

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: 21275, 21276

IN THE MATTER OF THE APPLICATION OF NOVO OIL  
& GAS NORTHERN DELAWARE FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
COMMISSIONER HEARING, VOLUME 2  
August 20, 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 14, 2020 through the New Mexico Energy, Minerals, and  
Natural Resources Department, Webex Platform, Santa Fe, New  
Mexico.

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1                   CHAIRWOMAN SANDOVAL: We will go ahead and get  
2 started. It's 12:37. We will continue with the Novo and  
3 BTA case, we have both counselors. Mr. Bruce, are you  
4 there?

5                   MR. BRUCE: Madam Chair, Jim Bruce of Santa Fe  
6 here for Novo.

7                   CHAIRWOMAN SANDOVAL: Ms. Hardy?

8                   MS. HARDY: I'm sorry, Dana Hardy for BTA  
9 Producers LLC.

10                  CHAIRWOMAN SANDOVAL: Okay. I believe we  
11 finished up with Novo's testimony last week.

12                  MR. BRUCE: Yes, we did.

13                  CHAIRWOMAN SANDOVAL: Okay. We will proceed with  
14 Novo and then Mr. Bruce, if you want to present your  
15 additional exhibits as rebuttal.

16                  MR. BRUCE: Do you want me to put on -- let me  
17 ask a procedural deal. Do you want me to put on one of  
18 my -- or my witnesses with respect to the additional  
19 exhibits, or would it be easier for Novo to go through its  
20 entire case and then come back and do whatever rebuttal we  
21 want to do?

22                  And I know you said that if we don't finish up  
23 today, the case will be continued to November, and Novo  
24 understands that, and Novo desires to get all the  
25 information to the Commission that it wants or needs, and if

1 it has to be continued, so be it.

2 MS. HARDY: BTA's preference would be for Novo to  
3 finish presenting its additional exhibits before BTA  
4 proceeds.

5 CHAIRWOMAN SANDOVAL: Mr. Bruce, do you any  
6 objection to presenting your additional exhibits first and  
7 then we will move on to Novo -- I'm sorry -- to BTA?

8 MR. BRUCE: No, I spoke with my clients about  
9 doing so.

10 CHAIRWOMAN SANDOVAL: Okay. Do you want to call  
11 your first witness, Mr. Bruce?

12 MR. BRUCE: Yeah, let me dig up my new exhibits  
13 here, please. I first call Brandon Patrick.

14 THE WITNESS: Yes, I'm here.

15 BRANDON PATRICK

16 (Sworn, testified as follows:)

17 DIRECT EXAMINATION

18 BY MR. BRUCE:

19 Q. And Mr. Patrick, you have been previously  
20 qualified as an expert petroleum landman; correct? Is that  
21 correct?

22 A. (No audible response.)

23 Q. Mr. Patrick?

24 CHAIRWOMAN SANDOVAL: I may have inadvertently  
25 muted him. Sorry.

1           Q.     Okay. You were asked by the Commissioners to --  
2     sorry -- to submit as Exhibits 29, 30 and 31, could you  
3     describe what those are?

4           A.     Yes. Exhibit 29 is an e-mail that I received  
5     from Jim Rutley approving the Astrodog development area.

6                     Exhibit 30 is a letter from Oxy, the working  
7     interest owner that is subject to the JOA that BTA is  
8     discussing in this case, and Oxy, despite being subject to  
9     that JOA, is in full support of Novo and believes that its  
10    plan is the best plan to develop this acreage in the most  
11    efficient way. Because this is, this is a letter to  
12    memorialize Oxy's position that they support Novo and not  
13    BTA.

14                    Exhibit 31 is an e-mail from Tom Vandercross. He  
15    is the plant manager at United Salt Carlsbad, and United  
16    Salt Carlsbad is the surface lessee of the surface around  
17    that Salt Lake, and this is relevant to BTA's request  
18    initially whenever they were wanting us to move our pad to  
19    the east and closer to the lake so we could drill mile and a  
20    half wells.

21                    And we told them that that's not on option  
22    because of the surface owner and the surface lessee and the  
23    potash lessee all object and we protest such a move. This  
24    is an e-mail from Tom Vandercross, a week ago, saying that  
25    they fully support Novo's proposed pad placement, and I

1 believe that's the best plan. So that is -- those are the  
2 three exhibits that we provided at the request of the  
3 Commission.

4 Q. And actually, the e-mail from United Salt was  
5 received right actually the morning of the August 13  
6 Commission hearing date; is that correct?

7 A. That's correct.

8 Q. And just to refresh my memory, if no one else's,  
9 the Salt Lake does cover most of Sections 8 and 9, does it  
10 not?

11 A. That's correct, that's why this is -- Novo's only  
12 option is the pads that we are talking about today. We  
13 don't have any other options. We are land-locked. There is  
14 no other way to access our minerals in 8 or 9 other than  
15 drilling from the pad locations that we have shown. So we  
16 are limited. This is the only option for us.

17 Q. And were Exhibits 29, 30 and 31 prepared from  
18 company business records?

19 A. Yes.

20 MR. BRUCE: Madam Chair, I would move the  
21 admission of Novo's additional exhibits, 29, 30 and 31.

22 MS. HARDY: No objection.

23 CHAIRWOMAN SANDOVAL: Commissioners?

24 COMMISSIONER KESSLER: No objection.

25 COMMISSIONER ENGLER: No objection.

1 CHAIRWOMAN SANDOVAL: Novo's Exhibits 29, 30 and  
2 31 are now entered into the record.

3 (Exhibits Novo 29, 30 and 31 admitted.)

4 MR. BRUCE: And I would pass the witness to Ms.  
5 Hardy.

6 CHAIRWOMAN SANDOVAL: Ms. Hardy, do you have any  
7 questions?

8 MS. HARDY: I do have a couple of questions.

9 CROSS-EXAMINATION

10 BY MS. HARDY:

11 Q. Mr. Patrick, on the e-mail from BLM which is  
12 Exhibit 29, the approval of the development area was based  
13 on -- predicated a part at least on the Division's Order  
14 21252 that's the subject of this hearing; correct?

15 A. I believe that's correct. I mean, literally what  
16 he said was that the BLM will cooperate with the NMOCD in  
17 observation of NMOCD'S order regarding that development  
18 area, the Astrodog's development area is being approved.

19 However, I would like to note that it's up to the  
20 BLM to decide where the development area is, and they don't  
21 have to necessarily just go with whatever the NMOCD decides.  
22 If the BLM chooses to do that, but they are not bound to do  
23 that. So theoretically the BLM could keep the development  
24 area the way that it is even if the NMOCD were to vacate  
25 Novo's pooling order.



1           Q.     But at this point the BLM has stated they  
2 approved the development area in observation of NMOCD's  
3 order 21252; correct?

4           A.     That's correct.

5           Q.     Thank you. On Exhibit 30, the letter from Oxy?

6           A.     Yes, ma'am.

7           Q.     The letter does not express any opinion that  
8 Novo's plan is better than BTA's plan, does it?

9           A.     It says in Oxy's opinion, Novo's Astrodog plan or  
10 development plans are efficient use of the surface and  
11 subsurface. It doesn't mention BTA in here specifically,  
12 no.

13          Q.     When the letter was written in November 2019, Oxy  
14 and Novo were in trade discussions in which Novo would  
15 acquire Oxy's interest; correct?

16          A.     Oxy and Novo were in trade discussions? Yes.

17          Q.     We have many discussions with Oxy about trying to  
18 do various trades. I wouldn't necessarily say that we were,  
19 you know, closing a trade or even had agreed to any  
20 particular trade, we were just -- we were talking.

21                 This, this letter -- I guess the point is that  
22 Oxy was happy being non-op working interest owner in Novo's  
23 pooled unit as they are in the non-op interest owner in our  
24 Rana Salada unit which we had successfully drilled and they  
25 expressed that to us.

1                   Whenever we were talking to them about getting  
2   this letter, they said to us, John Schneider, their land  
3   manager, I had conversations with him, he said, "We are  
4   happy being a non-op working interest owner in Novo's pooled  
5   unit because of their success in -- or our success in  
6   developing Rana Salada."

7                   So this letter has nothing to do with any trade  
8   discussions we had, it's simply because Oxy was comfortable  
9   with being a non-op working interest owner in the pooled  
10   unit, and they thought this was an efficient use of the  
11   surface and subsurface.

12                Q.     And Oxy hasn't presented any witness to testify;  
13   correct?

14                A.     No.

15                MS. HARDY: Those are all of my questions. Thank  
16   you.

17                CHAIRWOMAN SANDOVAL: Commissioners, do you have  
18   any questions for the witness?

19                COMMISSIONER KESSLER: I do not.

20                COMMISSIONER ENGLER: No questions.

21                CHAIRWOMAN SANDOVAL: I have no questions as  
22   well. Mr. Bruce, do you have any other witnesses?

23                MR. BRUCE: Sorry, I had to unmute myself. I  
24   will call Michael Hale, and I may call the engineer, but  
25   first I would start off with Michael Hale, the exploration

1 manager.

2 CHAIRWOMAN SANDOVAL: Would the court reporter  
3 please administer the oath?

4 (Oath administered.)

5 MICHAEL HALE

6 (Sworn, testified as follows:)

7 DIRECT EXAMINATION

8 BY MR. BRUCE:

9 Q. Mr. Hale, do you have Novo's additional 32 in  
10 front of you?

11 A. I do.

12 Q. Was this prepared under your supervision and  
13 control?

14 A. It was.

15 Q. And this was the result of, I believe,  
16 Commissioner -- one of the Commissioner's requesting data  
17 on co-development of the Third Bone Spring and Upper  
18 Wolfcamp?

19 A. That is correct.

20 Q. Could you go through the exhibit and discuss what  
21 it shows, and then I will have some follow-up questions with  
22 you.

23 A. Yes.

24 Q. I will also ask if you have in front of you --  
25 probably ask you some questions on BTA Exhibit 38.

1           A.     I have it in front of me.

2           **Q.     Okay. Go ahead?**

3           A.     Okay. Starting in Number 2, what is shown here  
4 is a location map and you can see in the red is Novo's  
5 Astrodog proposed unit. You can see in the same township  
6 and range down in the southeastern corner in Section 24, 25,  
7 and 36, is the XTO Remuda unit. There that is broken up  
8 into XTO Remuda North 25 and XTO Remuda South 25 unit.

9                     Both units have eight wells, and if you look at  
10 the stratigraphic column off to the right of that map, what  
11 you can see is a plot showing the approximate position of  
12 those wellbores. I now I want to specify approximate  
13 because this is all based off of public survey data. We  
14 have not resteeered these wells, but based off of our  
15 structural control and looking at the survey data points,  
16 these are the best representative of their development plan.

17                     If you go to -- I'm sorry, I should actually  
18 point out. As you can see here, there are two wells in the  
19 Third Bone Spring, two wells within the Wolfcamp XY and four  
20 wells within the Wolfcamp A and those are a wine rack  
21 pattern.

22           **Q.     Is that at least similar to Novo's proposal?**

23           A.     It is.

24           **Q.     Go ahead.**

25           A.     So on slide number three what you can see is a

1 comparative development plan. On the left it is showing the  
2 same image just seen on the previous slide showing the  
3 Remuda well location and half section view. And you can see  
4 the Astrodog proposal.

5           There's not that much of a difference. Really  
6 the main difference that we have an extra well in there, so  
7 it's nine wells versus eight. You can see how the pattern  
8 is quite similar in that it is a wine rack and staggered.

9           The main difference is that instead of doing two  
10 benches within the Wolfcamp A our intention is to land low  
11 in the Wolfcamp A, and then along the Wolfcamp XY A  
12 boundary, and then in the Wolfcamp -- I'm sorry, at the base  
13 of the Third Bone Spring to try to maximize the three  
14 horizons, maximize the vertical difference between the three  
15 horizons as much as possible.

16           **Q.     Because there is a -- you know, the vertical**  
17 **separation might not be much, but the horizontal separation**  
18 **is quite substantial, also, is it not?**

19           A.     Yes, that's correct. Within each horizon we are  
20 looking at approximately 800 feet of horizontal separation,  
21 and the closest wells would be the XY and Third Bone Spring  
22 wells at approximately 140 feet, but we even toyed with the  
23 idea of plotting those wells down just a tiny bit to create  
24 a little more vertical separation, and it would effectively  
25 be the same exact development plan.

1           So this is our proposal as it currently stands.  
2    You can see there is 220 feet between the Wolfcamp A and XY  
3    horizons and 140 between the Wolfcamp XY and Third Bone  
4    Spring horizons.

5           **Q.     Okay.   And what about Slide 4?**

6           A.     So Slide Number 4 is showing the aggregated  
7    production from the Remuda north and south units.  These  
8    are -- the Y axis is in BOE on a 20 to 1 scale per 1000  
9    feet.

10           You can see in black is showing the actual  
11   average of all the wells production.  The blue dashed line  
12   is an aggregated type curve using the -- using the wells  
13   that were included, the two Third Bone Spring wells, the two  
14   XY wells, and four Wolfcamp A wells, and the number there  
15   120 BOE per foot is the EUR on a per-foot basis.

16           What you can see is that it's broken up between  
17   Remuda North on the top and Remuda South on the bottom.  You  
18   can see that the Remuda North actual production is just  
19   slightly below the type curve, and the Remuda South  
20   production is just slightly above the type curve.  These  
21   have been grouped together for our analyses, but shown  
22   separately here.

23           A.     On slide --

24           **Q.     Is that all you have on this one?**

25           A.     I'm sorry.

1           **Q.     No, go ahead.**

2           A.     Moving on to Slide 5, what this is showing is  
3     cumulative production comparison of the Ogden versus Remuda.  
4     The Ogden was chosen really because it was specifically  
5     referenced by BTA. I want to point out that this was just  
6     noticed this morning, and I'm sorry, it was an oversight,  
7     but the two images are labeled incorrectly.

8                     So in gray, the title box for each one, the top  
9     one says total cumulative production, that should read  
10    average cumulative production, whereas, the bottom graph  
11    should read total cumulative production, so I'm sorry about  
12    that. But if you actually read the text box in yellow it  
13    actually is accurate in what it's describing.

14                    And so really I think the main thing to take away  
15    here will be the bottom image. And the reason I'm not going  
16    to focus on the top image is I realize that BTA had an issue  
17    with that, and I don't necessarily disagree with their  
18    complaint, although I will get to that -- I will talk a  
19    little bit about that more specifically in just a second.

20                    But if you look at the total cumulative  
21    production for BTA's Ogden versus XTO's Remuda, that's the  
22    bottom graph, what you can see is huge Delta between the sum  
23    of hydrocarbons that have been produced from Remuda unit  
24    versus the Ogden.

25                    We think the Ogden is actually a very good

1 analogue because it's geologically analogous, and we  
2 normalize it into a mile and a half, and you can see how --  
3 like I said, that delta is pretty significant.

4           If we were to actually reference BTA's Exhibit  
5 38, I think it allows us to put some numbers to it. So if  
6 it's okay, I will reference that very specifically.

7           So if you look at BTA's Exhibit 38 which was  
8 designed to counter Novo's -- I don't think it countered  
9 it, I think this helped our argument because it allowed us  
10 to take a time slice and put actual numbers here. So if we  
11 were to draw a vertical at the 500 day mark, what you can  
12 see is, for the Ogden, which is the blue line on here, we  
13 can say, on average -- or not average -- that well looks  
14 like it's about 38 barrels per foot production at the 500  
15 day mark.

16           If we were to take either one of those Remuda  
17 ones, it doesn't matter, if we combine them to an average we  
18 get about 31 barrels per foot production. If you multiply  
19 that by the number wells in the unit, you can check me if  
20 you want, but I have done the math, if you were to take the  
21 38 barrels per foot of the two Ogden wells and multiply that  
22 by the number of wells in that unit, what you get is 76  
23 barrels per foot.

24           Whereas, if you take on average the 31 barrels  
25 per foot from the Remuda unit and you multiply that times



1 eight, what you wind up with is 248 barrels per foot, which  
2 is a difference of 172 barrels per foot. If we were to turn  
3 that into actual barrels of oil, that is a difference of  
4 570,000 barrels of oil produced by BTA or produced under  
5 BTA's proposed plan of two wells developing this reservoir,  
6 versus 1.86 million barrels of oil produced by the XTO  
7 Remuda. That is a difference of -- let me make sure I've  
8 got this right -- sorry. Yeah, that's a difference of 1.3  
9 million barrels.

10 So, you know, I understand that their argument is  
11 that capital efficiency, you can drain this well or you can  
12 drill fewer wells and have higher EURs, but that's not  
13 actually -- that's not Novo's argument at all. Novo's  
14 argument is that it's wasteful to only try to develop this  
15 720-foot thick, three-bench flow unit with two wells. And I  
16 think that this XTO Remuda data unequivocally confirms that.

17 **Q. So you have to look not only at the production**  
18 **per well, you have to look at all the wells out there and**  
19 **the reservoirs they are draining. Is that a simple way to**  
20 **put it?**

21 **A.** That's exactly right. It's more than just single  
22 well economics. You can do it in a couple of different  
23 lights. You can look at your single well economics or look  
24 at your project economics, and I think Novo has shown here  
25 our goal is on the large scale. We are big picture thinkers

1 in this.

2 Q. And when you're -- and that is the reason,  
3 getting back to something you testified to before, that Novo  
4 has got out and filed a number of AFEs so it could properly  
5 drill the reservoir.

6 A. That's exactly right, yeah. I mean, essentially  
7 what I'm saying is, Novo intends to be aggressive, we feel  
8 that XTO has already laid the framework for us to do this  
9 and justify it. We have higher nets so we feel confident.  
10 But essentially, if BTA develops this at two wells per  
11 section, they will waste this reservoir. They will waste  
12 1.3 million barrels of oil that could be recovered  
13 otherwise.

14 Q. That's a lot.

15 A. Yes, that is a lot.

16 Q. Do you have anything else to say with respect to  
17 this exhibit, Mr. Hale?

18 A. I do not.

19 CHAIRWOMAN SANDOVAL: Madam Chair, I move the  
20 admission of Novo's additional Exhibit 32.

21 MS. HARDY: No objection.

22 CHAIRWOMAN SANDOVAL: Commissioners, any  
23 objection?

24 COMMISSIONER ENGLER: No objection.

25 CHAIRWOMAN SANDOVAL: Novo Exhibit 32 is now

1 admitted into the record.

2 (Exhibit Novo 32 admitted.)

3 MR. BRUCE: And that concludes my case with  
4 respect to the additional exhibits, Madam Chair.

5 CHAIRWOMAN SANDOVAL: Thank you. Ms. Hardy, do  
6 you have questions?

7 MS. HARDY: Just a couple of questions, Madam  
8 Chair.

9 CROSS-EXAMINATION

10 BY MS. HARDY:

11 Q. Good afternoon, Mr. Hale.

12 A. Good afternoon.

13 Q. Novo's plan isn't identical to Remuda's; correct?

14 A. Correct. It's similar.

15 Q. And Novo proposes one more well than is included  
16 in Remuda?

17 A. That is correct.

18 Q. And isn't Remuda the most densely drilled in the  
19 area at this point in time?

20 A. It is.

21 Q. Thank you. Those are all my questions.

22 CHAIRWOMAN SANDOVAL: Thank you. Mr. Bruce, do  
23 you have any additional questions?

24 MR. BRUCE: No, I do not. Thank you.

25 CHAIRWOMAN SANDOVAL: Do you have any other

1 witnesses?

2 My apologies, Commissioners, do have you  
3 questions?

4 COMMISSIONER KESSLER: I don't.

5 COMMISSIONER ENGLER: No.

6 CHAIRWOMAN SANDOVAL: Now, Mr. Bruce, do you have  
7 any additional witnesses?

8 MR. BRUCE: No, I may -- I may have, depending on  
9 BTA's testimony, I may have some rebuttal testimony, but at  
10 this point that's, that's -- that's the end of Novo's  
11 direct case. And so BTA may proceed.

12 CHAIRWOMAN SANDOVAL: Thank you. Ms. Hardy,  
13 would you like to call your first witness?

14 MS. HARDY: Yes, I would. BTA calls Willis  
15 Price.

16 WILLIS PRICE

17 (Sworn, testified as follows:)

18 DIRECT EXAMINATION

19 BY MS. HARDY:

20 Q. Good afternoon, Mr. Price.

21 A. Good afternoon.

22 Q. Can you please state your full name?

23 A. Willis Price.

24 Q. Where do you reside?

25 A. Midland, Texas.

1 Q. By whom are you employed and in what capacity?

2 A. BTA Oil Producers LLC as the land manager.

3 Q. Do your responsibilities include BTA's

4 development of what it calls the Ochoa acreage?

5 A. Yes.

6 Q. Does the Ochoa acreage include the NW/4 of

7 Section 8 that Novo seeks to pool?

8 A. Yes.

9 Q. Are you familiar with the land matters that  
10 pertain to Novo's application?

11 A. Yes.

12 Q. Have you previously testified at a Commission  
13 hearing?

14 A. Yes.

15 Q. Were your credentials as an expert in petroleum  
16 land matters accepted?

17 A. Yes.

18 MS. HARDY: Madam Chair, I tender Mr. Price as an  
19 expert in petroleum land matters.

20 MR. BRUCE: I have no objection.

21 CHAIRWOMAN SANDOVAL: Thank you.

22 COMMISSIONER KESSLER: No objection.

23 COMMISSIONER ENGLER: No objection.

24 CHAIRWOMAN SANDOVAL: Mr. Price is an expert in  
25 the field. Thank you.

1 MS. HARDY: Thank you.

2 BY MS. HARDY:

3 Q. Mr. Price, how long has BTA been operating in New  
4 Mexico?

5 A. BTA was found the in early '50s in Midland,  
6 Texas, and there's second, third and fourth generation  
7 members of the family that actively work in the day-to-day  
8 operation. We have been involved operating in New Mexico  
9 since the early 1960s.

