENNETT:   I'll object to the question being  
17     asked of the witness.

18           MS. HARDY:    It's actually just a clarification.

19           CHAIRWOMAN SANDOVAL:   Ms. Bennett's objection is  
20     sustained.   The question, you had your opportunity for  
21     questions.   How long do you expect the next witness to take?

22           MS. BENNETT:   I think it could take some time,  
23     but if the Commission would be okay with us breaking for  
24     lunch now, and then coming back to finish up with  
25     Mr. Rodionov, I think that might be the most efficient way,

1 given his testimony may take some time between direct and  
2 cross.

3 CHAIRWOMAN SANDOVAL: Okay. Let's take a break  
4 for lunch, it's 11:56 right now. Why don't we start back up  
5 at 1.

6 MS. BENNETT: Thank you.

7 MS. HARDY: Thank you.

8 (Lunch recess taken at 11:56. The hearing  
9 resumed at 1 p.m. as follows:)

10 CHAIRWOMAN SANDOVAL: We will continue with Ms.  
11 Bennett's next witness.

12 MS. BENNETT: Thank you very much.

13 MS. HARDY: Thank you.

14 CHAIRWOMAN SANDOVAL: Thanks.

15 CHAIRWOMAN SANDOVAL: Good afternoon. It's 1:04,  
16 and we will resume today's hearing. Ms. Bennett, would like  
17 to call your next witness?

18 MS. BENNETT: Madam Chair, if it pleases the  
19 Commission, I would like to hold off on calling my next  
20 witness because I understand Mr. Bruce has a point he would  
21 like to raise before I begin. So if it's okay with the  
22 Commission, I would like to let him jump in. It's a  
23 procedural question.

24 CHAIRWOMAN SANDOVAL: Can you ask for Mr. Bruce?

25 MS. BENNETT: I can. His question is about

1 timing. Mr. Bruce represents Novo, and the Novo cases are  
2 also scheduled for today, and his concern or his request has  
3 to do with the amount of time it will take us to finish the  
4 Marathon BTA case and when he could anticipate putting on  
5 the Novo cases.

6 I'm trying not to put words in his mouth, but my  
7 understanding is if the Marathon BTA cases are going to take  
8 the rest of the day, he would like to understand when the  
9 Novo cases would be heard.

10 CHAIRWOMAN SANDOVAL: Ms. Bennett, so the  
11 plaintiff should proceed and finish out this case with  
12 Marathon and BTA's case, and after that is completed, we  
13 will proceed with the next Novo case.

14 We have created another link for a Day 2,  
15 tomorrow, if need be, which there is a good chance, we will  
16 continue with this tomorrow. If we finish out this case  
17 today, then we will start with Novo tomorrow. It kind of  
18 just depends on whenever things finish up. But we have to  
19 do this hearing properly in order to move then to the next  
20 one. So we will be posting on the website likely the  
21 hearing page to update people when we have it posted, but  
22 there will be another link for tomorrow's hearing.

23 MS. BENNETT: Thank you.

24 CHAIRWOMAN SANDOVAL: For the extension into  
25 tomorrow (inaudible).

1 MS. BENNETT: Thank you.

2 CHAIRWOMAN SANDOVAL: Would you like to call your  
3 next witness?

4 MS. BENNETT: Yes, I would. And my next witness  
5 is Yuri Rodionov.

6 YURI RODIONOV

7 (Sworn, testified as follows:)

8 DIRECT EXAMINATION

9 BY MS. BENNETT:

10 Q. Thank you, Mr. Rodionov. Could you state your  
11 full name for the court reporter, please?

12 A. Yuri Rodionov.

13 Q. And can you please spell your last name for the  
14 court reporter?

15 A. R-o-d-i-o-n-o-v.

16 Q. Thank you. Who do you work for, Mr. Rodionov?

17 A. Marathon Oil.

18 Q. And how long have you worked for Marathon?

19 A. About three years.

20 Q. What are your responsibilities at Marathon?

21 A. I'm a reservoir engineer for Eddy and Lea  
22 Counties, and my responsibilities include well production  
23 forecasting, economic and (inaudible) development planning.

24 Q. Thank you. Have you previously testified before  
25 the Oil Conservation Division?

1           A.     No.

2           Q.     How about before the Oil Conservation Commission?

3           A.     No.

4           Q.     Can you briefly tell the Commissioners about your  
5           education and work history?

6           A.     Yes. I received my degree in mechanical  
7           engineering from Russian University in Moscow. And I'm  
8           member of the Society of Petroleum Engineers. I have been  
9           working for Marathon as a reservoir engineer for about three  
10          years, and before Marathon I worked for Schlumberger for 13  
11          years in various roles (inaudible) completion engineer  
12          positions.

13          Q.     Thank you. Are you a member of any professional  
14          engineering groups?

15          A.     Yes. Society of Petroleum Engineers.

16          Q.     Have you included in the exhibits a copy of your  
17          resume?

18          A.     Yes.

19          Q.     Is that Exhibit 17?

20          A.     Yes.

21          Q.     Are you familiar with the application Marathon  
22          filed in these two cases?

23          A.     Yes.

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

1           A.     Yes.

2           **Q.     Are you familiar with Marathon's drilling plans**  
3 **for the proposed wells?**

4           A.     Yes.

5                   MS. BENNETT:  At this time, I would like to  
6 tender Mr. Rodionov as an expert in engineering matters.

7                   CHAIRWOMAN SANDOVAL:  Do you have any opposition,  
8 Ms. Hardy?

9                   MS. HARDY:  No objection.

10                  CHAIRWOMAN SANDOVAL:  Commissioners?

11                  COMMISSIONER KESSLER:  No objection.

12                  COMMISSIONER ENGLER:  This is Tom Engler.  No  
13 objection.

14                  CHAIRWOMAN SANDOVAL:  Thank you.  He is certified  
15 as a witness  -- as a witness  -- as an expert.

16                  MS. BENNETT:  Thank you.

17 BY MS. BENNETT:

18           **Q.     Mr. Rodionov, you didn't testify at the November**  
19 **hearing, did you?**

20           A.     No.  Bill Moore did.

21           **Q.     Have you reviewed his testimony from the last**  
22 **hearing, the transcript of the testimony?**

23           A.     Yes.

24           **Q.     Did you review the exhibits he prepared and**  
25 **submitted for the last hearing?**

1           A.     Yes.

2           Q.     Okay.  I  -- we will get to the exhibit portion  
3   of this a little bit later, but I wanted to just talk a  
4   little bit about the lateral length that Marathon is  
5   proposing.  Marathon is proposing 2-mile laterals; is that  
6   right?

7           A.     Yeah, that's correct.

8           Q.     Do you know what length of laterals BTA is  
9   proposing?

10          A.     Yes.  It's my understanding that they are  
11   proposing mile and a half laterals.

12          Q.     In your opinion, are 2-mile laterals more  
13   efficient than 1.5 mile laterals?

14          A.     Yes.  Two-mile laterals are more efficient  
15   because they allow to catch a half mile more minerals within  
16   one wellbore and reducing surface (inaudible) and need for  
17   additional wells to capture those minerals.  And also it  
18   reduce the number of setbacks because laterals can cross the  
19   acreage that would be otherwise needed for setback.

20          Q.     Thanks.  And so now I would like to look at  
21   Marathon Exhibit Number 16.  Do you have that in front of  
22   you?

23          A.     Yes.

24          Q.     And does Marathon Exhibit 16 provide a graph of  
25   the efficiency of a 1.5 mile lateral length to a 2-mile

1 lateral length?

2 A. Yeah, that's correct.

3 Q. And what does Exhibit 16 tell you about the  
4 efficiency of a 1.5 mile lateral versus a 2-mile lateral?

5 A. Yeah. It shows that EUR over 2-mile laterals is  
6 higher than 1.5 mile laterals, and it also it shows that  
7 lateral efficiency per foot is the greater in 2-mile  
8 laterals compared to 1.5 mile laterals.

9 Q. And so if we sort of dive into slide, I see at  
10 the end of the header of each table that it says, well  
11 count, profit per foot, well per section, average lateral  
12 length per foot, and average EUR BO over average lateral  
13 length per foot. So for 2 miles it's 97.9 and for 1.5 it's  
14 86.4; is that correct?

15 A. That's correct.

16 Q. So what is the different -- what, does that mean?  
17 Does that mean it's going to be longer laterals, higher EUR  
18 than shorter laterals?

19 A. Yes.

20 Q. And that's the difference between 97.9 and 86.4;  
21 is that right?

22 A. That's right.

23 Q. A moment ago you talked about the 2-mile laterals  
24 would reduce the number of setbacks. Can you provide a  
25 little bit more detail about what you mean there?

1           A.     Yes, because this laterals will extend below the  
2     acreage which would be otherwise needed as a setback.  
3     Therefore, in our case, we would eliminate setbacks for the  
4     six laterals which would almost equal to 4000 feet of  
5     resources captured within 2-mile laterals which otherwise  
6     would be undrained because of the setback requirements for  
7     the shorter wells.

8           Q.     Yeah. And so just to dive into that a little bit  
9     more, if we were -- if Marathon were to be limited to a  
10    1-mile lateral, it would have a three -- in the Wolfcamp  
11    wells, the setbacks are 330 feet, is that right, in the  
12    Wolfcamp?

13          A.     Right.

14          Q.     So Marathon would have a 330 foot setback from  
15    the -- from the first -- from the first take point and a  
16    330 foot setback from the end of the unit; is that right?

17          A.     Right.

18          Q.     And then if BTA were able to implement its plan,  
19    it would have a 330 foot setback from the start of its unit,  
20    and then another 330 foot setback at the end of its unit; is  
21    that right?

22          A.     That's correct.

23          Q.     So what I understand you saying is that with a  
24    2-mile lateral, it actually eliminates the two internal  
25    setbacks, the two, 330 foot internal setbacks between the

1 first and end of the unit; is that right?

2 A. That's right.

3 Q. And so that would be 660 feet of setback per  
4 well -- per Wolfcamp well; is that right?

5 A. Correct.

6 Q. And so that's how you got to the almost 4000 feet  
7 is by multiplying the internal setbacks times the number of  
8 Wolfcamp wells?

9 A. That's right.

10 Q. So Marathon's plan would actually take advantage  
11 of that almost 4000 feet; right?

12 A. Yes.

13 Q. And if BTA's plan were implemented, would it  
14 potentially strand that 4000 or not use that 4000 feet?

15 A. Yes.

16 Q. In your opinion, is Marathon's 2-mile lateral  
17 development plan more efficient than BTA's 1.5 mile lateral  
18 development plan?

19 A. Yes, in my opinion, yes.

20 Q. Did the Division find that Marathon's plan of  
21 drilling 2-mile laterals would avoid setbacks, minimize  
22 surface disturbance and avoid drilling unnecessary wells?

23 A. Yes.

24 Q. Okay. Let's turn now and talk about the parent-  
25 child effects. We talked about that a little bit earlier

1     **today with Mr. Baker. What is the parent-child effect?**

2           A.     The parent-child effect, it occurs when wells  
3     which are part of the same formation and produced at  
4     different times, and when that happens the parent wells will  
5     cause the depletion, which means that child wells will have  
6     reduced production.

7           **Q.     Can the parent-child effect be minimized?**

8           A.     Yes.

9           **Q.     And how --**

10          A.     If wells --

11          **Q.     Sorry, go ahead.**

12          A.     If wells are targeting the same formation are  
13     drilled at the same time.

14          **Q.     Have you reviewed BTA's plans --**

15          A.     Yes, to the extent that plans are available.

16          **Q.     Let's look at BTA Exhibit 7. Do you have BTA's**  
17     **Exhibit 7 in front of you?**

18          A.     Yes.

19                 MS. BENNETT: And for the Commissioner's benefit,  
20     BTA's Exhibit 7 is the proposal letter to Oxy.

21          **Q.     When you look at the BTA Exhibit 7, what sort of**  
22     **wells are -- is BTA proposing in Exhibit 7?**

23          A.     So BTA's Exhibit 7 proposes four Lower Wolfcamp  
24     wells.

25          **Q.     Okay. And that's it? That's all you see in**

1     **Exhibit 7 is four Lower Wolfcamp wells?**

2             A.     That's correct.

3             Q.     How about, let's turn to BTA Exhibit 10. That's  
4     the comparison development plan Marathon BTA. Do you have  
5     that in front of you?

6             A.     Yes.

7             Q.     And from that, what can you tell us about BTA's  
8     development plan and (inaudible) from that site?

9             A.     So BTA chose the well locations in the Lower  
10    Wolfcamp and appeared to show laterals in the Upper Wolfcamp  
11    and the Second Bone Springs. But I cannot say anything  
12    about the accuracy of those locations because BTA has not  
13    provided any footages for those wells, so, at this time it's  
14    merely conceptual at this hearing.

15            Q.     And one thing -- so when I look at the BTA table  
16    or the BTA layout here, this is only the N/2 of the section,  
17    right, of Section 12?

18            A.     Yeah, that's correct.

19            Q.     And the Marathon table or chart that's shown, the  
20    gunbarrel or wine rack view, is both the N/2 and S/2 of the  
21    sections; right?

22            A.     Yes.

23            Q.     So Marathon is proposing both N/2 and S/2 wells;  
24    is that right?

25            A.     Yes.

1           Q.     And BTA, to the extent it's proposing wells, is  
2     only proposing N/2 wells; is that right?

3           A.     Yes.

4           Q.     And those are the four Lower Wolfcamp wells in  
5     the N/2?

6           A.     Correct.

7           Q.     If BTA were to develop the N/2, what impact could  
8     that have on Marathon's Lower Wolfcamp wells in the S/2?

9           A.     So if the wells are developed not at the same  
10    time, that is going to result in parent-child effect.

11          Q.     And what would the -- what does that mean  
12    exactly, if, for example -- and it could go both ways;  
13    right? I think if Marathon were to go first, then BTA could  
14    experience the parent-child effect. And if BTA goes first,  
15    Marathon could experience the parent-child effect; is that  
16    accurate?

17          A.     Yes. The parent-child effect will affect each  
18    operator, yes.

19          Q.     And it will result in maybe depletion or  
20    drainage. Could you explain a little bit what will happen  
21    to the operator that is drilling later?

22          A.     The (inaudible) from parent wells will affect the  
23    child wells, and the child wells will (inaudible) the parent  
24    wells.

25          Q.     Does Marathon's plan to develop both the N/2 and

1 S/2 eliminate or minimize the parent-child effect?

2 A. Yes.

3 Q. And is that because Marathon is planning on batch  
4 drilling?

5 A. Correct.

6 Q. Did the Division find that Marathon's plan would  
7 avoid the parent-child effect?

8 A. Yes.

9 Q. Did the Division's order conclude that BTA's plan  
10 may result in the parent-child effect?

11 A. Yes.

12 Q. In your opinion, is Marathon's plan of batch  
13 drilling and having a full development plan of the N/2 and  
14 S/2 more efficient and more likely to prevent waste?

15 A. Yes.

16 Q. If the Division finds that BTA's development plan  
17 is implemented would result in waste?

18 A. Yes.

19 Q. Let's talk now about well density. What well  
20 density is Marathon proposing for the Lower Wolfcamp wells?

21 A. We are proposing three wells per half section.

22 Q. And how did Marathon decide on this well density?

23 A. It is decided based on our extensive activity in  
24 Eddy County and the results which we encounter.

25 Q. What is BTA's proposed density for the Lower

1     **Wolfcamp?**

2           A.     Four wells in half a section.

3           **Q.     So it's actually a higher density than Marathon's**  
4     **proposal?**

5           A.     Correct.

6           **Q.     Do you know if BTA has any experience of this**  
7     **proposed density in the Lower Wolfcamp?**

8           A.     I'm not aware of any experience.

9           **Q.     And so -- okay. What is Marathon's well density**  
10    **for the Upper Wolfcamp?**

11          A.     Same as the Lower Wolfcamp, the three wells per  
12    half section.

13          **Q.     And does Marathon have experience with this**  
14    **density, three wells per half section?**

15          A.     Yes.

16          **Q.     Has Marathon changed its wells per section since**  
17    **we went to hearing in November -- its well density, I should**  
18    **say?**

19          A.     Not -- we have been on hold due to this appeal,  
20    and after this case is over, we will take another look if  
21    any changes are necessary and we will make the decision  
22    then.

23          **Q.     Okay. Thanks. So I wanted to talk a little bit**  
24    **about the Lower Wolfcamp which is the only formation that**  
25    **BTA has actual plans for. Is the Lower Wolfcamp gassier**

1     **than the Upper Wolfcamp, in your opinion?**

2           A.     Yes.

3           **Q.     Is Marathon proposing to produce from the Upper**  
4     **Wolfcamp first or the Lower Wolfcamp first?**

5           A.     Upper Wolfcamp first.

6           **Q.     Why is that?**

7           A.     In our view, this is a more prospective target,  
8     and we also -- I would note that our full section  
9     development (inaudible) industry movement in Eddy County.

10          **Q.     Okay. And so, in your opinion then overall, is**  
11     **Marathon's plan more likely to recover the reserves**  
12     **underlying the entirety of the acreage in this area?**

13          A.     Yes. And there are several reasons for that.  
14     First of all, we are proposing a comprehensive plan that  
15     will effectively extract minerals from several formations.  
16     BTA's plan is only proposing the Lower Wolfcamp wells at  
17     this time. We are also targeting the more prospective  
18     target, Upper Wolfcamp, and BTA doesn't provide any plans to  
19     develop that. And BTA's targeting first the Lower Wolfcamp,  
20     which is gassier than Upper Wolfcamp.

21                 We are also planning the surface facilities for a  
22     number of wells which we are drilling, so if BTA wants to  
23     come back and drill for the remaining wells, that would mean  
24     they will have to increase their surface footprint, and we  
25     are also proposing to develop the N/2 and S/2 section at the

1 same time which will result in (inaudible) extraction of  
2 minerals and avoid likely the parent-child issues.

3 And, finally, we are proposing 2-mile laterals  
4 which will be more efficient than 1.5 mile laterals that BTA  
5 is proposing.

6 Q. Great, thank you. I wanted to talk to you a few  
7 minutes about some of BTA's exhibits. Do you have BTA's  
8 exhibits in front of you?

9 A. Yes.

10 Q. Recognizing that these haven't been admitted yet,  
11 and that I may have some further questions about the  
12 exhibits when it comes to time to admit them, let's look at  
13 BTA Exhibit 14. Do you have that in front of you?

14 A. I do.

15 Q. And when you looked at BTA Exhibit 14, what  
16 jumped out at you?

17 A. Wellpad is not included, Gravel Grinder.

18 Q. Gravel Grinder?

19 A. Yes.

20 Q. Did Marathon add the Gravel Grinder unit on  
21 Marathon Rebuttal Exhibit A?

22 A. Yes, it is outlined better (inaudible)  
23 (Overtalk.)

24 Q. Okay. Sorry, about that.

25 MS. BENNETT: Sorry, Irene.

1           Q.     Let's turn to Marathon's Rebuttal Exhibit A, and  
2     is that Exhibit -- BTA's Exhibit 14, Marathon's Gravel  
3     Grinder unit added in the red outline with the red shading?

4           A.     Yes.

5           Q.     Okay. Now, I wanted to talk to you -- in your  
6     opinion, should Gravel Grinder have been included in this  
7     exhibit from the outset and some of the following BTA  
8     exhibits?

9           A.     Yes, it's the same area.

10          Q.     Okay. Let's turn to BTA Exhibit 16. Have you  
11     had a chance to look at that exhibit?

12          A.     Yes, I did.

13          Q.     And what do you think Exhibit -- BTA Exhibit 16  
14     is trying to demonstrate?

15          A.     So this chart appears to show comparison between  
16     BTA barrels of oil per foot, and Marathon barrels of oil per  
17     foot at a time.

