

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

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

APPLICATION OF MARATHON OIL PERMIAN, CASE NO. 20128
LLC FOR A SPACING UNIT AND COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

January 10, 2019

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
 KATHLEEN MURPHY, TECHNICAL EXAMINER
 LEONARD LOWE, TECHNICAL EXAMINER
 DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner; Kathleen Murphy and Leonard Lowe, Technical Examiners; and David K. Brooks, Legal Examiner, on Thursday, January 10, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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APPEARANCES

FOR APPLICANT MARATHON OIL PERMIAN, LLC:

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1 (8:36 a.m.)

2 EXAMINER JONES: So we're ready to start
3 with Marathon Case Numbers 2128 and 2129 and 2130.

4 Call for appearances.

5 MS. LEES: Zoe Lees on behalf of Marathon
6 Oil Permian.

7 EXAMINER JONES: Those three; am I correct?

8 MS. LEES: That's correct.

9 EXAMINER JONES: Combined?

10 MS. LEES: I will be putting these on by
11 live witnesses, and we'll go through each application
12 one at a time because they are a little complicated.

13 EXAMINER JONES: So they're not combined?

14 MS. LEES: Not combined.

15 EXAMINER JONES: Okay.

16 Any other appearances in these three cases?

17 Will you -- will the Applicant's attorney
18 please briefly state the cases. The examiner has been
19 doing that in the past. I'd like to change that. I'd
20 like to have the Applicant's attorney at least rattle
21 off what's in bold at the beginning of the case so
22 everyone in the audience knows what we're talking about.

23 MS. LEES: Absolutely.

24 EXAMINER JONES: And that's why I wanted
25 you to do it because it takes me a long time to find it.

1 I may not have that problem at the next hearing because
2 I may have the spreadsheet a little more elaborate, but
3 at this point, I don't.

4 MS. LEES: So the first case we will be
5 presenting today is Case Number 20128. That is the
6 application of Marathon Oil Permian, LLC for approval of
7 a spacing unit and compulsory pooling in Lea County, New
8 Mexico. And this is the Battle Fee 34 SB 15H well.

9 Before I introduce my first witness, I
10 would just like to state to the Division that we
11 realized yesterday that the overriding royalty interests
12 were not notified in this case, so I'm going to request
13 that this case be continued for notice purposes only to
14 February 7th.

15 And as my first witness, I'd like to call
16 Travis Prewett.

17 EXAMINER JONES: Okay. We'll have to
18 continue the case to February the 21st.

19 MS. LEES: Okay.

20 Oh, would you like to swear in both
21 witnesses at the same time?

22 EXAMINER JONES: Sure.

23 Please stand -- the witnesses please stand.

24 MS. LEES: Mr. Prewett and Matt Baker.

25 EXAMINER JONES: Will the court reporter

1 please swear in the witnesses?

2 (Mr. Prewett and Mr. Baker sworn.)

3 EXAMINER BROOKS: Despite the name of the
4 well, there are no other appearances in this case.

5 TRAVIS H. PREWETT,
6 after having been first duly sworn under oath, was
7 questioned and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. LEES:

10 Q. Will you please state your name?

11 A. My name is Travis Prewett.

12 Q. And who do you work for?

13 A. Marathon Oil.

14 Q. In what capacity do you work for Marathon?

15 A. I'm a land professional.

16 Q. And what are your responsibilities as a land
17 professional for Marathon?

18 A. I am responsible for overseeing the well
19 proposals being sent out, title work being done
20 diligently and come to these hearings, among some other
21 things like JOAs.

22 Q. And were your credentials as a landman accepted
23 as a matter -- oh, excuse me. Have you previously
24 testified before the Division?

25 A. Yes, I have.

1 Q. Were your credentials, then, as a landman
2 accepted as a matter of record?

3 A. Yes.

4 Q. Does your area of responsibility at Marathon
5 include the area of Eddy [sic] County, New Mexico?

6 A. It does.

7 Q. And are you familiar with the second amended
8 application filed by Marathon in this case?

9 A. I am.

10 Q. And are you familiar with the status of the
11 lands that are subject to this application?

12 A. Yes.

13 MS. LEES: I'd like to tender this witness
14 as an expert in land matters for Marathon.

15 EXAMINER JONES: So qualified.

16 Q. (BY MS. LEES) Can you please turn to Exhibit 1
17 in your packet, and can you please identify the document
18 in front of you?

