

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:

AMENDED APPLICATION OF MARATHON OIL CASE NOS. 16418,
PERMIAN, LLC FOR A NONSTANDARD SPACING 16419
AND PRORATION UNIT AND COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

September 20, 2018

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, William V. Jones,
Chief Examiner, and David K. Brooks, Legal Examiner, on
Thursday, September 20, 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.

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APPEARANCES

FOR APPLICANT MARATHON OIL PERMIAN, LLC:

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1 (10:49 a.m.)

2 EXAMINER JONES: Let's continue and call --
3 I assume these three cases can be combined?

4 MS. BENNETT: I've combined Cases 16418 and
5 16419, and I'll be presenting Case 16420 separately.
6 That's the Wolfcamp wells.

7 EXAMINER JONES: You want to do which one
8 first?

9 MS. BENNETT: 16418 and 16419.

10 EXAMINER JONES: Let's call Cases 16418 and
11 16419. Both seem to be the amended application of
12 Marathon Oil Permian, LLC for a nonstandard spacing and
13 proration unit and compulsory pooling in Lea County, New
14 Mexico.

15 Call for appearances.

16 MS. BENNETT: Thank you. Deana Bennett on
17 behalf of Marathon Oil Permian, LLC.

18 EXAMINER JONES: What did you say your last
19 name is?

20 MS. BENNETT: Bennett, B-E-N-N-E-T-T.

21 EXAMINER JONES: Bennett.

22 MS. BENNETT: We'd like to present this
23 case by affidavit.

24 EXAMINER JONES: There were no other
25 appearances?

1 EXAMINER BROOKS: No late appearances?

2 MS. BENNETT: Not in this one, but in the
3 next, yes.

4 EXAMINER JONES: You may proceed.

5 MS. BENNETT: Thank you.

6 What I've presented to you is a packet that
7 has a variety of information in it. The first few pages
8 are just some overview information, which are our
9 applications that we filed, as well as an overview map
10 that shows the proposed unit development, and that gives
11 you a layout of where the wells are proposed within the
12 unit, and that's immediately before Tab 1.

13 So Tab 1 is the landman's affidavit and his
14 exhibits. Tab 2 is the geologist's affidavit and
15 exhibits, and Tab 3 is my affidavit and exhibits. So
16 with that sort of overview, I'll proceed with the
17 landman's affidavit and walk through that affidavit and
18 then walk through the exhibits with you and then walk
19 through Exhibit 2 and Exhibit 3.

20 EXAMINER JONES: Okay.

21 MS. BENNETT: So the landman for these
22 cases is Ryan Gyllenband. That's G-Y-L-L-E-N-B-A-N-D.
23 And he's previously appeared before the Division and
24 been accepted as an expert petroleum landman.

25 The purpose of the applications in this

1 case is to force pooling interest owners into the
2 horizontal spacing unit that I'll be describing in a
3 moment. We did file amended applications, out of an
4 abundance of caution, asking for alternative relief in
5 the event that the horizontal spacing rule is stayed.
6 If it's not stayed or if there is nothing that happens,
7 then this Division can just ignore our alternative
8 relief request. But that also explains why we notified
9 offsets as well, which I'll get into in a moment.

10 There's been no opposition to this case and
11 none is expected.

12 In Case Number 16418, which is the case
13 I'll be discussing first, Marathon seeks an order
14 pooling all mineral interests in the Bone Spring
15 Formation underlying the west half of the west half of
16 Section 14, Township 22 South, Range 32 East in Lea
17 County. And this unit is going to be dedicated to the
18 Ramathorn Fed Com 22-32-14 TB 1H, the 3rd Bone Spring
19 well, and the Ramathorn 22-32-14 FB 22H, 1st Bone
20 Spring.

21 A plat outlining the unit to be pooled is
22 attached as Exhibit A. And as I mentioned, we can go
23 through the exhibits after I go through the affidavit.
24 I was thinking that might be easier.