10 Q. How many horizontal wells has BTA completed in  
11 New Mexico?

12 A. 80.

13 Q. How many horizontal wells has BTA completed in  
14 Eddy County?

15 A. 14.

16 Q. Is BTA a successful experienced operator in New  
17 Mexico?

18 A. Yes.

19 Q. Is BTA an experienced multi well pad operator?

20 A. Yes.

21 Q. Is BTA actively drilling in the Delaware basin in  
22 New Mexico?

23 A. Yes, we are.

24 Q. How many rigs does BTA currently have operating  
25 in New Mexico?

1           A.     We have two.

2           Q.     And does BTA have an active frac fleet in New  
3 Mexico currently?

4           A.     Yes.

5           Q.     Is BTA currently completing the wells it is  
6 actively drilling in New Mexico?

7           A.     Yes, we are.

8           Q.     Mr. Price, I would like for you to look at BTA  
9 Exhibit 1.

10          A.     Yes.

11          Q.     Do you have that in front of you?

12          A.     Yes, I do.

13          Q.     I'm going to try to share my screen here. There.  
14 Can you see that on the screen.

15          A.     Yes.

16                   CHAIRWOMAN SANDOVAL: Yeah.

17          Q.     I'm sorry, could you please identify that  
18 exhibit?

19          A.     This is an exhibit of BTA's (unclear) in the  
20 Loving, New Mexico area.

21          Q.     And was that exhibit prepared under your  
22 direction and supervision?

23          A.     Yes, it was.

24          Q.     And does it show BTA's acreage in the area  
25 surrounding the Ochoa acreage?

1           A.     Yes.  It does.

2           Q.     And where is the Ochoa acreage.  The Ochoa  
3     acreage is in the N/2 of 7 and the NW/4 of Section 8 in  
4     Township 23 South, Range 29 East.

5           Q.     How many acres does it include?

6           A.     474.11 acres.

7           Q.     Is the Ochoa acreage subject to a joint operating  
8     agreement?

9           A.     Yes, it is.

10          Q.     What is the blue acreage shown on the map?

11          A.     Blue acreage is BTA-operated acreage.

12          Q.     And what is the blue crosshatched area?

13          A.     The crosshatch is BTA non-operated acreage.

14          Q.     Is BTA new to operating in this area?

15          A.     No.

16          Q.     What property on this map did BTA develop first?

17          A.     The Pardue lease.

18          Q.     And when was that?

19          A.     It was in the late 1980s.

20          Q.     And is that property approximately 1.5 miles west  
21     of Ochoa?

22          A.     Yes, it is.

23          Q.     Mr. Price, I would like you to look at BTA  
24     Exhibit 2.  Do you see the one on your screen?

25          A.     Yes, I do.



1           Q.     Was this exhibit prepared under your direction  
2     and supervision?

3           A.     Yes, it was.

4           Q.     Can you describe what it shows?

5           A.     This shows the acreage position of BTA, Novo and  
6     Marathon around the Ochoa acreage.

7           Q.     And BTA's leasehold rights are under a voluntary  
8     operating agreement; is that right?

9           A.     That's right.

10          Q.     Is BTA the designated operator under the JOA?

11          A.     Yes.

12          Q.     And does the JOA control 100 percent of the  
13     acreage that it covers?

14          A.     Yes, it does.

15          Q.     Does BTA have to file a pooling application to  
16     develop its acreage under the JOA?

17          A.     No.

18          Q.     Why not?

19          A.     Because the parties have voluntarily agreed to  
20     operate under the joint operating agreement.

21          Q.     And Marathon and Novo each seek to pool BTA's JOA  
22     acreage; correct?

23          A.     Yes, they do.

24          Q.     And can you show on the map or tell us which  
25     acreage Novo seeks to pool?

1           A.       Novo seeks to pool the NW/4 of Section 8.

2           **Q.       Did you hear Mr. Patrick's testimony last week**  
3           **regarding the title issues in Sections 8 and 9?**

4           A.       Yes, I did.

5           **Q.       Can you explain what happened there?**

6           A.       BTA and TDY were in a quiet title suit that  
7           covered that acreage in the area. And so it covered the  
8           NE/4 of Section 8 and the N/2 of Section 9 among other land.

9           **Q.       And was that lawsuit resolved?**

10          A.       It was -- it was settled.

11          **Q.       So TDY did not prevail in the lawsuit, is that**  
12          **correct, it was settled?**

13          A.       That's correct, it was settled. And TDY wound up  
14          with an assignment of the acreage in the north, NE/4 of  
15          Section 8 and the N/2 of 9 among other lands, and then BTA  
16          was assigned the interest about a mile south in our Haroun  
17          ranch area where we had other -- another acreage position  
18          that we (unclear).

19          **Q.       Mr. Price, let's look at your Exhibit 3. Can you**  
20          **please identify that exhibit?**

21          A.       Yes. It's the time line of the events that  
22          occurred on the Ochoa acreage.

23          **Q.       Was the time line prepared under your direction**  
24          **and supervision?**

25          A.       Yes.

1           Q.     Since the Commissioners previously heard  
2     testimony regarding a similar time line in the Marathon  
3     cases, I would like to just talk about some of the  
4     significant events that are listed on this time line. Is it  
5     correct that BTA acquired its interest in the Ochoa acreage  
6     on November 1, 2018?

7           A.     That's correct.

8           Q.     And then looking at Page 2 of your time line, did  
9     BTA have its onsite with the BLM on May 16 of 2019?

10          A.     Yes.

11          Q.     And BTA filed its APDs with the BLM on June 26 --

12          A.     That's correct.

13          Q.     -- if 2019? And did BTA submit its well  
14     proposals on July 8 of 2019?

15          A.     Yes.

16          Q.     And then after those events occurred, Novo  
17     acquired its interest on July 25 of 2019; is that right?

18          A.     Yes.

19          Q.     And then Novo proposed its wells on July 29 also?

20          A.     Yes. To summarize, is it correct that BTA had  
21     acquired its interest under the JOA approximately eight  
22     months before Novo proposed its wells?

23          A.     Yes, it is.

24          Q.     And that BTA had its onsite meeting with BLM,  
25     filed its APDs, and submitted well proposals before Novo

1     proposed its wells?

2           A.     Yes.

3           Q.     Did BTA meet with Novo in Oklahoma City?

4           A.     Yes, I did.

5           Q.     And is that reflected on your time line, the  
6     bottom of Page 2?

7           A.     Yes, it is.

8           Q.     And that was on September 5 of 2019?

9           A.     That's correct.

10          Q.     Did BTA initiate the meeting with Novo?

11          A.     Yes.

12          Q.     Did you travel to Oklahoma City for that meeting?

13          A.     I did.

14          Q.     Okay. Did you hear Mr. Patrick's testimony last  
15     week that at that meeting Novo invited BTA to its onsite  
16     meeting with BLM?

17          A.     Yes.

18          Q.     Was Novo required to give BTA notice of the  
19     onsite because BTA was an affected party?

20          A.     Yes, they were.

21          Q.     And Novo sent notice of its Astrodog development  
22     area after the Division heard Novo's pooling application  
23     last November; is that correct?

24          A.     Yes.

25          Q.     And is that reflected on Page 3 of your time

1     **line?**

2           A.     Yes, it is.

3           **Q.     Have Novo's APD's been approved?**

4           A.     They have not. I spoke with Jim Rutley, and he  
5 indicated to me they were -- the APDs would not be approved  
6 until this hearing is finalized.

7                   MR. BRUCE: Excuse me. You kind of cut out,  
8 Mr. Price. Could -- Mr. Price, you kind of cut out a  
9 little bit and I could not hear your answer to that  
10 question.

11                   THE WITNESS: The answer was that I spoke to Jim  
12 Rutley with the BLM, and he indicated that the APDs would  
13 not be approved until this pooling hearing is finalized.

14                   MR. BRUCE: Thank you, Mr. Price.

15           **Q.     Mr. Price, you were referring to Novo's APDs;**  
16 **correct?**

17           A.     That's correct.

18           **Q.     Okay. Mr. Price, can you please look at Exhibit**  
19 **4?**

20           A.     Yes.

21           **Q.     Can you please identify that exhibit?**

22           A.     It shows the Bone Springs spacing unit around the  
23 Novo acreage.

24           **Q.     Was the exhibit prepared under your direction and**  
25 **supervision?**

1           A.     Yes. In conjunction with Jose Baltier at our  
2 direction.

3           Q.     Does it show the development surrounding BTA's  
4 Ochoa acreage?

5           A.     Yes, it does.

6           Q.     Were the units on the map formed in a way so they  
7 did not interfere with the JOA governing the Ochoa acreage?

8           A.     Yes.

9           Q.     Has BTA proposed wells in its Ochoa acreage?

10          A.     We have.

11          Q.     And are those Fave 1 wells?

12          A.     Yes, they are.

13          Q.     How many are there.

14          A.     So we proposed four mile and a half lateral  
15 Wolfcamp wells.

16          Q.     And just to be clear for the record, the Ochoa  
17 acreage is in the blue box on your Exhibit 4; correct?

18          A.     That is correct.

19          Q.     In addition to those four one and a half mile  
20 lateral Wolfcamp wells, does BTA have plans for further  
21 development of the Ochoa acreage?

22          A.     Yes, we do, additional Bone Spring and Wolfcamp  
23 wells.

24          Q.     And why hasn't BTA proposed those wells at this  
25 time?

1           A.     We are waiting for the resolution of this pooling  
2     and the development -- the approval of the development area.

3           Q.     And does the election period under the JOA also  
4     impact well proposals for BTA?

5           A.     Yes, it does. We need to drill the four wells  
6     before we propose additional wells under the JOA.

7           Q.     Okay. And, Mr. Price, can you please look at  
8     BTA's Exhibit 5.

9           A.     Yes.

10          Q.     Can you identify that exhibit, please?

11          A.     This is the Yates Petroleum Company or  
12     corporation operating agreement that governs the Ochoa  
13     acreage.

14          Q.     Is it a true and correct copy of the Yates JOA?

15          A.     Yes, it is.

16          Q.     And what is the date?

17          A.     January 1 of 1987.

18          Q.     Does the JOA cover all intervals underlying the  
19     N/2 of Section 7 and the NW/4 of Section 8?

20          A.     Yes, it does.

21          Q.     Was BTA's acquisition of the interest covered by  
22     the JOA effective on November 1 of 2018?

23          A.     Yes.

24          Q.     Why did BTA acquire its interest and become the  
25     operator under the JOA?

1           A.     Because we are familiar with the area, as I  
2     pointed out, and on Exhibit 1 we have leaseholds within that  
3     area, and so we wanted to develop this Ochoa acreage as the  
4     operator.

5           **Q.     Are the operating rights under the JOA valuable**  
6     **to BTA?**

7           A.     Yes, they are.

8           **Q.     Why is that?**

9           A.     Because we want to take advantage of our  
10    experience in the area and our ability to control the number  
11    of wells drilled in the -- to be able to manage the costs  
12    and to carry out the economic development of a project on  
13    this Ochoa acreage.

14          **Q.     In your opinion, do joint operating agreements**  
15    **facilitate development and conservation of resources?**

16          A.     Yes, they do.

17          **Q.     Why?**

18          A.     Because, again, you can control costs, determine  
19    the most productive development plan without opposition that  
20    we would have in a pooling application.

21          **Q.     What is the breakdown of the working interest**  
22    **governed by the JOA?**

23          A.     BTA owns 82 percent and Oxy Y-1 company 18  
24    percent.

25          **Q.     Is 100 percent of that interest committed to and**



1     governed by the JOA?

2           A.     Yes, it is.

3           Q.     Did BTA enter into a trade with Oxy to increase  
4     BTA's ownership interest under the JOA?

5           A.     We did.

6           Q.     And what was the acreage involved?

7           A.     It was -- it was an additional 40 acres under the  
8     JOA, and so we -- we now own approximately 387 acres of it.

9           Q.     Did you review Novo Exhibits 4 and 15?

10          A.     Yes, I did.

11          Q.     And were those Novo's exhibits that identified  
12     the ownership interest and the acreage that Novo seeks to  
13     pool?

14          A.     I don't believe they were. No, they were not.

15          Q.     Do you have those exhibits in front of you?

16          A.     Yes.

17          Q.     Do the exhibits correctly reflect BTA's ownership  
18     interest?

19          A.     They do not. They show BTA with 18 percent, and  
20     after the transaction we should have 20 (unclear) percent.

21          Q.     Would it be correct to say that BTA is the  
22     operator of 100 percent of the working interest in the Ochoa  
23     acreage?

24          A.     Yes, that's correct.

25          Q.     Mr. Price, let's look at your Exhibit Number 6,

1     **please.**

2           A.     Yes.

3           **Q.     Can you identify that exhibit?**

4           A.     That is the ratification of the operating  
5     agreement.

6           **Q.     Is this a true and correct copy of the agreement?**

7           A.     Yes, it is.

8           **Q.     What does it show?**

9           A.     It shows that Oxy Y-1 company ratified the JOA  
10    naming BTA as operator of the Ochoa acreage.

11          **Q.     And what date did Oxy ratify the joint operating**  
12    **agreement and BTA as operator?**

13          A.     It's effective November 1 of 2018.

14          **Q.     Mr. Price, can you please look at Exhibit 7?**

15          A.     Yes.

16          **Q.     Can you identify that exhibit, please?**

17          A.     That is a letter agreement between BTA and Oxy  
18    Y-1 Company.

19          **Q.     Is that document BTA's well proposals?**

20          A.     Oh, I'm sorry. Excuse me, I'm sorry. In  
21    Exhibit -- I'm sorry, Exhibit 7 are well proposals -- are  
22    the four well proposals from BTA to Oxy Y-1 Company.

23          **Q.     When were those proposals sent?**

24          A.     July 8 of 2019.

25          **Q.     Do they include AFEs?**

1 A. They do.

2 Q. Do they include a map of the proposed wells?

3 A. They do.

4 Q. Will the four Wolfcamp wells be drilled and  
5 completed in the N/2 of Section 7 and NW/4 of Section 8?

6 A. Yes, they will.

7 Q. Will the completed laterals be in the potash  
8 area?

9 A. Yes, they will.

10 Q. Will the well pad for the wells also be located  
11 in the potash area?

12 A. No, it won't.

13 Q. Has BTA received BLM approval for the pad  
14 locations of the four wells?

15 A. We have.

16 Q. Because the completed laterals will be in the  
17 potash area, was BTA required to notify Mosaic Potash?

18 A. Yes, we were.

19 Q. Did BTA provide that notification?

20 A. We did.

21 Q. Has BTA received any negative feedback from  
22 Mosaic?

23 A. No, we have not.

24 Q. Has BTA submitted a proposed development area to  
25 the BLM for the four Wolfcamp wells?

1 A. Yes, we have.

2 Q. What's the status?

3 A. The status is, Novo objected and -- to the  
4 development area, and we are waiting on a resolution  
5 hearing. Has BTA submitted APDs to the BLM for the four  
6 Wolfcamp wells?

7 A. Yes, we have.

8 Q. What's the status of that submission?

9 A. The status is we are waiting on the resolution of  
10 this hearing and the approval of the development area.

11 Q. Is BTA planning to propose additional 1.5 mile  
12 Wolfcamp and Bone Spring wells in the N/2 of Section 7 and  
13 NW/4 of Section 8 to Oxy?

14 A. Yes.

15 Q. Mr. Price, can you please look at Exhibit 8?

16 A. Exhibit 8, yes.

17 Q. Can you identify that exhibit, please?

18 A. This is a letter agreement between BTA and Oxy  
19 Y-1 Company.

20 Q. Is Exhibit 8 a true and correct copy of the  
21 letter?

22 A. Yes, it is.

23 Q. What does the letter provide?

24 A. The letter provides that Oxy will be provided an  
25 election 30 days from the date they receive approved APDs on

1 the four -- on the four wells proposed.

2 Q. Mr. Price, can you please look at Exhibit 9, and  
3 I will try to put that up on the screen here. Can you  
4 please identify that exhibit.

5 A. Yes. It's the same exhibit as the Bone Spring  
6 spacing unit outline and then the blue box is the Ochoa  
7 acreage that have Wolfcamp wells on it.

8 Q. Those are the four wells that BTA has already  
9 proposed?

10 A. Yes.

11 Q. Was the map prepared under your direction and  
12 supervision?

13 A. It was, and in conjunction with Jose Baltier at  
14 our address.

15 Q. And I think you already said the map shows the  
16 current development area along with BTA's four proposed  
17 wells; right?

18 A. That's right.

19 Q. Mr. Price, let's talk about BTA's negotiations  
20 with Novo. Did Novo contact BTA prior to acquiring its  
21 acreage to ask about BTA's interest under the JOA?

22 A. No.

23 Q. And BTA met with Novo in Oklahoma City to talk  
24 about the Astrodog development; is that right?

25 A. That's right.

1           Q.     During those discussions was Novo informed about  
2     BTA's plans for development of its Ochoa acreage?

3           A.     Yes.

4           Q.     In your opinion, did BTA try to find a solution  
5     that would work for both BTA and Novo?

6           A.     Yes.

7           Q.     Was that effort successful?

8           A.     No.

9           Q.     Instead of continuing negotiations with BTA, did  
10    Novo instead protest BTA's development area?

11          A.     Yes.

12          Q.     Mr. Patrick testified last week that BTA went  
13    behind Novo's back in discussion with the BLM. Did you hear  
14    that testimony?

15          A.     Yes, I did.

16          Q.     Is that correct?

17          A.     No.

18          Q.     Did you agree to only speak with the BLM jointly  
19    with Novo?

20          A.     No.

21          Q.     Did you believe you were working with BLM for the  
22    mutual benefit of BTA and Novo?

23          A.     Yes, from my meeting in Oklahoma City, Novo  
24    indicated they were agreeable to a mile and a half  
25    development plan if we were able to -- if they were able to

1     agree on a location that would allow that to happen, and I  
2     was trying to make that happen.

3           Q.     Does BTA own record title to the acreage you were  
4     discussing with the BLM?

5           A.     Yes, we do.

6           Q.     Did you hear Mr. Patrick's testimony last week  
7     that BTA told Novo it would object to Novo's other  
8     development plans in the potash area?

9           A.     Yes.

10          Q.     And has BTA told Novo that it would do that?

11          A.     Yes.

12          Q.     Why was that?

13          A.     Because the development area within the potash  
14     area, it's like a gigantic tetris puzzle, and we indicated  
15     to them that we would, we wanted to resolve the development  
16     area on our Ochoa acreage and their Astrodog (unclear) the  
17     other development area within the potash area.

18          Q.     Did BTA withdraw its objection to Novo's proposed  
19     development areas other than the area involving the acreage  
20     addressed in these cases?

21          A.     Yes, we did.

22          Q.     To summarize the negotiations between BTA and  
23     Novo, has Novo proposed any alternative that would recognize  
24     BTA's correlative rights in the N/2 of Section 7 and the  
25     NW/4 of Section 8?

1           A.     They have proposed a trade, but BTA does not feel  
2     like it recognized the true value of our operator rights in  
3     the Ochoa acreage.

4           Q.     In your opinion, has Novo made a good faith  
5     effort to resolve a conflict between BTA's development of  
6     its Ochoa acreage and Novo's proposed wells?

7           A.     No.

8           Q.     Mr. Price, if Novo's applications are granted,  
9     will they block BTA's proposed one and a half mile lateral?

10          A.     Yes.

11          Q.     In your opinion, would the granting of Novo's  
12     application result in impairment of BTA's operating rights  
13     under the JOA?

14          A.     Yes. It would obliterate them.

15          Q.     In your opinion, are BTA's operating rights part  
16     of its correlative rights?

17          A.     Yes.

18          Q.     And why?

19          A.     Because we acquired this acreage under the JOA to  
20     operate, and operate -- operating rights are very valuable  
21     to us.

22                   MS. HARDY: I have no further questions at this  
23     time, Madam Chair. I moved the admission of BTA exhibits 1  
24     through 9?

25                   MR. BRUCE: I have no objection.



1 CHAIRWOMAN SANDOVAL: Any objection from the  
2 Commissioners?

3 COMMISSIONER ENGLER: No objection.

4 CHAIRWOMAN SANDOVAL: BTA Exhibits 1 through 9  
5 are admitted into the record.

6 MS. HARDY: Thank you.

7 (Exhibits BTA 1-9 admitted.)

8 MR. BRUCE: Mr. Price --

9 CHAIRWOMAN SANDOVAL: Proceed on cross, Mr.  
10 Bruce.

11 MR. BRUCE: What's that now?

12 CHAIRWOMAN SANDOVAL: Please go ahead if you have  
13 any cross.

14 MR. BRUCE: Thank you.

15 CROSS-EXAMINATION

16 BY MR. BRUCE:

17 Q. Let's look at your exhibit -- let's look at your  
18 Exhibit 2, Mr. Price.

19 A. Yes.

20 Q. Now, you mentioned the quiet title suit between  
21 BTA and TDY. When did -- obviously BTA had a title claim  
22 to the land that is now owned by Novo in Sections 8 and 9;  
23 is that correct?

24 A. Yes.

25 Q. And that was based on a deed from US Borax

1     Company, I believe?

2           A.     Yes, it was.

3           Q.     When was that deed executed or acquired from --  
4     by you -- by BTA? Excuse me.

5           A.     I believe, I believe it was in November of 2017.

6           Q.     2017?

7           A.     Yes, sir.

8           Q.     And it covered several sections of land, I don't  
9     remember how much, but it did cover several sections of  
10    land, did it not?

11          A.     Yes.

12          Q.     And as you said, that lawsuit was settled. Was  
13    that settled more or less in early to mid July of 2019?

14          A.     I believe that's correct.

15          Q.     And so up until that time BTA had a claim to what  
16    is now Novo's acreage in NE/4 of Section 8 and N/2 of  
17    Section 9?