18          Q.     Okay. And what do you think the two after Ogden  
19     mean?

20          A.     There is no legend, but I assume probably two  
21     wells per section.

22          Q.     And do you know -- how many Ogden wells are  
23     there?

24          A.     Four.

25          Q.     From this chart, can you tell which two of the

1     the Ogden wells BTA chose for its comparison?

2           A.     No, I cannot say for sure, but I'm guessing it's  
3     the Ogden pad wells which were the first drilled and are in  
4     the E/2 of the unit.

5           Q.     And so are you saying that the Ogden wells  
6     actually demonstrate the parent-child effect?

7           A.     Yes.   Because if it was second generation child  
8     Ogden wells, the production will be lower.

9           Q.     And -- okay.   So do you think that BTA's Exhibit  
10    16 should also have included the Gravel Grinder well --  
11    wells?

12          A.     Yes, it should have.

13          Q.     And do you think that the BTA -- and we don't  
14    know what wells BTA chose for its Ogden wells, but if they  
15    had chosen the child wells, in your opinion, would the  
16    (inaudible) for the child wells than for the parent wells?

17          A.     Yes, in my opinion it would.

18          Q.     Did you prepare an updated slide that adds  
19    the graph -- well, a slide that actually adds Gravel Grinder  
20    to what we think is the information that BTA used to prepare  
21    its Exhibit 16?

22          A.     Yes, we did.

23          Q.     Is that Marathon Rebuttal Exhibit B?

24          A.     Yes.

25          Q.     So on Marathon Rebuttal Exhibit B, can you

1     **explain to the Commissioners how you created that exhibit?**

2           A.     Yes. We used the public available data to be  
3     consistent, and we created the barrels of oil per foot  
4     chart. We added Gravel Grinder to this block and plotted it  
5     versus time.

6           Q.     And given that you couldn't tell exactly what  
7     wells BTA used for its Ogden comparison, you used publicly  
8     available data to try to reverse engineer their chart for  
9     their Ogden wells; is that right?

10          A.     That's right. Yeah, we took all the adage up to  
11     the (inaudible) wells and barrels of oil per foot in this  
12     chart look very, very similar to what BTA presented.

13          Q.     But, you know, you're not trying to say that your  
14     chart of the Ogden parent wells is exactly the same as what  
15     BTA put on Exhibit 16, right, because you couldn't do  
16     necessarily that precise calculation that BTA did to chart  
17     Exhibit 16, but you, you did come close with the publicly  
18     available information you had?

19          A.     Correct.

20          Q.     And when you added Gravel Grinder to the chart,  
21     what did that show you?

22          A.     It showed that Gravel Grinder was higher than  
23     Ogden wells.

24          Q.     Okay. And let's look at BTA Exhibit 17. Is BTA  
25     Exhibit 17 also missing the Gravel Grinder wells?

1 A. Yes.

2 Q. Did Marathon prepare a chart that takes the BTA  
3 material from Exhibit 17 and adds the Gravel Grinder well?

4 A. Yes.

5 Q. Is that Marathon Rebuttal Exhibit C?

6 A. Correct.

7 Q. And what does that -- what does that table or  
8 what does the addition of Gravel Grinder show you in the  
9 table?

10 A. So it will show that Gravel Grinder wells have  
11 higher one year barrels of oil per foot, and also higher one  
12 year total oil volume for three wells combined.

13 Q. So the Gravel Grinder does have a higher value  
14 than even the Ogden parent wells?

15 A. Yes.

16 Q. Now, Gravel Grinder is still a good ways away  
17 from the Valkyrie units; right?

18 A. Correct.

19 Q. So we are -- I mean, Marathon wasn't putting  
20 these exhibits in to say, "Oh, Gravel Grinder outperformed  
21 Ogden," but rather to show -- and that's relevant to the  
22 Commission's decision, but rather to show there some  
23 important data that BTA left out of its exhibit. Is that  
24 right? Is that why you chose to make these slides?

25 A. Yes.

1           Q.     In your opinion, do you think that the units that  
2     are 5, 6, 7 miles away are relevant to the Valkyrie unit  
3     discussion that we are having today?

4           A.     No. The Valkyrie units might have different  
5     properties, so it's -- it has to be evaluated separately.

6           Q.     Okay, thank you. I wanted to also ask you about  
7     BTA's Exhibit 18, because it sort of stumped me. Do you  
8     have -- did you review BTA's Exhibit 18?

9           A.     Yes.

10          Q.     What do you think BTA's Exhibit 18 is?

11          A.     Yeah. I'm not 100 percent sure what it's trying  
12     to show. I would probably need to hear BTA's explanation to  
13     make any conclusions based on this chart.

14          Q.     Okay. Do you think it probably (inaudible) the  
15     Gravel Grinder unit, though, based on what you plotted for  
16     Exhibit 16?

17          A.     Yes, I would have -- I would imagine that Gravel  
18     Grinder data is missing here as well.

19          Q.     Okay.

20                 MS. BENNETT: Now, I will reserve the right to  
21     recall Mr. Rodionov at the end of BTA's testimony if  
22     necessary to clarify any of BTA's exhibits or to provide any  
23     of BTA's testimony on these exhibits.

24          Q.     Mr. Rodionov, in your opinion, is the granting of  
25     Marathon's applications in the interest of conservation and

1 the prevention of waste?

2 A. Yes.

3 Q. In your opinion, are 2-mile laterals generally  
4 preferable over 1.5 mile laterals?

5 A. Yes.

6 Q. In your opinion, would BTA's plan increase the  
7 amount of stranded land due to setbacks?

8 A. Yes.

9 Q. In your opinion, would BTA's plan, if  
10 implemented, lead to the parent-child effect?

11 A. Yes.

12 Q. Does Marathon's plan allow Marathon to drill  
13 through acreage that would otherwise be left undisturbed due  
14 to setbacks?

15 A. Yes.

16 Q. Does Marathon's plan minimize the likelihood of  
17 the parent-child effect?

18 A. Yes.

19 Q. Thank you.

20 MS. BENNETT: At this time I would like to move  
21 the admission of Exhibits 16 and 17 and Marathon rebuttal  
22 Exhibits A through C into the record.

23 MS. HARDY: No objection.

24 CHAIRWOMAN SANDOVAL: Did you say objection, or  
25 no objection?

1 MS. HARDY: No objection.

2 CHAIRWOMAN SANDOVAL: Thank you. Commissioners,  
3 do you have any objections?

4 COMMISSIONER KESSLER: I don't.

5 CHAIRWOMAN SANDOVAL: Dr. Engler?

6 COMMISSIONER ENGLER: No objection.

7 CHAIRWOMAN SANDOVAL: Okay. Exhibit 16 -- we  
8 were on Exhibit 16, 17 and then also A through C are now  
9 entered into the record.

10 MS. BENNETT: Thank you. At this time I will  
11 pass Mr. Rodionov for questioning, although I reserve the  
12 right to redirect him at the end of the cross-examination  
13 from Ms. Hardy and the Commissioners and also reserve the  
14 right to recall him if necessary. Thank you.

15 (Exhibits Marathon 16, 17 and A, B, C admitted.)

16 CHAIRWOMAN SANDOVAL: Ms. Hardy, would you like  
17 to cross the witness?

18 MS. HARDY: Yes.

19 CROSS-EXAMINATION

20 BY MS. HARDY:

21 Q. Mr. Rodionov, Ms. Bennett asked you questions  
22 about BTA's well proposals. Do you recall those questions?

23 A. Yes.

24 Q. Does Marathon operate wells under joint operating  
25 agreements?

1           A.     I would have to defer the question to our  
2 landman.

3           Q.     Have you ever been involved in proposing wells  
4 under a joint operating agreement?

5           A.     I wasn't directly.

6           Q.     Okay. Has it been your experience that when an  
7 operator proposes a well under a joint operating agreement,  
8 the working interest owners typically have a certain amount  
9 of time to respond to the proposal?

10          A.     Yeah. Again, it's not my area of expertise. I  
11 will have to defer the question to our land.

12          Q.     Do you have any knowledge whether that time  
13 period is typically 30 days to respond?

14          A.     Can you repeat your question?

15          Q.     Sure. Is it your understanding that an operator  
16 typically has 30 days to respond to a well proposal under a  
17 JOA?

18                 MS. BENNETT: Madam Chair, this is Deana Bennett.  
19 I object to this line of questioning. Mr. Rodionov already  
20 testified it's not his area of expertise. Ms. Hardy had the  
21 opportunity to ask these questions of Mr. Chase, and she  
22 chose not to, so I object to this line of questioning.

23                 MS. HARDY: May I respond?

24                 Ms. Bennett asked Mr. Rodionov about the fact  
25 that BTA did not propose wells in other formations and asked

1 him to look at the well proposal, so I think his familiarity  
2 with well proposals under JOAs is relevant.

3 MS. BENNETT: If I could briefly --

4 CHAIRWOMAN SANDOVAL: Ms. Bennett, I believe that  
5 you have opened the door to this line of questioning. You  
6 know, if a witness is unable to answer those questions,  
7 please move along, Ms. Hardy.

8 MS. HARDY: Okay. Thank you.

9 CHAIRWOMAN SANDOVAL: Just for clarity, the  
10 objection for Ms. Bennett is overruled.

11 Q. Do you have any knowledge of, under a well  
12 proposal, under a JOA, of whether the operator proposing a  
13 well must commence to drill once the election period  
14 expires?

15 A. I can't answer that question.

16 Q. Based on your experience with Marathon, when  
17 Marathon is the operator under a JOA, is it Marathon's  
18 custom and practice to propose wells that would not be  
19 timely commenced in accordance with the terms of the JOA?

20 A. As I said before, this is not my area of  
21 expertise, and I'm not in charge of that, so I cannot answer  
22 that.

23 Q. Do you have any understanding of the difference  
24 between proposing wells under a JOA versus proposing wells  
25 when you have to go through compulsory pooling?

1           A.     Again, this is not my area of expertise. I  
2 cannot answer that question.

3                   CHAIRWOMAN SANDOVAL: Ms. Hardy, we have already  
4 established anything related to the JOA is not his area of  
5 expertise.

6                   MS. HARDY: Thank you. I will move on.

7 BY MS. HARDY:

8           **Q.     Mr. Rodionov, can you please look at your**  
9 **Exhibit 16?**

10          A.     Exhibit 16, yes, I have it in front of me.

11          **Q.     Are these EUR projections that are provided in**  
12 **the graphs?**

13          A.     EUR projections?

14          **Q.     Yes.**

15          A.     In the graphs, yes, you can see the EUR estimates  
16 at the bottom of each graph, correct.

17          **Q.     And what is the ultimate life of the wells**  
18 **projected?**

19          A.     Mr. Moore prepared this slide, and I'm not 100  
20 percent sure of what slide or well he used.

21          **Q.     Aren't the projections based on less than 20**  
22 **months of history?**

23          A.     Not for all the wells, but, yeah, it varies.

24          **Q.     How does it vary --**

25          A.     Some -- some of the wells he had were more than

1 20 months production history on the charts.

2 Q. And others had less than 20?

3 A. Correct.

4 Q. And where are these wells located?

5 A. The wells are located in Eddy County.

6 Q. Based on this data, could another engineer  
7 reasonably develop a different EUR projection that would  
8 lead to a different conclusion?

9 A. Potentially, yes.

10 Q. If Marathon's applications were denied here, is  
11 there any engineering reason Marathon can't drill 1-mile  
12 wells in its proposed -- in its acreage?

13 A. Yeah, there is no engineering reason, to my  
14 knowledge.

15 Q. If you look at your rebuttal Exhibit A, I have  
16 questions about a couple of developments there. In the  
17 Hermes development Marathon completed two wells in the Bone  
18 Spring; is that right?

19 A. Sorry, I just got that pulled up, that exhibit.  
20 Can you say that again?

21 Q. Sure. In the Hermes development Marathon  
22 completed two wells in the Bone Spring; correct?

23 A. In the Third Bone Spring, correct.

24 Q. And then in Trebuchet, Marathon drilled one well  
25 in the Bone Spring and didn't complete it; is that right?

1           A.     Correct.

2           **Q.     And in Mariner, Marathon drilled three Bone**  
3           **Spring wells and didn't complete them; is that right?**

4           A.     Correct.

5           **Q.     And is that because of the poor performance of**  
6           **the Hermes?**

7           A.     No, it's not because of poor performance of the  
8           Hermes, it's because of other internal reasons.

9           **Q.     Okay. Do you know what those reasons are?**

10          A.     Yeah. I can say that with time our understanding  
11          of wells and targeting evolved as with the industry overall,  
12          and in those cases we drilled those wells, but due to some  
13          other (inaudible) in our effort to maximize the value of the  
14          unit, we decided not to complete those wells at that time,  
15          and we will continue to monitor the situation and market  
16          conditions and reevaluate the decision at a later time.

17          **Q.     So was the decision not to complete the wells**  
18          **based on concerns regarding the well density or impact they**  
19          **would have on other wells?**

20          A.     No. It was not because of the impact of those  
21          wells on other wells. It was because of the expected  
22          performance of those wells on their own.

23          **Q.     And were the concerns regarding expected**  
24          **performance based on Hermes or what were they based on?**

25          A.     It was based on previous experience in Eddy

1 County.

2 Q. And Rebuttal Exhibit A identifies Trebuchet and  
3 Mariner as future developments; correct?

4 A. Future -- yes, correct.

5 Q. And you talked about the Marathon Gravel Grinder  
6 development; correct?

7 A. Yes.

8 Q. You have added it here to this Rebuttal A  
9 exhibit?

10 A. Yes.

11 Q. Why do you think Marathon couldn't replicate the  
12 the results from Gravel Grinder and Trebuchet and the  
13 Mariner developments?

14 A. There might be geological reasons for that.

15 Q. Do you have an opinion regarding those reasons as  
16 you're testifying today?

17 A. I cannot say for sure.

18 Q. And on Rebuttal Exhibit A, there are other  
19 Marathon developments that are not depicted in these  
20 exhibits; is that correct?

21 A. They might be. I don't -- I'm not sure about  
22 that. We have not -- I have not looked at the more broader  
23 area.

24 Q. Okay. So your intent was really just to add  
25 Gravel Grinder to what BTA had included; right?

1 MS. BENNETT: Objection. I object to the  
2 characterization of that question. Go ahead and answer,  
3 Mr. Rodionov.

4 A. We put the Gravel Grinder because it's relevant  
5 and it's in the immediate vicinities of other pads which BTA  
6 selected, and it's not fair to leave this unit out because  
7 of that reason.

8 Q. Okay. But you didn't add any other Marathon  
9 developments?

10 A. No.

11 Q. Does Marathon plan to complete both the north and  
12 south portions of the unit at the same time?

13 A. Yes.

14 Q. Can Marathon drill 1-mile wells, or could it  
15 drill 1-miles here and avoid the parent-child effect?

16 A. If they are drilled at the same time, yes.

17 Q. I believe you stated earlier in response to Ms.  
18 Bennett's questions regarding well density that Marathon  
19 might reevaluate its proposed well density after this case  
20 has concluded. Is that your testimony?

21 A. Correct.

22 Q. Well, are you aware that Marathon's application  
23 seeks approval to pool its spacing units based on the  
24 locations and identity of the wells that are included in the  
25 applications?

1           A.     I didn't quite understand that, your question.

2           Q.     Okay, I will rephrase it. Isn't it true that  
3     Marathon's application specifically identifies and locates  
4     the wells that it's proposing to develop and pool in this  
5     case?

6           A.     I will have to defer the question. I don't know  
7     how to answer that.

8           Q.     Okay. If Marathon decides to change its well  
9     density for these units after this case is over, do you know  
10    if it would come back to the Commission?

11          A.     I would assume so.

12          Q.     Because other parties such as BTA wouldn't have  
13    an opportunity to evaluate the new well locations; right?

14          A.     I would assume so, yes.

15          Q.     Thank you. Those are all of my questions.

16                 CHAIRWOMAN SANDOVAL: Commissioners, do you have  
17    questions?

18                 COMMISSIONER KESSLER: Yes, I do.

19                 Good afternoon. I would like to start with your  
20    exhibit. Ms. Hardy asked you a question about where these  
21    wells are located within (inaudible) the and you said these  
22    are Eddy County; is that correct?

23                 THE WITNESS: Yes.

24                 COMMISSIONER KESSLER: Do you think it's fair to  
25    compare 2-mile well performance with 1/2 mile well

1 performance throughout the entire county?

2 THE WITNESS: Yes, I think so.

3 COMMISSIONER KESSLER: Can you be specific.

4 THE WITNESS: It allows us to look at more  
5 specifics on the amount of wells.

6 COMMISSIONER KESSLER: Do you have data on the  
7 individual wells that are reviewed in this slide?

8 THE WITNESS: I did not prepare this slide, so I  
9 don't have the individual well data.

10 COMMISSIONER KESSLER: Did you personally conduct  
11 any type of review of performance of 2-mile wells or the  
12 mile and half wells that are the subject area more specific  
13 area that we are discussing?

14 THE WITNESS: No, I did not.

15 COMMISSIONER KESSLER: Can Marathon drill 2-mile  
16 wells in this area?

17 THE WITNESS: Yes. Not in this immediate area,  
18 but in Eddy County, yes.

19 COMMISSIONER KESSLER: But not in this particular  
20 area?

21 THE WITNESS: Yes.

22 COMMISSIONER KESSLER: There's been some  
23 discussion about the undeveloped acreage from additional  
24 setbacks. Can you quantify the amount of property, not just  
25 the feet, that would be developed or undeveloped?

1           THE WITNESS: That would have to look -- we will  
2     have to do more technical study. I cannot say an exact  
3     number right now.

4           COMMISSIONER KESSLER: Okay. You don't have  
5     that?

6           THE WITNESS: No.

7           COMMISSIONER KESSLER: And do you have any  
8     explanation of cost savings of 2-miles versus 1.5 miles for  
9     the proposals, for development proposals?

10          THE WITNESS: Again, we would have to evaluate it  
11     based on, you know, most current target condition. So I  
12     don't have those numbers right now.

13          COMMISSIONER KESSLER: In the discussion of the  
14     parent-child effect, have you performed your own analysis of  
15     the parent-child development for this particular area, or  
16     are you relying on just data.

17          THE WITNESS: No, I have my own experience with  
18     parent-child effects.

19          COMMISSIONER KESSLER: Do you have any of that  
20     data for us to review?

21          THE WITNESS: Not, not at this time.

22          COMMISSIONER KESSLER: Why is it problematic that  
23     BTA proposes (inaudible) gas in the Wolfcamp for the  
24     shallower depths?

25          THE WITNESS: Because they will have to deal with

1 all the additional gas and which would require adjusting the  
2 facilities.

3 COMMISSIONER KESSLER: Can you describe that a  
4 little bit better? I'm not familiar with what facilities  
5 that are (inaudible).

6 THE WITNESS: That's also out of my area of  
7 expertise, so I probably would defer the question to the  
8 field expert.

9 COMMISSIONER KESSLER: So is there an engineering  
10 reason, within your purview, that developing the gassier is  
11 more -- is problematic as opposed to shallower depths that  
12 leads to (inaudible).

13 THE WITNESS: In our opinion, it's lower value  
14 because of the higher gas-to-oil ratio.

15 COMMISSIONER KESSLER: So it's a commodity issue?

16 THE WITNESS: Correct.

17 COMMISSIONER KESSLER: Okay. Those are all my  
18 questions. Thank you.

19 CHAIRWOMAN SANDOVAL: Commissioner Engler, do you  
20 have any questions?

21 COMMISSIONER ENGLER: Yes, I do. Good afternoon,  
22 Mr. Rodionov.

23 THE WITNESS: Good afternoon.

24 COMMISSIONER ENGLER: I'm going to start -- I am  
25 going to refer to the Exhibit 16, again. It's my

1 understanding that this was created by someone else, I think  
2 you stated?

