

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

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

CASE NO. 16336  
16337

Application of McElvain Energy for  
a non-standard oil spacing and  
proration unit and compulsory pooling,  
Lea County, New Mexico.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

THURSDAY, JULY 26, 2018

SANTA FE, NEW MEXICO

This matter came on for hearing before the New Mexico Oil Conservation Division, William B. Jones, Examiner, and David Brooks, Legal Examiner, on Thursday, July 26, 2018, at the New Mexico Energy, Minerals, and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico

Reported by: Mary Therese Macfarlane  
New Mexico CCR 122  
PAUL BACA COURT REPORTERS  
500 Fourth Street NW, Suite 105  
Albuquerque, New Mexixco 87102

1 A P P E A R A N C E S .

2 For the Applicant: Jordan Lee Kessler, Esq.  
 3 Holland & Hart  
 4 110 North Guadalupe, Suite 1  
 Santa Fe, New Mexico 87501  
 (505) 988-4421  
 jkessler@hollandhart.com

5 I N D E X

6	CASES NOS. 16336 and 16337 CALLED	PAGE
7		
8	APPLICANT WITNESSES:	
9	RICHARD HARRIS	
10	DIRECT EXAMINATION BY MS. KESSLER:	4
	CROSS EXAMINATION BY MR. JONES:	12
11	CROSS EXAMINATION BY MR. BROOKS:	13.
12	KYLE SHEFTE	
13	DIRECT EXAMINATION BY MS. KESSLER:	21
	CROSS EXAMINATION BY MR. JONES	24
14	.	

15 E X H I B I T I N D E X

16	APPLICANT'S EXHIBITS	PAGE
17	McELVAIN ENERGY INC. EXHIBIT 1	11
18	McELVAIN ENERGY INC. EXHIBIT 2	11
19	McELVAIN ENERGY INC. EXHIBIT 3	11
20	McELVAIN ENERGY INC. EXHIBIT 4	11
21	McELVAIN ENERGY INC. EXHIBIT 5	11
22	McELVAIN ENERGY INC. EXHIBIT 6	11
23	McELVAIN ENERGY INC. EXHIBIT 7	11
24	McELVAIN ENERGY INC. EXHIBIT 8	24
25	McELVAIN ENERGY INC. EXHIBIT 9	24

1 (Time noted: 10:44 a.m.)

2 MR. JONES: Cases No. 16336 and 16337,  
3 Application of McElvain Energy, Incorporated, for a  
4 non-standard well location, non-standard spacing proration  
5 unit, and compulsory pooling in Lea County, New Mexico.  
6 Both cases are styled the same.

7 Call for appearances.

8 MS. KESSLER: Mr. Examiner, Jordan Kessler of  
9 the Santa Fe office of Holland & Hart on behalf of  
10 Applicant. I have two witnesses today, Mr. Examiner.

11 MR. JONES: Any other appearances in this case?

12 (Note: No response.)

13 Will the witnesses please stand and be  
14 sworn.

15 (Note: Whereupon the designated witnesses were  
16 duly sworn.)

17 MS. KESSLER: Mr. Examiner, again before we  
18 begin with the witnesses we will be requesting dismissal  
19 of both the non-standard spacing unit in the unorthodox  
20 location, based on the new horizontal well rules.

21 MR. BROOKS: This was also filed on June 26th?

22 MS. KESSLER: That is correct.

23 MR. BROOKS: After 12:01 a.m.

24 MS. KESSLER: 12:02.

25 MR. BROOKS: Mr. Brancard's secretary told us

1 the rules became effective at 12:01 A.M.