18          A.     Yes.

19          Q.     And you had acquired the -- what we -- you know,  
20    the Ochoa JOA, you had acquired the Yates interest in that  
21    JOA in late 2018?

22          A.     November of 2018, yes.

23          Q.     And so once you acquired that in November or  
24    December 2018, you could have proposed your wells in the  
25    Ochoa acreage at that time, could you have not?

1           A.     We could -- we could have, yes.

2           Q.     But you waited until after the lawsuit was  
3 settled with TDY in July of 2019; is that correct?

4           A.     Yes.

5           Q.     Did BTA have plans to develop the NE/4, or at  
6 least preliminary plans or thoughts about developing the  
7 NE/4 of Section 8 and the N/2 of Section 9 within this area?

8           A.     We did when we were -- our development plan was  
9 to develop it in the same manner where we were talking to  
10 Novo about developing their (unclear).

11          Q.     You mean -- I didn't quite get everything, but  
12 are you saying that you would have developed the Sections 8  
13 and 9, the NE/4 of 8 and the N/2 of Section 9 like you are  
14 now wanting to Novo to do?

15               MS. HARDY: Object to the form. I think it  
16 misstates his testimony.

17               MR. BRUCE: Well, I said -- I didn't ask it.  
18 Had -- let me rephrase it then, Madam Chair.

19          Q.     Did BTA consider developing the NE/4 of Section 8  
20 and the N/2 of Section 9 in conjunction with the NW/4 of  
21 Section 8?

22          A.     We did not at the time. Yes, we did not.

23          Q.     So you would have considered drilling wells with  
24 a half a mile of dead hole and all the other concomitant  
25 problems to develop the NE/4 of Section 8 and N/2 of

1     **Section 9?**

2                   MS. HARDY: I object to the form of the question.

3                   CHAIRWOMAN SANDOVAL: In what --

4                   MR. BRUCE: Well, this is cross-exam.

5                   CHAIRWOMAN SANDOVAL: What's your issue with the  
6     form?

7                   MS. HARDY: It's assuming problems with the  
8     development of a dead hole that I think other witnesses are  
9     addressing.

10                  CHAIRWOMAN SANDOVAL: Then the witness can  
11     testify whether or not that should be addressed by somebody  
12     else. Mr. Bruce?

13                  **Q. But again, in early July of 2019, you still had**  
14     **not submitted your proposed wells on your JOA acreage;**  
15     **correct?**

16                  A. Could you rephrase the question, please?

17                  **Q. As of early say the first or second week of July**  
18     **2019, you had not sent out your well proposals under your**  
19     **Ochoa JOA?**

20                  A. We sent them out on July 8.

21                  **Q. And a few days after that -- and negotiations had**  
22     **been ongoing, this didn't occur suddenly, the negotiations**  
23     **between TDY and BTA had been ongoing probably for several**  
24     **months to resolve the lawsuit?**

25                  A. Yes, the lawsuit was ongoing until we settled in

1 July of 2019.

2 Q. So -- so right about the time you settled the  
3 lawsuit with TDY, that's when you sent out your well  
4 proposals?

5 A. Yes.

6 Q. Let me ask you this also: Did you have a dispute  
7 with Novo regarding development of some acreage immediately  
8 to the north?

9 A. We negotiated with Novo, yes.

10 Q. And that's four and five immediately to the north  
11 of Sections 8 and 9?

12 A. Yes.

13 Q. And it's already been mentioned, shown in your  
14 exhibits and others, that there was a COG well, north-south,  
15 Second Bone Spring in Sections 5 and 8, or I forget exactly,  
16 but it runs through that. Is that correct?

17 A. Yes. That's correct.

18 Q. And you asked, as part of the settlement with  
19 Novo because of your competing plans, that they not drill  
20 north-south into the Second Bone Spring in Section -- in  
21 the NE/4 of Section 8. Is that correct?

22 A. That's correct.

23 Q. And that was about two years ago where you signed  
24 a letter, and so did Novo, saying that Novo would not drill  
25 north-south into the E/2 E/2 of Section 8.

1           A.     I would have to look at the dates but that --

2           Q.     So you were looking at drilling east-west wells  
3     into the NE/4 of Section 8 in the Bone Spring formation?

4           A.     No, I don't recall.

5           Q.     And I -- I might have asked you some questions  
6     here, Mr. Price, that maybe should be better answered by  
7     your engineers, and if I do, I apologize, you can just tell  
8     me to talk to the other folks on your side.

9                     But first let's get to this: When BTA acquired  
10    its interest in the Ochoa JOA, did you know you had to get a  
11    development area for the proposed Ochoa wells?

12          A.     Yes.

13          Q.     Didn't you drill wells over in Sections 17 and  
14    20, your Haroun Ranch wells without a development area?

15          A.     We did.

16          Q.     Did the BLM make you come back and get a  
17    development area?

18          A.     We did get a development area (unclear).

19          Q.     When did you file for approval with those Haroun  
20    Ranch wells?

21          A.     I have -- I don't recall the exact date, but I  
22    can look at -- I mean, I can provide that information for  
23    you.

24          Q.     Oh, thank you. Now, one thing -- and this might  
25    be for the engineers, so I apologize, let me know --

1 basically BTA's plans would require Novo to drill kick-outs  
2 or tangents of somewhere around 2300 to 2400 feet. Like 23  
3 to 2700 feet, I believe. Has BTA ever drilled a tangent or  
4 a kick-out that long?

5 A. No, I mean, to refer or let Nick Eaton answer  
6 that question. He is our drilling manager and he can  
7 testify.

8 Q. Okay. Thank you. When you are getting into your  
9 development plan, and this was your Exhibit 4, I believe,  
10 you said your -- your face -- or I'm not quite sure if  
11 that's the right exhibit, but your Phase 1 development plan  
12 was a four-well program. Is that correct?

13 A. That's correct.

14 Q. And in what zone?

15 A. In the look Wolfcamp.

16 Q. How many additional wells is BTA looking at  
17 drilling in its Ochoa JOA acreage?

18 A. Readily --

19 Q. I don't expect -- go ahead.

20 A. Britton Mcquien would be that addressing that.

21 Q. Okay. Do you agree that Novo getting approved  
22 surface locations in the eastern side of -- either on the  
23 eastern side of the NW/4 of Section 8 or in the NE/4 of  
24 Section 8 are remote, if not impossible?

25 A. I think there are challenges, yeah.

1           Q.     And did BTA protest Novo's development area for  
2     its proposed Astrodog wells?

3           A.     Yes, we did.

4           Q.     Now, under Novo's plan, BTA will receive its  
5     proportionate share of production from the NW/4 of Section  
6     8, will it not?

7           A.     Yes, it will.

8           Q.     And you are talking about protecting your  
9     operating rights and correlative rights. The statutory  
10    definition of correlative rights does not say anything about  
11    operating rights, does it?

12          A.     It does not.

13          Q.     Let me review my notes for a minute. Mr. Price,  
14    just getting back to that TDY lawsuit for a moment, it looks  
15    like there was four sections, roughly four sections of land  
16    involved.

17          A.     That, is probably correct. I would have to go  
18    back to be sure.

19          Q.     Yeah, just roughly. I'm not asking you to  
20    guarantee that. And of that, what percentage of lands did  
21    BTA get in the settlement?

22          A.     I would have to look back and make that  
23    calculation.

24          Q.     Okay. Regarding the settlement between BTA and  
25    Novo regarding the Sections 4, 5 and, I believe, 8, you each



1     had your own plans in that particular area. Why did BTA ask  
2     Novo to stop its Second Bone Spring well short of Section 8?

3             A.     You know, I would have to look back to know why  
4     we (unclear).

5             Q.     Okay. What was your final exhibit again? I  
6     don't want to ask you about exhibits that aren't yours,  
7     Mr. Price. Exhibit 9?

8             A.     It is Exhibit 9.

9             Q.     Okay.

10            MR. BRUCE: Madam Chair, that's all I have on  
11     cross-examination.

12            CHAIRWOMAN SANDOVAL: Thank you. Commissioners  
13     have any questions for the witness?

14            COMMISSIONER KESSLER: Good afternoon, Mr. Price.  
15     I have something related to BTA's application -- sorry,  
16     Novo's application was denied. I understand that, that BTA  
17     and Novo have -- that BTA's position is that Novo could  
18     develop mile and a half wells on their own. Is that  
19     correct?

20            THE WITNESS: Yes.

21            COMMISSIONER KESSLER: Can BTA do still (unclear)  
22     with Novo access, use its surface access to develop those  
23     mile and a half wells. What surface access would Novo use  
24     to develop those mile and a half wells?

25            THE WITNESS: When we had our meeting, we were --

1 we agreed we would investigate whether it would be possible  
2 for Novo to have a location that was acceptable to them to  
3 develop their mile and a half development, and that they  
4 wound up getting the surface (unclear) and I think that  
5 we'll -- our testimony (unclear) Nick Eaton will be able to  
6 explain your question further about the development of their  
7 mile and a half horizontals from those existing pads.

8 COMMISSIONER KESSLER: Sorry, just a recap on  
9 that, you were cutting in and out a little bit. I said  
10 address questions regarding surface access in (unclear).

11 (Audio difficulties.)

12 COMMISSIONER ENGLER: I'm sorry, Madam Chair,  
13 we're having some difficulty here.

14 CHAIRWOMAN KESSLER: Yes, I'm sorry, I was having  
15 trouble hearing Mr. Price.

16 Did I understand Mr. Price to say that my  
17 questions regarding surface development issues would be  
18 better addressed through Mr. Eaton?

19 THE WITNESS: That's correct.

20 COMMISSIONER KESSLER: I have no additional  
21 questions.

22 CHAIRWOMAN SANDOVAL: Thank you. Dr. Engler?

23 COMMISSIONER ENGLER: I have no questions.

24 CHAIRWOMAN SANDOVAL: I have no questions as  
25 well. Ms. Hardy, do you want to redirect?

1 MS. HARDY: Just a couple of very quick  
2 questions.

3 REDIRECT EXAMINATION

4 BY MS. HARDY:

5 Q. Mr. Price, Mr. Bruce asked you about the  
6 statutory provision regarding correlative rights. Do you  
7 recall that question?

8 A. Yes.

9 Q. But you are not an expert on New Mexico law and  
10 statutory construction, are you, the (unclear)?

11 A. No, I'm not.

12 Q. And with respect to the timing of the TDY  
13 settlement and the Ochoa well proposal, I just wanted to be  
14 clear that the Ochoa well proposals were sent on July 8 of  
15 2019; is that right?

16 A. That's correct.

17 MS. HARDY: Those were all of my questions.  
18 Thank you.

19 CHAIRWOMAN SANDOVAL: Thank you. Do you have any  
20 more witnesses, Ms. Hardy?

21 MS. HARDY: I do. I would like to call Nick  
22 Eaton, please.

23 CHAIRWOMAN SANDOVAL: Court reporter, would you  
24 please administer the oath?

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NICK EATON

(Sworn, testified as follows:)

DIRECT EXAMINATION

BY MS. HARDY:

Q. Good afternoon, Mr. Eaton.

A. Good afternoon.

Q. Could you please state your full name?

A. Nick Eaton.

Q. Where do you reside?

A. Midland, Texas.

Q. By whom are you employed and in what capacity?

A. BTA Oil Producers, I'm the drill manager.

Q. Do your responsibilities include BTA's drilling activities in southeast New Mexico?

A. Yes, they do.

Q. Are you personally involved in the development of BTA's Ochoa acreage?

A. Yes, I am.

Q. Are you familiar with Novo's applications for the proposed Astrodog wells?

A. Yes, I am.

Q. Have you previously testified at a Commission hearing?

A. Yes, I have.

Q. Were your qualifications as an expert in

1     **petroleum engineering accepted?**

2             A.     Yes, they were.

3                     MS. HARDY:   Madam Chair, I tender Mr. Eaton as an  
4     expert in petroleum engineering.

5                     CHAIRWOMAN SANDOVAL:   Any objection, Mr. Bruce?

6                     MR. BRUCE:   I have no objection.

7                     COMMISSIONER KESSLER:   No objection.

8                     COMMISSIONER ENGLER:   No objection.

9                     CHAIRWOMAN SANDOVAL:   The witness is certified as  
10    an expert.   Please proceed.

11                    MS. HARDY:   Thank you.

12    BY MS. HARDY:

13             Q.     **Mr. Eaton, I would like for you to please look at**  
14    **BTA Exhibit 10.   And I'm going to try to put it up here on**  
15    **the screen.**

16

17             Q.     **Do you have that exhibit in front of you?**

18             A.     Yes, I do.

19             Q.     **Okay.   Can you please identify that exhibit?**

20             A.     It's a map of Novo's completed wells in this  
21    section.

22             Q.     **Was the exhibit prepared under your direction and**  
23    **supervision?**

24             A.     Yes.

25             Q.     **How did you obtain the information contained in**

1     **the exhibit?**

2           A.     This was from public data from IHS Internet and  
3     also from the OCD web site.

4           **Q.     What does the map show?**

5           A.     It shows that Novo has only completed three  
6     horizontal wells in this area, and I think, more  
7     importantly, I think that there -- there is no multi-well  
8     pad development.

9           **Q.     Anything else on that exhibit?**

10          A.     You know, right off, setting the BTA Ochoa  
11     acreage, the Rana Salada 234H, we will show where they  
12     failed to reach TD with that well.

13          **Q.     Okay. Can you please look at Exhibit 11. Can**  
14     **you identify that exhibit?**

15          A.     Yes. It's a map displaying BTA's acreage, the  
16     Astrodog unit, Novo's Rana Salada 504 unit. The exhibit and  
17     the next several exhibits will show Novo does not do what it  
18     represents and also what it is ordered to do by the  
19     Division.

20          **Q.     Was this exhibit prepared under your direction**  
21     **and supervision?**

22          A.     Yes.

23          **Q.     And where did you obtain this information?**

24          A.     Same as the last exhibit, from IHS Internet,  
25     which is public data, and the OCD web site.

1           **Q.     What does the exhibit show?**

2           A.     It shows that Novo failed to reach TD in this  
3     well, it's the Rana Salada Fed Com 0504 Number 234H, and  
4     failed to penetrate the last 40-acre block of this producing  
5     unit.

6           **Q.     And was that well the subject of a pooling order?**

7           A.     Yes, it was.

8           **Q.     And was that order R-20249.**

9           A.     Yes.

10          **Q.     Can you please look at Exhibit 12?**

11          A.     You've got 13 up.

12          **Q.     My apologies here. Here we go. Can you identify**  
13     **that exhibit please?**

14          A.     This is the C-102 for the Rana Salada 0504 Number  
15     234H as well as an excerpt from the pooling order for that  
16     well.

17          **Q.     Was this information obtained from OCD records?**

18          A.     Yes, it was.

19          **Q.     What does it show?**

20          A.     It clearly shows that the stranded 40-acre unit,  
21     that the well stopped short, so the -- according to the  
22     permit the planned TD was 20,985 foot. The reported total  
23     depth of the well was 19,892 foot, which is just over a  
24     thousand foot lateral, and most importantly it shows the 40  
25     acres of stranded unit that was left behind.

1           Q.     And what does the order provision on the right  
2     reflect?

3           A.     In the highlighted portion, it just says that  
4     Novo was to file a Sundry notice that each quarter-quarter  
5     section had been penetrated and was capable of producing oil  
6     and gas.

7           Q.     So this well was pooled; right?

8           A.     Yes, it was.

9           Q.     Did you hear Novo's testimony that it no longer  
10    needs to pool this acreage?

11          A.     Yes, I did.

12          Q.     Did Novo file any type of a notice about that  
13    fact with OCD?

14          A.     No, they did not.

15          Q.     Based on your experience, are operators expected  
16    to notify OCD when they've obtained a polling order that's  
17    no longer necessary.

18          A.     Yes.

19          Q.     And under the order, Novo was supposed to file a  
20    notice that penetrated each quarter section; is that right?

21          A.     Yes.

22          Q.     Did it file that notice?

23          A.     No, it did not.

24          Q.     Do you why Novo did not drill the wells to the  
25    planned depth and penetrate the last 40-acre tract?



1           A.     I was not aware of that until this hearing.

2           **Q.     Was it your understanding of Novo's testimony**  
3 **that one of its contractors made a mistake?**

4           A.     That's what they testified, but I guess what I  
5 understood was that a single person closed an orbit valve on  
6 a rig. An orbit valve is a secondary piece of well control  
7 equipment. That single act of closing an orbit valve, I  
8 would be very surprised if that would cause a failure of  
9 sorts that would end up in stranding 40 acres of acreage.

10                 Also, one would expect a wellbore construction  
11 method and execution of that method that would allow for  
12 simple mistakes that an operator could readily recover from  
13 a simple mistake in order to comply with an order and to not  
14 strand 40 acres of acreage.

15           **Q.     As the operator, is Novo responsible for the**  
16 **actions of its contractor?**

17           A.     Yes, they are.

18           **Q.     Where is the Rana Salada 0504 234 well located in**  
19 **relation to the wells that Novo proposes here?**

20           A.     It is on the direct northern border of the wells  
21 that are proposed here.

22           **Q.     Is Novo's failure to drill the well to planned**  
23 **depths and penetrate the last tract concerning?**

24           A.     Yes, it is.

25           **Q.     Why?**

1           A.     Standing acreage would be the number one reason.  
2     This is concerning, failing to comply with an order from the  
3     NMOCD is very concerning. And then also applying this  
4     acreage into a unit that's -- into a pooled acreage saying  
5     that it's contributing where this 40 acres is going to have  
6     a tough time contributing to the production of this unit.

7           Q.     So do those issues cause BTA concern with Novo's  
8     applications here in its inclusion of BTA's acreage and its  
9     development plan, in Novo's development plan?

10          A.     Very much so.

11          Q.     Let's look at your Exhibit 13, please. Well, let  
12     me ask you this, what do Exhibits 13 through 15 relate to?

13          A.     It relates to the requirement that Novo drill and  
14     complete wells simultaneously in this unit, and they did not  
15     do that.

16          Q.     In your opinion, does Novo have a pattern of not  
17     following through on what it's indicated to the Division  
18     that it will do or what it's been required to do?

19          A.     Yes.

20          Q.     Can you please identify BTA Exhibit 13?

21          A.     Exhibit 13 is an excerpt of a pooling order  
22     R-20249 in Case Number 16286. That's another example of  
23     Novo not doing what they represented to do in order to get  
24     this order, and also what they were required to do.

25                     So on the left-hand side this is actually an

1 excerpt of the hearing order itself. Paragraph G is  
2 outlining the initial wells of the unit for the Wolfcamp,  
3 Well 234H and 214H.

4 In H there were conversations of Novo requesting  
5 additional time to drill these wells, and in that agreement  
6 to have more than 180 days, it says that the applicant is  
7 proposing to drill wells back to back and complete  
8 simultaneously.

9 In this unit, according to the public record,  
10 Well Number 234H was spud July 17, 2019, and according to  
11 the public record, Novo has not commenced drilling of wells  
12 on the 214H.

13 Q. BTA also introduced a complete copy of this order  
14 as Exhibit 35; is that correct?

15 A. Yes.

16 Q. And when was the order issued?

17 A. I believe it was November 27 of 2018.

18 Q. Mr. Eaton, can you please identify BTA Exhibit  
19 14?

20 A. This is an excerpt of Kurt Shipley's testimony on  
21 behalf of Novo in case 16286.

22 Q. And what is your understanding of his testimony?

23 A. His testimony here on the left-hand side, he's  
24 asked, "Your plan is to drill these wells sequentially and  
25 batch drill them; correct?"

1 He answered yes.

2 You know, this to me is testimony from, from Novo  
3 saying that they had every plan and that they represented  
4 that they were going to batch drill and sequentially  
5 complete in order to get this order.

6 **Q. And can you please identify Exhibit 15?**

7 A. Exhibit 15 is further, the same case, same  
8 testimony from Kurt Shipley. This is where he goes on --  
9 there is a total of four counts of sequential drilling.

10 So on the left-hand side, the question from the  
11 examiner is, "So you plan to drill these well sequentially  
12 and batch complete them; is that correct?"

13 "Answer: Yes."

14 Next question, "That's two the Bone Spring and  
15 two Wolfcamp wells; is that right?"

16 "Answer: Yes. The plan is a four-well pad, then  
17 we would drill the four wells and follow up with four-well  
18 completion."

19 Similar testimony on the right-hand side, the  
20 importance of sequential drilling and completion operations.

21 **Q. And were these excerpts obtained from Division**  
22 **records?**

23 A. Yes, they were.

24 **Q. And what did the pooling order require?**

25 A. The pooling order ended up requiring the two

1     Wolfcamp wells drilled simultaneously, as was presented on  
2     an earlier exhibit.

3           **Q.     Did Novo do what it had stated it would do in its**  
4     **testimony?**

5           A.     No, it did not. It did not sequentially drill  
6     nor complete the wells back to back.

7           **Q.     And how do you know that?**

8           A.     Based off of the spud information and then the  
9     reported production from the Rana Salada 0504 unit.

10          **Q.     And does this cause BTA concern?**

11          A.     Yes, it does. You know, there's been a very  
12     large project planned here, sequential drilling and stuff  
13     that's very important. BTA is a very large believer in the  
14     efficiency gains, as well as the reservoir management of  
15     multi-well pad drilling. It is very concerning that we will  
16     be forced into a unit with an operator that has represented  
17     this many times and failed to complete its plans.

18          **Q.     Mr. Eaton, I'm going to put up BTA Exhibit 16.**  
19     **Can you please identify that?**

20          A.     This is an e-mail from May 4, 2020, from Cory  
21     Walk, Novo's consultant, a regulatory consultant, to Dean  
22     McClure at the OCD showing Novo does not intend to drill  
23     wells (unclear).