25 EXAMINER JONES: Okay.

1 MS. BENNETT: Exhibit A will show where the
2 proposed well's location are within the unit, as well as
3 the parties Marathon asks to be pooled, their last known
4 addresses and a summary of contact attempts. There are
5 no depth severances in the Bone Spring Formation.

6 Exhibit B is the proposed C-102s for the
7 wells, and these wells will develop the Red Tank; Bone
8 Spring Pool, which is Pool Code 51683, and that's an oil
9 pool. Mr. Gyllenband notes that the producing interval
10 for these wells will be orthodox and will comply with
11 the Division's setback rules in his affidavit.

12 Exhibits C and D are the sample letters
13 that Marathon sent to the working interest owners, as
14 well as the AFEs that were attached to those letters.
15 And the estimated costs of the wells set forth in the
16 AFEs is fair and reasonable and is comparable to the
17 cost of other wells of similar depths and lengths
18 drilled in this area of New Mexico.

19 I'd like to briefly go through the same
20 information for Case 16419, and then we can turn to the
21 exhibits, if that works for the two of you.

22 EXAMINER JONES: Okay.

23 MS. BENNETT: Thank you.

24 In Case 16419, Marathon is seeking an order
25 pooling all mineral interests in the Bone Spring

1 Formation underlying the east half of the west half of
2 Section 14, Township 22 South, Range 32 East, and this
3 unit will be dedicated to the Ramathorn Fed Com SB 8H
4 well. And, again, we've included a plat outlining the
5 well's location within the unit, the parties being
6 pooled, the nature and percent of their interests and
7 their last known addresses. We've also included
8 information about the working interest owners, the
9 overriding interest owners and the offsets, as I've
10 mentioned. Again, there are no depth severances here.

11 As with Case 16418, Mr. Gyllenband, in his
12 affidavit for both of these cases, states that he's
13 conducted a diligent search of the public records in the
14 county where the well is located. He conducted phone
15 directory and computer searches to locate contact
16 information for people entitled to notification and
17 mailed all parties well proposals, including an AFE, as
18 I mentioned. It's his belief that Marathon made a
19 good-faith effort to obtain voluntary joinder of all
20 working interests in these proposed wells.

21 Attached as Exhibit B for this case is a
22 proposed C-102, and that well will develop the Red Tank;
23 Bone Spring Pool as well, Pool Code 51683, which is an
24 oil pool. Again, the producing interval for this well
25 will be orthodox and will comply with the Division

1 setback requirements.

2 Exhibits C and D are sample proposal
3 letters and the AFE for the proposed wells. Marathon is
4 requesting for both of these cases overhead and
5 administrative rates of 7,000 per month and 700 per
6 month for drilling and producing. Mr. Gyllenband
7 testifies that these rates are fair and comparable to
8 the rates charged by other operators for wells of this
9 type in this area, and Marathon also requests that these
10 rates be adjusted periodically as provided in the COPAS
11 accounting procedure. For both of these cases, Marathon
12 requests the maximum cost plus 200 percent risk charge
13 be assessed against nonconsenting working interest
14 owners and that it be designated operator of the wells.

15 And the exhibits that we're about to look
16 through were prepared by Mr. Gyllenband or prepared
17 under his direction from company records, and he
18 testifies that the information contained in his
19 affidavit and in his exhibits are complete to the best
20 of his knowledge and that the granting of this
21 application is in the interest of conservation and the
22 prevention of waste.

23 With that, turning first to Case Number
24 16418, the first exhibit, as I mentioned, is Exhibit A,
25 and that shows the tracts at issue. These are federal

1 acreages. And the next page shows the summary of
2 interests, which is -- delineates between the committed
3 working interest owners, the uncommitted working
4 interest owners, which are COG and RKI Exploration &
5 Production.

6 And I would like to mention -- I'll talk
7 about this a little bit more in just a moment. But RKI
8 did receive a proposal letter from Marathon, but we did
9 not have RKI's current address to provide notice for
10 this hearing. And so we'll be -- I'll be asking -- I am
11 asking the Division to continue this case until -- these
12 three cases until October 18th for notice purposes only
13 so that we can send RKI notice of the hearing.