19 A. This is the second amended application in Case
20 Number 20128.

21 Q. And can you explain what Marathon seeks under
22 this application?

23 A. Yes. Marathon seeks to pool all the
24 uncommitted mineral interests in the Bone Spring
25 Formation underlying the spacing unit covering the west

1 half of the east half of Section 34, Township 21, Range
2 33 East, Lea County, New Mexico.

3 Q. And are you aware that Marathon filed a first
4 amended application in this case?

5 A. Yes.

6 Q. And did that first amended application indicate
7 the new well names?

8 A. Yes.

9 Q. And did that first amended application add
10 depth severances?

11 A. Yes.

12 Q. Why did Marathon file a second amended
13 application?

14 A. We realized that we could pool the entire Bone
15 Spring Formation, so that's why we permitted it.

16 Q. So, in fact, there are no depth severances in
17 this amended application?

18 A. That is correct.

19 Q. Did you send out well-proposal letters and AFEs
20 for these wells?

21 A. Yes, on October 5th.

22 Q. And did the well-proposal letter need to change
23 with the change in the second amended application?

24 A. No.

25 Q. Could you please turn to Exhibit 2 and identify

1 what this document is?

2 A. This is the C-102 plat.

3 Q. And has the Division identified the pool and
4 pool code for this well?

5 A. Yes. The pool name is the WC-025 G-06
6 S213326D, Bone Spring. The pool code is 97929.

7 Q. And is this pool governed by a specific order?

8 A. No.

9 Q. Will the completed intervals for the 15H well
10 comply with the setback requirements for this pool?

11 A. Yes.

12 Q. Can you please turn to what's been marked as
13 Exhibit 3? Can you identify what this exhibit is?

14 A. Yes. This is the lease tract map for the
15 Battle 15H.

16 Q. And can you explain what the exhibit is for the
17 hearing examiners?

18 A. Yes. This just depicts the unit where the
19 Battle will be drilled, which is the west half of the
20 east half.

21 Q. Okay. The Battle 15H well?

22 A. Yes.

23 Q. And can you please turn to Exhibit 4? Are the
24 parties whom you're seeking to pool listed in this
25 exhibit?

1 A. Yes.

2 **Q. What type of interest do you seek to pool?**

3 A. We seek to pool all the uncommitted mineral
4 interests in the Bone Spring Formation underlying the
5 spacing unit.

6 **Q. And did you notify all mineral interests**
7 **underlying the spacing unit at issue in this case,**
8 **whether or not they are interests of the depth the well**
9 **is producing?**

10 A. Yes.

11 **Q. Could you summarize for the examiners the other**
12 **efforts Marathon has made to obtain voluntary pooling of**
13 **interests?**

14 A. Yes. We used the last known addresses that we
15 have obtained through our title research, and we sent a
16 well proposal out to those. And for the mailings that
17 are returned to us, we use online programs,
18 people-search programs, like Accurint and LexisNexis,
19 and we have a diligent effort of trying to update those
20 addresses and we resend them. And we have
21 correspondence via email with these folks as well.

22 **Q. In your opinion, has Marathon made a good-faith**
23 **effort to obtain the voluntary joinder in the well?**

24 A. Yes.

25 **Q. Can you please turn to Exhibit 5, and can you**

1 **explain this exhibit for the hearing examiners?**

2 A. Yes. This is the depth-severance exhibit, and
3 it's showing you -- it is -- it's got the lease language
4 on the right side of it, and it's from the various
5 instruments that show at least part of Marathon's
6 interest was created from the spacing unit. And on the
7 left, there is a diagram depicting the depth severances.

8 **Q. Does Exhibit 5 explain that the -- where the**
9 **depth severance is located within this acreage, that**
10 **it's unnecessary to pool to that depth severance?**

11 A. Yes.

12 MS. LEES: And we'll have our geologist
13 expert, Matt Baker, explain that a little bit more.

14 **Q. (BY MS. LEES) As I asked you earlier, you sent**
15 **a well-proposal letter out on October 5th, 2018,**
16 **correct?**

17 A. Yes.

18 **Q. And did you send the working interest owners a**
19 **well proposal for the wells?**

20 A. Yes.

21 **Q. Does the well-proposal letter identify the**
22 **first and last take point and the approximate TVD for**
23 **the well?**