24          **Q.     Is this a true and correct copy of the e-mail?**

25          A.     Yes.

1           **Q.     Was it obtained from Division records?**

2           A.     Yes.

3           **Q.     What wells does this e-mail involve?**

4           A.     So this, really it pertains to the unit, the Rana  
5     Salada Fed Com 0504 unit. This is an application for  
6     surface commingle actually off-lease measurement. So it's  
7     applied for in a unit fashion, but you do need to assign  
8     wells to this.

9                     So in the body of this e-mail you see it says the  
10    only wells tied to this off-lease measurement are the Rana  
11    Salada Fed Com 0504 234H, 214H. It also said Novo doesn't  
12    plan on drilling any of the Bone Spring wells any time soon,  
13    so this e-mail is requesting that the Bone Spring wells be  
14    removed from this application.

15          **Q.     And were those wells pooled?**

16          A.     Yes, they were.

17          **Q.     When was the pooling order issued?**

18          A.     May 21, 2019.

19          **Q.     And was that order R-20567?**

20          A.     Yes, it was.

21          **Q.     Has BTA also introduced a complete copy of that**  
22    **order as an exhibit?**

23          A.     Yes.

24          **Q.     Based on the information in Mr. Walk's e-mail, is**  
25    **it correct to say that Novo pooled a spacing unit for wells**

1     **it did not intend to drill any time soon?**

2           A.     Yes.

3           **Q.     Is that concerning to BTA?**

4           A.     Yes.  You know, having the Rana Salada 234H order  
5     here, we are very interested as a consultant firm, you know,  
6     there is various effects that can occur.  You know, we're  
7     also -- we like the geology in this area.  We have seen  
8     fantastic results in multiple horizons.  We are very  
9     interested in getting in here and getting Phase 1 of this  
10    project complete.

11          **Q.     Mr. Eaton, can you please look at BTA Exhibit 17?**

12          A.     Yes.

13          **Q.     Can you identify that exhibit?**

14          A.     So this is an excerpt of Mr. Patrick's testimony  
15    on behalf of Novo in Case 20916 before the Division.

16          **Q.     Is this a true and correct copy of the excerpt of**  
17    **his testimony?**

18          A.     Yes.

19          **Q.     What else does the exhibit show?**

20          A.     I have also included a map of BTA's acreage and  
21    Novo's proposed drill island.

22          **Q.     Can you identify the drill island and the acreage**  
23    **that they will access?**

24          A.     So I did this on Google Earth to also show where  
25    the lake comes in along with the section lines.  So the

1 yellow on the -- in Section 8, the NW/4, that's the approved  
2 Nido Salado Drill Island, and then Novo has also applied for  
3 Islands A and B. Those, to my understanding, those islands  
4 have been submitted for approval and not yet approved.

5 Q. Were you present for Novo's witnesses testifying  
6 that they would have to drill a half mile dead hole to  
7 access their wells if their applications are not granted?

8 A. Yes, I was.

9 Q. And that doing so would cause economic harm and  
10 safety concerns?

11 A. Yes.

12 Q. What is Novo doing in the S/2 of this unit to  
13 access its wells?

14 A. So the S/2 would be the S/2 of 8 and 9. Their  
15 plans according to Mr. Patrick's testimony before the  
16 Division is that Novo will use a half mile kick-out from  
17 Drill Island B to access the wells in the S/2 of Sections 8  
18 and 9, but if they were to do that same thing in the N/2 of  
19 8 and 9, then it would cause extreme economic harm in  
20 relation to BTA's Ochoa development.

21 Q. So is it correct that Novo is willing to drill a  
22 tangent to access its wells in Astrodog south, but not in  
23 the north?

24 A. Yes. In order to traverse that step-out from  
25 Drill Island B to the S/2 of 8 and 9, they proposed using a



1 tangent design to get there.

2 Q. Mr. Eaton, let's talk about your Exhibits 18  
3 through 21, and I will pull up 18. Can you please identify  
4 that exhibit?

5 A. Exhibit 18, this is a schematic of a well design  
6 that I put together that could be used for Novo to access  
7 its Astrodog north unit from the approved Nido Salado Drill  
8 Island without creating a half a mile of dead space or dead  
9 hole.

10 Q. Did you hear the testimony of Novo's witnesses  
11 that pooling BTA's acreage, and this is a quote, I believe,  
12 from their exhibit, "The only viable plan to access Novo's  
13 acreage."

14 A. I did hear that, yes.

15 Q. Do you agree?

16 A. No, I do not.

17 Q. Can you explain what your exhibit shows and why  
18 you don't agree.

19 A. So the main issue here is that there is a  
20 step-out to occur to get to this 480 acre Astrodog north  
21 unit. On the left side of this exhibit is a cross-section  
22 in the middle of the mapview. If we look at that mapview,  
23 there is a red box, a red rectangle. The red box represents  
24 the NE/4 of Section 8, while the red rectangle the N/2 of  
25 Section 9.

1           So that's representative of the Astrodog north  
2   480-acre unit. This was all taken from their C-102s that  
3   were filed in the application. There is a little drilling  
4   rig derrick in there. That is at the Nido Salado Drill  
5   Island portion so that you can see on the bottom of -- the X  
6   axis of that graph is east and west, so there's over a  
7   2000-foot step-out to achieve there.

8           Novo has said that the only way to achieve that  
9   step-out is to drill straight down into the horizon, turn  
10  the well 90 degrees into the lateral and then drill over to  
11  that 480-acre unit that's on there.

12           While that is one way to do that, that is by far  
13  the most inefficient way to do it. So what I did here was I  
14  prepared a tangent design, a tangent being where as you are  
15  drilling down to your kick-out point to get -- that's where  
16  you would go from zero to 90 degrees in your lateral, as you  
17  are drilling down through there, you deviate the wellbore  
18  into a tangent degree.

19           That is how you can achieve the step-out by -- as  
20  you're drilling the vertical section to get over there. So  
21  what it does is by using a 20 degree tangent design here,  
22  you can achieve the over 2000-foot step-out, and in fact,  
23  you only drill about 403 additional foot of total well  
24  measured depth, not the half mile that Novo has testified.

25           The other thing I did with this, as you can see

1 on the cross section, I put in (unclear), there is a Rustler  
2 top, a Delaware, Bone Spring, Second Bone. Since BTA has  
3 plans to drill the the Second Bone, what this design would  
4 achieve to do was use a tangent, get the -- achieve the  
5 step-out to get -- to place their wellbore past the setback  
6 area of the BTA well, so this would alleviate all potential  
7 collision issues in this unit.

8 Furthermore, this plan uses a 20 degree tangent,  
9 which is much less than the 48 degree tangent for Novo's  
10 Astrodog Fee 0809 244H. So that's the S/2 wells we  
11 explained in the last exhibit.

12 Q. Would this kind of alleviate collision issues  
13 even with the ellipse of uncertainty?

14 A. Yes, it would.

15 Q. Would it allow BTA and Novo to each development  
16 their acreage?

17 A. Yes, it would.

18 Q. Have you reviewed Novo Exhibit 11?

19 A. Yes, I have.

20 Q. Do you have that in front of you?

21 A. Yes. Okay.

22 Q. And do you agree with the information depicted in  
23 that Exhibit?

24 A. I do not.

25 Q. Why not?

1           A.       This represents Novo drilling straight down from  
2     the Nido Salado Drill Island. As I said before, drilling  
3     straight down, not using a tangent and then building out  
4     into the reservoir and drilling at 90 degrees to get over to  
5     their unit, so it shows overlap of BTA's horizontals with  
6     Novo's horizontals, which this could easily be avoided with  
7     this single tangent design that I've shown before.

8                    Another issue within their ellipse of  
9     uncertainty, they have shown an overlap of ellipse of  
10    uncertainty and it indicated that both ellipses are the same  
11    size, when, in fact, the ellipse of uncertainty is closely  
12    related to the total measured depth of that point.

13                   So the total measured depth of their well in this  
14    situation that they represent would be two miles, where  
15    BTA's would be one and a half miles, but BTA's ellipse would  
16    be considerably smaller than the ellipse that is shown in  
17    this graph.

18           **Q.       Is it a fair summary of, Mr. Eaton, that Novo's**  
19    **Exhibit 11 is not an accurate depiction?**

20           A.       Yes.

21           **Q.       Mr. Eaton, can you please look at Exhibit 19?**

22           A.       Yes.

23           **Q.       Can you identify this exhibit?**

24           A.       So this is just showing full-field co-development  
25    of all the BTA Ochoa wells and Novo's Astrodog north wells.

1 I think that there are many, many wells being (unclear)  
2 today.

3 Q. And was this exhibit prepared under your  
4 direction and supervision?

5 A. Yes, it was.

6 Q. What does it show?

7 A. So this I prepared in Compass, the same  
8 directional drilling software as before. What it shows is  
9 that, with the BTA development in Ochoa and the Astrodog  
10 north unit, that by drilling simple tangent designs, that  
11 both operations can go forward on approved drill sites and  
12 that there will be no collision risk.

13 Q. Have you heard Novo's testimony regarding  
14 collision risk?

15 A. Yes, I have.

16 Q. Can you respond?

17 A. Like I said, this acreage can be developed  
18 without collision risk as shown here. Really, the larger  
19 risk of collection is in their well count. There's a  
20 much -- a higher collision issue to be avoided amongst their  
21 own wells than there is in consideration of BTA's wells.

22 Q. And is that due to the number of wells that Novo  
23 is proposing in their locations?

24 A. Yes, that is.

25 Q. Can you please look at BTA Exhibit 20? Can you

1     **identify that exhibit, please?**

2           A.     This is just another view from the Compass  
3     program. The last view, in two dimension it can get very  
4     hard to see the full development, so this is just full-field  
5     co-development in 3-D view just showing that there is no  
6     collision risk as long as the tangent designs are followed.

7           What you couldn't see in the two dimension is  
8     that BTA will also employ tangents in this area. You know,  
9     I guess our acreage isn't underneath the lake so we are not  
10    seeing as large a tangent in this instance, but that there,  
11    there would be no collision risk as long as Novo follows a  
12    well-executed plan.

13          **Q.     Did you prepare this exhibit?**

14          A.     Yes, I did.

15          **Q.     Can you please look at BTA Exhibit 21? Can you**  
16    **identify that exhibit, please?**

17          A.     So this is a schematic comparing the method Novo  
18    was using to access this well in the S/2 of the Astrodog  
19    unit in comparison to BTA's proposal in the N/2.

20          **Q.     Did you prepare the exhibit?**

21          A.     Yes, I did.

22          **Q.     Okay. And what does it show?**

23          A.     So this shows that this plan is actually more  
24    complex than what I proposed in the N/2. It shows that  
25    BTA's proposal is simpler and less aggressive by means of a

1 shallower tangent angle, and that Novo has every plan of  
2 accessing other units in this direct area using a larger  
3 step-out and using a larger tangent.

4           So some of the highlights here, this surface  
5 location is more than 2000 foot north and 1500 foot west of  
6 their first take location. And then the bottom left, this  
7 is a mapview from their directional plan that they submitted  
8 to the state for their permit.

9           You can see in there where it has begin 48 degree  
10 tangent. The 48 degree tangent is much larger than the 20  
11 degree tangent to access the N/2.

12           **Q. Did you hear the testimony of Novo's witnesses**  
13 **regarding BTA's proposed tangent?**

14           A. Yes, I did.

15           **Q. What's your understanding of that testimony?**

16           A. I understood that while other companies have  
17 executed tangents, that apparently they feel this makes them  
18 uncomfortable.

19           **Q. And do you disagree?**

20           A. Yes, I disagree.

21           **Q. And why is that?**

22           A. You know, tangents have become an absolute normal  
23 in our industry. Every single multi-well pad drilled in the  
24 Delaware Basin is going to have a tangent of some sort,  
25 whether it be for anti-collision if laterals are stacked,

1    whereas most pads are set out as in this exhibit, that there  
2    is wells maybe 20 or 30 foot apart on the surface.

3                   Once they are downhole they can be anywhere from  
4    100 to 660 foot apart or more. So to achieve that all of  
5    these wells will have tangents. Tangents can vary across  
6    the basin. An engineer's goal, I would believe, is to  
7    generally reduce the tangent angle, but angles in this order  
8    are definitely not (unclear).

9           **Q.     What's your conclusion based on BTA Exhibits 18**  
10 **through 21?**

11          A.     I conclude that we can take their plan that is  
12    directly adjacent to the Astrodog and Ochoa acreage, and  
13    that we can tone that plan back to something less  
14    aggressive, and from an approved drill island, the Nido  
15    Salado, that Novo would have no issue or should have no  
16    issue accessing the 480-acre unit of the Astrodog north.

17          **Q.     And in that scenario Novo would not need to pool**  
18 **BTA's acreage to access its wells; is that right?**

19          A.     That is correct.

20          **Q.     And BTA and Novo could each develop their own**  
21 **acreage?**

22          A.     Yes, without collision risk.

23          **Q.     Would denial of Novo's applications violate its**  
24 **correlative rights, in your opinion?**

25          A.     No.



1           Q.     Let's look at BTA Exhibit 22, please. Can you  
2     identify this exhibit.

3           A.     Yes. This is a map depicting BTA's approved  
4     drill site to access the Ochoa wells.

5           Q.     Did you prepare the exhibit?

6           A.     Yes, I did.

7           Q.     Did you have a correction to make to it?

8           A.     Yes, I do. I have mislabeled the section  
9     numbers, so kind of, there's purple dots in the very, very  
10    middle of Section 8 and Section 9, that should actually be  
11    Section 7 on the left and Section 8 on the right.

12          Q.     Does BTA have the ability to timely locate  
13    wellsites and operate on the surface?

14          A.     Yes, we do.

15          Q.     And what does this exhibit show?

16          A.     It shows that we had an approved drill site from  
17    the BLM. With the BLM's guidance in this situation, we  
18    placed the site actually outside of the potash boundary,  
19    while the wells that do penetrate into the potash area, what  
20    this did is it moved the surface location more than a mile  
21    away from the surface salt mining operations, as well as the  
22    subsurface mining operations.

23                 It also placed this pad near our existing Culebra  
24    BLV Fed Number 1H. That's the -- there's a surface -- there  
25    is a pad in the very northwest corner of Section 8, BTA

1 operates that well. It also places the well pad readily  
2 accessible for oil sales, gas sales and water disposal.

3 **Q. Will there be less surface disturbance if**  
4 **Marathon's and Novo's applications are approved.**

5 A. No.

6 **Q. Why not?**

7 A. Either way, BTA is going to have to come in and  
8 drill at least one Second Bone Spring well, so that is going  
9 to -- and that would be the same pad that we proposed here.  
10 So whether we drill one or whether we drill multiples, the  
11 same surface disturbance will occur.

12 **Q. Can you please look at BTA Exhibit 23? Can you**  
13 **identify that exhibit?**

14 A. This is a schematic of BTA's Rojo development.

15 **Q. Did you prepare that exhibit?**

16 A. Yes, I did.

17 **Q. What does it show?**

18 A. This just shows that BTA is an experienced  
19 multi-well pad operator in New Mexico. We are currently  
20 operating two rigs. At the beginning of the year we had  
21 four rigs, and we decided to reduce rig count due to the  
22 current Covid situation. We also have an active frac fleet.

23 The Rojo lease is approximately two and a half  
24 sections in Lea County that I have designated there. We  
25 have been drilling out here for a couple of years. There

1 are currently 34 wells across five horizons, and we  
2 currently use eight well pads in development.

3 **Q. Does BTA's experience as a multi-well pad**  
4 **operator require it to evaluate and address collision**  
5 **issues?**

6 A. Yes, it does. My team and I, we discuss this  
7 very frequently. We give the drilling engineer and the  
8 directional drilling company where we are incorporating all  
9 the surrounding wells, running anti-collision in order to  
10 avoid any potential hazards.

11 We have, due to the well density in here, we've  
12 also had to go to measures to shrink the ellipse of  
13 uncertainty. There are methods for doing that. First we do  
14 MWD corrections, that's a tool correction. That shrinks the  
15 ellipse of uncertainty and helps in planning.

16 And then where necessary we deploy gyros  
17 generally on producing wells. The gyro will greatly reduce  
18 the ellipse of uncertainty and allow us to place wellbores  
19 closer together. Generally we have to get wells close. As  
20 you can see there are several places where wellbores are  
21 stacked. That's our highest point of collision, and through  
22 proper planning we are able to address that and place  
23 wellbores where the geologic team has requested.

24 **Q. Mr. Eaton, can you please look at BTA Exhibit 24?**

25 A. Yes.

1           **Q.     Can you identify it, please?**

2           A.     This is same lease, slightly different view, what  
3     this is showing is this is just our existing wells, as well  
4     as the near term drilling plan, near term base a couple of  
5     years. What it shows is we have many many wellbores left to  
6     place in here. It also shows this is an area similar to the  
7     Ochoa with many targets to be achieved.

8                     The planning is very important in order to get  
9     all the wellbores in here. You can see tangents from all  
10    angles across this lease in order to get wellbores in the  
11    correct position. This is a federal lease, so we work  
12    closely with the BLM in siting the wellbore -- the surface  
13    location, the central tank batteries, as well as the  
14    (unclear).

15                    It definitely requires quite a bit of forethought  
16    in the collision issues, and we are -- we're always willing  
17    to collaborate with offset operators if there happens to be  
18    a concern on anti-collision.

19           **Q.     And did you prepare this exhibit?**

20           A.     Yes, I did.

21           **Q.     Collectively, what do Exhibits 23 and 24 show in**  
22    **relation to this case?**

23           A.     They just show that, I think it's very common  
24    across Lea and Eddy County to have many horizons to exploit.  
25    It can be difficult in order to safely place the wellbores,

1     although not beyond what is industry acceptable.

2                   Also we want to show that BTA is very  
3     experienced. We have working interest owners in many of  
4     these projects that are very happy with our results and that  
5     we are willing and able and ready to do so across the Ochoa  
6     acreage.

7           **Q.     And to your knowledge, does Novo have any**  
8     **experience with multi-well pad operations?**

9           A.     It does not appear so. From my first exhibit,  
10    which I believe was Exhibit 10, it shows they have only  
11    executed single well pads, although I have seen permits and  
12    seen their testimony where they say they will eventually go.

13          **Q.     Let's talk about BTA's drilling plans. Does BTA**  
14    **intend to commence drilling in proposed Ochoa's wells if**  
15    **Novo's applications are denied?**

16          A.     Yes.

17          **Q.     Has BTA continued to spud wells in 2020 in New**  
18    **Mexico?**

19          A.     Yes, we have. In New Mexico in 2020 thus far we  
20    have had 28 wells spud, all of which were wells capable --  
21    or rigs capable of reaching TD after (unclear).

22          **Q.     And I think you said earlier that BTA currently**  
23    **has rigs available?**

24          A.     We do. We are actually running Patterson 288 and  
25    Patterson 566 both Lea County right now, and we would love

1 to see one of those two rigs on this project by the end of  
2 the year.

3 Q. With respect to contracts, does BTA have  
4 contracts in place for off-takers of produced water, gas and  
5 oil for the Ochoa development?

6 A. Yes, we do. As I showed in an earlier exhibit  
7 that we cited, the surface hole location is the Culebra BLV  
8 where we currently have purchasers in place, and we also  
9 have further gas purchasers that are ready to build in to  
10 make sure that we don't (unclear) minimize the flare, the  
11 flared gas.

12 Q. And has BTA been able to sell gas?

13 A. Yes.

14 Q. Mr. Eaton, let's talk about some of the BLM  
15 issues that have been discussed. Did you hear Mr. Patrick's  
16 testimony regarding BTA's submission of APDs before approval  
17 of its development plan?

18 A. Yes.

19 Q. And what was your understanding of his testimony?

20 A. I believe he testified that it was presumptuous  
21 of BTA to submit APDs before its development plan was  
22 approved.

23 Q. Why did BTA submit its APDs before approval its  
24 development plan?

25 A. Because that was, at that time, what the BLM

1 instructed us to do.

2 Q. Did you also hear Mr. Patrick's testimony that  
3 Novo invited BTA to Novo's onsite with the BLM?

4 A. Yes.

5 Q. Was Novo required to notify BTA of the onsite?

6 A. Yes, because BTA was an affected party.

7 Q. Did BTA attend the onsite?

8 A. We did. There was a meeting at the site just off  
9 of the first pad. There were four of us from BTA, myself,  
10 Willis Price, and a landman and one of our regulatory  
11 agents. We were able to meet at the onsite. All of us went  
12 to the first proposed drill island. After that the next  
13 sites were quite a ways off, at which point Novo left the  
14 BTA representatives, they were (unclear) they were able to  
15 proceed to the next drill island sites, and BTA, we couldn't  
16 keep up.

17 Q. So though BTA was there, it couldn't actually  
18 participate?

19 A. Correct. Yes. After the first drill island, we  
20 were no longer included in anything.

21 Q. Have you reviewed Novo's Exhibit 29, which is an  
22 e-mail from Jim Rutley approving Novo's development area?

23 A. Yes.

24 Q. Is it your understanding that the approval is  
25 based on the Division's pooling order?

1           A.     Yes.

2           Q.     To your knowledge, did Novo provide any  
3     information to Mr. Rutley to let him know an application for  
4     de novo review was filed?

5           A.     It does not appear that they did.

6           Q.     Did BTA receive notice of BLM's approval of the  
7     Novo's development area?

8           A.     No.

9           Q.     When did BTA become aware of that approval?

10          A.     At this hearing.

11          Q.     Has BTA notified Mr. Rutley that a de novo  
12     hearing is occurring?

13          A.     Yes, we have.

14          Q.     Mr. Eaton, in your opinion, can Novo economically  
15     and safely development this acreage without pooling BTA's  
16     Ochoa acreage?

17          A.     Yes, they could using the tangent method I  
18     discussed earlier, which is very similar to the method that  
19     they have proposed using to access wells in the S/2 of the  
20     Astrodog unit.