2 MR. JONES: Unlike the proration new rules that  
3 start at 7:00 a.m.

4 So are you asking for dismissal for  
5 non-standard location also?

6 MS. KESSLER: That's correct. These will be  
7 established 100 feet off the heel and the toe.

8 MR. JONES: Thank you very much.

9 MS. KESSLER: May I proceed?

10 MR. JONES: Yes.

11 RICHARD HARRIS,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. KESSLER:

15 Q. Mr. Harris, please state your name for the  
16 examiners.

17 A. Richard Harris.

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

20 A. I'm the land manager at McElvain Energy, Inc.

21 Q. Have you previously testified before the  
22 Division?

23 A. Yes.

24 Q. Were your credentials as an expert on petroleum  
25 land matters accepted and made a part of the record?

1 A. Yes.

2 Q. Are you familiar with the applications filed in  
3 these consolidated cases?

4 A. Yes.

5 Q. Are you familiar with the lands in the subject  
6 area?

7 A. Yes.

8 MR. KESSLER: I would tender Mr. Harris,  
9 Mr. Examiner, as an expert in petroleum land matters.

10 MR. JONES: Mr. Harris is qualified as an expert  
11 in petroleum land matters.

12 Q. Mr. Harris, what is McElvain seeking under  
13 these two applications?

14 A. We are looking to form two 240-acre spacing  
15 units and pool all uncommitted interests in the Bone  
16 Spring formation.

17 Q. Let's turn to Exhibit 1. Does Exhibit 1 contain  
18 a draft C-102 for each of the two wells, the 3H and the 4H  
19 wells?

20 A. Yes.

21 Q. Have these permits been approved?

22 A. Permits have been approved. The 30BS2 number 3H  
23 well is API No. 30--25-43150.

24 Q. You may have gone just a little quick there.

25 A. I'm sorry. Do you need me to say it again?

1 They are not on the C-102.

2 MR. JONES: Okay. Can you say that again,  
3 because I printed them out and I thought I had a different  
4 API.

5 THE WITNESS: Each number --

6 MR. JONES: 43150 for the 3H.

7 THE WITNESS: Yes, sir.

8 MR. JONES: Okay.

9 THE WITNESS: And for the 4H it's 43159.

10 **Q. Now, these are draft permits because you have**  
11 **submitted new footage pursuant to the new horizontal well**  
12 **rules?**

13 A. Yes.

14 **Q. Those footages contained in the application,**  
15 **revised footage?**

16 A. Yes.

17 **Q. Has the Commission designated a file?**

18 A. They are. It's a special pool, the EK Bone  
19 Spring Pool created under the Division Rule R-4981, which  
20 requires 80-acre spacing unit and that the completed  
21 interval for a well be located within 150 feet of the  
22 center line of the quarter/quarter section.

23 **Q. But is it your understanding, Mr. Harris, that**  
24 **the footage setback for the horizontal well rules**  
25 **supersede these pool rules?**

1 A. Yes.

2 Q. Will the first and last stake points for both  
3 the 3H and 4H wells be 100 feet from the outer boundary of  
4 the spacing unit?

5 A. Yes.

6 Q. What is the character of these lands?

7 A. It's all federal minerals.

8 Q. Are there any depth severances?

9 A. There is on the 3H, and -- I mean on the 4H,  
10 excuse me. Tract 2 of the 4H has a depth severance at  
11 about 10,000 feet.

12 Q. And who owns below 10,000 feet?

13 A. EOG Resources.

14 Q. Are they aware, is EOG aware that it is going to  
15 be compulsory pooled?

16 A. Yes.

17 Q. They've been provided Notice and specifically  
18 waived any objection to pooling; is that correct?

19 A. Yes.

20 Q. And will you continue working on the contractual  
21 solution on the depth severance with EOG?

22 A. Yes.

23 Q. Okay. Let's turn to Exhibit 2. Is this the  
24 ownership outline for the 3H well?

25 A. Yes.

1 Q. Who do you seek to pool?

2 A. All the uncommitted working interest owners that  
3 we are still trying to get commitment from.

4 Q. So everybody on this list.

5 A. Yes.

6 Q. And are they are working interest owners?

7 A. That is correct.

8 Q. Let's turn to Exhibit 3. Is this the ownership  
9 outlined for the 4H well?

10 A. Yes.

11 Q. Now, there's a first page with a summary of the  
12 working interest owners, and then there's about three  
13 pages of other names.