3 THE WITNESS: Yes.

4 COMMISSIONER ENGLER: So I'm going to ask  
5 questions, and then we'll see where we go with this.

6 Take, for your examples, you have your oil rate  
7 time and cum time. Is that an specific individual well, or  
8 is that the average?

9 THE WITNESS: That's average from multiple wells.

10 COMMISSIONER ENGLER: So what you are providing  
11 is the average say for a 2-mile lateral, it's 36 wells?

12 THE WITNESS: Yes, that's correct.

13 COMMISSIONER ENGLER: So what is your confidence  
14 interval in that data? Do I need to rephrase? Do you know  
15 what I'm saying?

16 THE WITNESS: Yeah, can you rephrase that?

17 COMMISSIONER ENGLER: You have an average value,  
18 but you have 36 examples, which means you should have a  
19 confidence interval, mid maximum and versus the average or  
20 some type of first quartile, second quartile of your data.

21 THE WITNESS: Yes. That's right.

22 COMMISSIONER ENGLER: It's not there.

23 THE WITNESS: Yeah, it's not on this slide, yes.

24 COMMISSIONER ENGLER: Can I ask -- I'm going to  
25 ask this question of -- maybe this is more generic. Can

1 Marathon provide that data and can it provide, as  
2 Commissioner Kessler said, the wells that were used in this  
3 analysis?

4 MS. BENNETT: Commissioner Engler, this is Deana  
5 Bennett, Marathon's counsel, and we would be happy to  
6 provide more detailed information that you are requesting as  
7 a supplement to the hearing exhibit.

8 COMMISSIONER ENGLER: Well, I appreciate that  
9 because at this point -- okay, let me get to my line of  
10 questioning and make sense out of this. So given 2-mile  
11 lateral lengths you have a value of 97.9 for EUR barrels of  
12 oil per lateral length; correct?

13 THE WITNESS: Right.

14 COMMISSIONER ENGLER: But with a particular  
15 statistical variation, that value could go up or down;  
16 correct?

17 THE WITNESS: Statistically, yes, it can.

18 COMMISSIONER ENGLER: And the same thing could  
19 happen with the average EUR for 1.5 mile; correct?

20 THE WITNESS: Yes.

21 COMMISSIONER ENGLER: So without that data, if it  
22 overlaps, then I would suggest that your conclusion of 13  
23 percent greater would be wrong, hence I need the data. Do  
24 you see where I'm going with that?

25 THE WITNESS: Yes. So I would say that 13

1     percent may be -- may fluctuate, but it doesn't change the  
2     fact that EUR of the 2-mile lateral can be still higher than  
3     1.5-mile lateral.

4                 COMMISSIONER ENGLER:   Without that information  
5     I'm asking, I don't think I can make that decision.   Let me  
6     move on.   In that graphic says the arch ARPS equation.   Are  
7     you familiar with that?

8                 THE WITNESS:   Yes.

9                 COMMISSIONER ENGLER:   So could you tell me, is  
10    that what was used, the actual ARPS equation for this  
11    analysis?

12                THE WITNESS:   Yes.

13                COMMISSIONER ENGLER:   Are you sure it was the  
14    ARPS equation or ARPS-like equation?

15                THE WITNESS:   Can you say that again, ARPS?

16                COMMISSIONER ENGLER:   ARPS equation, or was it a  
17    particular EUR equation that is like an ARPS-like equation,  
18    not the exact ARPS equation.

19                THE WITNESS:   I would probably -- we are probably  
20    referring to the same thing, but different names.   I'm not  
21    quite sure how to answer that.

22                COMMISSIONER ENGLER:   Well, the -- see, I have  
23    to pose this in a question.   Did anybody -- well, whether  
24    you or whoever did this, did they use some other EUR-type  
25    equation that was for horizontal wells?

1 THE WITNESS: I don't really know. I don't  
2 believe so.

3 COMMISSIONER ENGLER: Okay. This is only for --  
4 it said Upper Wolfcamp, so that's where XY and A zones for  
5 the Wolfcamp; is that correct?

6 THE WITNESS: That's correct.

7 COMMISSIONER ENGLER: How come you didn't  
8 generate the same things for the Lower Wolfcamp?

9 THE WITNESS: I'm not quite sure. Because  
10 probably didn't see the need at the time.

11 COMMISSIONER ENGLER: Again, I'm trying to get to  
12 this 2-mile versus 1.5-mile, and then you can even do 1-mile  
13 of lateral lengths. And one of the arguments is that the  
14 2-mile length produces better, and I'm looking for  
15 information to convince me that that's true. So that's for  
16 multiple horizons, so that's where I was going with that.

17 Let me talk about the parent-child effect. Can  
18 you tell me, you are talking about seeing interference,  
19 production interference between wells; is that correct?

20 THE WITNESS: Correct.

21 COMMISSIONER ENGLER: But you're not talking  
22 about the change in stress state because of the parent-child  
23 effect, or are you?

24 THE WITNESS: Well, production interference is,  
25 is more slightly related to -- it's the results of the

1 stress change from the depletion of the parent well and have  
2 optimal stimulation of the child wells.

3 COMMISSIONER ENGLER: Have you or has Marathon  
4 modeled that to see if that really occurs?

5 THE WITNESS: Yes. We have -- we have some  
6 experience with that.

7 COMMISSIONER ENGLER: In these horizons?

8 THE WITNESS: Yes.

9 COMMISSIONER ENGLER: So you have, based upon  
10 your some type of I guess modeling and I guess actual data  
11 that suggests that the parent-child effect does occur; is  
12 that correct?

13 THE WITNESS: Yes. We have modeling data and  
14 actual data as well to support this.

15 COMMISSIONER ENGLER: Again, I'm going to ask  
16 this question. It would be helpful if Marathon would be  
17 willing to provide that to support their evidence about the  
18 parent-child effect.

19 I think the last question I have, I was asking  
20 Mr. Baker, and he basically deferred to you about -- I have  
21 a question about stimulation and fracking, particularly for  
22 the XY and A zones, they are relatively close together.

23 When you frac those zones, are you expecting  
24 those to interfere because of the height growth from the  
25 hydraulic fracture?

1           THE WITNESS: Yes, we expect some communication  
2 between XY and A.

3           COMMISSIONER ENGLER: And so -- in that case, I  
4 guess from what I saw earlier today, you have a, a what's  
5 called a wine rack pattern of XY and A, so hopefully if you  
6 get growth from the A, upwards, it won't interfere with your  
7 XY wells?

8           THE WITNESS: That's right.

9           COMMISSIONER ENGLER: Okay. So have you done  
10 modeling and frac design to see if it would be better just  
11 to stay in A zone and frac and capture XY without drilling  
12 the XY wells?

13          THE WITNESS: Yes. We have done some studies,  
14 and based on those studies, and again, this will change  
15 probably from pad to pad, but from -- based on those  
16 studies, we believe that the wine rack we are proposing will  
17 result in the most effective drainage of both A and XY  
18 intervals.

19          COMMISSIONER ENGLER: Have you done some  
20 hydraulic fracturing modeling?

21          THE WITNESS: Yes.

22          COMMISSIONER ENGLER: So what kind of height  
23 growth are you seeing in your models?

24          THE WITNESS: I don't remember the actual number,  
25 but we see some height growth.

1           COMMISSIONER ENGLER:  Would you expect if you  
2   are  -- if you have an XY well, Wolfcamp well, you would get  
3   height growth that would go into the Third Bone Spring Sand?

4           THE WITNESS:  Depending on the area, potentially.

5           COMMISSIONER ENGLER:  So in this area what I have  
6   seen from your geologist, the XY is right there, right on  
7   the -- it's the Third Bone Spring and XY is right below it,  
8   so in this area if you frac -- frac the XY, would you expect  
9   that to go into the Third Bone Spring Sand?

10          THE WITNESS:  To properly evaluate that, we would  
11   have to look at the mechanical log from the hydraulic  
12   fracture model for the specific unit.  Without that  
13   information, I cannot say for sure.

14          COMMISSIONER ENGLER:  Well, would you not do some  
15   type of at least preliminary analysis to be able to say  
16   whether the well density well locations are?

17          THE WITNESS:  Yes.  And this is how we selected  
18   this particular wine rack for this unit.

19          COMMISSIONER ENGLER:  So you do have some  
20   modeling, and there is going to be fracture height growth,  
21   and so I guess my point here is, I'm trying to just look at  
22   this, this patterning relative to what these wells are going  
23   to do.  So I have no further questions.

24          CHAIRWOMAN SANDOVAL:  Thank you, Dr. Engler.  I  
25   have some real brief questions.

1           On, let's see, Rebuttal A, and it was brought up  
2   this may not be the full picture of Marathon's development  
3   in the area. Is that correct or not?

4           THE WITNESS: So in this immediate area this is  
5   all the wells which are depicted from this map view. No  
6   more Marathon wells are missing in this immediate red area.

7           CHAIRWOMAN SANDOVAL: Okay. So then Rebuttal B  
8   is, you believe, to be a complete picture?

9           THE WITNESS: All of this immediate -- yes, all  
10   of this immediate data, yes.

11          CHAIRWOMAN SANDOVAL: Okay. Okay. Since you  
12   brought up facility design and how the Lower Wolfcamp is  
13   gassier, Marathon is planning to develop both the Upper and  
14   Lower Wolfcamp?

15          THE WITNESS: Correct and --  
16               (Overtalk.)

17          CHAIRWOMAN SANDOVAL: Which one would be Phase 1  
18   versus 2?

19          THE WITNESS: Phase 1 would be -- Phase 1 would  
20   be Upper Wolfcamp. Phase 2 would be Lower Wolfcamp.

21          CHAIRWOMAN SANDOVAL: Does Marathon have a  
22   contract in place or plan to have a contract in place for  
23   operators to take away the gas for development in the Lower  
24   Wolfcamp?

25          THE WITNESS: That's not my area of expertise. I

1 don't really know.

2 CHAIRWOMAN SANDOVAL: Okay. I think you said you  
3 guys rank commodities, oil would be higher than gas;  
4 correct?

5 THE WITNESS: Correct. Yes.

6 CHAIRWOMAN SANDOVAL: Do you know if the Oil &  
7 Gas Act ranks commodities and waste or if they treat waste  
8 equally?

9 THE WITNESS: Yeah, I cannot answer that. I'm  
10 not sure.

11 CHAIRWOMAN SANDOVAL: Okay. Those conclude my  
12 questions. Ms. Bennett, do you have any follow-up?

13 MS. BENNETT: Yes, just a few, thank you.

14 REDIRECT EXAMINATION

15 BY MS. BENNETT:

16 Q. Mr. Rodionov, Ms. Hardy asked you if another  
17 reservoir engineer could come up with another EUR  
18 calculation, and I just wanted to ask you if there is  
19 another EUR calculation done by another engineer in BTA's  
20 materials that you see?

21 A. No.

22 Q. One of the questions that was asked, and I think  
23 it was by Ms. Hardy or perhaps it was by Commissioner  
24 Kessler, it was whether if Marathon drilled its 1-mile -- a  
25 1-mile lateral in the N/2, would there still be -- would

1     there be parent-child effect, or would there not be  
2     parent-child effect.

3                     And I believe your answer was, if they were  
4     drilled at the same time that there wouldn't be parent-child  
5     effect, and I just wanted to confirm with you what you meant  
6     by that because I think the question was a little bit  
7     confusing.

8                     If Marathon drilled its N/2 wells, would Marathon  
9     have to drill its S/2 wells at the same time that BTA is  
10    drilling its N/2 wells to avoid the parent-child effect?

11            A.     Yes. Both N/2 and S/2 have to be developed at  
12    the same time to avoid parent-child effects.

13            Q.     So while Marathon could control the parent-child  
14    effect minimizing the parent-child effect in Section 12,  
15    Marathon would not be able to control whether the  
16    parent-child effect occurred in Section 7; is that right?

17            A.     That's right.

18            Q.     When we were talking about the Lower Wolfcamp  
19    being gassier, I don't think it was your intent to say that  
20    it's problematic to target the Lower Wolfcamp, just that  
21    it's less, less prospective than the Upper Wolfcamp, but the  
22    fact that it's gassier doesn't make it problematic, it's  
23    just not as desirable from Marathon's perspective to start  
24    there; is that right?

25            A.     Yes.

1           Q.     So you weren't trying to say that it's somehow a  
2     problem or that it's somehow not, not responsible to drill  
3     there, it's just that it's Marathon is targeting the Upper  
4     Wolfcamp first.

5                   MS. HARDY: I object to Ms. Bennett testifying  
6     instead of asking questions. Object to the form.

7                   CHAIRWOMAN SANDOVAL: You already asked that  
8     question, Ms. Bennett.

9                   MS. BENNETT: I will rephrase.

10          BY MS. BENNETT:

11          Q.     When Commissioner Kessler was asking you if --  
12     about whether drilling in the Lower Wolfcamp was  
13     problematic, was it your testimony that it is problematic?

14          A.     No, it's not. It's just lower value than Upper  
15     Wolfcamp, in our opinion.

16          Q.     Thanks. And if we -- if we decided or we  
17     can -- actually, I wanted to ask this a different way.  
18     When you were preparing Rebuttal Exhibit B, did you also  
19     look at the Ogden child wells or the second Ogden wells when  
20     you were preparing Rebuttal Exhibit B?

21          A.     Yes, I did.

22          Q.     Did you model those wells?

23          A.     Yes.

24          Q.     And so you did an analysis of the Ogden parent  
25     wells and an analysis of the Ogden child wells?

1           A.     Correct.

2           Q.     Is that a slide that something we can provide to  
3     the Commissioners?

4           A.     Yes.

5           Q.     It's already prepared?

6           A.     Yes.

7           Q.     And you prepared that slide in advance of your  
8     testimony today?

9           A.     Yes.

10          Q.     I think you were asked a question about -- or you  
11     were asked a question about whether Marathon drilled 2-mile  
12     laterals in this area. Do you remember that question?

13          A.     Right.

14          Q.     Are you familiar with the Blue Steel wells?

15          A.     Yes.

16          Q.     Are those Marathon wells?

17          A.     Yes.

18          Q.     Are they 2-mile laterals?

19          A.     Yes.

20          Q.     What's the status of those wells? Do you know?

21          A.     Yes. They are drilled and completed, but not  
22     blown back yet.

23          Q.     So you don't have any data yet from those wells?

24          A.     No, we don't.

25          Q.     Okay. About how far away are the Blue Steel

1 wells from the Valkyrie unit? Do you know?

2 A. About one mile.

3 Q. Okay. Commissioner Engler asked a number of  
4 questions about Exhibit 16, and Commissioner Kessler asked  
5 some questions about the parent-child effect and some  
6 questions about the recovery that could occur from the  
7 acreage underlying the setbacks. Would you be willing to  
8 prepare supplemental exhibits and submit those to the  
9 Commission?

10 A. Yes.

11 MS. BENNETT: Let's see. I think those are all  
12 the questions I have, all the redirect questions I have for  
13 Mr. Rodionov at this time. Thank you. Although, I do  
14 reserve the right to recall him if necessary as a rebuttal  
15 witness.

16 CHAIRWOMAN SANDOVAL: Thank you. Let's take a  
17 five-minute break coming back at 2:20.

18 (Recess taken.)

19

20 CHAIRWOMAN SANDOVAL: It's 2:21, and we are going  
21 to resume the hearing, so we will proceed.

22 MR. BRUCE: Madam Chair, this is Jim Bruce. Can  
23 you hear me?

24 CHAIRWOMAN SANDOVAL: Yes.

25 MR. BRUCE: I'm the attorney for Novo on the

1     succeeding cases, and before BTA begins their case, I just  
2     want to ask a matter, this will only take a few seconds.

3                 It looks like this case is going to go through  
4     the rest of the day, and I simply wonder, on behalf of my  
5     witnesses, whether you are going to proceed tomorrow morning  
6     with the other two cases, or that -- or are those cases  
7     going to be deferred into the future? Thank you.

8                 CHAIRWOMAN SANDOVAL: Didn't we already address  
9     that question with Ms. Bennett earlier today? We are going  
10    to finish this case to completion, and then we will proceed  
11    tomorrow with the next case whenever this one finalizes.

12                MR. BRUCE: I'm sorry. But for some reason I  
13    have been cut out twice from -- on the hearing, and so I  
14    have lost about 30 minutes of time on the hearing. So thank  
15    you very much.

16                MS. BENNETT: Madam Chair, this is Deana Bennett.  
17    I have no further witnesses to call.

18                CHAIRWOMAN SANDOVAL: Thank you, Ms. Bennett.  
19    Mr. Bruce, I cannot fathom that we are going to finish this  
20    and start the new case by 5. In the chance that we did  
21    finish this before 5, I think we can just recess until  
22    tomorrow morning. So if you want to tell your witnesses  
23    that they don't need to hang on the line anymore, that's  
24    fine, and at the absolute earliest we will start you is  
25    tomorrow morning.

1           MR. BRUCE: I appreciate that, Madam Chair. I  
2 would rather -- rather than start this afternoon, I would  
3 rather start afresh tomorrow.

4           CHAIRWOMAN SANDOVAL: Yeah. And we are going to  
5 be posting a new Webex link on the hearings page for  
6 tomorrow, so don't use this link, use the new link that's  
7 going to go on the hearings page for tomorrow.

8           MR. BRUCE: Thank you.

9           CHAIRWOMAN SANDOVAL: Okay. Ms. Bennett, you are  
10 done with witnesses. Ms. Hardy, do you have any witnesses?

11          MS. HARDY: Yes, I do. Madam Chair, before I  
12 call our first witness, I have one question on a procedural  
13 matter, and that would be on, if Marathon submits  
14 supplemental exhibits after the hearing, if BTA would have  
15 an opportunity to respond to those.

16          CHAIRWOMAN SANDOVAL: Yes.

17          MS. HARDY: Okay, thank you.

18          CHAIRWOMAN SANDOVAL: Go ahead and call your  
19 first witness and the court reporter please administer the  
20 oath.

21          MS. HARDY: Thank you. And BTA's first witness  
22 will be Willis Price.

23                       WILLIS PRICE

24                       (Sworn, testified as follows:)

25                       DIRECT EXAMINATION

1 BY MS. HARDY:

2 Q. Mr. Price, can you hear me?

3 A. Yes.

4 Q. Can you please state your full name for the  
5 record?

6 A. Willis Price.

7 Q. Where do you reside?

8 A. Plano, Texas.

9 Q. By whom are you employed and in what capacity?

10 A. I'm employed by BTA Oil Producers LLC as the land  
11 manager.

12 Q. Do your responsibilities include BTA's  
13 development of what it calls the Ochoa acreage?

14 A. Yes.

15 Q. Does the Ochoa acreage include the N/2 of Section  
16 7 that Marathon seeks to pool?

17 A. Yes, it does.

18 Q. Are you familiar with the land matters that  
19 pertain to Marathon's applications?

20 A. Yes.

21 Q. Have you previously testified at a Division  
22 hearing?

23 A. Yes, I have.

24 Q. Were your credentials as an expert in petroleum  
25 land matters accepted?

1           A.     They were.

2           Q.     Have you previously testified at a Commission  
3 hearing?

4           A.     No.

5           Q.     Given that, would you briefly summarize your  
6 educational background and experience in the oil and gas  
7 industry.

8           A.     I got a bachelor's of science degree from Texas  
9 Tech University in 1979. I have been a landman since 1981,  
10 39 years, and during that time I worked both independently  
11 and for oil companies including Burlington (inaudible), and  
12 I have been at BTA as land manager for almost 15 years.