21          Q.     Would a tangent be more economic than the dead  
22     hole option that Novo has discussed?

23          A.     Yes, there would be (unclear) the total measured  
24     depth of the well, less utilizing a tangent than utilizing  
25     the half mile to --



1           Q.     Would denying Novo's application result in waste  
2 as Novo has argued?

3           A.     No.

4           Q.     In your opinion, is Novo an experienced and  
5 prudent operator that is capable of completing and operating  
6 it wells in a manner that protects correlative rights and  
7 prevents waste?

8           A.     No.

9           Q.     Why not.

10          A.     Novo has only completed three wells, one of which  
11 left part of the unit stranded, has not completed other  
12 wells it has proposed and does not intend to do so any time.  
13 Also they have failed to do any (unclear).

14          Q.     Is BTA a prudent and experienced operator that is  
15 capable of developing the Ochoa acreage in a manner that  
16 prevents waste?

17          A.     Yes. BTA is an experienced operator and  
18 successful with its multi-well pads operations in this area.

19          Q.     In your opinion, would the granting of Novo's  
20 application result in an impairment of BTA's correlative  
21 rights?

22          A.     Yes.

23          Q.     And in your opinion would the granting of Novo's  
24 application result in waste?

25          A.     Yes.

1                   MS. HARDY: I have no further questions, and  
2   Madam Chair, I move the admission of BTA Exhibits 10 through  
3   24.

4                   MR. BRUCE: I have no objection to the admission  
5   of BTA's exhibits.

6                   CHAIRWOMAN SANDOVAL: Commissioners, any  
7   objection?

8                   COMMISSIONER KESSLER: No objection.

9                   COMMISSIONER ENGLER: No objection.

10                  CHAIRWOMAN SANDOVAL: BTA's Exhibits 10 through  
11   24 are entered into the record.

12                  (Exhibits BTA 10 through 24 admitted.)

13                  CHAIRWOMAN SANDOVAL: Mr. Bruce, would you like  
14   to cross the witness?

15                  MR. BRUCE: Yes, I have several questions.

16                               CROSS-EXAMINATION

17   BY MR. BRUCE:

18               **Q.     Mr. Eaton, looking at New Mexico and Texas, how**  
19   **many horizontal or directional wells has BTA drilled,**  
20   **approximately?**

21               A.     I believe Mr. Price testified to the New Mexico  
22   wells. I do not have that number in front of me at this  
23   moment.

24               **Q.     Okay. What is the longest tangent? Were you**  
25   **going to say something?**

1           A.     No, I was not.

2           Q.     Okay. I don't want to interrupt you. What is  
3     the longest tangent that BTA has drilled on one of its  
4     horizontal wells?

5           A.     We have stepped out over a mile before.

6           Q.     Where?

7           A.     That was in southern Louisiana.

8           Q.     How about New Mexico, how long is the longest  
9     tangent?

10          A.     I don't have it directly in front of me. I can  
11     say we regular -- we step out on every single well. It's  
12     normal for us to see from a quarter section to a half  
13     section.

14          Q.     What is the highest tangent angle that BTA has  
15     drilled?

16          A.     I would have to review (unclear) the drilling  
17     history to answer that question.

18          Q.     Could you repeat? You cut out for me for a  
19     second.

20          A.     I do not have that information with me. It is  
21     not fresh enough on my mind to testify.

22          Q.     Okay. Thanks. Is there additional risk or cost  
23     associated with longer tangents, say drilling 400 feet as  
24     opposed 2400 feet?

25          A.     Between 400 foot and 2400 foot, yes.

1           **Q.     And what are the risks associated with drilling**  
2           **tangents?**

3           A.     Well, I guess you are extending a portion of the  
4           open hole, so any time you've got open hole there is a risk.  
5           When you have to drill further in that open hole, that risk  
6           does increase, not necessarily proportionately, but yes, it  
7           does increase.

8           **Q.     Does it resolve -- can it resolve in slower**  
9           **drilling, more days and higher costs?**

10          A.     I would -- it can, yes, very dependent on the  
11          operator. I would just say, in today's world, there is very  
12          little difference between drilling straight down and  
13          drilling a (unclear).

14          **Q.     Is there more bit wear, more rig down time, more**  
15          **days involved?**

16          A.     Again, in today's modern world, I would say rig  
17          down time is probably unrelated. You know, with wellbore  
18          placement nowadays being where you want to place, you call  
19          it the wellbore stick in relation to your section line,  
20          whether you are drilling a tangent or drilling straight  
21          down, a prudent operator would have a directional assembly  
22          in the hole. That directional assembly would look very  
23          similar, if not identical, if you are drilling straight or  
24          if you are drilling a tangent.

25          **Q.     Do shallow dog legs negatively impact torque and**

1     **drag.**

2           A.     I have not modeled that.

3           **Q.     Does BTA typically avoid shallow nudges?**

4           A.     No, the opposite, in fact.  It is very normal for  
5     us to kick off within a couple hundred feet of surface.  
6     That is why this design I just, the surface area should be  
7     set probably the 3- or 400 range.  Going to Exhibit 18, I've  
8     got kick-off tangent at 584 foot.  That was intentional to  
9     put them below their surface casing point so where they can  
10    get their full assembly outside of surface casing in order  
11    to fully control the tangent.

12          **Q.     Now, under the oil potash order, Order R-111P, is**  
13    **directional drilling permitted in the salt interval?**

14          A.     I don't have that in front of me.

15          **Q.     In order to avoid BTA's shallowest target zones,**  
16    **would they need to be backed to vertical east of the BTA toe**  
17    **by that depth; is that correct?**

18          A.     Please rephrase.

19          **Q.     Well, what is the shallowest zone BTA is**  
20    **drilling?  First and Second Bone Spring, eventually.**

21          A.     Second Bone Spring.

22          **Q.     And Novo would be, need to be backed vertical**  
23    **east of BTA's toe in that well; is that correct?**

24          A.     Yes, I believe that's what I was showing in  
25    Exhibits 18, 19, 20 (unclear) specifically on Exhibit 18, on

1 the cross section, I have labeled the Second Bone Spring  
2 Sand, that's actually the top of the Second Bone Spring Sand  
3 where a target would be below that, you can see on the cross  
4 section that the wellbore gets back to vertical.

5 So the tangent achieved the step-out from the  
6 Nido Salado Drill Island, and it sets -- the setback for the  
7 Second Bone Spring target that BTA would like to drill.

8 Q. Now, Mr. Price said that the initial -- the  
9 initial Phase 1 well -- the official Phase 1 number of  
10 wells is four wells, ultimately. What does BTA -- what is  
11 an approximate number for the number of wells that BTA plans  
12 on drilling for its Ochoa JOA?

13 A. You know, we showed them the exhibits of the  
14 Marathon case which I believe everyone was present for, and  
15 the same exhibits will be shown in this case with Mr.  
16 McQuien's testimony. Thus far what we presented is that  
17 Phase 1 is four Lower Wolfcamp wells. We've got plans to  
18 come back, drill two wells in the XY Sand and two wells in  
19 the Second Bone.

20 So as you can see on Exhibit 19 when I say  
21 full-field co-development, that's where I put all of those  
22 wells that we are talking about on Exhibit 19 and 20.

23 Q. And just because I'm looking at a bunch of little  
24 lines, I cannot tell. Is that 10 or 12 wells, just roughly?

25 A. Mr. McQuien's exhibit will show that it's eight

1 wells.

2 Q. Eight wells. That's all I'm looking for is just  
3 a number. Go back to your Exhibit 12, Mr. Eaton.

4 A. Okay.

5 Q. Are you aware that the stranded -- the so-called  
6 stranded 40 acres is included in the communitization  
7 agreement for the 234 well?

8 A. Yes.

9 Q. So it is sharing in production from that well?

10 A. On paper, I suppose.

11 Q. Are you aware that Novo has plans for its  
12 subsequent wells to penetrate that 40 acres so that it will  
13 not be -- so that it will be productive?

14 A. I believe that's what they testified in their  
15 hearing.

16 Q. Regarding your Exhibit 13, do you know that Novo  
17 drilled a 234 H well, but has not received APDs for all the  
18 wells it desires to drill on that acreage?

19 A. I'm not aware of that.

20 Q. And are you aware that even though it didn't  
21 drill -- if Novo didn't drill a well under the pooling  
22 order, under the statewide rules it is still allowed to  
23 propose that well to be an infill well, one or more infill  
24 wells to the interest owners in that acreage?

25 A. I can't answer that specifically. All I can say

1 they testified two wells, Jalapeno and (unclear) they failed  
2 to do so.

3 Q. But, they would be in big trouble with the BLM if  
4 they drilled a well without an APD; correct?

5 A. Sounds like they should have waited for a permit.

6 Q. And do you know one or two of these orders you  
7 referenced, the orders are no longer valid because Novo  
8 entered into JOAs with all the interest owners, so the  
9 pooling order was no longer needed?

10 A. Novo has not indicated that in the public record  
11 as is required.

12 Q. Now, Mr. Price testified that BTA first started  
13 drilling in the 1950s, and I'm glad there is a company out  
14 there about as old as I am. But should BTA have been  
15 prevented from commencing wells in the 1950s because it did  
16 not have all that much experience in drilling wells in New  
17 Mexico?

18 A. I don't suppose.

19 Q. In looking at your Exhibit 17 --

20 A. Yes, sir.

21 Q. -- looking at that, if Novo is using Drilling Pad  
22 B, which is near the S/2 of Section 8, the tangents it will  
23 be drilling from, certainly in the N/2 S/2 of Sections 8 and  
24 9, it's almost minimal, isn't it?

25 A. Correct.



1           Q.     And even going to the S/2 S/2 of Section 8, it's  
2     not that far away. It's not the 2700 feet that Novo will  
3     have to drill if it's applications are denied?

4           A.     That number is incorrect. Their C-102, I believe  
5     I have got it on Exhibit 21. So it says their surface  
6     location is 2048 foot north, 1506 foot west of their first  
7     take, so this is for the S/2 S/2 they are referring to  
8     (unclear) tells us that that is a 2,542 foot step-out.

9           Q.     2,542 feet? Okay. Thank you.

10          A.     Would you like BTA's proposed step-out?

11          Q.     No.

12          A.     Okay.

13          Q.     Is there extra expense for drilling extra length  
14     in a well?

15          A.     Yes. So this proposed, the proposed tangent adds  
16     403 foot to the mile and a half (unclear) of 18,000 and  
17     change. It is 2 percent additional well drills.

18          Q.     For its proposed Ochoa wells, will BTA be using  
19     one drill pad or one drill, approved drill location drill  
20     pad, or will it be using a couple?

21          A.     One is our plan.

22          Q.     And you talked about the -- Novo's onsite  
23     location, did BTA show up three hours late to that onsite?

24          A.     No. We actually got there with Titus, XTO and  
25     the Salt Mine. We got there in time to meet the first -- to

1 be on the first proposed drill island.

2 Q. Does the BLM or the operator normally send  
3 invitations to onsites?

4 A. Who knows, sometimes it's either or. Jim Rutley,  
5 likes to prepare the onsite notification list.

6 Q. Do you rely on the BLM to send them out for your  
7 your onsites?

8 A. I don't recall.

9 CHAIRWOMAN SANDOVAL: Mr. Bruce, are you through  
10 with your questions?

11 MR. BRUCE: Excuse me for a minute, Madam Chair.  
12 I'm just checking through my notes. Thank you.

13 BY MR. BRUCE:

14 Q. Other than these first Phase 1, four wells, have  
15 you filed APDs with the BLM?

16 A. No, we were waiting resolution of these matters.

17 Q. And you talked about BTA's correlative rights,  
18 and I asked this question of Mr. -- Mr. Price, under  
19 BTA's -- under Novo's plans BTA will share in production  
20 from the entire NW/4 of Section 8, will it not?

21 A. Yes.

22 Q. So its correlative rights will be protected?

23 A. There are many unnecessary wells drilled.

24 Q. Thank you, Mr. Eaton.

25 A. Thank you, Mr. Bruce.

1 MR. BRUCE: That's all I have, Madam Chair.

2 CHAIRWOMAN SANDOVAL: Thank you. Are there any  
3 questions from the Commissioners?

4 COMMISSIONER KESSLER: No (unclear).

5 CHAIRWOMAN SANDOVAL: Dr. Engler?

6 COMMISSIONER ENGLER: (Unclear) Exhibit 19, just  
7 want to make sure I got this right, we got the little  
8 derrick with the Novo wells, that's on the Nido side; right?

9 THE WITNESS: Yes, it is.

10 COMMISSIONER ENGLER: And then for the star,  
11 which would be the Ochoa, that's way over -- it's in Section  
12 12 on the far east side of Section 12; correct?

13 THE WITNESS: Yes, it is.

14 COMMISSIONER ENGLER: And -- okay. And then I  
15 have another, a different question. On your Exhibit 23,  
16 this is your BTA Rojo lease development?

17 THE WITNESS: Yes.

18 COMMISSIONER ENGLER: You can correct me if I'm  
19 wrong, but when I look at this, it looks like for your  
20 (unclear) drilling there is, what, maybe one, maybe two  
21 wells out of all of those that have high tangents; is that  
22 correct?

23 THE WITNESS: I don't -- it's hard to see in the  
24 middle. That's where our well pads went to four, six, eight  
25 wells per pad. We then had to go a larger step-out, the

1     these step-outs for this area, they range from that quarter  
2     section to a half section. That is where, once full  
3     development of this lease went underway, especially in the  
4     Wolfcamp, we went a very dense well pad and the tangents  
5     becoming a little bit larger.

6                 COMMISSIONER ENGLER: You said about a quarter to  
7     half mile, some of them?

8                 THE WITNESS: Yes.

9                 COMMISSIONER ENGLER: Then if I look at your  
10    Exhibit 24, which is your further future full development,  
11    it looks like significant amount of tangent drilling; is  
12    that correct?

13                THE WITNESS: Yes. Really every well in the last  
14    several years (unclear).

15                COMMISSIONER ENGLER: Thank you.

16                THE WITNESS: You are welcome.

17                COMMISSIONER ENGLER: That's it. No more  
18    questions.

19                CHAIRWOMAN SANDOVAL: Thank you, Dr. Engler. I  
20    don't have any questions as well. It is basically right at  
21    3 o'clock. Let's take a ten-minute break -- actually maybe  
22    15, and come back at 3:15 and continue with your next  
23    witness.

24                MS. HARDY: Madam Chair, I had a couple of  
25    redirect questions real quickly.

1 CHAIRWOMAN SANDOVAL: We'll do that and then take  
2 a break.

3 MS. HARDY: Let me get Mr. Eaton back. There he  
4 is. Thank you, I'll be very quick.

5 REDIRECT EXAMINATION

6 BY MS. HARDY:

7 Q. Mr. Eaton, with respect to Mr. Bruce's questions  
8 on correlative rights, Novo hasn't proposed any wells in the  
9 Second Bone Spring; is that correct?

10 A. That's correct.

11 Q. Will Mr. McQuien also offer testimony regarding  
12 development issues and BTA's correlative rights?

13 A. Yes, he will.

14 Q. Okay. Those are all of my questions. Thank you.

15 CHAIRWOMAN SANDOVAL: Thank you. Timewise still  
16 stands. We'll be back here at 3:15.

17 MS. HARDY: Thank you.

18 (Recess taken.)

19 CHAIRWOMAN SANDOVAL: All right. It is 3:17,  
20 welcome back. We will continue with your next witness, Ms.  
21 Hardy. Reminder to everybody that it is 3:17 at this point.  
22 And if we would like to finish today, the clock is ticking.

23 MS. HARDY: Thank you, Madam Chair. BTA's next  
24 exhibit is Britton McQuien.

25

1 BRITTON McQUIEN

2 (Sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. HARDY:

5 Q. Can you please state your full name?

6 A. Britton McQuien.

7 Q. Where do you reside?

8 A. Midland, Texas.

9 Q. By whom are you employed and in what capacity?

10 A. BTA Oil Producers as the Permian exploration  
11 manager.

12 Q. Your responsibilities include BTA drilling  
13 activities in southeast New Mexico?

14 A. Yes.

15 Q. Are you personally involved in the development of  
16 BTA's acreage that has been referred to as the Ochoa  
17 acreage.

18 A. Yes.

19 Q. Are you familiar with Novo's applications in this  
20 case?

21 A. Yes.

22 Q. Have you previously testified at a Commission  
23 hearing?

24 A. Yes.

25 Q. Were your qualifications as an expert in

1     **petroleum engineering accepted?**

2             A.     Yes.

3             MS. HARDY:   Madam Chair, I tender Mr. McQuien as  
4     an expert in petroleum engineering.

5             MR. BRUCE:   I have no objection.

6             CHAIRWOMAN SANDOVAL:   Any objection from the  
7     Commissioners?

8             COMMISSIONER KESSLER:   No objection.

9             COMMISSIONER ENGLER:   No objection.

10            CHAIRWOMAN SANDOVAL:   The witness is certified as  
11    an expert.

12    BY MS. HARDY:

13            Q.     **Mr. McQuien, can you please look at BTA Exhibit**  
14    **25.**

15            A.     Yes, got it.

16            Q.     **Let me pull it up here. Can you please identify**  
17    **that exhibit?**

18            A.     Yes. This IS the comparison development plan of  
19    BTA and Novo.

20            Q.     **Was the exhibit created under your direction and**  
21    **supervision?**

22            A.     Yes.

23            Q.     **Can you describe what's shown in the top left?**

24            A.     The top left is just a map locator showing  
25    location of BTA's Ochoa unit, Novo's proposed Astrodog north

1 unit and -- which is in the green box, and where they  
2 overlap. It also references the type log.

3 **Q. And there's a type log on the left; correct?**

4 A. Yes. The type log shows the different  
5 development (unclear) the Lower Wolfcamp A and B in blue and  
6 pink, Upper Wolfcamp resource including the Third Bone  
7 Spring in yellow, Wolfcamp XY in green, and the Upper  
8 Wolfcamp in red, as well as the Second Bone Spring in Orange  
9 and First Bone Spring in gray.

10 **Q. And what is shown in the center of the exhibit?**

11 A. The center panel of the exhibit in the blue box  
12 shows BTA's development -- development plan for the Ochoa  
13 acreage.

14 **Q. And how is BTA planning to develop the Ochoa**  
15 **acreage?**

16 A. Our plan is to drill four wells in Lower  
17 Wolfcamp, wine-racking between the A and B, and then drill  
18 two wells in the Upper Wolfcamp resource, and (unclear)  
19 those wells in XY, and then drill two additional wells in  
20 the Second Bone Spring Sand.

21 **Q. Is Novo's proposal shown on the right?**

22 A. It is.

23 **Q. Can you describe Novo's proposal?**

24 A. So Novo has proposed three wells in the Lower  
25 Wolfcamp, and then nine wells in the Upper Wolfcamp



1 resource, three in the Third Bone Spring Sand, three in the  
2 Wolfcamp XY, and then three in the Upper Wolfcamp. And then  
3 while it's not part of this pooling application, they have  
4 three well proposals in the First Bone Spring Sand which is  
5 shown in gray, in our BTA.

6 Q. And, in your opinion, are there problems with  
7 Novo's plan?

8 A. I think so. They are using way too many wells in  
9 the Upper Wolfcamp resource, which will cause each  
10 individual well, impair the recovery of each individual well  
11 and basically spend too much money to develop these.

12 Q. Do you believe that BTA's plan is superior to  
13 Novo's?

14 A. Yes.

15 Q. Why?

16 A. Our plan will fully capture the resources and use  
17 fewer wells to do it.

18 Q. Is it your opinion that Novo's plan will impair  
19 BTA's correlative rights?

20 A. Yes.

21 Q. Why?

22 A. Drilling unnecessary wells results in each  
23 well -- per well recovery dropping for each well developed,  
24 so you end up with a much more returned project or you're  
25 spending a lot more money than necessary to capture all of

1 the resources for the project.

2 Q. Mr. McQuien, can you please look at BTA Exhibit  
3 26?

4 A. Okay.

5 Q. Can you identify that exhibit?

6 A. Yes. BTA Exhibit 26 is a comparison of Marathon,  
7 which was the subject of the last hearing, as well as BTA  
8 and Novo's development plan with BTA's plan in the middle,  
9 Marathon's plan on the left, and Novo's plan on the right.

10 Q. Was this exhibit created under your direction and  
11 supervision?

12 A. Yes.

13 Q. Can you summarize the differences in Marathon's,  
14 BTA's and Novo's development plans?

15 A. Yes. So BTA and Marathon are employing the wine  
16 rack strategy in the Lower Wolfcamp. Marathon relies on  
17 three wells per half section, BTA is looking to drill four.  
18 While, while Novo also plans to drill three in the Lower  
19 Wolfcamp (unclear) all three wells at the same point.

20 BTA plans to drill two wells in the upper  
21 Wolfcamp resource in the XY Sand. Marathon is proposing  
22 three wells in the Upper Wolfcamp resource in a wine rack in  
23 the XY and upper shale or Upper Wolfcamp, while Novo is  
24 proposing nine wells. Additionally, BTA and Marathon are --  
25 are planning on two wells in the Second Bone Spring Sand

1 shown in orange. While at this point Novo has not made a  
2 proposal for the Second Bone Springs.

3 **Q. What conclusions have you drawn based on this**  
4 **comparison?**

5 A. Well, it's a, you know, we believe our  
6 development plan is right, you know, that BTA is -- we have  
7 executed a number of developments in this area. Marathon  
8 has also executed a number of developments in this area.  
9 Last hearing we debated in the Upper Wolfcamp resource  
10 whether we should be drilling two or three wells, and  
11 meanwhile Novo has not executed a development in the Upper  
12 Wolfcamp resource and has proposed nine wells. And also  
13 that, you know, just BTA and Marathon -- or you see the  
14 Second Bone Spring is a definite (unclear) that needs to be  
15 developed. At this point Novo not (unclear)  
16 counter-proposals.