14 Can you please explain that.

15 A. That is correct. BTA Partners Oil Producers has  
16 poer of attorney and they have 87 -- the Beall family, and  
17 they have 87 different recorded working interest owner  
18 names that they the Power of Attorney for. So their  
19 interest in Tract 2 corresponds broken out to the 87  
20 owners on that attached page, but to simplify the  
21 spreadsheet of the working interest owner percentage, I  
22 consolidated that as to one line.

23 Q. So I'm looking at Exhibit 3 under Tract 2. It  
24 says, "87 BTA Partners."

25 A. Yes.

1 Q. And the following correspond to that 32.786  
2 percent; is that correct?

3 A. Yes.

4 Q. And then if we look below that in Tract 2 that's  
5 where the depth severance is called out, right?

6 A. Yes.

7 Q. All right. And on Exhibit 3 are you seeking to  
8 pool all of these parties?

9 A. Yes.

10 Q. Are they all working interest owners?

11 A. Yes.

12 Q. What efforts have you undertaken to reach an  
13 agreement with these working interest owners?

14 A. We sent the Well Proposals out in May to all the  
15 parties, and I have been in contact with the majority of  
16 them since then and have offered them an opportunity to  
17 participate or to farm out or to sell us their interest.  
18 So we have a lot of deals in the works.

19 Q. So you have at least attempted to communicate,  
20 in addition to the Well Proposal Letters, with each of the  
21 interest owners?

22 A. Yes.

23 Q. Is Exhibit 4 a copy of the Well Proposal letter  
24 for each of the wells that you sent to the working  
25 interest owners?

1 A. Yes.

2 Q. Did each of the two Well Proposals letters  
3 include an AFE?

4 A. Yes.

5 Q. Are the costs on those AFEs consistent with what  
6 McElvain has incurred in drilling similar horizontal wells  
7 in the area?

8 A. Yes.

9 Q. Were you able to locate the working interest  
10 owners?

11 A. Yes.

12 Q. You said you had contacted each?

13 A. Yes.

14 Q. In your opinion have you made a good-faith  
15 effort to reach a voluntary agreement with the parties  
16 that you seek to pool?

17 A. Yes.

18 Q. Have you estimated overhead and administrative  
19 costs while drilling and well producing?

20 A. Yes. 7,000 for drilling, 700 for producing.

21 Q. Those costs are in line with what McElvain and  
22 other operators in the area charge for similar wells,  
23 correct?

24 A. Yes.

25 Q. Do you ask that those costs be incorporated into

1 any Order resulting from this hearing?

2 A. Yes.

3 Q. Do you ask that the costs be periodically  
4 adjusted in accordance with COPUS accounting procedures?

5 A. Yes.

6 Q. For uncommitted working interest owners, are you  
7 asking a 200 percent risk penalty?

8 A. Yes.

9 Q. If you turn to Exhibit 5, is this an affidavit  
10 with attached letters providing Notice to all of the  
11 parties that you're seeking to pool?

12 A. Yes.

13 Q. And is Exhibit -- are Exhibits 6 and 7  
14 Affidavits of Publication providing notice of this hearing  
15 to the parties that you're seeking to pool?

16 A. Yes.

17 Q. There is a lot of them, correct?

18 A. There's a lot, yes.

19 Q. Were Exhibits 1 through 4 prepared by you or  
20 compiled under your direction or supervision?

21 A. Yes.

22 MS. KESSLER: Mr. Examiner, I would move the  
23 admission of Exhibits 1 through 7, which include three  
24 Notice affidavits.

25 MR. JONES: Exhibits 1 through 7 are admitted.

CROSS-EXAMINATION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY MR. JONES:

Q. All of the parties -- I guess I should just ask:  
On Exhibit 2 -- Exhibit 2 and Exhibit 3, everybody -- say  
again? Everybody there is being pooled, is that right, at  
this time?

A. Yes. Except McElvain Resources, which is  
McElvain's entity. So that's us. But this shows the  
whole -- but everybody else, yes.