24 A. It does.

25 **Q. And does the well-proposal letter include an**

1 **AFE for the well?**

2 A. Yes.

3 **Q. Did Marathon provide costs for drilling the**
4 **well and completion costs for the parties it seeks to**
5 **pool?**

6 A. Yes.

7 **Q. Can you please turn to Exhibit 6? Can you**
8 **identify what this document is?**

9 A. Yes. This is the AFE for the 15H.

10 **Q. And what are the costs for this well?**

11 A. The grand total cost is \$7,777,933.

12 **Q. And are those costs in line with the costs of**
13 **other horizontal wells drilled to this length and depth**
14 **in this area of New Mexico?**

15 A. Yes.

16 **Q. Who should be appointed operator of the well?**

17 A. Marathon Oil Permian, LLC.

18 **Q. Do you have a recommendation for the amounts**
19 **that Marathon should be paid for supervision and**
20 **administrative costs?**

21 A. Yes. Marathon requests \$7,000 per month for a
22 well that is drilling and \$700 per month for a producing
23 well.

24 **Q. Are those amounts equivalent to those normally**
25 **charged by Marathon and other operators in this area for**

1 horizontal wells of this length and depth?

2 A. Yes.

3 Q. Do you request that these rates be adjusted
4 periodically as provided by the COPAS accounting
5 procedure?

6 A. Yes.

7 Q. Does Marathon request the maximum cost plus 200
8 percent risk charge if any pooled working interest owner
9 fails to pay its share of the costs for drilling,
10 completing and equipping the well?

11 A. Yes.

12 Q. Were the parties you are seeking to pool
13 notified of this hearing?

14 A. Yes.

15 Q. Can you turn to Exhibit 7 and just identify
16 what this exhibit is for the hearing examiner?

17 A. This is the Affidavit of Notice prepared by the
18 counsel for Marathon.

19 MS. LEES: And, again, as I stated earlier,
20 we realized yesterday that we didn't notify the
21 overriding royalty interests, so we've requested a
22 continuance for notice purposes only.

23 EXAMINER BROOKS: Now, what land type is
24 this? It's fee.

25 MS. LEES: It's fee.

1 THE WITNESS: Yes, correct.

2 EXAMINER BROOKS: Well, I'm not sure
3 whether you have to notify the overriding royalty
4 interest owner for fee leases or not. I assume the fee
5 leases have pooling clauses.

6 MS. LEES: We're going to look at the
7 leases after this hearing to ensure that. We learned
8 late yesterday, so we haven't had a chance to look at
9 all the leases.

10 EXAMINER BROOKS: I would really like to
11 know the answer to that question, whether the overrides
12 are covered by the pooling clause in the lease as a
13 matter of law, but I haven't had the time to research
14 it. And I believe they are in Texas, but I don't know
15 if they are in New Mexico.

16 MS. LEES: Yeah. Well, in an abundance of
17 caution, we would like to make sure we notify everyone.

18 EXAMINER BROOKS: Well, that sounds good.
19 I'm always for an abundance of caution.

20 MS. LEES: Me, too.

21 **Q. (BY MS. LEES) Mr. Prewett, does Marathon**
22 **request that it be allowed a period of one year between**
23 **when the well is drilled and when the well is completed**
24 **under the order?**

25 A. Yes.

1 **Q. Were Exhibits 1 through 7 prepared by you or**
2 **under your supervision or compiled from company business**
3 **records?**

4 A. Yes.

5 **Q. And is the granting of this application in the**
6 **interest of conservation and the prevention of waste?**

7 A. It is.

8 MS. LEES: I move to have Exhibits 1
9 through 7 admitted into the record.

10 EXAMINER JONES: Exhibits 1 through 7 are
11 admitted.

12 (Marathon Oil Permian, LLC Exhibit Numbers
13 1 through 7 are offered and admitted into
14 evidence.)

15 MS. LEES: I tender the witness.

16 EXAMINER JONES: Mr. Brooks?

17 CROSS-EXAMINATION

18 BY EXAMINER BROOKS:

19 **Q. Going back to Exhibit 5 on the depth**
20 **severances, I realize the geologist is going to have to**
21 **address the question of interference and probably the**
22 **geologist is also going to be testifying to the proposed**
23 **landing depths of these wells?**

24 A. Yes, sir.

25 **Q. That question should be addressed to the**

1 geologist.

2 Now, you've got the language here, and this
3 exhibit -- have you verified that the depths shown on
4 this exhibit are the deepest producing formation in
5 the -- within the -- the area covered by the particular
6 leases in which this language appears?