17 **Q. Is it your opinion that if Novo and Marathon's**  
18 **applications are granted, BTA will be forced to do two**  
19 **development plans (unclear) and violate BTA's correlative**  
20 **rights?**

21 A. Yes. You know, I have seen on some earlier  
22 exhibits, and it's also shown in (unclear) the subject of  
23 these two hearings would split BTA's Ochoa unit or JOA unit  
24 into two different units, and those two units are different  
25 between themselves.

1           **Q.     Mr. McQuien, can you please look at BTA Exhibit**  
2   **27. Can you identify that exhibit, please?**

3           A.     Yes. The one in our exhibit book is kind of --  
4   it's on the screen, so I will talk from the screen. This  
5   exhibit is a map showing -- focused on where the Upper  
6   Wolfcamp developments are -- will (unclear).

7           **Q.     And was the map created under your direction and**  
8   **supervision?**

9           A.     Yes.

10          **Q.     What does it show?**

11          A.     So first focus of this map, you know, we talked  
12   about it in the last hearing, but it shows the location of a  
13   side-by-side comparison of BTA's development plan with  
14   Marathon's development plan.

15                 It's a unique opportunity to make this  
16   side-by-side comparison of different development strategies.  
17   And it's also an area, you know, the dates and the process  
18   during the (unclear) process to develop these were completed  
19   within a year of each other, so it's a timely side-by-side  
20   comparison.

21                 I want to point out also that Marathon did not --  
22   did not complete their Bone Spring wells that they had  
23   drilled after the first development.

24          **Q.     Mr. McQuien, can you please look at BTA Exhibit**  
25   **28?**

1 A. Okay. I got it.

2 Q. And can you identify that exhibit?

3 A. Yes. This exhibit is from the previous map we  
4 were looking at the elements where we were able to look  
5 at -- make these side-by-side comparisons. That was in  
6 mapview. This is now in a cross section view or gunbarrel  
7 view. Once again, BTA's Ogden lease in lower right-hand  
8 corner was developed with two wells per half section in the  
9 XY Sand.

10 Immediately, the panel to the left of that,  
11 Marathon's Hermes lease outlined in purple, you know, it's  
12 developed with five wells in this resource, including the  
13 Third Bone Spring, XY Sand, and Upper Wolfcamp.

14 To the north of BTA's Ogden lease was Marathon's  
15 Mariner lease where they, at that point, based on I guess  
16 area results, they stopped completing the Third Bone Spring  
17 Sand and only went forward with the three well per half  
18 section development wine rack between the XY Sand and Upper  
19 Wolfcamp. And they continued that pattern over onto the  
20 Trebuchet lease in the light blue and up to the (unclear).

21 Q. Was this exhibit created under your direction and  
22 supervision?

23 A. Yes.

24 Q. And what are your conclusions based on the  
25 information contained in the exhibit?

1           A.     You know, this exhibit, you know it's nice that  
2 we have this ability to make this timely comparison of all  
3 of these development plans, it's really a unique laboratory  
4 to be able to look at these development plans in a side-by-  
5 side fashion and also get results on, you know, very timely  
6 relationship.

7                     And you know, I point out again that after one  
8 plan where Marathon did complete the Third Bone Spring Sand  
9 wells, they ceased to complete those even after (unclear).

10          **Q.     In your opinion -- I'm sorry.**

11          A.     Go ahead.

12          **Q.     In your opinion, does the exhibit show that BTA's**  
13 **plan is preferable to Novo's.**

14          A.     Yes. And you know, we are able to compare two  
15 wells per half section, to three wells per half section, and  
16 five wells per half section, just keeping in the back of  
17 your mind Novo's has proposed nine wells per half section.

18          **Q.     Can you please look at your Exhibit 29?**

19          A.     Okay.

20          **Q.     Can you identify that exhibit?**

21          A.     Yes. This is a chart labeled Upper Wolfcamp  
22 resource BTA versus Marathon.

23          **Q.     And was it created under your direction and**  
24 **supervision?**

25          A.     Yes.

1           **Q.       What does it show?**

2           A.       So from the previous example of the gunbarrel  
3       diagram, this is a Cume oil versus time comparing BTA's two  
4       wells per section, landing in Y Sand development, that's the  
5       Ogden. It shows that it is a -- has much better results  
6       than the three-well per section development in the Trebuchet  
7       and Mariner in light blue and gold, and then much better  
8       results than the Hermes, the purple line, where five wells  
9       per half section were employed.

10                   And over there in the legend it also, the number  
11       of parentheses, it's the number of wells per half section.

12           **Q.       What conclusions have you drawn based on the**  
13       **information contained in the exhibit?**

14           A.       You know, certainly once you get beyond two wells  
15       you start really seeing impairment of recovery of the Upper  
16       Wolfcamp resource in this area, and I believe two wells are  
17       sufficient to fully develop the Upper Wolfcamp resource in  
18       this area.

19           **Q.       And does this apply to Novo's applications in**  
20       **these cases?**

21           A.       So, you know, we are looking at two versus three  
22       to see this sequential stepping down of performance from two  
23       to three to five, maybe not (unclear) in the, you know,  
24       offsetting the Ogden, nobody has tried a nine well per half  
25       section development, but I expect in side-by-side comparison

1 another significant step-down from the Hermes.

2 Q. Mr. McQuien, could you please look at BTA Exhibit  
3 30?

4 A. Okay.

5 Q. Can you identify that exhibit?

6 A. Yes. This is labeled Upper Wolfcamp Resource  
7 Project Recovery Summary and it compares the previous  
8 development.

9 Q. Did you prepare this exhibit?

10 A. I did.

11 Q. What does it show?

12 A. This exhibit shows that the one-year point, the  
13 BTA two-well plan is as effective as Marathon's three and  
14 five well plans, recovering -- basically the two well plan  
15 is just recovering just as much as the three well per  
16 section or per half section development and even the five  
17 well per half section.

18 Q. How does this information pertain to Novo.

19 A. Once again, you know, Novo -- and Novo was  
20 relying on the Remuda except that they -- which is the most  
21 aggressive plan out here and then added another well to that  
22 to get nine wells. So but what we are seeing, at least in  
23 the area for the Ogden, that two wells are sufficient and  
24 nine is just way over the top to develop the Upper Wolfcamp.

25 Q. What conclusion have you drawn based on this



1     **exhibit?**

2           A.     Well, Novo's development plan includes  
3     unnecessary wells and will result in impaired per well  
4     recover, and as a result, I think it harms our interest and  
5     correlative rights.

6           **Q.     Let's go to Exhibit 31. Can you identify that**  
7     **exhibit, please?**

8           A.     Yes. Another cume oil versus time, BTA versus  
9     Marathon XY.

10          **Q.     Was this exhibit created under your direction and**  
11     **supervision?**

12          A.     Yes.

13          **Q.     What does it show?**

14          A.     So this exhibit shows it's -- it's just a  
15     comparison of the XY landed wells to BTA's Ogden XY wells,  
16     which it's showing the three well per half section  
17     development is being -- the XY wells that Marathon drilled  
18     are being impaired by the additional wells being drilled in  
19     their half section relative to BTA's two wells per half  
20     section.

21          **Q.     How does this information apply to Novo?**

22          A.     So. I mean, they expect the impact to be even  
23     worse, and you know, previously as has been suggested, if we  
24     don't agree with some of the wells in the development plan,  
25     we could always just go non-consent in those wells. I think

1     this demonstrates that, you know, by going non-consent in  
2     the wells we don't agree with, the wells that we do like to  
3     participate in will be negatively impacted by the  
4     over-drilling in the half section.

5           **Q.     And in your opinion, does that negative impact**  
6     **impair BTA's correlative rights?**

7           A.     Yes.

8           **Q.     Mr. McQuien, I would like to ask you about Novo's**  
9     **supplemental exhibits.**

10          A.     Okay.

11          **Q.     I believe it's Novo exhibit 32.**

12          A.     I got it.

13          **Q.     And have you reviewed those exhibits or Exhibit**  
14     **32?**

15          A.     I have.

16          **Q.     Okay. Let's look at what's marked as Page 2.**

17          A.     Okay.

18          **Q.     Is the spacing at Remuda comparable to Astrodog?**

19          A.     I think on Exhibit 2, we don't have that  
20     comparison here on Page 2 of the exhibit.

21          **Q.     What are your opinions on Page 2?**

22          A.     One thing I do want to point out, you know,  
23     Mr. Hale talked about this 720-foot resource section, but if  
24     you notice here, Remuda, from the Third Bone Spring landing  
25     point to the lower landing point in the Wolfcamp A, that

1 vertical distance is only 370 feet or about half of what  
2 Mr. Hale referenced.

3 I have worked this area, you know, and I have  
4 never seen anybody land a well in the upper portion of the  
5 Third Bone Spring, and I think most operators would not  
6 consider it contributory, so I think the characterization as  
7 a 720 foot thick reservoir unit is not (unclear) stated.

8 **Q. Let's look at the next page of the exhibit, Page**  
9 **3.**

10 A. Okay.

11 **Q. What are your opinions regarding the information**  
12 **on that page of the exhibit?**

13 A. So Novo testified earlier today that they  
14 were -- that they viewed the Remuda project as the analogue  
15 or how they would develop the Astrodog. I just want to  
16 point out there's some pretty significant differences.  
17 First of all, Remuda is eight wells, Novo is planning on  
18 drilling nine wells.

19 And then Remuda has two wells in the Third Bone  
20 Spring Sand, Novo has proposed three wells. Remuda has  
21 proposed two wells in the Wolfcamp XY, Novo has proposed  
22 three wells in the Wolfcamp XY. And then Remuda has four  
23 wells in the Lower Wolfcamp A and talk about a 90 foot  
24 vertical offset wine rack, whereas Novo has proposed three  
25 wells all landed in the same TBD, according to their

1 exhibit.

2 Q. Okay. So (unclear) and Astrodog are not  
3 duplicates of each other; correct?

4 A. They're not. I think, using Remuda, they're  
5 saying Astrodog is going to perform just like Remuda, they  
6 are not even the same development plan at all.

7 Q. Let's look at Page 4?

8 A. Okay.

9 Q. In your opinion, is this page of the exhibit a  
10 fair representation?

11 A. No.

12 Q. Why?

13 A. First of all, this graph, it shows 60 months, but  
14 there is only 20 months of actual data available. So really  
15 only a third of this graph is based on drill data from both  
16 the Remuda North and south. And then, my -- in-well  
17 interference or when you over-drill, the in-well  
18 interference becomes more apparent with time. As wells, you  
19 know, continue to drain, the drainage radius around the well  
20 gets bigger and bigger and bigger.

21 Well, you know, when you go to these tighter and  
22 tighter spacing, the gap between wells gets smaller and  
23 smaller, and then the time to where they start interfering  
24 with each other becomes much shorter in these more  
25 aggressive development patterns, and at that point you start

1     seeing the decline really accelerate.

2                   So you know, Novo has put a projection one here  
3     out for 60 months, instead of, here's our forecast or what  
4     we think will happen, but in realty, there's only 20 months  
5     with the first third of that real data.

6           **Q.     Okay. Let's look at the next page of the**  
7     **exhibit, Page 5, the last page.**

8           A.     Okay.

9           **Q.     In your opinion, is this information reliable?**

10          A.     No.

11          **Q.     Why not?**

12          A.     You got the Remuda North and Remuda South here,  
13     the Remuda South actually is performing a little bit better  
14     than the Remuda North, and they compare to our Ogden  
15     project, they take the Remuda South which is the better  
16     performing.

17                They also, what they are seeking to represent in  
18     the Ogden, they were only including two wells which were,  
19     you know, the child wells, and I know that because these  
20     were represented on the inside map as being drilled south to  
21     north. That was the second set of wells we drilled in  
22     Ogden, and they have not performed as well as the first two  
23     wells we drilled there.

24                But, you know, this chart is basically taking the  
25     best of the two Remuda units and compared it to the

1 (unclear) of the two Ogdens.

2 Q. Do you have any other conclusions based on Novo's  
3 Supplemental Exhibit 32?

4 A. No.

5 Q. Mr. McQuien, let's look at BTA's Exhibit 38.

6 A. Okay.

7 Q. Can you please identify that exhibit?

8 A. Yes. It's a chart labeled Remuda North and  
9 Laguna Grande comparison.

10 Q. And was this exhibit prepared under your  
11 direction and control?

12 A. Yes.

13 Q. And what does it show?

14 A. The first things it shows is when I take the  
15 results of all four of the BTA Ogden wells, and average them  
16 together, the individual wells at this point now are  
17 outperforming the Remuda basin, both in the north and south.

18 Q. And what's the green curve?

19 A. I'd like to get back to the green curve in a  
20 minute. We need to look at a map to orient where we are.

21 Q. Is Exhibit 27 what you would like to look at?

22 A. Yes.

23 Q. Okay. And how does Exhibit 27 relate to Exhibit  
24 38?

25 A. Okay. So Exhibit 27, first thing to point out

1 is -- this is a poor copy of it. You know, there's a ten  
2 mile gap in, in our Remuda basin. The Remuda basin is the  
3 set of wells back to the southeast of the Ochoa and north  
4 Astrodog unit in Sections 24 through 36.

5           You know, Mr. Hale testified last week that there  
6 was some geologic differences just over the two-mile stretch  
7 covering BTA's Ochoa acreage and Novo's Astrodog acreage.  
8 So there is some differences in (unclear) pretty significant  
9 geologic differences there over that two-mile stretch, I  
10 think you have to concede that over the ten-mile stretch  
11 there is some significant -- there will be some significant  
12 geologic differences.

13           So if that were analogued (unclear) with BTA's  
14 development plan relative to the Remuda would be Cimarex's  
15 Laguna Grande completion, and that's located about three  
16 miles to the west of the Remuda in Section 29.

17           **Q.     Okay. Go back to Exhibit 38.**

18           A.     Okay. So now on Exhibit 38, the Laguna Grande,  
19 which is a much closer comparison of an XY development to  
20 the Remuda basin than Ogden is, that's the green light on  
21 the chart. And at the end of the data for the Remuda units,  
22 its recovery is approximately double. Also like to point  
23 out that the slope of the Laguna Grande unit is  
24 significantly higher than the slope of the Remuda unit, so  
25 that's saying that gas will continue to grow with time.

1           As time goes on, the average recoverable recovery  
2   from the Laguna Grande will be (unclear) Remuda units.

3           **Q.     And in your opinion, is Ogden the best analogue**  
4   **to the Ochoa development?**

5           A.     Yes.

6           **Q.     And we need to go back to Exhibit 27.**

7           A.     Yes.

8           **Q.     And where is Ogden in relation to Ochoa?**

9           A.     So the Ogden is located about five miles to the  
10   southwest of the Ochoa unit. As I mentioned before, I think  
11   the Ogden gives us a -- just gives us this opportunity to do  
12   this side-by-side comparison of the development plans  
13   between what BTA and Marathon did.

14           I do want to mention that the completion strategy  
15   employees employed by BTA and Marathon were very similar.  
16   Some differences in performance between the projects are due  
17   to the difference in the development plan and well spacing.

18           **Q.     In your opinion, why is the Ogden the best**  
19   **analogue to Ochoa.**

20           A.     Well, if you look just to the -- about a mile and  
21   a half west of the Ochoa, it's the pink box labeled BTA's  
22   Pardue where BTA employed the same development plan that we  
23   employed in Ogden and are seeing equivalent results on the  
24   Pardue that we were seeing with Ogden.

25           Also wasn't to point out that that Pardue



1 development is the closest development to the Ochoa program  
2 about here we have to the value.

3 **Q. What if you're wrong?**

4 A. Well, I don't think I'm wrong because, like I  
5 said, I've got a great laboratory, and then I've got a close  
6 end development that's performing like in the laboratory,  
7 but, you know, some data could come available where we could  
8 identify that we are not recovering all the oil.

9 At that point BTA does have the option to drill  
10 additional wells. And that's one of the big differences is,  
11 with our plan, we can drill additional wells if we identify  
12 unrecovered resources.

13 By Novo's plan they are taking the most  
14 aggressive development or (unclear) development program,  
15 execute it out in this area adding a well and wanting to  
16 simultaneously develop it, the problem with that is, once  
17 you do that, you know, if you over-drill there is no  
18 opportunity to get a refund on the wells that, you know,  
19 aren't recovering any incremental oil.

20 And additionally, you know, some of those wells  
21 are going to impact the other, you know, the necessary  
22 wells, and once those completions are done, you can't undo  
23 that harm to those wells.

24 **Q. Mr. McQuien, can you please look at BTA 32.**

25 A. Okay.

1           Q.     Can you identify that exhibit?

2           A.     Yes.   Exhibit 32 is a map of the Second Bone  
3   Spring development in this area.

4           Q.     And was the map created under your direction and  
5   supervision?

6           A.     Yes.

7           Q.     What does it show?

8           A.     Well, you know, the main focus of this map, and  
9   we showed it in (unclear) as well, is under the current  
10   development proposals out here, BTA is going to have 80  
11   acres stranded, and it's shown in yellow on the -- in the  
12   Second Bone Spring Sand.

13          Q.     Has Novo proposed any wells to BTA or provide  
14   AFEs for wells in the Second Bone Spring?

15          A.     No.

16          Q.     Are any Second Bone Spring wells included in  
17   Novo's application?

18          A.     No.

19          Q.     Did you hear Novo's testimony that it plans to  
20   drill across the Road Lizard well and complete possibly a  
21   Bone Spring well that way?

22          A.     Yes.

23          Q.     Do you think that's a good plan?

24          A.     No, I don't.

25          Q.     Why not?

1           A.       Well, to include the Road Lizard in the pooling,  
2     you know, it's not like (unclear) an acreage. The Road  
3     Lizard has been producing for -- since 2012 and has depleted  
4     the Second Bone Spring or created a significant amount of  
5     depletion in that acreage. So Novo would be bringing  
6     depleted acreage and trying to pool it with BTA's acreage  
7     that has not been.

8                    Additionally, you know, that's a risky well, or I  
9     believe that's a risky well because you would have to drill  
10    across the depleted fracture system from the Road Lizard  
11    which could lead to some losses while drilling and generally  
12    create a very hazardous situation.

13           **Q.       Did you hear Novo's testimony mentioning a**  
14    **potential north-south option?**

15           A.       Yes.

16           **Q.       And what do you think about that plan?**

17           A.       I'm certainly not in favor of that, either. That  
18    plan, you know, BTA's JOA acreage would account for half the  
19    wells in that plan or half the interest in that, you know.  
20    At that point we would be forced into -- my understanding  
21    that that would be two north-south drilled wells in the W/2  
22    of Section 8 starting from the north line, and first of all,  
23    require a new drill island.

24                    And then whereas right now BTA's, under our plan  
25    we get to drill two mile and a half Second Bone Spring

1 wells, while Novo pursues their north to south strategy, we  
2 will then be three one mile Second Bone Spring Sand wells  
3 and also create another potential surface disturbance there  
4 for that additional drilling line.

5 Q. So this plan requires more wells than BTA's plan?

6 A. It would. And then I guess Novo would then still  
7 have to drill another set of wells to access their Second  
8 Bone Spring Sand rights that's on the other side of the Road  
9 Lizard.

10 Q. Mr. McQuien, have the mile and a half wells  
11 operated by BTA been efficient and economic?

12 A. Yes.

13 Q. In your opinion, will the 1.5 mile horizontal  
14 wells that BTA plans to drill in the N/2 of Section 7 and  
15 the NW/4 of Section 8 be efficient and economic?

16 A. Yes.

17 Q. In your opinion, will BTA's plans develop the  
18 Ochoa acreage more fully and efficiently than Novo's plans?

19 A. Yes.

20 Q. In your opinion, would the granting of Novo's  
21 applications result in impairment of BTA's correlative  
22 rights?

23 A. Yes.

24 Q. Can you please summarize the reasons.

25 A. BTA places a lot of value on our ability to

1 execute a development plan. You know, as has been referred  
2 to, Novo's plan would require a lot of unnecessary wells to  
3 drain the reservoir that would basically result in spending  
4 significantly more money to develop the project than what is  
5 necessary.

6 Q. In your opinion, would the granting of Novo's  
7 application result in waste?

8 A. Yes.

9 Q. Why is that?

10 A. Once again, by executing or if they are able to  
11 follow through with their plan to develop the Upper  
12 Wolfcamp, they're using way too many wells, plus at this  
13 point they don't have a plan for how they are going to  
14 develop the Second Bone Spring Sand, and, you know, and the  
15 options for BTA would either require more wells, you know,  
16 going from two, mile and a half wells to essentially three,  
17 1 mile wells and then -- so --

18 MS. HARDY: Thank you. Those are all of my  
19 questions. Madam Chair, I do move the admission of BTA  
20 Exhibit 25 through 32 and 38.

21 MR. BRUCE: No objection, Madam Chair.

22 CHAIRWOMAN SANDOVAL: Any objections,  
23 Commissioners.

24 COMMISSIONER KESSLER: No objection.

25 COMMISSIONER ENGLER: No objection.

1 CHAIRWOMAN SANDOVAL: Exhibits 25 through 32 and  
2 38 of BTA are now admitted into the record.

3 (Exhibits BTA 25-32, 38 admitted.)

4 MS. HARDY: Thank you.

5 CHAIRWOMAN SANDOVAL: Mr. Bruce, do you have any  
6 questions?

7 MR. BRUCE: Yes, I do.

8 CROSS-EXAMINATION

9 BY MR. BRUCE:

10 Q. Now, I think in your Exhibit 38, the supplemental  
11 Exhibit BTA submitted, that exhibit comparing cumulative oil  
12 production per foot from the Ogden unit to the two Remuda  
13 units; correct?

14 A. That's correct.

15 Q. And on that exhibit is, on average, does the  
16 Ogden unit produce approximately 38 barrels of oil per foot  
17 at 500 days?

18 A. Yes.

19 Q. Add two wells in the unit, that would be  
20 approximately 76 barrels of oil per foot, just double;  
21 correct?

22 A. That's correct.

23 Q. And the exhibit would also show on the two Remuda  
24 units, eight wells produced approximately 31 barrels of oil  
25 per day at 500 days?