14 EXAMINER JONES: Now, they're going through
15 a name change to WPX Oil Permian or Permian, LLC or
16 something, so I don't know if they're changing their
17 offices or not.

18 MS. BENNETT: I'll check with Jordan who
19 was here on their behalf, see what we need to know about
20 their address.

21 EXAMINER JONES: Okay. I'm not sure I
22 have -- I've got A, B, C and D -- A, B, C, D are for
23 both 16418 and 16419?

24 MS. BENNETT: There are two A, B, C, D and
25 E. They're separated. Actually, if you --

1 EXAMINER JONES: I've got the green, but
2 there is nothing underneath.

3 MS. BENNETT: Yeah. Can I step over there
4 and show you? I'm sorry.

5 EXAMINER JONES: Yes? You're always --
6 you're always welcome to do that.

7 MS. BENNETT: Uh-huh. It's separated in
8 between in the middle by a sheet of paper. So here's
9 Case 16419, and here is 16418 (indicating). So if there
10 is a way I can do this in the future that is more
11 helpful for you, just let me know.

12 EXAMINER BROOKS: Well, we need some kind
13 of division. Of course, if we put too many tabs, then
14 it gets confusing. But what I sometimes do in the
15 notebooks is put colored paper sheets.

16 EXAMINER JONES: That's what she's got
17 here, but --

18 MS. BENNETT: I did that between the
19 different exhibits but not between those two
20 applications, but I'll do that next time.

21 EXAMINER BROOKS: That's probably a good
22 way to do it.

23 MS. BENNETT: That's a very helpful
24 suggestion. Thank you.

25 So looking at sort of the first half of it,

1 the first A through D --

2 EXAMINER JONES: Okay.

3 MS. BENNETT: -- I was just mentioning RKI.
4 They did get the proposal, but they didn't get notice of
5 this hearing, so we'll be continuing this to October
6 18th to give them notice of the hearing.

7 The next attachment is still part of
8 Exhibit A, but it is the identification of the forced
9 pooled owners, the overriding interests and the offsets.
10 And as I mentioned, we included the offsets simply out
11 of an abundance of caution here.

12 And the next part of Exhibit A is
13 Mr. Gyllenband's summary of attempted contacts.

14 Exhibit B are the C-102s for Case 16418.
15 Do you have any questions about the C-102s before I move
16 on past the C-102s, or any questions about the interest
17 owners?

18 EXAMINER JONES: There are two tracts
19 involved in each one. Is it true that the uncommitted
20 working interests are the same -- in other words, which
21 of these two tracts does Marathon --

22 MS. BENNETT: Uh-huh. So COG has 42.5
23 percent in Tract 1, and RKI has 28.75 percent in Tract
24 1, and Marathon has 28.75 percent in Tract 1.

25 EXAMINER JONES: So Tract 1, all three

1 parties own an interest?

2 MS. BENNETT: That's correct. But in Tract
3 2, it's just Marathon 100 percent.

4 EXAMINER JONES: Tract 2 is just Marathon.

5 MS. BENNETT: Uh-huh. So the percentages
6 that you see in the summary of interests is the -- is
7 their total interest in the entire area.

8 EXAMINER JONES: Yes. You didn't break it
9 out by tract.

10 MS. BENNETT: Correct.

11 EXAMINER JONES: That's fine.

12 But Marathon owns an interest in both
13 tracts?

14 MS. BENNETT: Marathon does, yes.

15 EXAMINER JONES: So you can go ahead and
16 get your APD permit to drill.

17 MS. BENNETT: Uh-huh. 28.75.

18 EXAMINER JONES: Thanks.

19 MS. BENNETT: Sure.

20 And then Exhibit B, as I mentioned, are the
21 two C-102s. Again, they show the Red Tank; Bone Spring
22 Pool name and then pool code, 51683.