13           MS. HARDY: Madam Chair, I submit Mr. Price as an  
14 expert in petroleum land matters.

15           MS. BENNETT: No objection.

16           CHAIRWOMAN SANDOVAL: Any objection from the  
17 Commissioners?

18           COMMISSIONER KESSLER: No objection.

19           COMMISSIONER ENGLER: No objection.

20           CHAIRWOMAN SANDOVAL: The witness is considered  
21 an expert for the purposes of this hearing. Please  
22 consider -- please continue.

23           MS. HARDY: Thank you.

24 BY MS. HARDY:

25           Q.     Mr. Price, how long has BTA been operating in New

1     **Mexico?**

2           A.     BTA is a family-owned company that was founded by  
3     (inaudible) in the early '50s. There are second, third,  
4     fourth generation members of this family that are still  
5     involved in the day-to-day operations in New Mexico. We  
6     have operated since the early '50s.

7           Q.     How many horizontal wells has BTA completed in  
8     New Mexico?

9           A.     (inaudible).

10          Q.     How many horizontal wells has BTA completed in  
11     Eddy County?

12          A.     14.

13          Q.     Can you speak up?

14          A.     14.

15          Q.     Thank you. And I'm sorry, I don't think we  
16     caught your answer on how many horizontal wells has BTA  
17     completed in New Mexico.

18          A.     80.

19          Q.     Thank you. Is BTA a successful and experienced  
20     operator in New Mexico?

21          A.     Yes.

22          Q.     Is BTA actively drilling in the Delaware Basin in  
23     New Mexico?

24          A.     We are. We have a few rigs running currently.

25          Q.     And does BTA have an active frac fleet in New

1 Mexico right now?

2 A. We do.

3 Q. Is BTA currently completing the wells that it is  
4 actively drilling in New Mexico?

5 A. Yes, we are.

6 Q. Okay. Mr. Price, can you please look at  
7 Exhibit 1, BTA Exhibit 1? I'm going to try to pull it up  
8 here and share my screen, and I hope that it, that it works.

9 CHAIRWOMAN SANDOVAL: We might need to -- never  
10 mind, it looks like it's pulling up.

11 MS. HARDY: And I think I just pulled up -- it's  
12 pulling up the wrong exhibit, so hold on. My apologies.  
13 Hold on one second here.

14 CHAIRWOMAN SANDOVAL: No problem. Take your  
15 time.

16 MS. HARDY: My computer is not cooperating. It's  
17 running very slow. Did I lose the -- can you hear me?

18 COMMISSIONER ENGLER: Yeah, Dana, we can hear you  
19 fine.

20 MS. HARDY: I can't manage to -- my computer is  
21 not cooperating and won't let me pull up the exhibit, so I'm  
22 going to work on that, but let me just go ahead and start  
23 asking about it.

24 CHAIRWOMAN SANDOVAL: If you want to reference it  
25 so the Commissioners can have it in front of us.

1 MS. HARDY: And I'm trying to close the exhibit  
2 that I had open, and it's -- it just doesn't seem to be  
3 working, like the whole thing is gone.

4 Okay. My computer is not letting me close what I  
5 have open, I'm not sure why.

6 MS. HARDY:

7 Q. But let me go ahead and ask you about Exhibit 1,  
8 okay? Can you please identify BTA Exhibit 1?

9 A. Exhibit 1 is the BTA acreage position around the  
10 Ochoa acreage.

11 Q. And was that map prepared under your direction  
12 and supervision?

13 A. Yes, it was.

14 Q. What does it show?

15 A. It shows that BTA owns interest in, extensive  
16 interest in southeastern New Mexico, and this zeros in on  
17 our properties in the area around our Ochoa acreage.

18 Q. And where is BTA's Ochoa acreage?

19 A. Ochoa's acreage is, if you can go to the very top  
20 of the map, and you will see in the bubble it's labeled  
21 Ochoa, and it covers the N/2 of 7, and the NW/4 of Section 8  
22 in Township 23 South, 29 East in Eddy County, New Mexico.

23 Q. And how many acres does that Ochoa acreage  
24 include?

25 A. 474.11.

1           Q.     Is the Ochoa acreage subject to a joint operating  
2     agreement?

3           A.     Yes, it is.

4           Q.     What is the blue acreage that is shown on your  
5     Exhibit 1?

6           A.     The blue acreage represents properties that are  
7     operated by BTA in this area.

8           Q.     And what is the blue crosshatched area?

9           A.     The crosshatched is BTA non-operator acreage in  
10    the area.

11          Q.     Is BTA new to operating in this area?

12          A.     No.

13          Q.     What property on this map did BTA develop first?

14          A.     We drilled a vertical Atoka well on the  
15    (inaudible) which is about a mile and a half west of the  
16    Ochoa acreage, and it was drilled in there in the late  
17    1980s.

18          Q.     And how far approximately is that property from  
19    the Ochoa acreage?

20          A.     It's approximately a mile and a half west.

21          Q.     Okay. Mr. Price, can you please refer to your  
22    Exhibit 2? Do you have that exhibit in front of you?

23          A.     Yes, I do.

24          Q.     Okay. And this is the exhibit that Marathon's  
25    witnesses testified about earlier. Do you recall that?

1           A.     Yes, I do.

2           **Q.     Okay. Can you please identify this exhibit?**

3           A.     This exhibit shows BTA's Ochoa acreage in blue.

4     And it (inaudible) that we own under a voluntary operating  
5     agreement that covers 474.11 acres, BTA is the operator.

6                     In the green is Novo that represents Novo mineral  
7     fee acreage that (inaudible) and that covers 480 acres.

8                     And then the red represents Marathon's leasehold  
9     interest. There is no voluntary operating agreement, and it  
10    covers 320 acres, and I believe they own 120 acres of record  
11    currently.

12          **Q.     Okay. Does this map depict the totality of the**  
13    **acreage that each party is addressing in the applications**  
14    **that are heard by Marathon and Novo?**

15          A.     Yes, it does.

16          **Q.     And that's leasehold interest; correct?**

17          A.     Yes, it is.

18          **Q.     For the acreage shown does BTA -- well, how does**  
19    **the acreage that BTA control compare to the acreage that is**  
20    **controlled by Novo and Marathon?**

21          A.     Well, Novo and BTA, these are roughly the same  
22    net acres. The Marathon acreage is considerably less.

23          **Q.     And is BTA's acreage under a JOA?**

24          A.     Yes, it is.

25          **Q.     Does the JOA control operation of 100 percent of**

1     **the acreage?**

2           A.     Yes, it does.

3           **Q.     Does BTA have to file a pooling application to**  
4     **develop its acreage under the JOA?**

5           A.     No, we do not.

6           **Q.     And why not?**

7           A.     Because the parties have voluntarily entered into  
8     into an operating agreement that covers the interest on  
9     under that 474.11 acres.

10          **Q.     And have the parties committed 100 percent of**  
11     **their acreage under the JOA to the JOA?**

12          A.     Yes.

13          **Q.     Do Marathon and Novo each seek to pool JOA's BTA**  
14     **acreage?**

15          A.     They do.

16          **Q.     Which part of the acreage does Marathon seek to**  
17     **pool?**

18          A.     Marathon is pooling the N/2 of Section 7 that  
19     covers 314.11 acres, and then Novo is seeking to pool the  
20     NW/4 of Section 8, and that is 160 acres.

21          **Q.     Would Marathon's proposal strand BTA's acreage,**  
22     **part of BTA's acreage?**

23          A.     Yes.

24          **Q.     Which part?**

25          A.     The NW/4 of Section 7 -- I mean Section 8.

1           Q.     Mr. Price, please look at Exhibit 3. Do you have  
2     that in front of you?

3           A.     Yes, I do.

4           Q.     Can you please identify that exhibit?

5           A.     That exhibit is a time line of, of chronological  
6     events -- of the chronological events that occurred on our  
7     Ochoa acreage.

8           Q.     Okay. Let's talk about the events you have  
9     listed on the time line.

10          A.     Okay.

11          Q.     Can you tell me generally what happened on March  
12     1 of 2000?

13          A.     That's when -- I need to refer to Exhibit 4 in  
14     order to talk about that.

15          Q.     Okay. Let's look at Exhibit 4 quickly, also.  
16     Can you tell me what Exhibit 4 is?

17          A.     Exhibit 4 is a plot that shows Bone Spring units  
18     in the area and the outlines. The blue outline is BTA Ochoa  
19     acreage.

20          Q.     And did you prepare Exhibit 4?

21          A.     Yes.

22          Q.     Okay. Okay. Let's go back to your time line.

23          A.     Okay. So first thing that happened was there was  
24     a federal lease 103879, that if you look at that Exhibit 4,  
25     it covers 314.11 acres. And that was a federal lease to

1 Yates Petroleum Company and their affiliates. There was  
2 four different entities. And then so that was the first  
3 thing that happened.

4 And then effective 5-1 of 2009, the second lease  
5 you see on there was taken by Yates Petroleum Company, and  
6 there, there is four affiliates totaled down that purchased  
7 the lease, and so that -- those are the two leases that make  
8 up our Ochoa acreage.

9 **Q. Okay. And then what happened on July 21 of 2010?**

10 A. Yates Petroleum drilled the (inaudible) BLB  
11 Federal Number 1H, and that, if you go back to that Exhibit  
12 4, you will see a reference to Yates Petroleum and that is  
13 the horizontal well that traverses the N/2 of 7 and the NW/4  
14 of Section 8.

15 **Q. Okay. Let's skip back for a second to March 1 of**  
16 **2000. Those leases are subject to the voluntary operating**  
17 **agreement; correct?**

18 A. Yes, they are.

19 **Q. Okay. Okay. And then what about October 6,**  
20 **2010?**

21 A. A lot of the entity was Yates Drilling Company,  
22 that entity became Oxy Y1 Company. So we will talk about  
23 that a little later, but Oxy is our working interest partner  
24 in the Ochoa acreage, and that's where their interest comes  
25 from was Oxy. And then BT -- I mean it was from Yates

1 Drilling Company, and then BTA was assigned the interest of  
2 the other three companies, but we will get to that in a  
3 moment.

4 **Q. Okay. And then what about December 20 of 2011?**

5 A. That's when, if you refer back to Exhibit 4, the  
6 exhibit with the green outline, Yates Petroleum -- I mean,  
7 excuse me -- COG drilled the Road Lizard Well Number 2H.  
8 It's outlined in green, and so that, that well was completed  
9 in 12-20 of 2011.

10 **Q. Back to your top line what is the next event on**  
11 **July 24 of 2013?**

12 A. Next event (inaudible) RKI drilled and completed  
13 starting in 7-24 of 2013. If you look on Exhibit 4 you will  
14 see an Exhibit 4 you will see an orange shaded frac, and  
15 they drilled Bone Spring wells in that unit starting in 7-24  
16 of 2013.

17 **Q. Okay. And then the next event?**

18 A. The next event is where BTA did a trade with EOG  
19 and acquired the interest in the two leases I told you about  
20 earlier that's covered by the JOA. And the -- so that was  
21 effective 11-1 of 2018.

22 **Q. So is that when BTA acquired it's interest under**  
23 **the JOA.**

24 A. Yes, it is. The JOA was, basically was in effect  
25 when, when Yates bought their first full gas lease, and then

1 BTA became the operator of that JOA after we (inaudible).

2 Q. Was that conveyance publicly filed?

3 A. Yes, it was.

4 Q. If you go to Page 2 of your time line, what  
5 happened in November 1 of 2018?

6 A. BTA and Oxy entered into a ratification agreement  
7 covering the JOA, and that ratified the operating agreement  
8 covering all rights in that 474-acre tract. And it's named  
9 BTA as the operator, and it confirmed the interest of each  
10 party under that JOA.

11 Q. Is that ratification agreement BTA Exhibit 6?

12 A. Yes, it is.

13 Q. And is Exhibit 6 a true and correct copy of the  
14 ratification agreement?

15 A. Yes.

16 Q. Was that document filed in the public record?

17 A. It was.

18 Q. What's the next event reflected on your time  
19 line?

20 A. BTA obtained management approval to drill the  
21 Ochoa 1H, 2h and 3H and 4H horizontal wells. If you turn to  
22 Exhibit 9, you will see again the blue outline that reflects  
23 the Ochoa acreage, and those are the four wells that  
24 (inaudible) under the JOA.

25 Q. And did you prepare Exhibit 9?

1           A.     Yes.

2           Q.     And did BTA request BLM onsite regarding  
3 those wells?

4           A.     We did.

5           Q.     What's the next event on your time line?

6           A.     BTA filed applications for permits to drill with  
7 BLM on the four wells.

8           Q.     And, Mr. Price, I think there is a prior entry,  
9 May 1 of 2019. Is that when Marathon obtained its interest  
10 in this acreage?

11          A.     Yes, that's when Marathon obtained their  
12 interest. If you go back to Exhibit 2, that's when they  
13 acquired their acreage from Oxy in Section 12.

14          Q.     Okay. And then in May of '19, did BTA have its  
15 meeting with the BLM regarding the onsite of the location of  
16 the wells it proposed?

17          A.     Yes.

18          Q.     What about June 26 of '19?

19          A.     That's when we filed an application for a permit  
20 to drill with BLM, and that's (inaudible).

21          Q.     And what is the next event, July 8 of 2019?

22          A.     That is when BTA sent well proposals to Oxy under  
23 the JOA covering the four Ochoa wells.

24          Q.     And then what happened on July 12 of 2019?

25          A.     Marathon sent us well proposals on the 15 wells

1 in the Valkyrie Federal Com 1H through the 15H, and it  
2 covered the 2-mile horizontal wells covering Sections 12  
3 and 7.

4 Q. And if you go back to BTA Exhibit 2, which  
5 acreage did Marathon's proposal involve?

6 A. It would be the N/2 of 12 (inaudible) had  
7 Marathon written on it, and then the 12 -- excuse me -- it  
8 included all of Section 12 and all of Section 7.

9 Q. Thank you. And then what happened on July 25 of  
10 2019?

11 A. BTA and Oxy entered into a letter agreement that  
12 provided that Oxy's well proposals would be -- their  
13 elections would be due 30 days from notice that we received  
14 -- an approved permit to drill for each of the wells, and  
15 the reason for that was at the time we didn't -- then we  
16 received a permit to drill and a (inaudible) permit to  
17 drill, yes.

18 Q. Is that letter agreement BTA's Exhibit 8?

19 A. Yes, it is.

20 Q. And is Exhibit 8 a true and correct copy of that  
21 letter agreement?

22 A. It is.

23 Q. Okay. And does that agreement impact when BTA  
24 proposed to drill wells under the JOA?

25 A. Yes.

1           **Q.     How does it impact it?**

2           A.     It's just providing an election period for Oxy to  
3     elect under the JOA for those four wells.

4           **Q.     What is the next event, August 28 of 2019?**

5           A.     The BTA Ochoa wells, the four wells are in the  
6     product development area. So on August 28 we sent  
7     notification of the Ochoa development area covering those  
8     wells and say (inaudible) the wellbores are in the potash  
9     development area.

10          **Q.     And then what happened on October 10 of 2019?**

11          A.     That's when I set up a meeting to go talk to  
12     Marathon about our -- about BTA's plan to develop our mile  
13     and a half -- develop the Ochoa acreage on a drilling mile  
14     and a half horizontal wells.

15          **Q.     And did you propose that meeting on behalf of BTA**

16          A.     Yes, I did.

17          **Q.     And did you travel to Houston for the meeting?**

18          A.     I did.

19          **Q.     Okay. And then what about the next date,**  
20     **November 12 of 2019?**

21          A.     Marathon sent notification of their Valkyrie  
22     development area, the Valkyrie wells that were located in  
23     that N/2 of Section 12 and Section 7. And if you go back  
24     through the Exhibit 2, again that's in the N/2 of Section 12  
25     in red, Marathon, the leasehold and then the N/2 of

1 Section 7.

2 Q. Okay. Turning to the third page of your time  
3 line, what happened on November 15 of 2019?

4 A. That is when we had the previous hearing.

5 Q. And then what about December 3 of 2019?

6 A. December 3, BTA objected to Marathon Valkyrie  
7 development area because we had filed our own development  
8 area, but --

9 Q. Were you waiting for a decision on your  
10 development area at that time?

11 A. Yes.

12 Q. Based on the information in your time line, did  
13 BTA acquire its interest and become operator under the JOA  
14 before Marathon proposed it's wells?

15 A. Yes.

16 Q. Had BTA had its onsite meeting with BLM, filed  
17 its APDs and submit its well proposals before Marathon  
18 proposed its wells?

19 A. Yes. Can I add one thing? I forgot to do this.

20 Q. Sure.

21 A. There is a typo on this time line. If you look  
22 at -- on the -- where its describing the second, it says  
23 NE/4 of Section 8, Township 23 South, Range 29 East, that  
24 should be -- I'm sorry --

25 Q. Should it be NW/4?

1           A.     That's right, it should be NW/4 of Section 8.

2           Q.     That's for the description of the events on March  
3 1 of 2000?

4           A.     That's right, instead of NE/4 it should be NW.

5           Q.     Okay. And with respect to the meeting in Houston  
6 with Marathon, in your opinion, did BTA work to try to find  
7 a solution that would be acceptable to both parties?

8           A.     We did.

9           Q.     Okay. Let's look at Exhibit 4, which we just  
10 talked about a little bit. Does this exhibit show Bone  
11 Spring spacing units in the Loving area?

12          A.     Yes.

13          Q.     Were the units on the map formed in a way they  
14 did not interfere with the JOA governing the Ochoa acreage?

15          A.     They did. I mean, they were formed taking into  
16 account the JOA was there.

17          Q.     And I think you stated earlier that BTA has  
18 proposed wells near the Ochoa acreage?

19          A.     Yes.

20          Q.     And how many wells?

21          A.     Four wells.

22          Q.     What formation are those wells located in?

23          A.     Those are all four in the Wolfcamp formation.

24          Q.     Does BTA have plans for further development of  
25 the Ochoa acreage?

1           A.     We do.

2           **Q.     What are those plans?**

3           A.     We planned to drill Bone Spring formation wells  
4     and additional Wolfcamp wells.

5           **Q.     And will Mr. McQuien address those wells in more**  
6     **detail in his testimony?**

7           A.     Yes, he will.

8           **Q.     Why hasn't BTA proposed those wells at this time?**

9           A.     Because we were planning to -- kind of like  
10    Phase I of developing our Wolfcamp wells there under the  
11    JOA, and since we're not -- not applying for a pooling  
12    application, we just prepared -- proposed the four Wolfcamp  
13    wells, and then we will come back and propose the other  
14    wells as the schedule permits.

15          **Q.     Since BTA doesn't have to pool its acreage to**  
16     **develop it, is it a faster process typically to propose and**  
17     **commence -- propose wells and commence drilling than it**  
18     **would be if you had to pool?**

19          A.     It certainly is.   Yes.

20          **Q.     Let's turn to Exhibit 5, please.  Can you**  
21     **identify that document?**

22          A.     That is the operating agreement that covers the  
23    Ochoa acreage.

24          **Q.     Is this a true and correct copy of the JOA?**

25          A.     Yes, it is.

1           **Q.     And what is the date?**

2           A.     The date is January 1 of 1987. And just as a --  
3 to go back to Exhibit 3, I believe it is -- yeah, Exhibit 3,  
4 on that first lease, when that first lease was purchased by  
5 the Yates group, this JOA became effective. And if you go  
6 back to the time line that, that was on March 1 of 2000.