Q. Okay. Are you guys out of Denver; is that  
right?

A. Yes, sir.

Q. Downtown?

A. Yes, sir.

Q. Okay. But one of these wells has four tracts  
and the other one has three, is that right? So basically  
it's the south of Section 30 was divided for some reason.

A. Yes. The east half of the southwest of Section  
30 has a different lease than the west half of the  
southwest.

Q. Okay. That's what happened.

Then you've got federal land involved  
everywhere?

A. Yes.

Q. All federal surface and state.

1                   And are you going to put -- I mean surface  
2 and downhole.

3                   Are you going to put the well locations in  
4 the southwest/southwest of...

5           A.    Yes.  They're on the same pad.

6           Q.    Okay.  20 of 30.  Just pad drilling here?

7           A.    Yes.

8           MR. JONES:  Okay.  Mr. Brooks?

9                                   CROSS-EXAMINATION

10          BY MR. BROOKS:

11           Q.    Well, I'm concerned about this depth severance  
12 issue, because the Oil and Gas Act says:  All Orders  
13 effecting such pooling shall be made after Notice and  
14 hearing and shall be upon such terms and conditions as are  
15 just and reasonable and will afford to the owners of each  
16 tract or interest in the unit the opportunity to recover  
17 or receive without unnecessary expense their just and fair  
18 share of the oil and gas.

19                   Then it goes on to say:  For purposes of  
20 this -- of determining the portions of production owned by  
21 persons owning an interest in the pool owning oil or gas  
22 or both, such production shall be allocated to the  
23 respective tracts within the unit in the proportion that  
24 the number of surface acres included within each tract  
25 bears to the number of surface acres included in the

1 entire unit.

2 Well, I think it's reasonable to say that  
3 the legislature cannot have intended the term "tract" to  
4 mean -- to have other than horizontal, other than  
5 horizontal boundaries, because it wouldn't have made  
6 any -- it would not have made sense to put a surface  
7 acreage distribution clause in there if they had  
8 intended -- if they had contemplated vertical boundaries  
9 to a tract.

10 So there's some questions here. And they  
11 are all -- they all go away if you get an agreement with  
12 the person who owns that other elevation within your  
13 formation.

14 Who is that?

15 A. It's EOG, who doesn't have a interest in the  
16 well.

17 Q. EOG?

18 A. Yes, sir.

19 Q. They do not have an interest in the well?

20 A. They do not have an interest in the Second Bone  
21 Spring formation.

22 Q. Okay. But I thought you said one of the wells  
23 there was a depth severance within --

24 MS. KESSLER: Mr. Examiner, if I may, I think  
25 what my witness may have intended to say is they do own an

1 interest in the Bone Spring, so we are compulsory pooling  
2 the entire Bone Spring. We were aware they would be  
3 compulsory pooled by virtue of this Order.

4 Now, what we are requesting -- and Mr.  
5 Harris can fill you in on the discussions, but my  
6 understanding is that EOG and McElvain are in the process  
7 of negotiating a contractual agreement. EOG is aware they  
8 are being compulsory pooled today and aware of the depth  
9 severance. While they work out a contractual agreement we  
10 would be moving forward on compulsory pooling them, and  
11 they are fine with that with the understanding that at  
12 some point they will reach a contractual agreement.

13 MR. BROOKS: Okay. So what are we doing in  
14 this case?

15 MS. KESSLER: We are compulsory pooling them  
16 today in this case with the understanding that we will  
17 reach a contractual agreement at some point and advise the  
18 Division.

19 MR. BROOKS: To follow our obligation as it  
20 applies to make our Order upon such terms and conditions  
21 as are just and reasonable and will afford the owner or  
22 owners of each tract or interest in the unit the  
23 opportunity to pool, to receive without unnecessary  
24 expense their just and fair share of the oil and gas or  
25 both, would it be reasonable to say that in the Order that

1 the interest of McElvain and EOG would be held by them  
2 jointly until -- or would be owned by them in such  
3 proportions as they may agree, or jointly if no agreement  
4 reached?