7 A. Yes, sir. Right.

8 Q. So those depth severances are at -- in those --
9 those depth severances would be the -- the equivalent
10 of -- well, let's see. The Barton lease, that's going
11 to be -- which one is the Barton -- which depth is the
12 Barton lease and which depth is the Richardson Mineral &
13 Trust lease?

14 A. Right. So those -- those leases, the Barton --
15 the Heidi Barton and the Byron Trust is 100 feet below
16 the deepest perforation or depth drilled. Some say
17 perforation. Some say depth drilled. But it is the
18 same thing. So that is our existing Battle 2H well, and
19 so it's 100 feet below that 2H well.

20 And then the other provision is 100 feet
21 below the base of the deepest producing formation, which
22 is the base of the Bone Spring or the top of the
23 Wolfcamp, however you'd like to say it. It's 100 feet
24 below that.

25 Q. Deepest producing formation and the -- the

1 **deepest producing formation -- well, you put here**
2 **"formation/zone." I assume that's --**

3 A. Right.

4 **Q. -- that's the exact language of the lease.**

5 A. Right. Well, no. Excuse me.

6 **Q. You have quotation marks.**

7 A. Yeah. So the Richardson Mineral & Trust was
8 formation and the Hodge was zone, but it's the same
9 except that was interchangeable. But it's the --

10 **Q. Well, it does make a difference whether the**
11 **lease says formation or zone, in my opinion, because I**
12 **can ask Mr. Goetze what formation it is, but I don't**
13 **know whether he can give me an unambiguous answer to**
14 **what zone it is. So -- that is if your geologist can't**
15 **give an unambiguous --**

16 A. I'll let my geologist explain it.

17 **Q. Well, what I want to know from you is is this**
18 **language a direct quote from the lease?**

19 A. It is. But for both of them -- where I put a
20 slash, I put "depth drilled" as opposed to "perforation
21 drilled."

22 **Q. Well, which does it say? That could make a**
23 **difference, too.**

24 A. One of them will say "perforation" and the
25 other one will say "depth drilled," "deepest depth

1 drilled" or "deepest perforation."

2 EXAMINER JONES: So the deepest depth would
3 be the maximum, obviously.

4 EXAMINER BROOKS: Yeah.

5 Q. (BY EXAMINER BROOKS) The deepest depth would be
6 the total depth instead of the perforation depth. But
7 what I'm trying to get at is what exactly does the lease
8 say, because you're saying you inserted the slashes.
9 They're not in the lease. And are these different
10 leases that have different language, or are they the
11 same -- describe identical lease language?

12 A. No? The leases, they don't -- they don't have
13 the same language. But as far as this depth provision
14 is concerned, they were similar, but they had a
15 difference between the word "formation" and "zone" or
16 "perforation" and "depth drilled."

17 MS. LEES: I think I can clarify if you'd
18 allow me to interject.

19 EXAMINER BROOKS: I would appreciate it.

20 MS. LEES: It looks like Mr. Prewett is --
21 so if we take the first quoted language, it is quoting
22 from two different leases. And one of the leases says
23 "100 feet below the deepest perforation." The other one
24 says "100 feet below the deepest depth drilled."

25

1 Q. (BY EXAMINER BROOKS) Now, since these are
2 members of the same family, do these leases cover the
3 same tract?

4 A. Yes.

5 Q. Which exhibit is your tract map?

6 A. 3.

7 Q. 3. Okay.

8 And that is the -- well, that just shows
9 one tract. Do all the leases in this -- in this
10 proceeding cover one tract?

11 A. Yes.

12 Q. So there are not any separate tracts?

13 A. No, sir.

14 Q. Okay. And you have different lease language in
15 different leases?

16 A. Yes.

17 Q. Both as to whether it says "total depth" --
18 whether it says "depth drilled" or "depth perforated"
19 and whether it says "formation" or "zone"?

20 A. Yes, sir.

21 Q. That makes this awfully complicated. I guess
22 we're stuck with it. Let's go ahead.

23 MS. LEES: May I ask a few clarifying
24 questions?

25 EXAMINER BROOKS: If you can, yes. I would

1 greatly appreciate it.