7           A.     And then when did BTA acquire its interest under  
8 the JOA again?

9           A.     It was November 1 of 2018.

10          **Q.     Does the JOA cover all intervals underlying the**  
11 **N/2 of Section 7 and NW/4 of Section 8?**

12          A.     It does.

13          **Q.     Why did BTA acquire its interest and become**  
14 **operator under the JOA?**

15          A.     BTA, as I pointed out on Exhibit 1, we have --  
16 we are familiar with the area. We have been out there for a  
17 good while, and we knew that we, we like this area and  
18 wanted to be there. And we were able to do a trade with EOG  
19 that would allow us to trade for this Ochoa acreage that we  
20 could control and develop under this JOA.

21          **Q.     Are the operating rights under the JOA valuable**  
22 **to BTA?**

23          A.     Very valuable.

24          **Q.     Why?**

25          A.     It allows us to control costs. We can drill

1 wells very cost effectively and it allows us to drill wells  
2 if we make our move for full development of the acreage.

3 Q. In your opinion, do joint operating agreements  
4 like this facilitate development and conservation of  
5 resources?

6 A. Yes, they do.

7 Q. Why is that?

8 A. Because it's a voluntary agreement to develop the  
9 acreage between the parties.

10 Q. And does it allow operators to control their  
11 costs and determine the most productive development plan  
12 without the opposition that may happen during pooling?

13 A. Yes, it does.

14 Q. Okay. What is the breakdown of the working  
15 interest ownership governed by the JOA?

16 A. BTA owns 82 percent, and Oxy 18 percent.

17 Q. So BTA's interest in this Ochoa acreage, the  
18 working interest is 82 percent; is that correct?

19 A. Yes.

20 Q. And is 100 percent of the interest committed to  
21 the area governed by the JOA?

22 A. Yes, it is.

23 Q. Did BTA recently enter into a trade with Oxy that  
24 increased BTA's ownership percentage under the JOA?

25 A. Yes, they did.

1           Q.     And what was that trade for?

2           A.     That trade, we traded -- we wanted more acreage  
3     in this -- in this Ochoa acreage, and we traded a leasehold  
4     in another area.

5           Q.     Okay.

6           A.     And it covers all -- it covers 40 acres under the  
7     474.11-acre unit.

8           Q.     Is that trade acquisition correctly reflected in  
9     Marathon Exhibits 6 and 7 that were discussed earlier by Mr.  
10    Rice? Do you have those exhibits in front of you?

11          A.     I'm getting them. I come up with a slightly  
12    different -- on the -- on the Wolfcamp unit it covers 634.11  
13    acres. I come up with that BTA now owns 40.4 percent  
14    working interest, and Marathon has 38. So I show we own a  
15    little bit more, and the same is true for the (inaudible)  
16    unit.

17          Q.     Thank you. Would it be correct to say that BTA  
18    is the operator of 100 percent of the working interest owner  
19    in the Ochoa acreage?

20          A.     Yes.

21          Q.     Okay. Can you look at Exhibit 6, please, BTA  
22    Exhibit 6?

23          A.     Yes.

24          Q.     And I think you identified this when you were  
25    going through your time line. It's a ratification by Oxy of

1     **BTA's operatorship of the JOA; is that right?**

2           A.     That's correct.

3           **Q.     Okay. And what does the document show?**

4           A.     The document shows that Oxy's knowledge is that  
5     the -- that we are under the operating agreement, and that  
6     they agree that BTA could remain the operator, and it covers  
7     all that within the Ochoa acreage.

8                     And at that time, we would have ownership  
9     stipulated with the working interest what it was. It's  
10    decreased now because of the trade.

11          **Q.     And what's the effective date of that**  
12    **ratification?**

13          A.     It's November 1 of 2018.

14          **Q.     Is 100 percent of Oxy's interest committed to and**  
15    **governed by the JOA?**

16          A.     Yes, it is.

17          **Q.     If Oxy had signed its interest to Marathon, will**  
18    **Marathon's interest be committed to and governed by the JOA?**

19          A.     It will be.

20          **Q.     Let's move on to BTA Exhibit 7, please.**

21          A.     Okay.

22          **Q.     Can you identify that exhibit?**

23          A.     That is the exhibit that has copies of the four  
24     well proposals for the four Ochoa wells, the 1H, 2H, 3H and  
25     4H.

1 Q. Were those well proposals made by Oxy?

2 A. Yes.

3 Q. And that's because Oxy is the other party to the

4 JOA?

5 A. That's right.

6 Q. When were the proposals sent?

7 A. July 8 of 2019.

8 Q. Do the proposals include the AFEs?

9 A. Yes, they do.

10 Q. And do they include a map of the proposed wells?

11 A. They do.

12 Q. Are those wells located in the Wolfcamp?

13 A. Yes, they are.

14 Q. And will they be drilled and completed in the N/2

15 of Section 7 and NW/4 of Section 8?

16 A. Yes.

17 Q. Will the completed laterals be in the potash

18 area?

19 A. Yes, they will.

20 Q. Will the wellpad for the wells be located in the

21 potash area?

22 A. No, it won't.

23 Q. Where is the wellpad located?

24 A. The wellpad, if you go back to Exhibit 4 --

25 well -- I'm sorry, go back to Exhibit 2. You see Section

1 12, the N/2 of Section 12, the wellpad will be on the far  
2 east side of Section 12.

3 Q. Has BTA received approval from the BLM for the  
4 pad location?

5 A. We have for the pad location.

6 Q. Because the completed laterals will be in the  
7 potash area, was BTA required to notify Mosaic Potash?

8 A. Yes.

9 Q. Did BTA provide that notification?

10 A. We did.

11 Q. Has BTA received any negative feedback from  
12 Mosaic?

13 A. We have not.

14 Q. Has BTA submitted a proposed development area to  
15 the BLM for the Wolfcamp wells?

16 A. Yes.

17 Q. And what is the status?

18 A. It was opposed by Novo.

19 Q. Has BTA submitted APDs to the BLM for the four  
20 Wolfcamp wells?

21 A. Yes, we have.

22 Q. What is the status of those?

23 A. The status is that they will be approved whenever  
24 the development area -- whenever the pooling orders are  
25 ruled on, and that -- so that the development area, it will

1 be approved until the development area is approved.

2 Q. So are those filings, APDs and BTA development  
3 area, outstanding with the BLM depending on the resolution  
4 of these cases?

5 A. Yes, they are waiting on the resolution.

6 Q. And I think you said earlier that BTA is planning  
7 to propose additional 1.5-mile Wolfcamp and Bone Spring  
8 wells in the Ochoa acreage; is that right?

9 A. That's right.

10 Q. And will BTA need to pool to commence drilling  
11 those wells?

12 A. No. We will just need to propose the wells to  
13 (inaudible) to our partner.

14 Q. Let's look at Exhibit 8, and I think you also  
15 refer to this exhibit in your time line discussion. Can you  
16 explain what this exhibit shows?

17 A. This is an exhibit between BTA and Oxy that  
18 they -- that their election under the JOA will be extended  
19 and will -- will be due 30 days from the the date that BTA  
20 provides them with an approved drilling -- application for  
21 permits to drill for each well.

22 Q. Can you please look at the next exhibit, Number  
23 9. You referred to this one earlier also; correct?

24 A. Yes.

25 Q. Does this map show the development in this area

1     in the Bone Spring that currently exists?

2           A.     Yes.

3           Q.     As well as BTA's well proposals?

4           A.     Yes, it does.

5           Q.     Mr. Price, let's talk about the negotiation  
6     between BTA and Marathon. Has BTA had discussions with  
7     Marathon about Marathon's proposed Valkyrie wells? And I'm  
8     really talking about prior to Marathon's pooling  
9     application.

10          A.     Prior to that, yes, I did travel down there to  
11     view them. I met with them and indicated our preference to  
12     drill under our JOA mile and a half wells, and so made it  
13     apparent that was what we intended to do.

14          Q.     During those discussions did you talk with  
15     Marathon about BTA's JOA?

16          A.     I did.

17          Q.     And did you inform Marathon regarding BTA's plans  
18     for development of its Ochoa acreage?

19          A.     Yes.

20          Q.     Did Marathon propose a trade to BTA?

21          A.     They did. They proposed a trade before the  
22     hearing. It was acreage actually, for BTA to trade out of  
23     the acreage for some other leases that they own.

24          Q.     And did BTA accept the trade?

25          A.     No, we did not.

1           **Q.     Why not?**

2           A.     We didn't feel like it was geologically -- it  
3     wasn't -- there were not as many targets and felt like it  
4     wasn't -- it wasn't a good trade for us.

5           **Q.     Did Marathon make any other proposals before**  
6     **filing its pooling applications?**

7           A.     No.

8           **Q.     Has BTA made any other proposals to Marathon?**

9           A.     Since, since the hearing, we have had talks with  
10    Marathon, and they have made a couple of proposals to us  
11    that were not as -- again, they were not equal, in our  
12    minds, and so we suggested alternatives that, as a  
13    possibility, an equal trade, because, you know, everything  
14    has to line up for it to work, but we did not find  
15    anything -- or we did not come up with anything that was  
16    acceptable to us.

17          **Q.     Did BTA propose to Marathon that Marathon develop**  
18    **1-mile laterals in its acreage instead of pooling BTA's**  
19    **acreage under the JOA?**

20          A.     We did.

21          **Q.     In your opinion, has Marathon made a good-faith**  
22    **effort to resolve the conflict between BTA's development in**  
23    **the Ochoa acreage and Marathon's proposed wells?**

24          A.     No.

25          **Q.     And why not?**

1           A.       Well, you know, as I mentioned earlier, we  
2       strategically entered into our trade with EOG to acquire  
3       this acreage in this area so we could have control and drill  
4       and operate it. And it's -- it would be hard for us to  
5       replicate that in another area geologically, in our minds.  
6       And so, you know, as far as, we did propose to them other  
7       ideas about the development of the acreage.

8           **Q.       Okay. Mr. Price, if Marathon's application is**  
9       **granted, will BTA's acreage in the NW/4 of Section 8 be**  
10      **stranded?**

11          A.       Yes, it will.

12          **Q.       In your opinion, will the granting of Marathon's**  
13      **application result in an impairment of BTA's operating**  
14      **rights under the JOA?**

15          A.       Yes. It would obliterate them.

16          **Q.       And, in your opinion, are BTA's operating rights**  
17      **part of its correlative rights in the Ochoa acreage?**

18          A.       Yes.

19          **Q.       Why?**

20          A.       Because I think operating rights are valuable and  
21      the ability to control the development and their costs are  
22      important to us.

23          **Q.       And is that why BTA acquired its interest under**  
24      **the JOA?**

25          A.       Yes.

1 MS. HARDY: I have no further questions for  
2 Mr. Price at this time. I would have move the admission of  
3 BTA Exhibits 1 through 9.

4 CHAIRWOMAN SANDOVAL: Do you have any objections?

5 MS. BENNETT: No objections. Although I would  
6 note that I believe Ms. Hardy supplemented their materials  
7 with a revised Exhibit Number 2, so whatever Exhibit Number  
8 2 should be, it should be the revised Exhibit 2.

9 MS. HARDY: That is correct. Thank you, Ms.  
10 Bennett. We corrected the range, I believe. It should be  
11 Range 28 East on the west side and Range 29 East on the  
12 right.

13 CHAIRWOMAN SANDOVAL: Commissioners, do you have  
14 any objections to 1 through 9?

15 COMMISSIONER ENGLER: No objections.

16 CHAIRWOMAN SANDOVAL: BTA Exhibits 1 through 9  
17 are now entered into the record. Ms. Hardy, have you  
18 completed your questions?

19 MS. HARDY: Yes, thank you.

20 CHAIRWOMAN SANDOVAL: Ms. Bennett, would you like  
21 to cross-examine?

22 MS. BENNETT: I would. I would also defer to the  
23 Commissioners if they want to cross. Whatever your --

24 CHAIRWOMAN SANDOVAL: No, go ahead.

25 CROSS-EXAMINATION

1 BY MS. BENNETT:

2 Q. Good afternoon, Mr. Price. Nice to see you  
3 again. I wanted to start off by asking you a few general  
4 questions. A moment ago you testified you thought that your  
5 right to operate these part of the bundle of correlative  
6 rights. Did I understand that correctly?

7 A. I -- I think the ability to operate, yes, it  
8 increases the value of rights.

9 Q. Are you familiar with the Division's definition  
10 of correlative rights?

11 A. Yes, ma'am.

12 Q. Does the definition of correlative rights say  
13 anything about ownership, operatorship or control?

14 A. No, it does not.

15 Q. Does the Division in its orders in these two  
16 cases, the Novo case and Marathon include that correlative  
17 rights were not part -- I'm sorry -- that the right to  
18 operate is not part of your correlative rights?

19 A. I'm sorry, could you repeat your question?

20 Q. Sure. Are you familiar with the order that the  
21 Division issued in the Marathon cases and Novo cases?

22 A. Yes.

23 Q. Did the Division, as far as you recall, address  
24 the notion of operatorship as a correlative right?

25 A. Not that I recall.

1           Q.     Okay.  When -- I'm trying to get to the nub of  
2     this case, to the core of it because we spent a lot of time  
3     going through the time line and everything, but just to get  
4     to the core of it, do you have any issues generally with the  
5     geology in this area?  You, BTA?

6           A.     Could you --

7                   MS. HARDY:  I object to the question.  I think  
8     two subsequent witnesses will address those issues.

9                   MS. BENNETT:  Okay, I will rephrase.

10          Q.     Do you have any issues with Marathon's  
11     development plan other than the fact that it will impact  
12     your JOA acreage?

13          A.     I would defer to Britton McQuien who is going to  
14     address that because I think we have a difference of  
15     opinion.

16          Q.     On what exactly?

17          A.     On the development of land.

18          Q.     Okay.  Then do you have any issues with, in  
19     general, 2-mile laterals?

20          A.     Not in general.

21          Q.     Does BTA -- if BTA had the opportunity, would BTA  
22     prefer to drill 2-mile laterals over 1-mile laterals?

23          A.     We do and have drilled 2-mile laterals, yes.

24          Q.     And why can't BTA or why didn't BTA drill  
25     proposed 2-mile laterals here?

1           A.       Because we did a trade with EOG that was under a  
2       JOA and our plan was to develop it under the JOA.

3           Q.       Are there any impediments to BTA proposing 2-mile  
4       laterals here?

5           A.       Any impediments?

6           Q.       Right. Are there any offsetting wells that would  
7       keep you from proposing 2-mile laterals?

8           A.       No.

9           Q.       I wanted to talk first about your Exhibit Number  
10       2. Would you mind turning to Exhibit Number 2, please?

11          A.       Okay.

12          Q.       All right. So on Exhibit Number 2 you have  
13       identified Marathon's pooled interest, BTA's leasehold and  
14       then the Novo leases; is that right?

15          A.       That's right.

16          Q.       And under your proposal to Marathon for Marathon  
17       to drill 1-mile laterals, where would the setbacks be for  
18       that?

19          A.       On the -- I'm sorry, would you rephrase your  
20       question?

21          Q.       Sure. Looking at Marathon's 320 acre --

22          A.       Yes.

23          Q.       -- if Marathon were to drill a 1-mile well there,  
24       where would the setbacks be, a Wolfcamp well? Do you know?

25          A.       They would be on the west side of 7.

1           Q.     How many feet back from the west side of 7 would  
2     the setback be? Do you know?

3           A.     I don't know.

4           Q.     Okay. Would you like to have -- looking at BTA  
5     acreage, if BTA was to drill a 1.5 mile Wolfcamp well, do  
6     you know what the setback would be from the east line of  
7     Section 7?

8           A.     If we were to drill a 1-mile?

9           Q.     1.5-mile.

10          A.     1.5-mile, you know, I don't really know. I think  
11     Britton can address that.

12          Q.     Okay. So let's maybe a take a step back even  
13     bigger picture. You said during your negotiations with  
14     Marathon, you proposed that Marathon drill 1-mile wells; is  
15     that right?

16          A.     That's right.

17                 So in order to cover the same acreage, 1-mile  
18     well over the Section 12, 1.5-mile wells over Section 7 and  
19     and then 1.5 in the west half of Section 8, and then the E/2  
20     of Section 8 and Section 9, are you looking at more wells  
21     there than what Marathon and Novo are proposing, or would  
22     that -- would that plan, your plan, BTA's plan proposal to  
23     Marathon result in more wells being drilled?

24          A.     (inaudible) on the wells being drilled.

25          Q.     How about more surface impact?

1           A.     Well, the configuration of what the -- and  
2     Britton will get into this more, but the fact that, you  
3     know, the N/2 of -- N/2 of N/2 of 7 and N/2 N/2 of 8, so BTA  
4     would lie to drill wells in there in the Bone Spring  
5     formation, so that (inaudible) that is an additional wellpad  
6     that would be probably where we have our current pad  
7     located. So as far as surface disturbances to deal with, it  
8     would not impact it that much.

9           Q.     But there would be an additional surface  
10    disturbance?

11          A.     Yes.

12          Q.     A moment ago you testified that BTA's well pad  
13    will be in Section 12. Is that right?

14          A.     That's right.

15          Q.     Where exactly in Section 12? How many feet off  
16    of the section line will the wellpad be?

17          A.     You know, I don't know. I would have to get a  
18    plat.

19          Q.     Do you know if it's in the N/2 of Section -- the  
20    N/2 of the N/2 of Section 12?

21          A.     I believe it is, yes, sir.

22          Q.     Okay. But sitting here right now, you can't tell  
23    us how far in Section 12 it's been -- how close to the  
24    section line it is?

25          A.     I cannot.

1           Q.     Do you have any diagrams showing the proposed  
2     Legacy 102 showing the proposed takeoff point and surface  
3     hole location?

4           A.     (inaudible) Eaton will testify. He is our drill  
5     manager, he will testify to that.

6           Q.     All right. I think I'm done with Exhibit 2.  
7     Let's turn to Exhibit 3. Exhibit 3 is the time line that --  
8     did you prepare this time line, Mr. Price?

9           A.     Yes.

10          Q.     I see on Page 2 of the time line on 2-7-2019, BTA  
11     obtained management approval to drill the BTA Ochoa 1H, 2H,  
12     3H and 4H. Is that accurate?

13          A.     Yes.

14          Q.     Has BTA obtained management approval -- let me  
15     back up. Are those the Lower Wolfcamp wells we have been  
16     talking about today?

17          A.     Yes.

18          Q.     Has BTA obtained management approval to drill the  
19     Upper Wolfcamp wells?

20          A.     No, we have not.

21          Q.     Has BTA obtained management approval to drill the  
22     Bone Spring wells?

23          A.     We have not, but we -- because we are under a  
24     JOA, we would drill those when we can work it into the most  
25     efficient time to do that.

1           Q.     But right now you don't have approval for either  
2     the Upper Wolfcamp or the Bone Spring wells?

3           A.     Not at the moment.

4           Q.     On 5-16-2019 you had a BLM onsite for the Lower  
5     Wolfcamp wells.

6           A.     Yes.

7           Q.     Is that right?

8           A.     Yes, ma'am.

9           Q.     Have you had a BTA onsite for the Upper Wolfcamp  
10    wells?

11          A.     No.

12          Q.     Have you had a BLM onsite for the Bone Spring  
13    wells?

14          A.     We have not.

15          Q.     On 6-26-2019 BTA filed APDs with BLM for the  
16    Lower Wolfcamp wells; is that right?

17          A.     That's right.

18          Q.     Has BTA filed APDs with BLM for the Upper  
19    Wolfcamp wells?

20          A.     No.

21          Q.     How about for the Bone Spring wells?

22          A.     We have not.

23          Q.     7-8-2019, BTA sent well proposals to Oxy covering  
24    the Lower Wolfcamp wells. Did BTA propose the Upper  
25    Wolfcamp wells to Oxy?