23 EXAMINER JONES: Okay. And that's standard
24 pool? No special rules?

25 MS. BENNETT: Standard. No special rules.

1 Exhibit C is an example of the letter of --
2 the well-proposal letter.

3 And Exhibit D is the AFE that was submitted
4 for those two wells.

5 EXAMINER JONES: And your application
6 didn't -- it didn't state where the surface- and
7 bottom-hole locations would be. I notice that was the
8 case for almost all of Marathon's applications this
9 time. But your exhibits at the hearing have shown that.

10 MS. BENNETT: Yes.

11 EXAMINER JONES: So I'm not sure it's
12 necessary to show it when you advertise for the case or
13 not.

14 EXAMINER BROOKS: I think that's never been
15 definitively settled, what is necessary. I checked into
16 that one time, and the rule, of course, doesn't take
17 into account that somebody might drill a horizontal well
18 sometime.

19 EXAMINER JONES: Yeah.

20 (Laughter.)

21 EXAMINER BROOKS: I better check it to see
22 what I'm talking about.

23 MS. BENNETT: And you are accurate that we
24 didn't include that in any of our applications, but it
25 is included in the well-proposal letters.

1 EXAMINER JONES: Oh, it was in the
2 well-proposal letter?

3 MS. BENNETT: It is. Uh-huh.

4 EXAMINER BROOKS: Well, I'm not going to
5 check it now. If they all have notice of it, it will be
6 there, so I'm good with that.

7 MS. BENNETT: Okay. And if it's the
8 Division's preference to have it in the applications,
9 just let us know. We'll happily do that.

10 EXAMINER BROOKS: Well, I need to see what
11 the rule says, and I don't remember. I've been thinking
12 about it since we've been dealing with this -- these
13 notebooks. Although having numbered and lettered tabs
14 in the same exhibit is confusing to some degree, I don't
15 believe it's as confusing as not having the tabs. So
16 I'm inclined to recommend that you consider putting in
17 both the numbered and lettered tabs. The stationers
18 could make better tabs for those purposes, but they
19 don't.

20 MS. BENNETT: Okay.

21 EXAMINER JONES: Yeah. For federal -- for
22 federal wells, sometimes they don't if the well
23 locations are going to be moved a bit.

24 EXAMINER BROOKS: Yeah.

25 EXAMINER JONES: Even they might be moved

1 outside of the quarter-quarter. So I guess that's one
2 reason.

3 MS. BENNETT: Right. Uh-huh.

4 EXAMINER BROOKS: Well, an attorney of my
5 acquaintance used to say that all you needed to do was
6 say you're going to drill a well at a standard location
7 within a certain spacing unit.

8 EXAMINER JONES: I think Mr. Bruce likes
9 that.

10 EXAMINER BROOKS: Those eminent attorneys
11 that have used that formulation are here present in the
12 room, so --

13 EXAMINER JONES: Yeah. He used to say what
14 unit letter it was going to be in.

15 MR. BRUCE: Yeah. You know, some of these
16 things change. Surface locations change. First and
17 last take points change. I just always give a unit
18 letter.

19 EXAMINER JONES: Unless it affects the AFE,
20 right?

21 MR. BRUCE: Unless it affects the AFE, but,
22 once again, that's an estimate.

23 EXAMINER BROOKS: Well, I have remembered
24 in the old days when we didn't drill horizontal wells
25 and people would just say, This well will be drilled at

1 a standard location within this quarter-quarter, and I
2 have no reason to believe that's not proper -- proper
3 legal notice. Now, if you get it in the record at the
4 hearing, then it can be -- the actual location, then it
5 can be put in the order so people will know at the
6 time -- so anybody that's brought in by the compulsory
7 pooling order who hasn't signed a JOA can know where the
8 well is proposed to be drilled with greater precision
9 before that person has to elect, and that, I think, is a
10 practical course.