2 REDIRECT EXAMINATION

3 BY MS. LEES:

4 Q. In looking at Exhibit 5, Mr. Prewett, can you
5 identify the TVD for the 15H on this exhibit?

6 A. 10,996 feet.

7 Q. And just point to where that is in the exhibit.
8 Is it the middle of the tract?

9 A. Right. It's in bold, if you see right here
10 (indicating).

11 Q. And does this show that the TVD for the 15H
12 well is higher than the depth severance that's indicated
13 in the leases?

14 A. Yes.

15 CROSS-EXAMINATION

16 BY EXAMINER JONES:

17 Q. So there is not -- the base of the Bone Spring
18 is 11,980. And the base of your depth severance is
19 where?

20 A. They're below.

21 Q. They're below?

22 A. Yes, sir.

23 So the 2H was drilled as a Bone Spring, but
24 it's the very bottom of the Bone Spring. And it was 100
25 feet below, right? So both depth severances are below

1 the Bone Spring.

2 Q. Okay. So this is Lea County. So we've got to
3 just make sure it's not Wolfbone. If it's Wolfbone, all
4 bets are off.

5 EXAMINER BROOKS: Well, not really because
6 I would assume probably these leases were taken before
7 the Wolfbone existed. I don't have that information,
8 but we're going to have to get -- we may have to get
9 some supplemental information. I think we should wait
10 until the geologist testifies, though, because some
11 things may become irrelevant once we've gotten the
12 geologist's take on it.

13 EXAMINER JONES: Yeah. Sounds good.
14 Sounds good.

15 If there are no other questions --

16 EXAMINER BROOKS: You can't expect the
17 lease writers to predict what Paul is going to do in the
18 future. Nobody else can.

19 EXAMINER JONES: Well, it's -- the
20 applicants could actually bring a nomenclature case for
21 the Wolfbone.

22 EXAMINER BROOKS: They could. They could.
23 The applicants could -- that's one thing that never
24 happens, though. Applicants -- operators can always
25 bring a nomenclature case if they want to create a new

1 pool.

2 EXAMINER JONES: But since we've got
3 50-something cases to get through in the next two days,
4 we better keep moving here.

5 EXAMINER BROOKS: I'm sorry.

6 MS. LEES: I'd like to call our geologist,
7 Matt Baker, to the stand, please.

8 EXAMINER JONES: Sure.

9 MATT BAKER,
10 after having been previously sworn under oath, was
11 questioned and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LEES:

14 Q. Good morning, Mr. Baker.

15 A. Morning.

16 Q. Can you please state your name?

17 A. Matt Baker.

18 Q. And for whom do you work?

19 A. Marathon Oil.

20 Q. And in what capacity?

21 A. I am a development geologist for the Permian
22 Asset Team.

23 Q. And what are your responsibilities in that
24 capacity for Marathon?

25 A. I evaluate geologic formations for potential

1 production. I create a plan of development for units
2 based on our geologic assessment, and I'm also
3 responsible for the initial placement and staking of
4 well locations.

5 Q. Have you previously testified before the
6 Division?

7 A. Yes.

8 Q. And were your credentials accepted and made
9 part of the record?

10 A. Yes.

11 Q. Are you familiar with the second amended
12 application filed by Marathon in this matter?

13 A. Yes.

14 Q. And are you familiar with the drilling plan to
15 the well?

16 A. Yes.

17 Q. And have you conducted a geologic survey of the
18 area embracing the proposed spacing for the well?

19 A. Yes.

20 MS. LEES: I'd like to tender this witness
21 as an expert in geology matters.

22 EXAMINER JONES: He is so qualified.

23 Q. (BY MS. LEES) Mr. Baker, what is the targeted
24 interval for this well?

25 A. This well is targeting the 2nd Bone Spring

1 Sand.

2 Q. Would you please turn to what we've marked as
3 Exhibit 8? And can you identify this document and
4 explain it to the hearing examiners?

5 A. Yes. This is a structure map of the base of
6 the 2nd Bone Spring Sand. Marathon's acreage is
7 highlighted in yellow here. Looking at the structure
8 map, it suggests that formation dips along the wellbore
9 will be relatively flat to slightly downdip. Our
10 proposed well locations are shown in red on here, the
11 2nd Bone Spring Fee 15H being the one labeled number
12 four on the west side of the unit. And then the three
13 wells that you'll see later in the cross section are
14 shown with the red circles, and those are the ones we
15 used for part of our analysis.

16 Q. Is there anything structurally that would
17 interfere with the contribution of the acreage to the
18 proposed well?