5 MS. KESSLER: Would that be acceptable to  
6 McElvain, Mr. Harris?

7 THE WITNESS: I'd have to think about it.

8 MR. BROOKS: Jointly would not be 50-50. It  
9 would be, I guess, in such proportions as a court would  
10 determine. Because we have no authority to determine  
11 title, and it's not clear to me whether -- you could also  
12 read that first sentence you would think maybe we had  
13 authority to allocate between depths. You read the second  
14 sentence and you think maybe we don't.

15 So the question, to my knowledge, has never  
16 been decided.

17 MS. KESSLER: I agree with that, Mr. Examiner.  
18 I think it has to be the case that -- as reflected on  
19 Exhibit 3. If the Order were to say something to the  
20 effect of those interests are pooled according to the --  
21 according to Exhibit 3, something to that effect, I think  
22 that would be fair and reasonable, and I think would also  
23 have to be the case. I don't think there's another  
24 option for the depth severance.

25 MR. BROOKS: Well, I don't know whether there

1 is or not, but I would not want to recommend to the  
2 Director the issuance of an Order that says that attempts  
3 to allocate -- and if the well -- well, I just would not  
4 want to have to do that, given the supreme degree of  
5 uncertainty that, in my opinion -- on the one hand we are  
6 told to do something and on the other hand there's  
7 language within the same section indicating that maybe we  
8 don't have the power to do that.

9           So I just would like to have it say that --  
10 something to the effect it will be held subject to the  
11 agreement of counsel -- subject to the agreement of the  
12 parties -- not counsel, the parties. Subject to agreement  
13 of the parties, or subsequent determination, or something  
14 to that effect. Because otherwise we don't spell out  
15 everybody's interest, which we are specifically directed  
16 to do.

17           But if we try to allocate -- first, we have  
18 no evidence to allocate at all, and so we couldn't do  
19 that, except that you said the well was not going to  
20 penetrate the depths where the outstanding interests had  
21 interests. And I guess we could determine that's  
22 determinative, but I don't know whether it is or not,  
23 so...

24           MS. KESSLER: I don't know that we're prepared  
25 to put on evidence today.

1           MR. BROOKS: Well, I don't know that that would  
2 be good, because I don't know whether we have authority to  
3 rule on that or not. So I think that's probably the best  
4 way to do it.

5           MS. KESSLER: Okay. Thank you.

6           MR. BROOKS: Sorry for this long digression but  
7 we are treading on unexplored territory here.

8           MS. KESSLER: If you would like Holland & Hart to  
9 put together a draft Order or draft for your  
10 consideration, we would be happy to do that.

11          MR. BROOKS: That would be helpful.

12                           CONTINUED CROSS-EXAMINATION

13 BY MR. JONES:

14           **Q. We're talking about Case 16336, the 3H well?**  
15 **And that's only concerning the northeast of the southwest**  
16 **quarter of Section 30?**

17           A. It's 16337, that case, the No. 4H well.

18           **Q. So it's the 4H well?**

19           A. Yes, sir.

20           **Q. Okay. So it's in Tract 3?**

21           A. It's in Tract 2 of the 4H well.

22           **Q. Okay. Because I have -- I thought -- I probably**  
23 **read it wrong. Let me make sure, though.**

24           MS. KESSLER: It's the first page, Mr. Examiner,  
25 of my Exhibit 3.

1 MR. JONES: Exhibit 3.

2 MS. KESSLER: For the 4H well.

3 Q. I have northeast of the southwest of 30 is EOG.

4 A. They own an uncommitted interest in that well,  
5 of all, the entire Bone Spring formation, just to make it  
6 more confusing for everyone.

7 Q. Okay. Okay.

8 A. Yes, that's not the interest.

9 Q. Okay. But the interest you're talking about is  
10 down in the Second Bone Spring? You're not drilling in  
11 the Second -- you are drilling in the Second Bone Spring.