11 MS. BRADFUTE: Mr. Examiner, I don't have
12 the order number, but there is an order that was issued
13 in a case involving Cimarex several years ago which
14 governed well-proposal letters, and that says that you
15 need to have the footages for the wells within your
16 well-proposal letter.

17 EXAMINER BROOKS: Yes. I think I wrote
18 that order -- drafted that order, but I don't have the
19 order number anymore.

20 MR. BRUCE: It's 13165.

21 MS. BRADFUTE: That is it.

22 MR. BRUCE: I'm an idiot savant.

23 (Laughter.)

24 MS. BRADFUTE: That's right.

25 EXAMINER JONES: Wow.

1 EXAMINER BROOKS: Is that really true,
2 Mr. Bruce, or are you --

3 MS. BRADFUTE: He is right.

4 MR. BRUCE: Sometimes. I'm an idiot savant
5 with Tourette syndrome.

6 EXAMINER JONES: That's the case, huh? He
7 stills remembers when --

8 EXAMINER BROOKS: I'm sorry. I haven't got
9 it yet.

10 EXAMINER JONES: 13165.

11 EXAMINER BROOKS: 13165.

12 MS. BRADFUTE: But I was unable to locate
13 any similar requirement for the application itself.

14 EXAMINER BROOKS: I do not believe there is
15 one, but I'm not certain. Now, there is a requirement
16 that all applications have to state the pool --

17 MS. BRADFUTE: Yes.

18 EXAMINER BROOKS: -- and they have to state
19 in general terms where it is, although a lot of them
20 don't.

21 MS. BRADFUTE: All applications that have
22 been filed by Marathon do provide the legal description
23 for the spacing unit.

24 EXAMINER BROOKS: Yeah. You have to have a
25 description of the area to be pooled. That, I know.

1 EXAMINER JONES: So even in the pre-hearing
2 statement, it's not coming in, I don't think.

3 EXAMINER BROOKS: Yeah. Well, they're
4 right. You know, the locations do change. And the only
5 thing that I think is really important is that the
6 person know where the location will be before --

7 EXAMINER JONES: Is standard?

8 EXAMINER BROOKS: Well, no. They need to
9 know exactly where the location will be before they have
10 to make an election. It's not necessarily the surface
11 location because that doesn't matter unless it affects
12 the AFE, but the location of the completed interval,
13 they need to know before they make an election because
14 some of these people actually have geologists.

15 EXAMINER JONES: And listen to them.

16 EXAMINER BROOKS: Yes.

17 Okay. I'm sorry for the diversion.

18 MS. BENNETT: Oh, no. Thanks.

19 EXAMINER JONES: Usually try to get ready
20 for these hearings by knowing where the well's going to
21 be located and everything, but it's okay if it's
22 determined not to know that. I'll draw the box, and
23 we'll draw the well in later.

24 EXAMINER BROOKS: Well, we're going to have
25 it come in at the hearing because it's going to have to

1 be in the order. But it doesn't necessarily have to be
2 in the preliminary papers.

3 MS. BRADFUTE: And here, Mr. Examiner, it
4 is presented at the hearing in the C-102 forms that are
5 being attached as exhibits.

6 MS. BENNETT: Yes. The C-102s do show the
7 surface-hole location and the bottom-hole location.

8 EXAMINER BROOKS: Yeah. And you said it
9 was in the proposed --

10 MS. BENNETT: In the proposal letters,
11 which are also part of the record.

12 EXAMINER BROOKS: In evidence.

13 MS. BENNETT: Uh-huh.

14 EXAMINER BROOKS: Okay. Go ahead.

15 MS. BENNETT: Okay. That essentially
16 covers it for case -- well, I was just turning to the
17 other case, Case 16419, and about to run through the
18 exhibits for that case. And the exhibits for that case
19 are very similar. 16419 involves the 2nd Bone Spring 8H
20 well, and I'm just going through the landman's exhibits
21 for that as well.

22 Again, it shows the plat which -- sorry.
23 It's the same tract, except this is the east half of the
24 west half. We have the same interest owners, same
25 addresses, same summary of attempted contacts.