19 A. No.

20 Q. Can you turn to Exhibit 9, and can you please
21 identify and explain this exhibit for the hearing
22 examiners?

23 A. This is the same map that we were just looking
24 at. And I've blown up the log of the Witherspoon well,
25 which is the closest vertical well to the surface-hole

1 locations that goes from the top of the Bone Spring all
2 the way to the Wolfcamp D, so you'll see this throughout
3 the other wells as well. It's the only one that covers
4 the full section. Here, I've indicated the top of the
5 Bone Spring, as well as the base of the Bone Spring at
6 11,980 feet TVD. The specific target formation we are
7 targeting is the 2nd Bone Spring Sand, which is shown in
8 the orange box as the producing zone.

9 **Q. Did you prepare a cross section of logs to**
10 **determine the relative thickness and porosity in the**
11 **Bone Spring Formation in this area?**

12 A. Yes.

13 **Q. Is that the cross section contained in Exhibit**
14 **10?**

15 A. Yes.

16 **Q. Are the wells that you selected to include in**
17 **this cross section representative of the Bone Spring**
18 **Formation in the area?**

19 A. Yes.

20 **Q. And can you walk through Exhibit 10 and explain**
21 **it to the hearing examiners?**

22 A. Yes. This is a cross section from A to A
23 prime, or essentially west to east, moving across the
24 unit. These are the same three wells that were
25 indicated with the three red circles on the first

1 structure map. Looking here, I have a red arrow showing
2 a particular drilling target within the 2nd Bone Spring
3 Sand. One thing to note, as we move across the unit
4 from west to east, there is a slight -- slight thinning
5 within the 2nd Bone Spring Sand Formation, but it's a
6 small enough amount that it shouldn't have any negative
7 effects on production.

8 **Q. So does this exhibit show that the acreage is**
9 **relative in form across the formation?**

10 A. Yes.

11 **Q. And can you turn to Exhibit 11, and can you**
12 **please explain what this exhibit is for the examiners?**

13 A. This is a gross sand isochore of the 2nd Bone
14 Spring Sand, basically the gross thickness of the sands
15 within the 2nd Bone Spring. And as you can see, kind of
16 how we saw on the cross section, that there is slight
17 thinning moving from west to east across the section but
18 a very minimal amount.

19 **Q. And what is the preferred well orientation in**
20 **this area?**

21 A. The regional stress from external studies in
22 this area is approximately east-west, so north-south
23 would be the preferred well orientation in this
24 particular unit.

25 **Q. And are there any impediments to this**

1 horizontal well?

2 A. No.

3 Q. And do you anticipate that each quarter-quarter
4 section will be productive in the Bone Spring Formation?

5 A. Yes.

6 Q. And do you anticipate that that quarter-quarter
7 section will contribute approximately equally to the
8 production from the well?

9 A. Yes.

10 Q. Were you present for Mr. Prewett's testimony?

11 A. Yes.

12 Q. Do you recall Mr. Prewett's testimony regarding
13 Exhibit 5?

14 A. Yes.

15 Q. Can you turn to that exhibit, please? Can you
16 please explain why there is no need for a depth
17 severance in this -- for this well and why we are just
18 pooling the Bone Spring Formation?

19 A. Yes. So the base of the Bone Spring Formation
20 is 11,980. Our producing zone that we are targeting is
21 almost 1,000 feet above that and won't come anywhere
22 near any of those deeper depth severances that were
23 discussed.

24 Q. In your opinion, would the granting of
25 Marathon's application be in the best interest of

1 conservation, the prevention of waste and the protection
2 of correlative rights?

3 A. Yes.

4 Q. Were Exhibits 8 through 11 prepared by you or
5 compiled under your direction and supervision?

6 A. Yes.

7 MS. LEES: I'd like to admit Exhibits --
8 I'd like to move to admit Exhibits 8 through 11, please.

9 EXAMINER JONES: Exhibits 8 through 11 are
10 admitted.

11 (Marathon Oil Permian, LLC Exhibit Numbers
12 8 through 11 are offered and admitted into
13 evidence.)