12 And can you say -- do they own above that,  
13 below that?

14 A. Below.

15 Q. So they own from the First -- Third Bone Spring  
16 Carbonate or the -- on down?

17 A. They own the top of the Third, and you can --  
18 the Third Bone Spring.

19 Q. Third Bone Spring. Just say the Third Bone  
20 Spring.

21 A. Yes, sir.

22 MR. BROOKS: As to what acreage?

23 THE WITNESS: Tract 2 of the EK No. 4H well.

24 MR. BROOKS: Okay.

25 MR. JONES: Tract 2 of EK No. 4H and it's in

1 Case No. 16337. Okay.

2 That's the one they don't own the interest  
3 in.

4 And they're not mentioned as being pooled,  
5 because they are not in the unit. They are not in your  
6 interest in this well.

7 MS. KESSLER: They are mentioned.

8 MR. JONES: They were noticed of this hearing?

9 MS. KESSLER: Correct. And they specifically  
10 waived objection.

11 MR. JONES: Okay. Okay. We asked for that in  
12 the past, if there is vertical subrogation, as to those  
13 parties being noticed.

14 MR. BROOKS: Yeah.

15 MR. JONES: It's a question of how you write the  
16 language.

17 MR. BROOKS: But you're asking for an Order  
18 pooling the whole formation. You are not asking for an  
19 Order separating out. You're not asking for an Order  
20 making a depth severance in the pool.

21 MS. KESSLER: That's correct. We are asking for  
22 pooling of the entire pool, including their depth  
23 severance interest.

24 MR. JONES: So if you go back later and drill a  
25 well down where they do have an interest, they will be --

1 it will be a separately owned well not subject to this  
2 compulsory pooling Rule at all. You will have to have a  
3 separate complete compulsory pooling.

4 MS. KESSLER: Well, no, Mr. Examiner, because in  
5 this case we are asking to compulsory pool the entire Bone  
6 Spring. So they would be subject to this Order, but we  
7 are hoping in the interim to get a contractual agreement.

8 MR. BROOKS: You're proposing a contractual  
9 agreement. And this is Case 16337 in which the depth  
10 severance applies?

11 MS. KESSLER: Correct.

12 MR. BROOKS: Only.

13 MS. KESSLER: Only.

14 MR. JONES: Thank you very much.

15 MR. BROOKS: Thank you.

16 MS. KESSLER: We will call our next witness.

17 KYLE SHEFTE,

18 having been previously sworn and qualified,

19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. KESSLER:

22 **Q. Please state your name for that record and tell**  
23 **the examiners who you're employed by.**

24 A. Kyle Shefte. I'm a geologist employed by  
25 McElvain Energy Incorporated.

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

3           A.    Yes, I have.

4           **Q.    Were your credentials as an expert in petroleum**  
5 **geology matters made a matter of record?**

6           A.    Yes, I was.

7           **Q.    Are you also familiar with the applications**  
8 **filed in these cases?**

9           A.    Yes.

10          **Q.    Have you conducted a geologic study of the lands**  
11 **in the area?**

12          A.    Yes.

13                   MS. KESSLER:  Mr. Examiner, we would tender  
14 Mr. Shefte as an expert in petroleum geology.

15                   MR. JONES:  So qualified.

16          **Q.    Would you please turn to Exhibit 8 and identify**  
17 **this exhibit for the examiners.**

18          A.    This is a subsea structure map using the top of  
19 the Second Bone Spring.  It shows the two well tracts for  
20 the 3H and the 4H northwest half of Section 30.  We will  
21 have a surface location in the southwest and they will be  
22 drilled north updip.  The structure map suggests is that  
23 the dip in this area is roughly 2 percent.

24          **Q.    And you have a line labeled A to A prime.  Does**  
25 **that correspond to the cross section exhibits?**

1 A. Yes, it does.

2 Q. Why did you select these wells?

3 A. These wells represent the Second Bone Spring.

4 Q. The logs are deep enough to cover the second  
5 Bone Spring?

6 A. Yes.

7 Q. And you used four wells, correct?

8 A. Yes.

9 Q. Let's turn to Exhibit 9. Is this your cross  
10 section exhibit?

11 A. Yes, it is.

12 Q. Can you please walk us through this.

13 A. This is a cross section A to A prime using four  
14 wells. The green line across the top represents the top  
15 of the Second Bone Spring Sand, the blue line along the  
16 bottom represents the base of the Second Bone Spring Sand,  
17 and the red line represents our horizontal target.