1 The C-102s are -- the C-102 for this case
2 is attached as Exhibit B. And, again, this is -- for
3 the SB 8H well, this will be -- it's a Red Tank -- it's
4 the Red Tank pool, Pool Code 51683, and this again shows
5 the surface-hole location and the bottom-hole location.

6 EXAMINER JONES: Does SB stand for
7 something?

8 MS. BENNETT: SB stands for 2nd Bone.

9 EXAMINER JONES: 2nd Bone. Okay.

10 MS. BENNETT: Then Exhibit C is a sample of
11 the well proposal again.

12 And Exhibit D is the AFE for the 8H well.

13 If there aren't any further questions about
14 the landman's affidavit, I'll turn to the geologist's
15 affidavit.

16 EXAMINER JONES: The landman usually
17 sometimes covers why they put the well's surface
18 location where they did. I notice they're all going to
19 be in Unit Letter C.

20 MS. BENNETT: Uh-huh.

21 EXAMINER JONES: Is there a reason for
22 that?

23 MS. BENNETT: If there is -- I'm sure there
24 is a reason. I just don't know it.

25 EXAMINER JONES: You're sure there's a

1 reason (laughter)? Okay. That's what I get for asking
2 that.

3 MS. BENNETT: Yes. I just don't have the
4 answer to that. If you'd like me to track that
5 information down, I'm happy to do it, unless, you know.

6 EXAMINER JONES: Well, it's federal surface
7 and federal minerals in all of this area, it looks like,
8 so I'm sure the BLM required that surface location.

9 MS. BRADFUTE: I believe that's the case.
10 We can confirm that.

11 EXAMINER JONES: There is pad drilling, so
12 you're asking for completion in 120 days?

13 MS. BENNETT: We'll actually be asking for
14 completion in 365 days in this case.

15 EXAMINER JONES: Of all wells?

16 MS. BENNETT: Yes, of all wells. Uh-huh.

17 MS. BRADFUTE: And the reason the 365 days
18 has come up, Mr. Examiner, is Mike McMillan once asked
19 on the record to just make it a round number of 365.

20 EXAMINER JONES: Okay. Not .25, I guess?

21 MS. BRADFUTE: Yeah. So we have stuck with
22 that. It's not necessarily a preference of Marathon.
23 It was just yes, we'll make it a round number.

24 EXAMINER JONES: You want it to be a year,
25 basically?

1 MS. BRADFUTE: Yeah.

2 EXAMINER JONES: Okay. Thanks.

3 MS. BENNETT: Sure.

4 With that, we can now turn to the
5 geologist's affidavit, which is Exhibit 2 in the packet
6 that I've provided. And this is -- the geologist in
7 this case and the other case I'll be presenting is Ethan
8 Perry. And Ethan Perry has also testified before this
9 Division and has been qualified as an expert petroleum
10 geologist.

11 Again, I thought I would run through his
12 affidavit and then we can look at the exhibits, if that
13 works for you-all.

14 Exhibit A is a structure map of the top of
15 the Bone Spring. And when we go through that, you'll
16 see that the project area is defined by black-dashed
17 boxes, and it calls out the location of the proposed
18 wells. Those will be numbered 1, 2 and 3. And Exhibit
19 A identifies three other wells in the vicinity of the
20 proposed wells with the line of cross section running
21 from A to A prime. And Exhibit A shows that the
22 structure dips down to the northwest.

23 Exhibit B is the 1st Bone Spring cross
24 section, and it's a stratigraphic cross section hung on
25 the top of the 1st Bone Spring Sand. And the well logs

1 in the cross section give a representative sample of the
2 1st Bone Spring Sand Formation in that area, and the
3 target zone, we'll see, is identified by the shaded area
4 across the cross section and by the words "Producing
5 Zone." And it's Mr. Perry's opinion that the zone is
6 continuous across the well unit.