14 MS. LEES: And I tender the witness.

15 CROSS-EXAMINATION

16 BY EXAMINER JONES:

17 Q. Okay. Is this an area of the Wolfbone Pool?

18 A. I don't know that at this point in time.

19 Q. Well, I guess we'll find that out.

20 Second question is: Do you ever intend to
21 drill in the 3rd Bone Spring here in this spacing unit?

22 A. In this spacing unit? No.

23 Q. Well, if you do, you've got lawyers that can
24 take care of it, but it may require another --
25 another --

1 A. I believe in this spacing unit there is already
2 a 3rd Bone Spring producer.

3 Q. Well, but you're -- this is the first well --
4 first proposed well --

5 A. Uh-huh.

6 Q. -- in the spacing unit. Yeah. You're talking
7 about a vertical well, right, 3rd Bone Spring vertical
8 well?

9 A. Yeah. I'm not sure.

10 Q. I guess I should ask it this way. Is the 3rd
11 Bone Spring -- is there a barrier between the 3rd Bone
12 Spring and the 2nd where your pressure influence --

13 A. Yes.

14 Q. -- even after fracturing will not influence --

15 A. Yes. There is a large blocky limestone
16 separating the base of the 2nd Bone from the 3rd Bone
17 Spring top.

18 Q. And you haven't seen hydraulic communication
19 between the two?

20 A. No.

21 Q. Okay. Okay. Thanks.

22 EXAMINER JONES: Any more questions?

23 EXAMINER BROOKS: I think you asked all the
24 right ones. I have no more.

25 Q. (BY EXAMINER JONES) But between the -- between

1 **this spacing unit and the Wolfcamp, if you did drill in**
2 **the 3rd Bone Spring, it could possibly influence some of**
3 **the Upper Wolfcamp; is that correct?**

4 A. Potentially. I would have to look at the 3rd
5 Bone Spring target.

6 **Q. That's fine. That's a good answer.**

7 A. Yeah.

8 MS. LEES: And just to clarify, we did
9 include Exhibit 5 just to explain why we weren't going
10 for a depth severance in this case and why we were just
11 pooling the Bone Spring.

12 EXAMINER JONES: Right. And I totally
13 apologize for our pool situation. Hopefully Kathleen is
14 going to help us with that.

15 MS. LEES: Are there any other questions
16 for Mr. Baker?

17 CROSS-EXAMINATION

18 BY EXAMINER BROOKS:

19 **Q. Well, let me make sure I'm straight on this.**
20 **There are existing wells that hold these leases in**
21 **effect that are -- that are perforated in the Wolfcamp,**
22 **is that correct, below the --**

23 A. No.

24 **Q. No, there are not. They're relying on the 3rd**
25 **Bone Spring well. But you testified there is no**

1 communication between the 2nd and the 3rd Bone Spring?

2 A. Correct.

3 Q. So when you say you don't want a depth
4 severance from the point of view of how our orders are
5 to be written, you do want a depth severance because our
6 pool is the Wolfcamp unless -- I mean, our pool is the
7 Bone Spring unless Paul has defined it some other way.
8 So if we just pool the Bone Spring, we'll be pooling the
9 3rd Bone Spring. But wait --

10 EXAMINER JONES: Right.

11 EXAMINER BROOKS: You've got the 3rd Bone
12 Spring?

13 EXAMINER JONES: Yeah.

14 EXAMINER BROOKS: The issue is the
15 Wolfcamp. So the question is whether the term
16 "formation" is ambiguous in this sense.

17 EXAMINER JONES: Yeah. But the Horizontal
18 Well Committee did not come up with depth severances
19 between pools.

20 EXAMINER BROOKS: No.

21 EXAMINER JONES: So it's a totally
22 different pool unless it's the Wolfbone. If it's
23 Wolfbone, it's going to be an issue.

24 EXAMINER BROOKS: Yeah, that's right,
25 because your well will hold to the base of the Bone

1 Spring.

2 EXAMINER JONES: Yeah.

3 EXAMINER BROOKS: And that's going to be
4 true in any case. Okay. I got confused at the last,
5 but I think I'm unconfused.

6 EXAMINER JONES: So if it's not Wolfbone,
7 they can drill in the 3rd Bone Spring all they want.

8 MS. LEES: And we can look into whether
9 it's Wolfbone and email you.

10 EXAMINER JONES: I'll have to find that out
11 anyway. You don't have to bother with it.

12 MS. LEES: Okay.

13 EXAMINER JONES: Paul will tell us
14 (laughter).

15 MS. LEES: We ask that this case be
16 continued for notice purposes to the February docket.

17 EXAMINER JONES: February 21st continuance
18 docket. Thank you.

19 (Case Number 20128 concludes, 9:09 a.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

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

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

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

20 DATED THIS 31st day of January 2019.

21

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23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
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