1 A. Yes.

2 Q. You did propose the Upper Wolfcamp wells to Oxy?

3 A. I'm sorry, I thought -- no, we proposed the  
4 Wolfcamp wells.

5 Q. Sorry. I may have jumped ahead a little bit  
6 there, sorry. And how about, has BTA sent well proposals to  
7 Oxy for the Bone Spring wells?

8 A. No, we have not.

9 Q. A moment ago we were talking about the  
10 development area, and you mentioned that you submitted your  
11 plan, your development area for approval to the BLM.

12 A. Yes.

13 Q. And you testified that that is essentially on  
14 hold?

15 A. Yes, ma'am.

16 Q. Were you here earlier today when Mr. Rice  
17 testified that the BLM has approved the development area for  
18 the Valkyrie unit?

19 A. Yes.

20 Q. When you filed your -- or when BTA filed it's  
21 APDs for the lower wells on June 2019, you -- you didn't  
22 have the development area then, did you? You don't have it  
23 now?

24 A. We didn't (inaudible).

25 Q. So earlier you testified that this acreage is

1     inside the potash area; is that right?

2           A.     The wellbores will penetrate into the potash  
3     area.

4           Q.     And when the wellbores penetrate into the potash  
5     area, does that require an approved development area?

6           A.     Yes, ma'am.

7           Q.     Will the BLM approve an APD inside the potash  
8     area if there is no approved development area?

9           A.     No.

10          Q.     So -- but BTA filed its APD before it had the  
11     development area approved; is that right?

12          A.     That's right.

13          Q.     Okay. Let's look then at Exhibit 4. And you  
14     mentioned that you prepared Exhibit 4; is that right?

15          A.     Yes.

16          Q.     Just out of curiosity, that D-W-G J-H-B at the  
17     bottom, what does that mean?

18          A.     I'm sorry?

19          Q.     At the very bottom of the exhibit, just curious,  
20     it says D-W-G colon J-H-B?

21          A.     That's a (inaudible) the address.

22          Q.     Okay. I don't think I have any question on this  
23     exhibit. Let's -- Exhibit 5 is the JOA, everyone agrees, I  
24     don't think there is any question about this being the JOA,  
25     but I did want to ask you a question about Exhibit 6.

1 Exhibit 6, you testified, is the ratification of -- or Oxy's  
2 ratification; is that right?

3 A. Yes.

4 Q. And I'm looking at page -- I guess it's Page 2  
5 of Exhibit 6. There is several paragraphs that start  
6 whereas, whereas, whereas. Do you see all of those  
7 paragraphs that start whereas?

8 A. Yes, ma'am.

9 Q. And there is a paragraph that starts, Now  
10 therefore." Do you see that?

11 A. Yes

12 Q. There is a small "i," a smaller "i" and right  
13 after that -- and I'm going to read it out loud just for  
14 efficiency.

15 It says: "The subject lands are not subject to  
16 the Yates operating agreement." What is the Yates operating  
17 agreement? Is that Exhibit 5?

18 A. Exhibit 5 is the Yates operating agreement. This  
19 stipulation makes the same agreement and applies it to this  
20 particular acreage, so it's the same, yes, same operating  
21 agreement.

22 Q. Even though the language that the ratification  
23 says the subject lands are not subject to the Yates  
24 operating agreement, but instead are subject to a separate  
25 operating agreement?

1           A.     Yes. I mean, to this, I was not specific enough  
2     about the -- for my testimony, this is the same operating  
3     agreement, same form, it just applies to this acreage.

4           Q.     All right. I guess I am still confused because  
5     this says that there is a subject land JOA. Is the subject  
6     land JOA an exhibit in the materials that you provided?

7           A.     The subject land is what's supplied on Exhibit --  
8     Exhibit --

9           Q.     Okay. But is there a subject land JOA?

10          A.     This creates the subject lands JOA, Exhibit A on  
11     that --

12          Q.     Okay. I think this provides that the JOA  
13     controls or controls the decision-making process for the  
14     wells, and I think your example that you gave was the JOA  
15     was -- allows you to propose wells to Oxy and then  
16     identifies the time within which Oxy must respond. I'm not  
17     trying to put words in your mouth, but is that more or less  
18     what you were testifying to earlier today?

19          A.     Yes.

20          Q.     Does the JOA control when you propose wells? And  
21     by you, I mean BTA.

22          A.     Does it -- no, you can control -- you can  
23     propose wells whenever you want to.

24          Q.     Does it control when management approves the  
25     wells?

1           A.     Who is management?

2           Q.     I'm not sure. That's what I'm using from your  
3 time line.

4           A.     Oh. For BTA it controls when I propose the wells  
5 and when I get management approval.

6           Q.     The JOA controls that?

7           A.     No.

8           Q.     Oh, okay. A moment ago we were talking about the  
9 need for additional surface facilities under BTA's proposal,  
10 and the need for additional wells to be drilled under BTA's  
11 proposal. Are you familiar with the Division's definition  
12 of waste?

13          A.     Not specifically.

14          Q.     Do you know that the Division's definition of  
15 waste prohibits surface waste as well as waste of the  
16 hydrocarbons?

17          A.     Well, if you tell me that that's what it says, I  
18 will -- I mean, I don't know. I just said.

19          Q.     Okay. Thanks. The Exhibit 7 that you provided,  
20 those are the four Lower Wolfcamp proposals that you sent to  
21 Oxy?

22          A.     Yes.

23          Q.     And at a -- those are the only four well  
24 proposals that are out in the public right now, these for  
25 the Lower Wolfcamp wells?

1           A.     Those are the only wells that are out there --  
2 they're not (inaudible).

3           Q.     Yeah. Yeah. Got it. Did you prepare --

4           MS. BENNETT: -- and I know this is getting  
5 ahead, so I fully expect Ms. Hardy to object --

6           Q.     -- but just out of curiosity, did you prepare  
7 Exhibit 10 or did someone else prepare Exhibit 10?

8           A.     I did not prepare it.

9           Q.     Okay. A moment ago or when you were testifying  
10 you had said that being an operator allows you to control  
11 costs and the full development of the acreage. Is that an  
12 accurate representation of what you testified to? And feel  
13 free to correct me if that's not accurate.

14          A.     That's correct.

15          Q.     Okay. If Marathon's pooling applications are  
16 granted, would you, as a pooled party, have the opportunity  
17 to contest Marathon's costs?

18          A.     We would.

19          Q.     You said a moment ago when we were just talking  
20 back and forth right now, you mentioned that -- or we were  
21 talking about the right to operate is valuable to you  
22 because you get to control the full development of the  
23 acreage. Has BTA submitted plans or does BTA have plans  
24 right now, concrete plans for the full development of the  
25 acreage, of the BTA acreage?

1           A.     Yes, we do. We will get to that later.

2           Q.     So you have gotten management's approval for  
3 other wells?

4           A.     Well, when you say management approval, that --  
5 they are not on our drilling schedule at the moment.

6           Q.     Thank you.

7           A.     But the plan is we have management approval on  
8 the plans.

9           Q.     Okay. A moment ago you were talking about the  
10 negotiations that you had with Marathon and that you went to  
11 Marathon's office in Houston to talk about options; is that  
12 right?

13          A.     Yes.

14          Q.     And at those negotiations or at that meeting, was  
15 your position that BTA wanted to operate the 1.5 mile  
16 laterals in the JOA area?

17          A.     Yes, it is.

18          Q.     And was your proposal to Marathon that Marathon  
19 operate a 1-mile -- 1-mile lateral?

20          A.     Yes.

21          Q.     Would you say its been BTA's desire throughout  
22 this process to operate the JOA 1.5-mile lateral?

23          A.     Yes.

24          Q.     What sort of compromise or negotiations were you  
25 looking for from Marathon, for them to say, "Okay, we will

1     operate a 1-mile lateral"?

2           A.     We were looking for them to -- basically looking  
3     for a way we can control operations of drilling and  
4     completing the wells.

5           Q.     So your negotiations were focused on ensuring  
6     your ability to control and operate the wells within the JOA  
7     acreage?

8           Q.     Are you talking about at that time or --

9           A.     Yes. At that time.

10          Q.     At that time we -- our plan preference was to  
11     drill a 1.5-mile lateral.

12          Q.     And your negotiating point with Marathon was for  
13     Marathon not to drill 2-mile laterals, but instead to drill  
14     1-mile laterals?

15          A.     That's correct.

16          Q.     So when you were talking about the good-faith  
17     negotiations, then is it -- I mean, there was back and  
18     forth between BTA and Marathon about how to approach the  
19     JOA -- JOA acreage and the Marathon pooling app -- pooling  
20     applications or its desire to do 2-mile laterals; right?  
21     There was some discussion about that, it's that you all got  
22     loggerheads because BTA wanted to then and apparently still  
23     wants to now control the 1.5 mile JOA area; is that right?

24          A.     That's right.

25          Q.     So you reached loggerheads on that issue, and

1     **Marathon filed its pooling application. Is that your**  
2     **understanding?**

3             A.     Yes.

4             Q.     So isn't that the purpose though of the pooling,  
5     of the Oil & Gas Act pooling provision is that when parties  
6     have this back and forth and then reach loggerheads, there  
7     is a way to break that log jam by coming to the Division or  
8     the Commission and getting a pooling order?

9             MS. HARDY: Object. I object to the question. I  
10    think Ms. Bennett is testifying and asking the witness for a  
11    legal conclusion.

12            MS. BENNETT: For the purpose of the rule.

13            CHAIRWOMAN SANDOVAL: Ms. Bennett, can you  
14    rephrase the question?

15            MS. BENNETT: Sure. Sure.

16    BY MS. BENNETT:

17            Q.     What next step would you envision BTA and  
18    Marathon undertaking to break this log jam between BTA and  
19    Marathon?

20            A.     Next, is to just talk about our opposing or  
21    developing plans and our (inaudible) the differences in. We  
22    believe and what Marathon believes and see if we can come up  
23    with something that would work for both of us.

24            Q.     And have you and Marathon -- have BTA and  
25    Marathon continued to have the negotiations after the

1     **November hearing?**

2           A.     We have.  We, late, within the last couple of  
3     months, we have.

4           Q.     Okay.  So you continue to have discussions,  
5     negotiations with Marathon, and Marathon has continued to  
6     have discussions with you?

7           A.     Yes.

8           Q.     Were you here earlier today when Mr. Rice  
9     testified that Marathon is willing to continue to have  
10    discussions with you?

11          A.     Yes, I was.

12          Q.     Okay.  Let's look at Exhibit 8 real fast, your  
13    Exhibit 8A.  That's the letter from BTA to Oxy regarding  
14    Oxy's election?

15          A.     Yes, ma'am.

16          Q.     And it's  -- what's the impact of this letter, in  
17    your opinion?

18          A.     The impact is that Oxy has deferred their  
19    election until BTA comes in with their approved APD.  And  
20    then they have 30 days from that, from when they receive  
21    that.

22          Q.     Has Oxy's 30 day election period been triggered?

23          A.     No, it has not.

24          Q.     Why not?

25          A.     Because we have not resolved this issue.

1 Q. Because BLM hasn't issued the APD?

2 A. Because we don't have an agreed development plan.

3 Q. And let's look at Exhibit 9 real fast, BTA's  
4 Exhibit 9. This exhibit says -- and I'm reading from the  
5 right-hand corner. It says, "Loving area Bone Spring  
6 spacing unit outline. Do you see that?

7 A. Yes.

8 Q. And you prepared this exhibit.

9 A. Yes.

10 Q. The four Ochoa wells that are drawn on this throw  
11 me off a little bit because they are not Bone Spring wells,  
12 are they?

13 A. They're not --

14 Q. Okay. Did you draw the Bone Spring wells on here  
15 and/or -- because I haven't seen anything in your materials  
16 that show the footages for the Bone Spring wells that  
17 you're -- are a part of your conceptual plan.

18 A. Our Bone Spring wells, BTA Bone Spring wells --

19 Q. Uh-huh.

20 A. -- they are not on here, just the four wells that  
21 are the Wolfcamp.

22 Q. The Lower Wolfcamp wells?

23 A. Yes.

24 Q. All right. Earlier you testified -- and I'm  
25 going to look for the right exhibit to talk about this --

1     you testified that Marathon's proposal would strand your  
2     acreage in the NW/4 of Section 8? Do you remember that?

3           A.     Yes.

4           Q.     I guess, for our purposes, let's look at BTA  
5     Exhibit 2. So I thought you had an exhibit that actually  
6     showed the acreage that was being stranded. Do you  
7     remember -- or allegedly being stranded -- do you remember  
8     which exhibit that is of yours?

9           A.     I'm not sure.

10           MS. HARDY: I believe it's Exhibit 19.

11           MS. BENNETT: Exhibit 19, thanks, Dana.

12           MS. HARDY: Sure.

13           Q.     Recognizing this isn't part of your exhibit  
14     packet, Mr. Price, would you mind looking at BTA Exhibit  
15     Number 19?

16           A.     Okay.

17           Q.     Does that show the 80 acres that you were talking  
18     about in your testimony?

19           A.     It shows 80 acres, yes.

20           Q.     Do you know if that would be covered, if that  
21     acreage is covered by the Novo proposal discussed in the  
22     Novo cases; is that right?

23           A.     I don't know. I mean, I don't know that -- we  
24     haven't received anything about it from Novo.

25           Q.     Okay.

1 MS. BENNETT: I think that's all the questions I  
2 have for Mr. Price, and I appreciate your patience. Thank  
3 you.

4 CHAIRWOMAN SANDOVAL: Thank you. Do the  
5 Commissioners have any questions?

6 COMMISSIONER KESSLER: Good afternoon, Mr. Price.  
7 On Exhibit 19, could you just briefly -- I'm not following  
8 the line of acreage argument. Could you briefly summarize  
9 it, please?

10 THE WITNESS: Okay. So on this plat, you see  
11 where COG Second Bone Spring unit is outlined in green?

12 COMMISSIONER KESSLER: Yes.

13 THE WITNESS: Okay. Well, the Marathon Bone  
14 Spring acreage is outlined in red --

15 (Overtalk.)

16 COMMISSIONER KESSLER: It's the same.

17 THE WITNESS: There is a unit that we can't  
18 go -- there is an already COG Second Bone Spring unit,  
19 there is already there, and so that acreage, as it stands  
20 right now, is not acreage that (inaudible).

21 COMMISSIONER KESSLER: And the proposed -- in  
22 BTA's proposed N/2 N/2 of spacing unit in the N/2 N/2 of  
23 Section 7, N/2 NW/4 of Section 8, your proposal for BTA to  
24 still drill mile and a half wells regardless of Marathon's  
25 proposed plans. Is that why that portion would not

1 be (inaudible).

2 THE WITNESS: That portion is there because there  
3 is no well proposals from -- that covers that acreage.

4 COMMISSIONER KESSLER: Okay. Okay. Just one  
5 more line of questions regarding your time line. Looks like  
6 the (inaudible) we've established that BTA -- the acreage is  
7 covered by an operating agreement. So really you said  
8 (inaudible) acreage of any type. Why didn't BTA attempt to  
9 obtain this development area from May of '20 or 2019?

10 THE WITNESS: Well, we, you know, we purchased  
11 the acreage, it was last one of 2018. We, in exchange, we  
12 started working on proposing the wells in the end of 2019.  
13 And so that's actually pretty, pretty quick. So, yes, we  
14 were working towards getting our wells drilled or getting  
15 those wells drilled.

16 COMMISSIONER KESSLER: Okay. Those are all my  
17 questions.

18 CHAIRWOMAN SANDOVAL: Okay. Dr. Engler?

19 COMMISSIONER ENGLER: I have no questions.

20 CHAIRWOMAN SANDOVAL: I don't have any questions,  
21 either. Ms. Hardy, would you like to redirect?

22 MS. HARDY: Yes, I have a couple of questions.

23 REDIRECT EXAMINATION

24 BY MS. HARDY:

25 Q. Mr. Price, when Ms. Bennett was questioning you

1 earlier about the development of 2-mile laterals versus  
2 1-mile, does BTA decide whether to develop 1- or 2-mile  
3 wells based on various considerations?

4 A. Yes, we do.

5 Q. And is one of those considerations land  
6 ownership?

7 A. Yes, it is.

8 Q. So if BTA controls 100 percent of the interest  
9 under a JOA, does that impact whether it decides to proceed  
10 with 1.5 miles under the JOA or having to go through a  
11 pooling proceeding that may be opposed to develop other  
12 acreage?

13 A. Yes, it makes a difference on how we approach it,  
14 yes.

15 Q. And when you propose wells and develop them under  
16 a JOA, is that a faster and hopefully simpler process than  
17 when you have to go through a pooling proceeding?

18 A. Yes, very much so.

19 Q. Ms. Bennett asked you some questions about the  
20 JOA, Exhibit Number 5, and Oxy's ratification of the JOA.

21 A. Yes.

22 Q. The terms of this JOA govern the Ochoa acreage;  
23 is that correct?

24 A. That's correct.

25 Q. Okay. And Oxy ratified that BTA is the operator

1     under the JOA, and that the terms of the JOA apply to the  
2     Ochoa acreage; is that correct?

3           A.     That is correct.

4           Q.     And in discussing your negotiations with  
5     Marathon, Ms. Bennett asked you if BTA really just wanted to  
6     operate, but was BTA willing to trade if an equivalent trade  
7     had been offered by Marathon?

8           A.     Yes, we were. We did -- we did propose some  
9     ideas that they turned down.

10          Q.     Was it your feeling in negotiating with Marathon  
11     that they basically weren't willing to recognize the value  
12     of your operating rights over the JOA?

13          A.     It appears we were going to have a hard time  
14     finding something that was equal amount.

15          Q.     Will Mr. McQuien provide additional information  
16     regarding BTA's plan for development of the Ochoa acreage?

17          A.     Yes, he will.

18          Q.     Thank you. I have no further questions.

19                 CHAIRWOMAN SANDOVAL: Thank you. Let's take a  
20     seven minute break and come back at 4. Thank you.

21                 (Recess taken.)

22                 CHAIRWOMAN SANDOVAL: Everyone, it's 4:02. We  
23     will reconvene. Ms. Hardy, do you want to call your next  
24     witness.

25                 MS. HARDY: Yes, I do. I call Mr. Britton

1 McQuien.

2 BRITTON McQUIEN

3 (Sworn, testified as follows:)

4 DIRECT EXAMINATION

5 BY MS. HARDY:

6 Q. Mr. McQuien, can you please state your full name  
7 for the record?

8 A. Britton McQuien.

9 Q. Where do you reside?

10 A. Midland, Texas.

11 Q. By whom are you employed and in what capacity?

12 A. Employed BTA Oil Producers as the Permian  
13 exploration manager.

14 Q. Do your responsibilities include BTA drilling  
15 activities in southeast New Mexico?

16 A. They do.

17 Q. Are you personally involved in the development of  
18 BTA's acreage that's been referred to as the Ochoa acreage?

19 A. Yes.

20 Q. Are you familiar with the Marathon's applications  
21 for the proposed Valkyrie wells?

22 A. Yes.

23 Q. Have you previously testified at a Division  
24 hearing?

25 A. Yes.

1           Q.     Did the hearing examiner accept your  
2     qualifications as an expert in petroleum engineering?

3           A.     Yes.

4           Q.     Have you previously testified at a Commission  
5     hearing?

6           A.     No.

7           Q.     Given that, would you please summarize your  
8     education and experience?

9           A.     Yes. I graduated in 1996 from Texas A & M  
10    University, a degree in petroleum engineering. I worked for  
11    six years in the Permian Basin with Chevron and Texaco or  
12    Texaco which then became Chevron with the merger, and then  
13    moved to or went to work for Merit Energy and worked  
14    primarily in the Rockies area for two years, and then came  
15    back to Midland with BTA Oil Producers and has been working  
16    for BTA for the last 16 years with primary focus on Permian,  
17    specifically the Delaware Basin.