7 Exhibit C is a gross interval isochore of
8 the 1st Bone Spring, and he testifies that the 1st Bone
9 Spring is uniform across the proposed well unit based on
10 that isochore.

11 Exhibit D is a 2nd Bone Spring cross
12 section, and it's hung on the base of the 2nd Bone
13 Spring Sand. Again, the well logs there are the same
14 well logs and give a representative sample of the 2nd
15 Bone Spring Sand Formation in the area. The target zone
16 is again identified, and Mr. Perry concludes that the
17 zone is continuous across the well unit.

18 Exhibit E is a gross sand isochore of the
19 2nd Bone Spring, and his opinion is that the 2nd Bone
20 Spring is uniform across the proposed well unit.

21 And Exhibit F is a structure map of the top
22 of the Wolfcamp, and this Exhibit F shows that the
23 structure dips slightly down to the east.

24 And Exhibit G is a 3rd Bone Spring cross
25 section, and it's hung on the top of the Wolfcamp, which

1 is why Mr. Perry chose the Wolfcamp for the structure
2 map. And the well logs on the cross section give a
3 representative sample of the 3rd Bone Spring Sand
4 Formation in the area. And the target zone there is
5 again identified by the words "Producing Zone" in the
6 shaded area. And his opinion is that the zone is
7 continuous across the unit.

8 Exhibit H is a gross sand isochore of the
9 3rd Bone Spring. His opinion is that the 3rd Bone
10 Spring is uniform across the proposed well unit. And
11 based on these exhibits, he concludes that the
12 horizontal spacing unit is justified from a geologic
13 standpoint, that there are no structural impediments or
14 faulting that will interfere with horizontal
15 development. Each quarter-quarter section in the unit
16 will contribute more or less equally to the production.
17 And he noted that the preferred well orientation in this
18 area is north-south, and that is because the inferred
19 orientation of maximum horizontal stress is roughly
20 east-west at this location.

21 So turning first to Exhibit A -- as I
22 mentioned, that's the structure map on the top of the
23 Bone Spring -- it shows the project area by the dashed
24 boxes. It has the three wells -- our three proposed
25 wells identified, and it also has the line from A to A

1 prime. It also shows the horizontal location by the
2 blue line within the proposed project area.

3 Exhibit B is the stratigraphic cross
4 section at the top of the 1st Bone Spring running from A
5 to A prime.

6 Exhibit C is the gross interval isochore of
7 the 1st Bone Spring. The contour interval there is 50
8 feet.

9 Exhibit D is the top of the 2nd Bone
10 Spring. That's a stratigraphic cross section. And,
11 again, it shows the producing zone shaded in green.

12 Exhibit E is the gross sand isochore that
13 we discussed a moment ago, again with a contour interval
14 of 50 feet.

15 Exhibit F is the structure map on the top
16 of the Wolfcamp, which, as I explained a moment ago, he
17 chose because of its location proximity to the 3rd Bone
18 Spring.

19 On Exhibit G -- I discussed Exhibit G with
20 the geologist because you'll note in Exhibit G, with
21 respect to the logs for the second well, the middle
22 well, there's a lot of solid green in that log versus
23 the other two well logs, and Mr. Perry explained to me
24 that he believes that's a calibration issue with the
25 machine that was doing the analysis and that it is

1 not -- it's not representative but that the other two
2 are representative.

3 And then Exhibit H is the gross sand
4 isochore of the 3rd Bone Spring, again with a contour
5 interval of 20 feet.

6 Any questions about the geology exhibits
7 before I move on to my affidavit?

8 EXAMINER BROOKS: Not from me.

9 EXAMINER JONES: The target interval is a
10 pretty gross --

11 MS. BENNETT: It is.

12 EXAMINER JONES: -- interval, and I can't
13 find anywhere that lists the true vertical depth that
14 you're proposing to drill the well. What sometimes is
15 presented is -- and it has to be done before you get a
16 permit to drill anyway -- is the planned drilling
17 survey. So is there a way you can -- I would prefer if
18 you would -- if you're not going to list the vertical
19 depth, go ahead and send in a planned -- go ahead and do
20 a planned survey and send it in.