1           A.     Yes.

2           Q.     So at eight wells, on those units they would  
3     produce approximately 248 barrels of oil per foot at 500  
4     days?

5           A.     I haven't done the calculation, but I will defer  
6     to you on that.

7           Q.     So that's 172 barrels of oil per foot at 500 days  
8     of production that are less than the Remuda-like plan.

9           A.     Well, that's what I testified to. The Ogden and  
10    Remuda are ten miles apart. You know, if you look at the  
11    Laguna Grande which is only three miles away from the  
12    Remuda, it says closer to 60 barrels with 500, so --

13          Q.     Okay. And let's look at -- I want to make sure I  
14    got the right exhibit for you, Mr. McQuien -- your Exhibit  
15    27, which lays out the location and well units for some of  
16    the various wells, the Marathon wells and the BTA wells you  
17    are talking about?

18          A.     That's correct.

19          Q.     Now, the Marathon wells are always -- are all  
20    1-mile wells -- 1-mile laterals are they not?

21          A.     Yes.

22          Q.     And the Ogden, BTA's Ogden wells are 1.5 mile  
23    wells?

24          A.     That's correct.

25          Q.     Wouldn't that indicate that 1.5 mile laterals are

1     **better than 1-mile laterals?**

2           A.     I -- the presentation I made was normalized back  
3     barrels of oil per foot, so it's -- you are trying to  
4     normalize between 1.5 mile and 1-mile. The difference --

5           Q.     Well, yeah, I understand you are normalizing  
6     production, but with BTA drilling the 1.5 mile laterals --  
7     the small print is killing me here -- the Ogden wells are in  
8     Sections 29 and the N/2 of 32, you didn't have to obey that  
9     330 foot setback at the south end of Section 29 and the  
10    north end of Section 32, so you were able to penetrate much  
11    more acreage and get better returns. Isn't that a fact?

12          A.     Right. But on the comparison plot, since we are  
13    looking at it on a barrels of oil per foot, and you know, I  
14    testified there is quite a bit, the setbacks, I don't  
15    believe, result in unrecovered oil. But, you know, since we  
16    are on a normalized barrels per foot basis, you know, you  
17    can't -- you know, the comparison now is, the only  
18    difference between the Marathon plan and the BTA plan is in  
19    the well spacing and landing targets.

20          Q.     But given the opportunity would you -- would BTA  
21    rather drill 1.5-mile wells versus 1-mile wells?

22          A.     Certainly.

23          Q.     Or would you rather drill 2-mile wells rather  
24    than 1.5-mile wells?

25          A.     In this case, since I have 1.5 miles under a JOA



1     executed very quickly, we can deal with the 1.5-mile that's  
2     the --

3           Q.     Well, that's not quite the question.  Yes, you  
4     under normal circumstances have the right to drill those  
5     1.5-mile laterals under a JOA, but if you had a 2-mile JOA,  
6     would you drill 1.5 mile wells.

7           A.     You are correct, we would drill the 2-mile.  In  
8     the generic sense, we would target for the 2-mile and set up  
9     for a 2-mile.

10          Q.     And, you know, there's been a lot  -- you have  
11     been involved in this, Mr. McQuien, I know, I have known you  
12     for several years.

13          A.     Sure.

14          Q.     There's been a lot of talk about co-development  
15     of the Bone Spring and the Wolfcamp?

16          A.     Right.

17          Q.     Isn't it correct that  -- the interest in that  
18     has -- it's really fairly recent, isn't it, especially in  
19     the last couple of years?

20          A.     Co-developing the Third Bone Spring in the --

21          Q.     With the Upper Wolfcamp?

22          A.     With the upper Wolfcamp.

23          Q.     Yeah.

24          A.     You know, I would say, back to exhibits 27, you  
25     know, Marathon, you know, spudded these.  It's been about

1 two and a half years, and we are starting to see a lot of  
2 other developments come in where they are not including  
3 Third Bone Spring Sands. So, you know, yes, you are seeing  
4 some Third Bone Spring and Upper Wolfcamp, so --

5 Q. And now on -- continue if you have something else  
6 to say. I don't mean to interrupt you.

7 A. No, I was passing the question back to you.

8 Q. Okay. Thanks. But if there is a parent-child  
9 relationship between Lower Third Bone Spring and the Upper  
10 Wolfcamp, isn't it necessary to drill those wells more or  
11 less at the same time --

12 A. Well --

13 Q. -- and complete those wells more or less at the  
14 same time?

15 A. Well, let me say, the argument for it is you will  
16 have an efficiency loss by -- in the completion by not  
17 co-developing those intervals at the same time.

18 Q. And -- okay --

19 A. I would debate how severe that case would be.  
20 You know, we drilled a lot of developments, and you know,  
21 were 80 -- actually were 84 wells in New Mexico, we just  
22 completed four more this week, and quite a few in Texas. So  
23 we have seen the parent-child relationships in our  
24 developments I would say more often than not. So those  
25 events are neutral, but the effect of over-drilling and

1 drilling wells that don't result in any incremental  
2 recovery, that's always negative, and you can't remedy that  
3 in any way, shape or form.

4 Q. So if you drilled -- and I suppose it doesn't  
5 matter which one you drilled first, if you drilled Upper  
6 Wolfcamp first, and -- as BTA is proposing to do; correct?

7 A. We are drilling the -- well, Phase 1 of our  
8 development is the Lower Wolfcamp.

9 Q. Okay. If you are drilling that, you are also  
10 going to do the Upper Wolfcamp, won't you?

11 A. Yeah, that will be in another phase.

12 Q. Okay. But if you drilled the Upper Wolfcamp,  
13 whenever that may be.

14 A. Uh-huh.

15 Q. And then because of various reasons, including  
16 our friends at the BLM not approving APDs for 12 plus months  
17 after you drill the Upper Wolfcamp and you filed for Lower  
18 Third Bone Spring wells, wouldn't that have a negative  
19 affect on the parent-child effect?

20 A. In our experience it -- I wouldn't necessarily  
21 say that. Like I said, most of the time, which I don't know  
22 if you call it the parent-child effect like a frac is where  
23 it turns out, you know, it ends up being pretty neutral. We  
24 will see the parent well get, you know, a fresher way to go  
25 to a high water for a temporary amount of time and then turn

1 back to its pre decline, and the child well very often comes  
2 on to (unclear). You know, and like I said, if you drill a  
3 well that's not needed, that money is gone from the  
4 beginning and there is no getting a refund.

5 Q. Is there -- is there -- see how to phrase this --  
6 is the Third Bone Spring zone over near Ogden units any  
7 different from the Third Bone Spring and the Astrodog and  
8 Remuda prospects?

9 A. Without having a log in front of me both areas, I  
10 wouldn't -- I'm not going to speculate on the (unclear).

11 Q. In the Ogden, there were, what, two wells in the  
12 W/2 and two wells in the E/2?

13 A. Yeah.

14 Q. And the E/2 wells were better than the two wells  
15 in the W/2; is that correct?

16 A. That's correct.

17 Q. And the E/2 wells were drilled first?

18 A. That's correct.

19 Q. So even though it's only in the Upper Wolfcamp,  
20 ignore the Third Bone Spring, the W/2 Ogden were worse  
21 because they also suffered from the parent-child  
22 relationship?

23 A. Well, no, I -- the parent-child, I don't think  
24 we -- we have ever established what is a good definition of  
25 a parent-child effect. I think Dr. Engler last week tried

1 to allude to, you know, loss of efficiency or frac  
2 efficiency in the changing of a stress field due to an  
3 existing SRB. But in the case of the W/2 Ogden, I believe  
4 that, you know, those wells, we call the child wells are,  
5 you know, they were just seeing some drainage from the, from  
6 the Ogden E/2 wells, and then the, you know, Hermes wells  
7 that, you know, in the section to the west of us.

8           So you know, it -- just because the second set  
9 of wells performs poorer relative to the first set of wells,  
10 that's potentially just drainage. A big part of my concern  
11 here is that the Ogden, if we are seeing some depletion and  
12 drainage in this child unit, you know, with two wells in our  
13 E/2 unit, I mean, if you go to nine wells per half section,  
14 you know -- you know, that could be very damaging.

15           **Q.     Yeah. And, Mr. McQuien, in another lifetime I**  
16 **used to be an engineer, and the more data you get the**  
17 **better, isn't it?**

18           A.     I will agree with that. In 25 years we can get  
19 what will be (unclear).

20           **Q.     Now, like I indicated before, I have known BTA**  
21 **for a long time. They are a good, low-cost operator, aren't**  
22 **they?**

23           A.     We are.

24           **Q.     And you will want to keep your AFE costs and your**  
25 **actual drilling costs as low as possible?**

1           A.     Yes, we will.

2           Q.     Do you do science on the wells, special logs, et  
3     cetera, or very often or what?

4           A.     We have gathered some of the higher-end data.

5           Q.     Okay. Not on every well?

6           A.     Not on every well.

7           Q.     And do you run open hole logs?

8           A.     Typically our, our procedure has been, if we have  
9     a like 40-acre tract where we don't have an open hole log,  
10    you know, at least completely covering the Bone Spring and  
11    we are drilling a vertical section that penetrates it, we'll  
12    go ahead and obtain --

13          Q.     Okay. So, so not very often, but just when you  
14    need data in a particular area. Is that fair to say?

15          A.     That's a fair characterization.

16          Q.     And is there rig time associated with logging  
17    wells.

18          A.     Yes.

19          Q.     And if you don't need to do it, you don't, you  
20    you avoid it. Is that safe to say?

21          A.     Yes.

22          Q.     And you don't -- you want to avoid unnecessary  
23    costs while drill and completing the wells?

24          A.     Yes.

25          Q.     And maybe I should have asked the -- Mr. Eaton

1     this, but when you're drilling and completing wells, the  
2     cost -- you might not know the cost of a drilling pad, if  
3     you don't, that's fine -- but do you spread around the well  
4     cost to each individual well?

5           A.     I'm not sure how to answer that question.  
6     That's -- for how the cost gets allocated back to each well  
7     on a pad, I would have to defer that question back.

8           Q.     Okay. Well, thanks. But, but generally pad  
9     location is chosen to maximize development and minimize  
10    costs. Would that be fair to say?

11          A.     That's fair.

12          Q.     Now, do you usually use one pad per spacing unit  
13    or do you do multiple wells from a larger pad?

14          A.     You know, it -- I mean, it's project specific.

15          Q.     Okay. I understand. And just a couple more,  
16    just a couple more, Mr. McQuien. I'm just checking my notes  
17    here. Another thing, have -- have -- whatever time frame  
18    you want to look at, two, three, five years, have drilling  
19    and completion techniques improved over that time period?

20          A.     Drilling and completion techniques, yeah, there's  
21    been a lot of advance in the last several years.

22          Q.     And just as a general question would you -- when  
23    you are drilling a well, would you drill a half a mile of  
24    dead hole if there was a more efficient way to develop your  
25    acreage?

1           A.       Well, I'm the exploration manager. No, if you  
2       don't have to drill a half mile of dead hole, you know,  
3       nobody would want to do that.

4           **Q.       I think that's all I have, Mr. McQuien. Thank**  
5       **you.**

6           A.       All right. Thank you.

7                   CHAIRWOMAN SANDOVAL: Thank you. Do the  
8       Commissioners have any questions?

9                   COMMISSIONER ENGLER: Hello, Mr. McQuien.

10                  THE WITNESS: Hello.

11                  COMMISSIONER ENGLER: Two real quick questions,  
12       and I think I asked this question last week, and I forgot  
13       the answer. I know the Pardue lease is very close to the  
14       Ochoa; right?

15                  THE WITNESS: That's correct.

16                  COMMISSIONER ENGLER: And I don't remember, why  
17       did you not use that lease or that data as a part of your  
18       analysis.

19                  THE WITNESS: Well, like I said, you know, the  
20       exercise here was wanting to compare BTA's development plan  
21       using the two wells and have the side-by-side comparisons.  
22       The Pardue, which is the step up there, and there really  
23       isn't anything side by side to compare it to. So it's just  
24       Ogden laboratory the Pardue is performing equivalently to  
25       the Ogden and then the jump is too high.



1                   COMMISSIONER ENGLER: Now that you said it, that  
2 might be what you said last week, so you are consistent,  
3 thank you. One other quick question on your Exhibit BTA 38,  
4 that Laguna Grande example, where is that?

5                   THE WITNESS: Okay. If you go back to Exhibit  
6 27 --

7                   COMMISSIONER ENGLER: Yes, I've got it.

8                   THE WITNESS: That well is in Section 29,  
9 Township 23 South, Range 29 East.

10                  COMMISSIONER ENGLER: 29, 23 South, got it.  
11 Thank you.

12                  CHAIRWOMAN SANDOVAL: Do you have any redirect,  
13 Ms. Hardy?

14                  MS. HARDY: Just a very quick question.

15                                 REDIRECT EXAMINATION

16 BY MS. HARDY:

17                 Q.     Mr. McQuien, Mr. Bruce asked you a number of  
18 questions about BTA's use of data and logs. Do you recall  
19 those questions?

20                 A.     Yes.

21                 Q.     And if BTA believes it needs those logs and data  
22 regarding the wells it will obtain them?

23                 A.     I'm sorry, what was the last part?

24                 Q.     If BTA believes that it needs additional log and  
25 data regarding a well it's drilling, does it obtain them?

1           A.       Yes.

2                   MS. HARDY:   That's my only question.   Thank you.

3                   CHAIRWOMAN SANDOVAL:   Thank you.   Mr. Bruce,  
4   would you like to make a closing argument?

5                   MR. BRUCE:   Excuse me, my phone cut out for a  
6   minute, Madam Chair.

7                   CHAIRWOMAN SANDOVAL:   Would you like to make a  
8   closing argument?

9                   MR. BRUCE:   Well, I would like to put on some  
10   rebuttal evidence.

11                   CHAIRWOMAN SANDOVAL:   Okay.   We can allow  
12   rebuttal evidence if you keep it to 15 minutes.

13                   MR. BRUCE:   Oh, boy, well --

14                   CHAIRWOMAN SANDOVAL:   20?

15                   MR. BRUCE:   I will try my best, Madam Chair.   I  
16   would first like to -- some of these questions are yes or no  
17   answers, so I will ask my witnesses to be short and sweet.

18                   CHAIRWOMAN SANDOVAL:   Okay.   Ms. Hardy, do you  
19   wish to do any rebuttal witnesses?

20                   MS. HARDY:   Not at this time.

21                   CHAIRWOMAN SANDOVAL:   Thank you.

22                   All right, Please proceed, Mr. Bruce.

23

24

25

1 BRANDON PATRICK

2 (Previously sworn, testified as follows:)

3 DIRECT REBUTTAL EXAMINATION

4 BY MR. BRUCE:

5 Q. Call Mr. Patrick back. Are you there,  
6 Mr. Patrick?

7 A. Yes, I'm here.

8 Q. And you were previously sworn and qualified;  
9 correct?

10 A. Yes.

11 Q. Let's just keep it short and sweet. You know,  
12 BTA's engineer testified that Novo would strand -- stranded  
13 40 acres in the Rana Salada 0504 unit. Is that 40 acres  
14 permanently stranded?

15 A. No, it's not. In fact we are currently rigging  
16 up to drill the infill wells in Rana Salada 0504, and one of  
17 the wells we will be drilling in that unit is going to go  
18 past the 234 H wellbore and access that 40-acre tract, so  
19 it's definitely not stranded. We are going to develop it.

20 Q. And there was testimony about Novo's plans on  
21 drilling tangents in the S/2 of Sections 8 and 9. Any  
22 comments?

23 A. Yes. Those are the most extreme wells that we  
24 will drill in our development plan, and there is no  
25 guarantee we are going to be successful in doing that. I

1 hate saying that because it's such an extreme -- those are  
2 extreme wells we would have to drill, but luckily we are 100  
3 percent interest owner. We bear that risk on our own.

4 But it's not just a foregone conclusion that  
5 that's going to go off without a hitch, and we want to  
6 educate -- or the purpose of our testimony is to raise the  
7 concerns that we have in this hearing about drilling big  
8 tangents. Yes, we are willing to do it when we have  
9 absolutely no other option, and we don't have any other  
10 option in the S/2 of Astrodog, but we have an option in the  
11 N/2 of Astrodog.

12 The option is allow Novo to drill 2-mile wells  
13 the way we proposed. That would absolutely avoid the risk  
14 that we have raised in this hearing.

15 **Q. And this talk about BTA testified or Novo**  
16 **misrepresenting its plans to the OCD, any comment?**

17 A. That's absolutely not true. We have been  
18 permitting every well we proposed in any one of the pooling  
19 orders that have been granted to Novo. That's just  
20 misleading and disparaging to our reputation, and I'm not  
21 going to have it.

22 We have been permitting every well that we have  
23 proposed. We are pursuing every one of those development  
24 plans vigorously, and whenever we get the other --  
25 whenever -- sometimes we still try to the work with the

1 other parties like we did with Oxy in executing our JOA even  
2 after we get a pooling order. That's shows a good-faith  
3 effort to work with the other pooled parties. We didn't  
4 have to, but we did.

5 **Q. And BTA, you notified BTA about the onsite for**  
6 **the Astrodog development area; correct?**

7 A. Yes, we did. We didn't have to -- well, we did  
8 technically under the rules, yes, we did, but the BLM is the  
9 one that typically sends out the notices. They did send out  
10 the notice for the Astrodog onsite. I'm aware of other  
11 onsites where the BLM sends it out. We told BTA ourselves  
12 because we thought that was the courteous thing to do.

13 **Q. And do you disagree with Mr. Price that Novo and**  
14 **BTA didn't have an agreement to jointly talk to the BLM?**

15 A. Absolutely. He looked at me square in the face,  
16 across the table in our office and we agreed that we would  
17 jointly go to Jim Rutley. We followed up two weeks later.  
18 We followed up two weeks later because Willis said, "Let me  
19 go talk to my engineer and then I will follow up with you  
20 and we can jointly talk to Jim Rutley."

21 And two weeks passed. He didn't say anything to  
22 us. We reached to say, "Have you had a chance to talk to  
23 your engineer?" That's whenever Willis revealed that he  
24 went behind our backs and talked to the BLM ex parte  
25 communication with them without our knowing, and I thought

1 that was completely in violation to our agreement. It also  
2 showed me they don't act in good faith.

3 **Q. Yes or no, did BTA show up late to the onsite for**  
4 **the Astrodog?**

5 A. Absolutely, and I don't know why this is  
6 controversial --

7 **Q. And it really wasn't their fault, was it?**

8 A. No, it wasn't. They said, they showed up three  
9 hours late, and they stood on the side while we were out  
10 there with the BLM. Willis Price was the only one that  
11 walked around with us. They brought about seven or eight  
12 people and the rest of the people stood on the side during  
13 the onsite and they said that there was a big wreck on the  
14 highway which caused them to be about three or four hours  
15 late. And I don't know why this is controversial, but it's  
16 just a fact.

17 **Q. And Novo does have plans to develop the Second**  
18 **Bone Spring; is that correct?**

19 A. Absolutely. And it also mirrors what -- I don't  
20 have enough time to explain it all here, but basically it  
21 absolutely mirrors -- the primary point of drilling  
22 perpendicular to the Road Lizard is exactly what BTA had to  
23 have -- the same plan that BTA had to have had whenever they  
24 asked us to cut our Second Bone Spring wells in the E/2 E/2  
25 of 5, and the E/2 E/2 of 8 short in alpha Section A, there

1 is whole --

2 **Q. So they could drill east-west?**

3 A. Yes. Because (unclear) Section 8 is under water,  
4 the southeast part of Section 5 is under water, there is no  
5 way they could access the E/2 E/2 of 8 other than drilling  
6 perpendicular to Road Lizard. To present a claim that our  
7 plan is bad to drill east-west, that just -- it's  
8 infuriating because that had to have been BTA's plan.

9 **Q. And regarding the Rana Salada 0504, and Novo not**  
10 **having all of it permits to drill all of its wells, was**  
11 **there a lease expiration issue in the Rana Salada 0504?**

12 A. Yes. Marathon was a party to the Rana Salada  
13 0504 unit. There is a fee lease that was, I think it was  
14 200 acres inside of our pooled unit, and Marathon had an  
15 expiration in February of 2020. And we told them that we  
16 would start drilling our well before that to perpetuate  
17 their lease.

18 And I want to also note that Novo was the mineral  
19 owner to that lease. It would have been in our best  
20 interest to let that lease expire, but that's not good  
21 faith. And I think that that's something that should be  
22 raised here, that Novo would have been (unclear) for letting  
23 that lease expire, but we didn't because that's not what you  
24 do with your working interest owners in your pooled unit.

25 **Q. And you are still waiting for some APDs up in**

1     **those general areas?**

2           A.     Yes. We submitted every APD for every well we  
3     had proposed and it was on those orders referenced earlier  
4     during BTA's testimony.

5           Q.     And during Marathon's, the Marathon's case, did  
6     you hear Mr. McQuien testify that BTA doesn't take into  
7     consideration lands outside of their spacing unit when they  
8     are putting together a development plan?

9           A.     Yes, I did. And frankly, that's just -- it's  
10    kind of amazing because it's in the potash area, and Willis  
11    Price testified earlier there is a jigsaw whenever you are  
12    trying to look at how some development areas could impact  
13    other development areas. But it seems like BTA only cares  
14    about their own interest, and they don't care about the  
15    effects, the negative effects that their development would  
16    have on offsetting operators, either.

17          Q.     Okay, just a couple more. And Mr. Price  
18    testified about sending the well proposals to you after --  
19    for control wells (unclear) to reaching a settlement with  
20    TDY regarding the northeast of 8 and S/2 of 9. What's the  
21    significance of that?