18               MS. HARDY: Madam Chair, I submit Mr. McQuien as  
19    an expert in petroleum engineering.

20               CHAIRWOMAN SANDOVAL: Are there any objections  
21    from the other party?

22               MS. BENNETT: No objection.

23               THE COURT: Commissioners, are there any  
24    objections?

25               COMMISSIONER ENGLER: No objection.

1 CHAIRWOMAN SANDOVAL: The witness is certified as  
2 an expert. Proceed.

3 MS. HARDY: Thank you. And I believe I managed  
4 to now put up on the screen BTA Exhibit 10. Can you all see  
5 that?

6 CHAIRWOMAN SANDOVAL: Yes.

7 BY MS. HARDY:

8 Q. Mr. McQuien, a couple of different witnesses have  
9 referenced this exhibit. Can you please explain -- let me  
10 ask you this: Did you prepare it?

11 A. Yes.

12 Q. Can you explain what it shows?

13 A. So the -- the point of this exhibit was to show  
14 a side-by-side comparison of Marathon's development plan and  
15 their two Valkyrie units and then next to that is BTA's  
16 proposed development plan for the -- the Ochoa JOA acreage.

17 The upper left-hand corner is a locator map which  
18 is describing -- the Marathon units are in red. The north  
19 and south unit is BTA, Ochoa is shown in blue.

20 I want to make sure we point out, BTA only has  
21 interest in the -- would only have interest in the north  
22 unit if Marathon's request for compulsory pooling is  
23 granted. We have a type log -- this exhibit having been  
24 referenced in that, I think everybody understands the  
25 gunbarrel design here.

1           Marathon is also addressed. We've got a Lower  
2   Wolfcamp wine rack, and BTA breaks that up into what we call  
3   the Lower Wolfcamp A and B. Now, there are some differences  
4   in the two development plans between BTA and Marathon. We  
5   also have BTA approaches as the Upper Wolfcamp resource,  
6   which includes the red Upper Wolfcamp and the green XY Sand,  
7   as well as the yellow Third Bone Spring, and then at the  
8   very top the orange Second Bone. I'm going to first start  
9   with the Lower Bone Spring developments, starting with BTA  
10   in the right panel that's outlined in blue.

11           BTA has proposed the four Ochoa wells. The 1H,  
12   4H in the wine rack between the Lower Wolfcamp B and the  
13   Lower Wolfcamp A, the B shown in pink, and A shown in blue.  
14   Marathon is also doing a wine rack in those two intervals  
15   with three wells per half section.

16           This creates a -- a -- between the two units, a  
17   difference in the development pattern and unfortunately the  
18   north unit where BTA has its interest is not being treated  
19   fairly. We are going to show some exhibits here in a minute  
20   that shows that the Lower Wolfcamp B is a superior target to  
21   the Lower Wolfcamp A.

22           Now, in our plan we plan to drill two wells in  
23   the Lower Wolfcamp B, whereas Marathon's plan in the north  
24   unit, there is only one well in the Lower Wolfcamp B being  
25   drilled, versus the two wells in the south unit where BTA

1 does not have interest whereas Marathon would have interest  
2 in both of those.

3 Q. So, Mr. McQuien, this exhibit, does it show that  
4 in the north unit, which is where BTA holds its interest,  
5 that Marathon is putting one well in the Lower Wolfcamp  
6 where BTA would have two; correct?

7 A. In the Lower Wolfcamp B.

8 Q. Lower Wolfcamp B, yes, okay. And then is there  
9 also a difference in the Bone Spring wells?

10 A. Yes. In the Bone Spring, BTA would drill two  
11 wells in the Second Bone Spring Sand and fully develop that.  
12 It's consistent with what Marathon plans to do in the south  
13 unit, but in the well proposals Marathon gave us, they only  
14 have the one well in the Second Bone Spring Sand.

15 Q. Do you believe that BTA's plan is superior to  
16 Marathon's with respect to development of the Ochoa acreage?

17 A. Yes.

18 Q. Why is that?

19 A. Our plan fully develops the acreage, and we are  
20 able to develop it all from a common service point, the  
21 interest in all the wells will be common. And since we are  
22 developing -- since BTA would be developing it, we would be  
23 able to -- actually, we think we have a superior development  
24 plan to Marathon, we would be able to execute it according  
25 to our (inaudible) development.

1           Q.     Mr. McQuien, in your opinion, does Marathon's  
2     different treatment of the north and south units harm BTA's  
3     correlative rights?

4           A.     Yes.

5           Q.     Can you please explain why?

6           A.     Yes. As I mentioned before, the Lower Wolfcamp  
7     is developed in a wine rack pattern with two wells, or for  
8     BTA the plan will land two wells in Lower Wolfcamp, Lower  
9     Wolfcamp B, which is the superior for full development, we  
10    will also plan to drill two in the Lower Wolfcamp A.

11                   Conversely, in the north unit Marathon is only  
12    drilling the 1-mile as the superior B target versus the two  
13    in the A; whereas, in the south unit where BTA does not have  
14    interest, we will have two wells drilled. And then just  
15    also in the Upper Wolfcamp resource, we believe our two  
16    wells are all that is necessary to develop that resource and  
17    Marathon's plan is wasteful.

18           Q.     Thank you. Let's move on to the next exhibit,  
19    BTA Exhibit 11.

20           A.     Okay.

21           Q.     I put that exhibit up on the screen. Can you see  
22    it?

23           A.     Yes.

24           Q.     Did you prepare this exhibit?

25           A.     Yes.

1           **Q.     Can you please explain what it shows?**

2           A.     So this is very similar to the previous exhibit,  
3     except in this case we have added Novo's proposed Astrodog  
4     North Unit, which will be the subject of the hearing after  
5     this one, where -- and it shows that their development plan  
6     on the far right panel outlined in green, BTA's plan in the  
7     middle outlined in blue, and then Marathon's plan on the  
8     left side outlined in red.

9                     Particularly one significant difference in the  
10    Upper Wolfcamp resource, BTA development plan has two wells  
11    in the Upper Wolfcamp resource specifically in the XY Sand.  
12    Marathon employs a three-well, perhaps, section development,  
13    wine racking between the Upper Wolfcamp Shale and XY Sand;  
14    whereas, Novo in the proposal that they have given us, they  
15    have nine wells located in the Upper Wolfcamp resource in  
16    the Third Bone Spring Sand, three in the Wolfcamp XY and  
17    three in the Upper Wolfcamp Shale. As well, Novo has not  
18    put forward any plan to develop the Second Bone Spring Sand.

19                    I think one of Marathon's presenters earlier  
20    today, or witnesses, talked about Novo and Marathon  
21    coordinating to make sure that there is a full development  
22    plan. I'm struggling with that since Marathon and Novo have  
23    pretty significant differences in their development plans,  
24    which is also different than what BTA envisions.

25           **Q.     So what conclusions have you drawn based on this**

1     **development comparison?**

2           A.     So if the applications are granted, BTA will be  
3     forced into two different development plans, you know,  
4     neither one of them are what we would plan to go forward  
5     with, that are inefficient and we think violate our  
6     correlative rights.

7           **Q.     Let's go to your next exhibit, Exhibit Number 12.**

8           A.     Okay.

9           **Q.     I put that exhibit up. Can you see it?**

10          A.     Yes. You might want to hit the fit-the-page or  
11     fit-the-screen option somewhere.

12          **Q.     Okay. Not sure that's going to work. You can**  
13     **make -- you have the hard copy with you also; correct?**

14          A.     Yes, I do.

15          **Q.     Okay.**

16          A.     Okay. So this exhibit, this is specifically  
17     talk -- talking about the Lower Wolfcamp and shows that, you  
18     know, as mentioned on the previous exhibit, there is a real  
19     difference in performance of the Lower Wolfcamp B and Lower  
20     Wolfcamp A. And the way I'm -- what's led me to that  
21     conclusion is that, you know, in this exhibit we see a red  
22     bubble there that's labeled Marathon's fee lease.

23                 This is a development or lease Marathon developed  
24     that BTA has a 20 percent working interest in. This lease  
25     is just -- this development was wine racked in the Lower

1     Wolfcamp A and Lower Wolfcamp B, the same way as BTA is  
2     proposing to do on our Ochoa acreage up to the north.

3             And then on this lease, since we are working  
4     interest owner, of course we have access to all the  
5     technical data, the drilling completion data associated with  
6     these on this lease, as well as the daily productions.

7             As I pointed out previously, the Lower Wolfcamp A  
8     wells are, are shown with blue attribute, and the Lower  
9     Wolfcamp A are the blue, and the Lower Wolfcamp B are with  
10    the red.

11            **Q.     And Mr. McQuien, why have you depicted the**  
12    **Marathon federal fee lease there?**

13            A.     It's developed in the same way that BTA is  
14    proposing to develop our Ochoa.

15            **Q.     Okay. Let's look at your Exhibit 13, please.**  
16    **Did you prepare this exhibit?**

17            A.     Yes.

18            **Q.     What does it show?**

19            A.     In the federal fee lease, as I mentioned, there  
20    were two wells landed in the Lower Wolfcamp B and two wells  
21    landed in the Lower Wolfcamp A. This exhibit shows the  
22    Lower Wolfcamp B wells substantially outperformed the Lower  
23    Wolfcamp A wells.

24            And you fall back to the development plan exhibit  
25    that we were looking at earlier that BTA plans to drill two

1 wells, or basically two wells in each interval; whereas, in  
2 the -- in Exhibit 10, in the unit that BTA has interest in,  
3 if Marathon's application is granted, we will only be -- or  
4 they will only land one well in the superior Lower Wolfcamp  
5 B interval, and two in the Lower Wolfcamp A, versus  
6 conversely in the south unit where we don't have or wouldn't  
7 have any interest, they have two landed in the B and only  
8 one in the A. And we just -- this is certainly not treating  
9 BTA fairly or giving us the right to recover our fair share  
10 of (inaudible).

11 **Q. So is it your opinion that because of the**  
12 **different treatment of the north and south units by Marathon**  
13 **and their landing of fewer wells in the Lower Wolfcamp, that**  
14 **there will be less production and that will harm BTA's**  
15 **correlative rights?**

16 A. Yes.

17 **Q. Let's go to your next exhibit, Number 14.**

18 A. Okay.

19 **Q. Did you prepare this exhibit?**

20 A. Yes, I did.

21 **Q. Can you please identify it?**

22 A. Yes. So this map -- or this is a map with a  
23 showing of -- it's a map showing the development of the  
24 Upper Wolfcamp resource here. The main key was it shows  
25 some recent developments performed by BTA with pulling our

1 two wells per half section in the Upper Wolfcamp resource,  
2 our preferred landing point in the XY Sand. And that is  
3 shown in the blue box with the blue bubble labeled MTA  
4 (inaudible).

5 In the adjacent sections, Marathon has also  
6 developed approximately two sections or four half sections  
7 employing a, you know, in one case in their Hermes lease  
8 shown in purple, that was a (inaudible) per half section  
9 development.

10 Meanwhile the Mariner that's shown with the  
11 orange outline was three wells per half section, wine rack  
12 between the XY Sand and Upper Wolfcamp, as well as the  
13 Trebuchet is shown in the light blue color where they also  
14 just extended that wine rack pattern through the XY Sand in  
15 the upper Wolfcamp A.

16 The completion dates are included on there. The  
17 first Marathon -- the first project they completed was the  
18 Hermes lease in August of 2018. Subsequent to that were the  
19 Trebuchet and the Mariner developments where they did not  
20 complete the Third Bone Spring wells that had been drilled  
21 earlier in the (inaudible).

22 One other thing I do -- I'm sorry, go ahead.

23 **Q. Mr. McQuien, this map was discussed earlier, a**  
24 **similar version by Marathon's witnesses; is that correct?**

25 **A. That's correct.**

1 Q. And did you hear that testimony?

2 A. I did.

3 Q. And that related to the Gravel Grinder Marathon  
4 development?

5 A. Yes.

6 Q. And is that development north of Trebuchet?

7 A. Yes, it is.

8 Q. And why didn't you include that development in  
9 this map?

10 A. Well, I was only looking at the -- I started  
11 with just looking at all the documents and the offsetting  
12 sections to those, you know. I believe Mr. Rodionov  
13 testified earlier today that, you know, when he was asked  
14 if, you know, why the Trebuchet and Mariner didn't perform  
15 as well as the Gravel Grinder, that he speculated there  
16 could be some geologic differences going on there. So I  
17 really wanted to restrict that side-by-side comparison and  
18 keep it as apples-to-apples as I could.

19 Q. And are Trebuchet Hermes and Mariner all 1-mile  
20 developments?

21 A. They are.

22 Q. And do you know why Marathon chose to develop  
23 those as 1-mile instead of 2?

24 A. I don't know. It looks like they had the option  
25 to develop at least a few of these as 2-mile units.

1           **Q.     Is there anything else you want to explain about**  
 2     **this exhibit?**

3           A.     The other thing I do want to point out, there is  
 4     another box on here in pink, BTA Pardue lease, or Pardue,  
 5     BTA just recently -- actually in December of 2019 completed  
 6     two Wolfcamp Sand wells in the W/2 of Section 11. You  
 7     notice that the closest development to the acreage we are  
 8     talking about today is Marathon Valkyrie and BTA Ochoa  
 9     units. So BTA doesn't have the closest development to what  
 10    we are talking about today.

11                   I will say, based on what I have seen from the  
 12    Pardue, I think the Pardue, Mariner, Trebuchet and Hermes  
 13    developments are a, you know, fair analogue for what we  
 14    would expect to see up on the, you know, Ochoa and Valkyrie  
 15    projects.

16           **Q.     Okay. Let's see your next exhibit, Number 15,**  
 17     **did you prepare this exhibit?**

18           A.     I did.

19           **Q.     And can you explain what it shows?**

20           A.     So just, you know, the previous map on, you know,  
 21    a lot of bubbles on that previous map, so I wanted to break  
 22    this down into a gunbarrel diagram showing the different  
 23    developments and how they compare between BTA's Ogden lease  
 24    and Marathon's Hermes, Mariner and Trebuchet.

25                   The BTA Carlton is shown in the lower right-hand

1 corner in the blue panel. And it was developed with two  
2 wells per half section and landed in the XY Sand. To the  
3 left of that, or to the west of that, Marathon drilled or  
4 developed the Hermes lease with five wells in a fly swat  
5 pattern, with two in the Third Bone Spring XY and two in the  
6 Upper Shale.

7 And then the Mariner project north of that, they  
8 drilled the project and I think continued that same wine  
9 rack pattern from Hermies, they carried that up to the  
10 Mariner, however, they did not complete the Third Bone  
11 Spring Sands.

12 And then on the Trebuchet in the upper left hand  
13 corner, they just continued that pattern all across.

14 **Q. Do you know why Marathon did not complete the**  
15 **Third Bone Spring wells in the Trebuchet and Mariner**  
16 **developments?**

17 A. I can't speak for Marathon, but it's the Third  
18 Bone Spring Sand wells don't (inaudible) and I did want to  
19 put out, you know, scale take, the approximate height we are  
20 looking at between the Third Bone Spring and Upper Wolfcamp  
21 Shale is 330 feet as shown with the red arrows.

22 **Q. Is that shown on that model?**

23 A. Yes.

24 **Q. Okay. Is there anything else that you wanted to**  
25 **discuss with respect to that exhibit?**

1           A.     I think that covers everything, concludes.

2           Q.     Look at your next exhibit, Number 16. Did you  
3     prepare this exhibit?

4           A.     I did.

5           Q.     And what does it show?

6           A.     So Exhibit 16 -- and I believe a Marathon witness  
7     talked about it a little bit earlier. I want to go ahead  
8     and explain exactly what everything on this chart means. It  
9     was correct that it's a cumulative barrel of oil per foot.

10                   This is my project, so actually the Ogden curve  
11     includes all four of our wells that we drilled. However,  
12     you know, since our Ogden were mile and a half wells, you  
13     know, we had to normalize -- I normalized everything back to  
14     per-foot basis and then scaled it all up for half section  
15     recovery to be able to compare all the different development  
16     strategy.

17                   So while the cumulative curve for the Ogden is  
18     the average for the four wells we drilled, over here in  
19     parenthesis you see a two, that's a spacing for the Ogden,  
20     those two wells per half section.

21                   The Trebuchet was three wells per half section.

22                   The Mariner, there is actually six Mariner wells,  
23     but once again it was at a three wells per half section  
24     spacing.

25                   And finally the Hermes, it was developed at five

1 wells per half section.

2 So we see, obviously what jumps out at you is the  
3 Ogden wells are performing significantly better than the  
4 other Marathon projects. I'm sure (inaudible) I performance  
5 of the Gravel Grinder, but at least from these three  
6 immediate offsets, the Ogden development plan is  
7 significantly outperforming on a per-well basis.

8 Also I posted the recovery. That's one year,  
9 when I built this chart I had one year of data for the  
10 Mariner, so I just picked the one-year point for all of it.

11 Q. So Mr. McQuien, the numbers on the right next to  
12 the well name show the density of the wells per half  
13 section?

14 A. That's correct.

15 Q. Okay. And then you normalized the results so it  
16 would be equivalent?

17 A. Yes. And I want to reiterate that Mr. Rodionov,  
18 you know, did not know what I was trying to represent here,  
19 but all four wells are included in the curve that I was  
20 using, called two of them parent, and two of them child,  
21 this is the average performance for all four.

22 Q. Is there anything else that you wanted to state  
23 about this exhibit?

24 A. I think -- I think that covers it.

25 Q. Let's go next to Exhibit 17.

1           A.     Okay.

2           **Q.     Did you prepare this exhibit?**

3           A.     I did.

4           **Q.     What does it show?**

5           A.     So I took that one year kind of point of all the  
6 projects listed out here, and I took this one-year point and  
7 went out -- what I like about this analysis, this is based  
8 on real data. There is no projecting in here, it's just  
9 normalized back to per foot and prepared them all at the  
10 same point in time.

11                   So looking at BTA's Ogden lease, which has an  
12 average of 32.62 barrels of oil per foot, we are developing  
13 at two wells per half section, and then I apply a normal --  
14 or generic 4500 foot -- divide the length of all of these so  
15 to get a total recovery for one year.

16                   So, so the B times C times D, and we take those,  
17 so we end up with with BTA's Ogden project on a normalized  
18 basis will recover 294,000 barrels, more or less, for one  
19 year.

20                   And then we went through the same exercise for  
21 all of these different projects. And I was surprised at how  
22 consistent the results were. Between, you know, one year,  
23 the half sections developed with two wells and half sections  
24 developed with three wells and half sections developed with  
25 five wells all achieved nearly the same recovery at the

1 one-year point.

2 I would kind of like to go back -- Marathon did  
3 bring up the Gravel Grinder earlier. I just want to point  
4 out that the four projects that represent seven  
5 half-sections -- was it Gravel Grinder? That's obviously an  
6 outlier. Mr. Rodionov, said there may be some geologic  
7 differences up there, but it's a one out of eight case, and  
8 I've got to put together a development plan based on the one  
9 that represents seven out of eight times, not one of the  
10 times.

11 **Q. What is your conclusion based on your Exhibit 17?**

12 A. So the, the conclusion I have reached based on  
13 this is two wells in that Upper Wolfcamp resource, it's been  
14 in landed in the XY Sand, and those two wells are all that  
15 is required to fully recover the resources in the entire  
16 Upper Wolfcamp -- I mean the Third Bone Spring, XY Sand and  
17 Upper Wolfcamp Shale.