21 MS. BRADFUTE: Mr. Examiner, these are
22 federal wells, so the TVD will be listed in the APD.

23 EXAMINER JONES: Okay. But we don't have
24 the APD yet.

25 MS. BRADFUTE: I don't think we have the

1 approved one, so I'll see.

2 MS. BENNETT: So what you'd like us to do
3 is send in either the APD or a survey, or just the APD?

4 EXAMINER JONES: The planned survey is the
5 best. It would be best to have that as an exhibit.

6 MS. BENNETT: Okay. And may I submit that
7 via email to you-all or --

8 EXAMINER JONES: Yes. But you're going to
9 come back on the 18th, so just do that; just bring it
10 together.

11 MS. BENNETT: That sounds great for these
12 three cases, but I believe this will be a standing
13 request for the next five cases that I'll be discussing
14 because I also don't have the TVD for those cases.

15 EXAMINER JONES: Yes. That sounds good.

16 MS. BENNETT: Okay. So for the next --
17 well, I'll address those when we get to it.

18 EXAMINER JONES: Okay.

19 MS. BENNETT: Any other questions about the
20 geology exhibits before I move on?

21 EXAMINER JONES: No. I don't have any more
22 questions.

23 MS. BENNETT: Okay. Thank you.

24 The final exhibit in this packet is my
25 affidavit, and this is an affidavit of information about

1 who we sent notice to for this hearing. It shows the
2 names and addresses of the folks to whom we sent notice.
3 The second spreadsheet here identifies the folks who did
4 not receive notice. And the folks who did not receive
5 notice, with the exception of RKI, were overriding
6 interest owners or offset owners, and, again, the offset
7 owners were only notified out of an abundance of
8 caution. And we did publish in a paper of general
9 circulation, the "Hobbs News-Sun," and we did give
10 constructive notice to the overriding interest owners
11 and the offsets.

12 EXAMINER JONES: Okay. Just for my
13 purposes, you said constructive notice? Instructive?

14 EXAMINER BROOKS: Constructive.

15 MS. BENNETT: Well, constructive would be
16 different than a letter. So a letter is actual notice.
17 And so this is -- this is notice by publication.

18 EXAMINER JONES: Okay.

19 EXAMINER BROOKS: What one of my law
20 professors told me was actual notice is when they had
21 notice. Constructive notice is when the Court decides
22 to make a construction that they had notice even though
23 they didn't.

24 MS. BENNETT: Well, so they had --

25 EXAMINER JONES: They read the newspaper,

1 though.

2 MS. BENNETT: If they read the newspaper,
3 yeah. They would have actual notice if they read the
4 newspaper. But we did follow the regulations for
5 providing notice.

6 EXAMINER BROOKS: Well, yes. That's the
7 important thing. You did what the rules require you to
8 do.

9 MS. BENNETT: Yes.

10 EXAMINER BROOKS: Constructive notice is a
11 legal fiction, but it is a legal fiction that has been
12 used for many centuries.

13 EXAMINER JONES: Even when Bill Carr
14 was --

15 (Laughter.)

16 MR. BRUCE: Which century are we talking
17 about?

18 MS. BENNETT: So with that, I'd like to
19 move the admission of Exhibits 1 through 3 and their
20 attachments in Cases 16418 and 16419.

21 EXAMINER JONES: Exhibits 1, 2 and 3 and
22 their attachments are admitted in Cases 16418 and 16419.

23 (Marathon Oil Permian, LLC Exhibit Numbers
24 1 through 3 are offered and admitted into
25 evidence.)

1 MS. BENNETT: And I would ask that these
2 two cases be continued for notice to October 18th.

3 EXAMINER JONES: Okay. These two cases are
4 continued October 18th.

5 (Case Numbers 16418 and 16419 conclude,
6 11:23 a.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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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 6th day of October 2018.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2018
Paul Baca Professional Court Reporters

25