18 The logs are numerary (phonetic) logs, bulk  
19 density logs, neutron porosity logs. The first and fourth  
20 wells, and lateral logs, as well. Okay.

21 The logs represent that the target  
22 formation in this area is continuous and uniform.

23 Q. No major thickening or thinning for the target  
24 formation?

25 A. No.



1 BY MR. JONES:

2 Q. So your surface location you got on this  
3 Exhibit 8 really should have been over you in Unit M,  
4 Correct?

5 I mean, it's shown on the C-102 that way  
6 and on the application that way, but it shows here that  
7 it's Unit N. It seems like it.

8 It's immaterial either way, but do you know  
9 why the surface locations were chosen?

10 A. I believe we consulted with the BLM to choose  
11 the best surface location, and the pad is designed for  
12 future developments, as well, for additional wells.

13 Q. Okay. So then it's possible that BLM has moved  
14 this well, the surface location. Can you check on that  
15 and get to your --

16 A. I think that our land witness has an answer on  
17 this.

18 MR. JONES: Okay.

19 MR. HARRIS: The C-102 is correct. We would go  
20 on it to BLM. It's BLM surface.

21 So the C-102s are correct.

22 MR. JONES: Okay. Your land guy...

23 I will -- he did it to you again. So I'll  
24 go ahead and draw that in here.

25 It's quite, uh, more structure than we

1 normally see in these. Can you explain why that little --  
2 I don't know what you call it, a nose or whatever, is...

3 A. Yeah. So this location is fairly close to the  
4 shelf, and due to the way the sands were deposited in this  
5 location and the overlapping channels as they were  
6 deposited, you get this characteristic across the entire  
7 area.

8 The only reason it doesn't show further to  
9 the north in that map is because your well control, you  
10 don't get as many penetrations for the Second Bone Spring.

11 Q. Okay. And why did you choose the Second Bone  
12 Spring as a target?

13 A. We have offset horizontal production that shows  
14 economic...

15 Q. Okay. So it's empirical that if you got it, you  
16 just stay with it?

17 A. Yes.

18 Q. Okay. Because if you did shoot -- how far down  
19 will your well drain as you complete this well?  
20 Geologically, what can you say about that?

21 A. We've done track simulations, and there is a  
22 calcytic layer below our target, so the reason is that  
23 stops all fracs from going down.

24 Q. Okay. So fracture above and below that, they  
25 don't go below that.

1           A.    Yes.

2           **Q.    Okay.  That was a good answer.**

3                       **I don't have any more questions.**

4                       **Mr. Brooks?**

5           MR. BROOKS:  No questions.

6           MS. KESSLER:  I'll submit a draft Order, but I  
7 would ask the cases be taken under advisement.

8           MR. JONES:  Thanks for coming up.

9           MR. BROOKS:  Submit it to me.  I suspect I'll  
10 be writing this Order.

11           MR. JONES:  I will be glad to shift this over to  
12 you.

13                       Cases No. 16336 and 16337 are taken under  
14 advisement.

15                       (Time noted:  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 STATE OF NEW MEXICO )  
2 ) SS  
3 COUNTY OF TAOS )  
4

5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter  
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday, July 26,  
8 2018, the proceedings in the above-captioned matter were  
9 taken before me; that I did report in stenographic  
10 shorthand the proceedings set forth herein, and the  
11 foregoing pages are a true and correct transcription to  
12 the best of my ability and control.

13 I FURTHER CERTIFY that I am neither employed by  
14 nor related to nor contracted with (unless excepted by the  
15 rules) any of the parties or attorneys in this case, and  
16 that I have no interest whatsoever in the final  
17 disposition of this case in any court.

18  
19  
20  
21  
22  
23  
24  
25

\_\_\_\_\_  
MARY THERESE MACFARLANE, CCR  
NM Certified Court Reporter No. 122  
License Expires: 12/31/2018