22          A.     Well, I think that goes hand in hand with the  
23    statement I just made regarding Mr. McQuien's testimony.  
24    They don't care about units that are not theirs. Well, in  
25    Section 8 and 9, as we know and as Mr. Price testified, BTA



1 claimed title to those minerals. But then they negotiated a  
2 settlement with TDY where they would give up that claim.  
3 They gave up the interest that they now are harming, they  
4 gave it up and they don't care because they don't own an  
5 interest, as Mr. McQuien said.

6 MR. BRUCE: Thank you, Mr. Patrick. I pass the  
7 witness.

8 MS. HARDY: I have no questions, thank you.

9 CHAIRWOMAN SANDOVAL: Commissioners, do you have  
10 any questions?

11 COMMISSIONER KESSLER: No questions.

12 COMMISSIONER ENGLER: No questions.

13 MR. BRUCE: And then I would like to call next  
14 Alex Bourland, Novo's operations engineer.

15 CHAIRWOMAN SANDOVAL: Mr. Bruce, what is the  
16 purpose of your next witness? What testimony is he going to  
17 provide that has not already been provided?

18 MR. BRUCE: He is going to -- he is going to  
19 testify experience in drilling multi-pad wells. He is going  
20 to talk about the length of the tangents that is different  
21 to what BTA refused to answer in my questions and the length  
22 of the tangents.

23 CHAIRWOMAN SANDOVAL: Okay. You may expressly  
24 limit it to that comment.

25 MR. BRUCE: Okay.

1 ALEX BOURLAND

2 (Previously sworn, testified as follows:)

3 DIRECT REBUTTAL EXAMINATION

4 BY MR. BRUCE:

5 Q. Mr. Bourland, you are still under oath, I want  
6 you to understand that.

7 Mr. Bourland, do you have experience drilling  
8 multi-well pads in this area?

9 A. Yes, sir. Have planned and executed multi well  
10 Wolfcamp developments within the five-mile radius.

11 Q. And is Novo right now drilling multi-well  
12 development pad in this area?

13 A. Yes, sir. We have an active drilling rig in one  
14 location and a spudder rig on another.

15 Q. Okay. And does Novo plan on drilling that rig to  
16 Astrodog?

17 A. As soon as the permits are available, we would  
18 like to move to Astrodog, that's correct.

19 Q. And you have already talked about the risks by  
20 drilling -- the increased risk of drilling tangents and  
21 drilling costs. Have you researched BTA's wells in New  
22 Mexico and Texas horizontal wells?

23 A. Yes, sir, I have.

24 Q. What is the longest tangent that BTA has drilled?

25 A. According to public data, it's 135 well data set,

1 they have drilled a 1450 foot nudge.

2 Q. And what is the average?

3 A. They average a nudge distance of 540 feet.

4 Q. And that's not as intense as the tangents they  
5 want Novo to drill; is that correct?

6 A. No, sir. The longest BTA public data history is  
7 half of what they are recommending for 16 -- up to 16  
8 northern half Astrodog laterals.

9 Q. With BTA's proposed layouts, how many wells would  
10 be in excess of 2500 feet in the N/2 of the development?

11 A. We would be at approximately 16 wells,  
12 essentially every lateral that we drill in the N/2 would  
13 have to take on a 2500-plus nudge to reach the curve section  
14 of that well.

15 Q. And could you, finally could you please explain  
16 the orbital value issue and mud weight, et cetera, on such  
17 issues, and I think that has to do with --

18 MS. HARDY: I object to that question as being  
19 beyond the scope of direct, the rebuttal.

20 MR. BRUCE: I would disagree. They criticized  
21 Novo for not completing the well, and they blamed it on  
22 Novo. And -- go ahead.

23 MS. HARDY: It's beyond the scope of what Mr.  
24 Bruce identified as topics that would be addressed by his  
25 witness.

1 CHAIRWOMAN SANDOVAL: You said you would talk  
2 about the laterals, so stick with that.

3 MR. BRUCE: Okay, Madam Chair. I will rest on  
4 our prior testimony on that issue.

5 A. Mr. Bruce, I have one item I would like to  
6 address regarding the pythagorean theorem.

7 Q. Which diagram?

8 A. The diagram --

9 CHAIRWOMAN SANDOVAL: Mr. Bruce, you have to ask  
10 the question. It's not through --

11 Q. Okay. I do have a question. You know, BTA's  
12 engineer testified that the pythagorean theorem, he  
13 calculated the Novo step-up in the Astrodog is 25 and, I  
14 think, 42 feet. Is that accurate?

15 A. He did testify that that was the Novo nudge  
16 distance, and I would like to just take a second to correct  
17 his calculation. The pythagorean theorem is used to  
18 generate the hypotenuse of a triangle. You take your  
19 north-south distance and east-west distance, you square both  
20 of those and then add them together and then take the square  
21 root. The resulting number is your step-out distance.

22 Calculated to our kick-off point from our surface  
23 hole location, Novo calculates a distance of 2200 feet.  
24 BTA's drilling manager falsely reported that our nudges to  
25 the S/2 of Section 8 would be roughly equivalent to the

1 nudges they are proposing in the N/2, where, in fact, there  
2 is roughly a 500 foot increase for the nudge distances that  
3 BTA has proposed. So I just wanted to correct that  
4 calculation.

5 Q. Okay. Thank you, Mr. Bourland.

6 MR. BRUCE: I pass the witness.

7 MS. HARDY: I have no questions.

8 CHAIRWOMAN SANDOVAL: Commissioners, do you have  
9 any questions?

10 COMMISSIONER KESSLER: No questions.

11 COMMISSIONER ENGLER: No questions.

12 CHAIRWOMAN SANDOVAL: Thank you.

13 MR. BRUCE: Finally, Madam Chair, and this would  
14 only take about two minutes, I would like to recall Mr. Hale  
15 to the stand.

16 CHAIRWOMAN SANDOVAL: We will hold you to that  
17 two minutes.

18 MICHAEL HALE

19 (Previously sworn, testified as follows:)

20 DIRECT REBUTTAL EXAMINATION

21 BY MR. BRUCE:

22 Q. Mr. Hale, you are still a sworn witness. Looking  
23 at BTA's Exhibit 27, Mr. McQuien gave some testimony  
24 regarding the Trebuchet and Ogden units in 23, 28. Would  
25 you develop that area the same way you are proposing

1     **Astrodog?**

2           A.     No, I wouldn't. As a matter of fact, there is a  
3     significant change in the circumstance really between -- in  
4     the Astrodog and our Goonch unit which is why we don't have  
5     intention of drilling a Third Bone Spring in Goonch. So  
6     that's exactly, I think, like five miles west, and their  
7     Trebuchet -- I'm sorry -- the Trebuchet is a few miles south  
8     and west of there.

9                     So point being that I actually wouldn't  
10    necessarily disagree that you would drill the XY and A  
11    there, but not the Third Bone Spring. So I don't think it's  
12    an entirely analogous -- you know, it's not analogous  
13    geologically.

14           **Q.     Not to the Astrodog?**

15           A.     Not at all. The Astrodog is an incredibly -- it  
16    is top-tier reservoir, and the geologic trends in Astrodog  
17    carry down into Remuda which is why we feel confident we  
18    will see similar results.

19           **Q.     Okay. Finally, Mr. McQuien said something about**  
20    **the Third Bone Spring, Wolfcamp XY and Wolfcamp A flow as**  
21    **720 feet. That is misleading. Do you agree with that?**

22           A.     No -- I'm sorry -- yes, I do disagree with that.  
23    He is absolutely right that people don't drill in the Upper  
24    Third Bone Spring. The target interval is in the lowest  
25    Third Bone Spring, but that does not mean that's not part of

1 the flow unit. The Upper Third Bone Spring still absolutely  
2 contributes.

3 As soon as we even enter the Third Bone Spring  
4 interval we see an increase and gas oil shows when we  
5 drilling through it. So it's an oil saturated reservoir,  
6 and it's absolutely part of a flow unit. But it's also that  
7 Upper Third Bone Spring is really what makes that reservoir  
8 work.

9 So there is a difference between that Upper Third  
10 Bone Spring in the Astrodog and Remuda area in the Trebuchet  
11 which is why I was saying that that reservoir changes and we  
12 wouldn't develop it the same way. But to say it's not part  
13 of the flow unit is just not correct.

14 **Q. Given an opportunity, would November rather drill**  
15 **2-mile wells than 1.5 mile wells?**

16 **A. Yes.**

17 **Q. Forget the tangents, forget the tangents?**

18 **A. Yes, absolutely.**

19 **Q. Thank you, Mr. Hale.**

20 **MR. BRUCE:** Thank you, Madam Chair. I pass the  
21 witness to Ms. Hardy.

22 **MS. HARDY:** I have no questions.

23 **CHAIRWOMAN SANDOVAL:** Commissioners?

24 **COMMISSIONER KESSLER:** No questions.

25 **COMMISSIONER ENGLER:** No questions.

1                   CHAIRWOMAN SANDOVAL: Great. Mr. Bruce, would  
2     you like to make a brief closing statement?

3                   MR. BRUCE: I will do my very best, Madam Chair,  
4     and I have a couple of pages, and I will whittle it down.

5                   It is the duty of Commission and the Division  
6     under the Oil & Gas Act to prevent waste and protect  
7     correlative rights. Novo's plan in conjunction with  
8     Marathon's plan does just that.

9                   Insofar as waste goes, there are three types,  
10    economic waste, and Novo's and MRO's plans minimizes the  
11    number of vertical wellbores to be drilled in these three  
12    sections of land. With -- with Novo's plans and Marathon's  
13    plans approved, it will be about 30 wellbores roughly at  
14    this time.

15                  If you took all three company's wells, it would  
16    be 40 wells, which means there would be an extra \$20 million  
17    in vertical well costs. That's waste. Surface use, BTA's  
18    plan would also recall -- require extra surface use. And  
19    physical waste or underground waste, BTA's plan with respect  
20    to Novo maximizes drilling issues such as collision and  
21    casing collapse. And BTA would require Novo to drill  
22    dangerous tangents, and we believe that is not required.

23                  In connection with Novo's better drilling plans  
24    co-developing Third Bone Spring in the Upper Wolfcamp and  
25    drilling all productive zones, Novo's plan maximizes



1 recovery. Novo has approved -- an approved DA development  
2 area from the BLM and is awaiting APD approval.

3           Once its APDs are approved, it will drill  
4 promptly. It currently has a drilling rig in the area. BTA  
5 in the Marathon case complained that Marathon was not  
6 currently drilling, however Marathon has a drilling area,  
7 and since BTA has no approved drilling area nor approved  
8 APDs, the chances of BTA drilling are being pushed probably  
9 into the next year whereas Novo can drill almost  
10 immediately.

11           Along these lines it is important that Novo is  
12 permitting the maximum number of wells so it can drill both  
13 the Spring and Wolfcamp wells promptly and completely.

14           And finally, this lack of good faith discussions,  
15 whether you are looking at BTA-Marathon, BTA and Novo, I  
16 understand BTA's position. I have clients in the same  
17 position as BTA, but the fact of the matter is, BTA simply  
18 wanted to drill its JOA acreage and did not negotiate with  
19 either Marathon or Novo. To say that because they didn't  
20 want to negotiate, Novo or Marathon did not conduct good  
21 faith negotiations is not correct.

22           And in short, if Novo's applications are not  
23 granted, it's at risk of losing everything, having its  
24 correlative rights affected, and to the contrary, Novo's  
25 plans in connection with Marathon's plans protect BTA's

1 correlative rights. Thank you.

2 CHAIRWOMAN SANDOVAL: Thank you. Ms. Hardy,  
3 would you like to make a brief closing statement?

4 MS. HARDY: I will be very brief. I just wanted  
5 to highlight the reasons Novo's applications should be  
6 denied.

7 Novo's argued extensively that pooling is its  
8 only viable option to develop this acreage. BTA's witnesses  
9 and exhibits have shown that's not correct. The tangent is  
10 a viable and economic way for Novo to develop its acreage  
11 without impairing BTA's correlative rights.

12 BTA has also addressed issues relating to  
13 collision risk and established the acreage can be developed  
14 without collision risk. Novo's applications should be  
15 denied also because BTA acquired its acreage first and had  
16 commenced a development plan before Novo, and Novo acquired  
17 its acreage with knowledge of the surface restrictions. The  
18 timing of efforts to develop acreage is relevant in  
19 evaluating competing proposals.

20 BTA also holds a greater interest in its spacing  
21 unit than Novo holds in its spacing unit. It does not have  
22 to pool its acreage to develop it. BTA is ready to go. BTA  
23 is an experienced and prudent operator that is able to  
24 prevent waste. While BTA has expressed concerns and  
25 provided exhibits regarding Novo's track record and less

1 experience in New Mexico developing wells, and specifically  
2 multi-pad well operations. BTA's development plan is  
3 superior to Novo's and will more efficiently recover the  
4 reserves underlying BTA's acreage, and that's been discussed  
5 extensively by Mr. McQuien and shown in his exhibits.

6           Novo's applications should be denied because  
7 BTA's JOA should be honored and enforced under New Mexico  
8 law. Novo's applications should also be denied because BTA  
9 is able to timely locate wells and is ready, able and  
10 willing to commence drilling operations once the cases are  
11 resolved, while Novo has been delaying its drilling of other  
12 wells as we have shown in our exhibits.

13           In addition, Novo's geoscientist, Mr. Hale,  
14 admitted that the proposed units include varying acreage  
15 that is not equivalent. And to pool acreage an applicant  
16 must establish that each quarter-quarter section will  
17 contribute more or less equally to production. That's  
18 another reason Novo's application should be denied.

19           Mr. Hale also testified that Novo may not drill  
20 all the wells it proposed, it just wants to permit them in  
21 case it decides to drill them and that's not an appropriate  
22 basis on which to grant a pooling application, especially  
23 when it would preclude BTA from developing the Ochoa  
24 acreage.

25           Finally BTA provided testimony and evidence

1 regarding Novo's negotiation and that it was not in good  
2 faith prior to pooling. So for those reasons, Novo's  
3 applications should be denied, and BTA should be permitted  
4 to proceed with developing its Ochoa acreage. Thank you  
5 very much.

6 CHAIRWOMAN SANDOVAL: Mr. Bruce, would you like  
7 to provide rebuttal?

8 MR. BRUCE: Just briefly. Mr. Hale did testify  
9 in his direct that each quarter section or quarter-quarter  
10 section would contribute more or less equally to production.  
11 Other than that, nothing.

12 CHAIRWOMAN SANDOVAL: Thank you. With that, it  
13 is 4:48. We will close the record on the screen and the  
14 Commissioners will begin deliberating.

15 The record is now closed. The Commission will  
16 immediately deliberate so as to reach a final decision on  
17 behalf of the application. Pursuant to the administrative  
18 adjudicatory deliberation exception (unclear) Section  
19 10-15-1H3, the commission may deliberate in closed session,  
20 an open meeting be closed pursuant to the administrative  
21 deliberations exception of NMAC Section 10-15-1H3, to  
22 deliberate in Case Number 20571, 20572 and 20574. Is there  
23 a second?

24 I take back the numbers. It's 20573, 2057 --

25 Okay, I take it that back again, those are wrong.

1                   21273, 21274 and 21275 and 21276. Is there a  
2 second?

3                   COMMISSIONER KESSLER: So second.

4                   CHAIRWOMAN SANDOVAL: Can we have a roll call  
5 vote, please?

6                   MR. LOZANO: Commissioner Kessler?

7                   COMMISSIONER KESSLER: Approved.

8                   MR. LOZANO: Commissioner Engler?

9                   COMMISSIONER ENGLER: Approved.

10                  MR. LOZANO: Commissioner Sandoval?

11                  CHAIRWOMAN SANDOVAL: Approved. The motion has  
12 passed, and the Commission will now close the session and  
13 the record.

14                  (Closed deliberations were held and a decision  
15 was issued as follows:)

16                  CHAIRWOMAN SANDOVAL: Do we have all the parties?

17                  MS. HARDY: I am here.

18                  MR. BRUCE: This is Jim Bruce.

19                  MS. BENNETT: Good morning, this is Deana  
20 Bennett.

21                  CHAIRWOMAN SANDOVAL: Okay, great. It's 5:49 and  
22 the Commission meeting on the record is now open. The  
23 discussion during the closed session was limited to the  
24 cases 21273, 21274, 21275 and 21276.

25                  We will first discuss case 21273 and 21274.

1                   Is there a motion?

2                   COMMISSIONER ENGLER: Yes, there is, Madam Chair,  
3   in the case 21273 and 21274, the Commission motion is to  
4   deny Marathon Oil's pooling application.

5                   COMMISSIONER KESSLER: I would second that.

6                   CHAIRWOMAN SANDOVAL: Is there any discussion  
7   which should be had as to why the application of Marathon  
8   Oil is being denied?

9                   COMMISSIONER ENGLER: Yes, Madam Chair, there is  
10   several statements I would like to start off with.

11                   We found that the BTA has the best opportunity to  
12   minimize waste. It also provides the opportunity for each  
13   party to develop its own area or acreage.

14                   During the testimony there was insufficient and  
15   contradictory evidence to prove the effect of the  
16   parent-child effect. There was insufficient evidence about  
17   the appropriate lateral length and about what was the best  
18   number of wells for development or spacing. That's what I  
19   have.

20                   CHAIRWOMAN SANDOVAL: Thank you. I also thought  
21   that there was insufficient evidence really quantifying what  
22   the difference is in surface waste of the plan was, and  
23   therefore, that, you know, was negligible.

24                   COMMISSIONER KESSLER: In addition to prevention  
25   of waste, the Commission also considered other factors that

1 are relevant, (unclear) pooling application, the good faith  
2 negotiations. The parties, we did not feel one direction or  
3 another (unclear) Marathon or BTA's as facility operator, we  
4 did not feel there was enough evidence one way or another.

5 The AFEs and operational costs seem (unclear)  
6 working interest favored BTA (unclear).

7 CHAIRWOMAN SANDOVAL: Thank you. Mr. Lozano,  
8 would you do a roll call vote --

9 MR. LOZANO: Yes, Madam Chair. Commissioner  
10 Kessler?

11 CHAIRWOMAN SANDOVAL: -- for the motion to deny  
12 Marathon Oil's application.

13 COMMISSIONER KESSLER: I approve the motion to  
14 deny.

15 MR. LOZANO: Commissioner Engler?

16 COMMISSIONER ENGLER: I approve.

17 MR. LOZANO: Chair Sandoval?

18 CHAIRWOMAN SANDOVAL: I approve the motion to  
19 deny.

20 So there was a unanimous vote to deny the  
21 application by Marathon Oil. The Commission directs Ms.  
22 Hardy to draft and circulate a proposed written order for  
23 the Commission and send the order to the Commission clerk,  
24 Florene Davidson, at least ten days prior to the September  
25 17 hearing.

1 MS. HARDY: Thank you, I will do that.

2 CHAIRWOMAN SANDOVAL: Thank you. We will now  
3 continue and discuss Cases 21275 and 21276. Is there a  
4 motion regarding this application?

5 COMMISSIONER ENGLER: Yes, there is, Madam Chair.  
6 Again, in the cases of 21275 and 21276, the Commission  
7 decision is to deny Novo's pooling application.

8 CHAIRWOMAN SANDOVAL: Is there a second?

9 COMMISSIONER KESSLER: Second, Madam Chair.

10 CHAIRWOMAN SANDOVAL: Is there any discussion  
11 regarding the motion?

12 COMMISSIONER ENGLER: Again, yes, there is, Madam  
13 Chair. Again, similarly to the previous one, and I will  
14 state them again, again we feel like BTA provides the best  
15 opportunity to minimize waste and at the same time to  
16 provide the opportunity for each party to develop its own  
17 acreage.

18 Again, there was insufficient and contradictory  
19 evidence to prove parent-child effect, best lateral length  
20 to be developed and the number of wells or spacing of wells  
21 to develop the acreage.

22 CHAIRWOMAN SANDOVAL: And again, there was really  
23 not enough information or direct clarification to the  
24 difference in surface waste, and so that was an apparent  
25 factor in this discussion.



1                   COMMISSIONER KESSLER: Finally, we incorporated  
2   discussion of geology and the purview of prevention of waste  
3   that has been the factor around the geology, we incorporated  
4   that discussion, and the good faith negotiations prior to  
5   pooling we did not believe that either party failed to meet  
6   the good faith negotiations. In terms of capabilities as an  
7   operator, we did not find evidence presented regarding that  
8   factor took place in direction or another (unclear) and  
9   working (audio interference) working interest, and so that  
10   was not a major factor.

11                  CHAIRWOMAN SANDOVAL: Commission counsel, would  
12   you do a roll call vote, please.

13                  MR. LOZANO: Yes, Madam Chair. Commission  
14   Kessler?

15                  COMMISSIONER KESSLER: I approve the motion to  
16   deny Novo's application.

17                  MR. LOZANO: Commissioner Engler?

18                  COMMISSIONER ENGLER: I approve the denial of  
19   Novo's application.

20                  MR. LOZANO: Chair Sandoval.

21                  CHAIRWOMAN SANDOVAL: I approve the motion to  
22   deny.

23                  MR. LOZANO: The motion passes unanimously.

24                  CHAIRWOMAN SANDOVAL: The Commission directs Ms.  
25   Hardy to draft and circulate the order of the Commission and

1     send the order to Commission Clerk, Florene Davidson, at  
2     least ten days prior to the September 17, 2020 meeting.

3             And with that, it is 5:57 and I hope everybody  
4     has a lovely evening.

5             MR. LOZANO:  Madam Chair --

6             CHAIRWOMAN SANDOVAL:  No, I'm wrong again.

7             MR. LOZANO:  I apologize.

8             (Cases 21275, 21276 concluded.)

9             (Agenda hearing reconvened.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 REPORTER'S CERTIFICATE

5

6 I, IRENE DELGADO, New Mexico Certified Court  
7 Reporter, CCR 253, do hereby certify that I reported the  
8 foregoing 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 20th day of August 2020.

19 /s/ Irene Delgado

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21 Irene Delgado, NMCCR 253  
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