18 **Q. Is it fair to size your analysis of this chart as**  
19 **more wells aren't necessarily better?**

20 A. I think more wells, you're just -- you are not  
21 going to increase your recovery, you are just spending more  
22 money to recover the same amount.

23 **Q. And, Mr. McQuien, you referred to Marathon's**  
24 **testimony -- do you have their rebuttal exhibits in front of**  
25 **you?**

1           A.     I do.

2           Q.     And I think rebuttal Exhibit A is the exhibit  
3 where they added Gravel Grinder to your map; is that right?

4           A.     That's correct.

5           Q.     Okay. And you've explained already why you  
6 didn't include Gravel Grinder in your analysis; right?

7           A.     Yes.

8           Q.     And then do you have any comments on their  
9 Rebuttal Exhibit B?

10          A.     You know, for Exhibit B, you know, the Gravel  
11 Grinder, this well came on in, you know, primarily by  
12 including this, the implication is the Gravel Grinder should  
13 be included in the development plan model off of that  
14 result. You know, since the Gravel Grinder has the, you  
15 know -- you know, more pay, it was one of the earlier  
16 developments, the Trebuchet and Mariner projects were  
17 developed after that, and you know, Marathon has not been  
18 able to replicate the results of the Gravel Grinder.

19                 And I also want to point out, Mr. Rodionov put  
20 the Ogden -- a couple of Ogden wells on there, and if you  
21 look at the chart, there's a very significant -- a very  
22 large gap in that two, three, four months where the Gravel  
23 Grinder came on at a significantly higher rates.

24                 By the end of the Ogden parent well, on a  
25 per-foot basis, the Ogden parent wells are near the Gravel

1     Grinder. And the slope is still considered, you know -- you  
2     know, a higher slope still on the Ogden wells, so I think  
3     it's time contingent -- or you go further on in time, you  
4     know Ogden, you are going to catch the Gravel Grinder in the  
5     path.

6           **Q.     Can you explain the results that are shown on**  
7     **this rebuttal exhibit?**

8           A.     I'm sorry, which exhibit?

9           **Q.     Rebuttal Exhibit B?**

10          A.     Okay. Explain the results. Sorry, I'm sorry,  
11     but I didn't catch your question there.

12          **Q.     Sure. Can you -- do you have an explanation**  
13     **regarding the difference in the Gravel Grinder and the other**  
14     **wells?**

15          A.     You know, Marathon talked about this parent-child  
16     relationship between wells that, you know, from the best I  
17     understood what they are talking about is parent wells are  
18     basically drilled before child wells. You know, I think Dr.  
19     Engler brought up that could potentially be due to a  
20     changing of the stress field.

21                 The other thing that I think, you know, is really  
22     the most obvious explanation is the parent wells are just  
23     draining a little bit more and a little bit more efficiently  
24     than what we were originally expecting, and the child wells  
25     just aren't coming in as strong because there is already

1 some drainage occurring from the parent wells.

2 And then I'd like to mention, talk about that in  
3 Marathon's Rebuttal Exhibit C where they broke out our Ogden  
4 west half and called it a child development, we (inaudible)  
5 the one year half section of (inaudible) that half section  
6 or that development's last one drilled it also had the  
7 lowest cum, and I think that could, you know, the simplest  
8 explanation for that is, we made some saved some drainage  
9 from the other units around it, so . . .

10 **Q. Did you have any other comments on Marathon's**  
11 **rebuttal exhibits?**

12 A. No, that's -- well, I'd like to point out or go  
13 back -- it's not on their rebuttal exhibits, you know, if we  
14 were seeing depletion in a unit that didn't have wells in  
15 it, that means that the parent wells are draining a pretty  
16 significant length away from them.

17 The drilling more wells in a -- in that unit is  
18 not going to improve that situation, you know -- you know,  
19 Marathon has talked about the problem with parent-child  
20 wells, I think the problem is more -- we are just seeing  
21 more drainage than what we were expecting, and drilling more  
22 wells or using more wells to develop the same resource is  
23 going to have even worse impacts.

24 **Q. Let's look at your Exhibit 18. Did you prepare**  
25 **this exhibit?**

1           A.     I did.

2           **Q.     And what does it show?**

3           A.     Okay.  So this exhibit, what I (inaudible)  
4     suggest is that BTA doesn't like a developments concept, why  
5     don't we just go non-consent in the wells that we don't  
6     think are necessary.  The problem with that is that in a  
7     (inaudible) taken or BTA's Ogden wells and they are  
8     comparing them to Marathon's XY Sand wells in the Mariner  
9     and Trebuchet developments, and we are seeing that, you  
10    know, it's been in that three wells per half section  
11    development, those Y Sand wells are performing more  
12    significantly more poorly than the BTA XY wells where we are  
13    only developing two wells per half section.

14                So, you know, going non-consent in the wells we  
15    don't think should be drilled and still participating in the  
16    wells that we think are the correct wells to drill, you  
17    know, the wells we do think are the correct ones will  
18    perform moor poorly than what they should if they are at the  
19    extra wells on (inaudible).

20           **Q.     Does this exhibit show that BTA will be harmed by**  
21    **participating in underperforming wells?**

22           A.     Yes.

23           **Q.     And does it show that BTA's wells significantly**  
24    **outperform Marathon's wells?**

25           A.     Yes.

1           **Q.     And why do you think that is?**

2           A.     BTA's wells, we have two wells drilled in the XY  
3     Sand per half section.  Marathon, their XY wells were  
4     drilled in a half section development where there were three  
5     wells per half section, a wine rack between the XY and the  
6     Upper Wolfcamp Shale.  So, you know, that's three wells per  
7     half section versus two wells per half section, this is the  
8     final result.

9           **Q.     Is it your opinion that Marathon's wells have**  
10    **been negatively impacted by their other wells?**

11          A.     Yes.

12          **Q.     Do you have anything else from that exhibit?**

13          A.     No.

14          **Q.     Let's go to Exhibit 19.**

15          A.     Okay.

16          **Q.     I think this exhibit has been discussed several**  
17    **times today.  Did you prepare this exhibit?**

18          A.     Yes.

19          **Q.     What does it show?**

20          A.     So this is a look at the Second Bone Spring Sand  
21     development in and around the Ochoa and proposed Valkyrie  
22     units.  And, you know, one thing I wanted to point out,  
23     Marathon is with the 82 FD I believe is their designation,  
24     the Second Bone, Second Bone Spring, the 3H and the 5H,  
25     those were spudded in December of 2019 after our hearing on

1 this from the Division. There are no Second Bone Spring  
2 Sand wells in Section 11.

3 The (inaudible) show the location of producing a  
4 Second Bone Spring Sand wells. There are none in Section  
5 11. I'm very familiar with Section 11 since we operate the  
6 west half of it. And I'm -- I also know there is no --  
7 there hasn't been a unit formed in that cross section for  
8 the Second Bone Spring or for the Bone Spring.

9 So Marathon chose to drill 1-mile wells when they  
10 could have put together a 2-mile. Moving over to the  
11 acreage we are talking about here, showing Marathon Bone  
12 Spring unit in red, they are only able to develop the one  
13 because of the existence of wells in Section 1 and Section  
14 12.

15 That -- or for BTA to develop the Second Bone  
16 Spring, we would have to (inaudible) the N/2 of our JOA  
17 acreage, which is shown in blue. We can only develop -- or  
18 we would develop the 1.5 mile, there is this (inaudible)  
19 that Concho's Road Lizard unit is on, which was completed  
20 back in 2012 in the Second Bone Spring. And so the presence  
21 of that well and then Marathon's proposed Valkyrie unit for  
22 the Second Bone Spring or for the Bone Spring in red, that's  
23 what effectively strands us in the acreage or the 80 acres  
24 we are trying to develop.

25 **Q. Is that 80 acres stranded even if Novo's**

1     **applications are also approved?**

2           A.     Yes.  There's -- with the presence of the Road  
3     Lizard, you can't -- you know, you can only go half mile in  
4     there, and in fact I believe there is some surface  
5     restrictions as well.  So it gets pretty complicated, but  
6     because of the Road Lizard and it being boxed in by Marathon  
7     units, there is just no other way to access that 80 acres.

8           **Q.     So that portion of BTA's acreage is stranded even**  
9     **if both applications are approved?**

10          A.     Yes.  And right now I would like to go to -- if  
11     we can go back to Exhibit 11, and would just like to go back  
12     to Novo.  All the well proposals that they have sent us are  
13     shown on here, and as you can see there are no proposals for  
14     the Second Bone Spring.  They have First Bone Spring and  
15     Third Bone Spring, and they -- they so far have not -- we  
16     have not seen any proposal for actually developing the  
17     Second Bone Spring out of Novo that would capture at least  
18     that stranded 80 acres.

19          **Q.     Mr. McQuien, did you hear Marathon's witnesses**  
20     **testifying earlier today regarding the effect of setbacks?**

21          A.     Yes, I did.

22          **Q.     Can you respond to that testimony, please?**

23          A.     Okay.  So, you know, there's -- Marathon  
24     expressed some concerns about the setback.  It's, you know,  
25     with -- there would be 330 feet from the toe to the lease

1 line on, you know, for each unit created, and that would --  
2 you would actually have two setbacks for an area, one for  
3 each operator.

4 I would just like to address the concept of  
5 setbacks. The Purple Sage (inaudible) was that was a pretty  
6 new pool created, I believe, back in 2016 where they --  
7 specifically for horizontal development of the Wolfcamp in  
8 Eddy County, and that 330 setback was made a part of the  
9 rule at that time.

10 And the intention of the setback was not to  
11 create this 660 foot wide ribbon of unrecovered oil. The  
12 intention of the setback was to allow both companies,  
13 the right to recover their fair share of oil and gas. And  
14 you know, these -- that's what Marathon, the testimony they  
15 are saying is, you know, if that setback exists, that oil  
16 and gas will never be recovered.

17 I disagree with that. Looking back at, you know,  
18 the -- the analysis I did of the Upper Wolfcamp resource,  
19 you know, we were already starting to see drainage effects  
20 from wells located more than 1000 feet away from what were  
21 being called our child wells. So the idea that over the  
22 last of our wells we would not be able to recover 330 feet  
23 back to the lease line, I don't support that idea.

24 I think, you know, over the -- over the 20-year  
25 life of the -- of these wells that we are typically

1     assigning to them, we will be able to drain 330 feet back to  
2     the lease line.

3           **Q.     What about the stranding of BTA's 80 acres?**  
4     **Would that have greater negative effect on production than**  
5     **the setbacks Marathon has discussed?**

6           A.     Certainly. We are talking about -- I mean,  
7     that's -- from well, first of all, BTA would never --  
8     stranding, we would never be able to recover any fair share  
9     of that oil, you know. And, second of all, you know, from  
10    the toe of Marathon's Valkyrie well to the, you know, half  
11    section line there, you're approaching 3000. That's, you  
12    know, that's an order of magnitude bigger than what Marathon  
13    is talking about for just the setback to the lease line.

14          **Q.     Mr. McQuien, I want to go back for a minute to**  
15    **your Exhibit 10 and talk about the wells that BTA has shown**  
16    **here. And Ms. Bennett had asked questions earlier of**  
17    **Mr. Price about the status of the wells that BTA has**  
18    **identified and the proposal process. Did you hear that**  
19    **testimony?**

20          A.     Yes, I did.

21          **Q.     And does BTA have plans at this point to drill**  
22    **all of the wells that are identified in the box for BTA?**

23          A.     Certainly. We made the proposals for the Lower  
24    Wolfcamp development and sent those to Oxy, the proposals  
25    under the JOA. I do have management approval or internal

1 management approval to drill the Wolfcamp XY Sand and the  
2 Second Bone Spring Sand (inaudible) I made the presentation  
3 to our managers, and they approved the general -- or the  
4 development of those horizons in this manner.

5 **Q. Are you familiar with the process for BTA to**  
6 **propose these wells under the JOA?**

7 A. Yes. So typically -- or not typically, under the  
8 JOA, BTA has -- proposes the wells, and then the working  
9 interest owners, probably Oxy in this case, have 30 days to  
10 make an election, and then BTA has 90 days after that 30-day  
11 period to begin operations on -- of those -- of that well.

12 So, you know, the question I believe was kept  
13 coming back, why haven't we made these well proposals.  
14 Well, you know, the Lower Wolfcamp was our Phase 1 proposal.  
15 We couldn't, if we made the proposals on the other wells,  
16 the -- the performance period under the JOA would expire  
17 before we had the Lower Wolfcamp, all four Lower Wolfcamp  
18 wells drilled and completed, so it's really pointless to  
19 make them or to propose them because we really can't -- we  
20 wouldn't be able to start drilling those within the -- or  
21 before the proposal would expire just due to the timing of  
22 the development.

23 **Q. But BTA plans to proceed with its development**  
24 **plan as shown on this exhibit; correct?**

25 A. Correct.

1           Q.     And is it correct that BTA does not have to go  
2     through pooling for any of these wells?

3           A.     Under the JOA we would not have to go through any  
4     pooling.

5           Q.     Mr. McQuien, have the mile and a half wells  
6     operated by BTA been efficient and economic?

7           A.     Yes.

8           Q.     Do you agree that Marathon's proposed development  
9     would strand BTA's acreage in the NW/4 of Section 8?

10          A.     Yes.

11          Q.     In your opinion, will the 1.5-mile horizontal  
12     wells that BTA plans to drill in the N/2 of Section 7 and  
13     NW/4 of Section 8 be efficient and economic?

14          A.     Yes.

15          Q.     In your opinion, will BTA's plans to develop the  
16     Ochoa acreage more fully and efficiently than Marathon's  
17     plans?

18          A.     Yes.

19          Q.     In your opinion, would the granting of Marathon's  
20     application impair BTA's correlative rights?

21          A.     Yes.

22          Q.     Can you please summarize the reasons?

23          A.     So going back in the Lower Wolfcamp, Marathon's  
24     proposal, BTA can't recover their fair share of oil and gas  
25     because Marathon locates or lands one well in the Superior

1 Lower Wolfcamp B. And in the north unit where BTA has  
2 interest in the south unit where BTA does not have interest,  
3 Marathon plans to drill two wells.

4 In the Upper Wolfcamp resource, including the  
5 Third Bone Spring XY and Upper Wolfcamp Shale, Marathon is  
6 drilling a well that's not needed to fully exploit the  
7 resource there. And then once we get to the Bone Spring,  
8 you know, Marathon's proposing or, you know, wants to put in  
9 the Second Bone Spring Sand well in the south -- in the S/2  
10 of the north unit, that would strand our 80 acre tract in  
11 the NW/4 section of 8.

12 And also we want to point out, BTA would then  
13 still have to develop the N/2 of the north -- or the N/2 of  
14 our JOA acreage. That would also result in a third surface  
15 disturbance.

16 So I believe Ms. Bennett made a point that  
17 granting Marathon's and Novo's plans will result in less  
18 surface disturbances, but because BTA would still have to  
19 drill that well independently, that would be a third pad  
20 location, and so it, you know, the amount of surface  
21 disturbance is no different, so -- but, you know, we still  
22 have the stranded acreage in the NW/4 section.

23 **Q. And would the granting of Marathon's application**  
24 **result in waste?**

25 **A. Yes.**

1           **Q.     Is that because it would strand acreage?**

2           A.     Yes.  Are you talking about Bone Spring  
3 specifically or overall?

4           **Q.     Overall.**

5           A.     It strands acreage and uses too many wells to  
6 develop it.

7           **Q.     Is it also your understanding that Marathon has**  
8 **suspended drilling at this point?**

9           A.     Yes.

10          **Q.     And if Marathon's application is denied, is BTA**  
11 **ready, willing, and able to commence drilling its wells?**

12          A.     Yes.  We have two rigs operating in New Mexico  
13 right now for this project.  All we are waiting on is the  
14 BLM.  As soon as they approve a development area and we get  
15 our permits, we plan to move forward with development.

16                 MS. HARDY:  Thank you.  I have no further  
17 questions.  I would move the admission of Exhibits BTA 10  
18 through 19.

19                 CHAIRWOMAN SANDOVAL:  Ms. Bennett, do you have  
20 any objection?

21                 MS. BENNETT:  Yes, I do.  I would object to the  
22 admission of Exhibit 18.  That's the only exhibit I'm  
23 specifically going to object to, although I feel like there  
24 is many of the exhibits that suffer from the same defect,  
25 which is, no legend, no information about where the source

1 material comes from. But Exhibit 18 is particularly  
 2 egregious because it does not have any indication about  
 3 where the material -- the data comes from, it's -- I can't  
 4 discern anything from Exhibit 18, so I would ask that that  
 5 exhibit either be not admitted, that's my first request. My  
 6 second request is if BTA wants to admit something like  
 7 Exhibit 18, that they do so and include a legend and include  
 8 more information that would allow the Commission when it is  
 9 reviewing this case to not have to flip back to the  
 10 transcript to see what this exhibit is actually about.  
 11 Thank you.

12 MS. HARDY: May I respond?

13 CHAIRWOMAN SANDOVAL: I don't think it's  
 14 necessary. Objection is overruled. I think that the  
 15 witness explained the graph enough in detail that there is  
 16 no need to resubmit this exhibit. Are there any objections  
 17 with the Commissioners to any of the exhibits?

18 Was it Exhibit 10 through 19?

19 MS. HARDY: Yes, Madam Chair.

20 CHAIRWOMAN SANDOVAL: Dr. Engler, any objection?

21 COMMISSIONER ENGLER: No, I don't have any  
 22 objection.

23 CHAIRWOMAN SANDOVAL: All right. Exhibits for  
 24 BTA 10 through 19 are now entered into the record.

25 (Exhibits BTA 10 through 19 admitted.)

1                   CHAIRWOMAN SANDOVAL: It is 5:02. Dr. Engler, do  
2 you have any questions for this witness?

3                   COMMISSIONER ENGLER: I do.

4                   CHAIRWOMAN SANDOVAL: I think we have a  
5 relatively hard stop around 5:15, if you think that you  
6 could likely complete your questions by 5:15, let's proceed.

7                   COMMISSIONER ENGLER: Well, I don't think -- I  
8 think it will take longer than 5:15. And doesn't it --  
9 isn't there supposed to be cross-examine by someone else  
10 first?

11                  CHAIRWOMAN SANDOVAL: We can dictate the order.

12                  COMMISSIONER ENGLER: I don't think I can do it  
13 in by 5:15, no.

14                  CHAIRWOMAN SANDOVAL: Okay. All right. Well,  
15 then we may break here. So it's 5:03 on August 13 of 2020,  
16 and we will be in recess will until 9 o'clock tomorrow  
17 morning. It has been posted on our hearing page on the  
18 website, the log-in information for tomorrow.

19                  Please do not log into this, log into the new  
20 hearing information for tomorrow. And with that we will  
21 virtually see everybody tomorrow.

22                  MS. BENNETT: Thank you. Thank you all very,  
23 very much.

24                  (Proceeding continued.)

25

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 REPORTER'S CERTIFICATE

5

6 I, IRENE DELGADO, New Mexico Certified Court  
7 Reporter, CCR 253, do hereby certify that I reported the  
8 foregoing virtual proceedings in stenographic shorthand and  
9 that the foregoing pages are a true and correct transcript  
10 of those proceedings that were reduced to printed form by me  
11 to the best of my ability.

12 I FURTHER CERTIFY that I am neither employed by  
13 nor related to any of the parties or attorneys in this case  
14 and that I have no interest in the final disposition of this  
15 case.

16 I FURTHER CERTIFY that the Virtual Proceeding was  
17 of poor to good quality.

18 Dated this 13th day of August 2020.

19

/s/ Irene Delgado

20

Irene Delgado, NMCCR 253  
License Expires: 12-31-20

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