

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:

CASES NOS. 20157, 20158,
20159, 20160, 20161

Application of Devon Energy Production
Company, LP, for compulsory pooling in
Lea County, New Mexico.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

FRIDAY, FEBRUARY 22, 2019

SANTA FE, NEW MEXICO

This matter came on for hearing before the
New Mexico Oil Conservation Division, Examiners Michael
McMillan and Terry Warnell, and Legal Examiner David
Brooks, on Friday, February 22, 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

Reported by: Mary Therese Macfarlane
New Mexico CCR 122
PAUL BACA COURT REPORTERS
500 Fourth Street NW, Suite 105
Albuquerque, New Mexixco 87187
(505) 842-9241

A P P E A R A N C E S

For the Applicant: Seth C. McMillan, Esq.
Montgomery & Andrews Law Firm
303 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 982-3873
smcmillan@montand.com

FOR MEWBOURNE ENERGY: James Bruce, Esq.
Post Office Box 1056
Santa Fe, NM 87504
(505) 982-2043
jamesbruc@aol.com

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4 SUSAN ESTES: (BY AFFIDAVIT)

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1 (Time noted: 8:50 a.m.)

2 EXAMINER McMILLAN: Okay. I'd like to call Case
3 No. 20157, the application of Devon Energy Production, LP
4 for a standard horizontal spacing and proration unit and
5 compulsory pooling, Eddy County, New Mexico.

6 Will these be combined 20158, 20159, 20160
7 and -61?

8 MR. McMILLAN: Yes, Mr. Examiner, that's how we
9 would like to do it. And in fact we've put the exhibits
10 together such that the Bone Spring wells will be covered
11 in -57, -58 and -59, and then I'll move to the Wolf Camp
12 wells in -60 and -61, if that works.

13 EXAMINER McMILLAN: Call for appearances.

14 MR. BRUCE: Jim Bruce of Santa fe, representing
15 Mewbourne Oil Company. I have no witnesses.

16 EXAMINER McMILLAN: In all cases?

17 MR. BRUCE: In all cases.

18 MR. McMILLAN: Seth McMillan, Montgomery &
19 Andrews on behalf of Devon Energy.

20 EXAMINER McMILLAN: Okay. Slow down.

21 MR. BRUCE: He's already moving slow enough.

22 EXAMINER McMILLAN: Yeah, right.

23 EXAMINER BROOKS: For such a young
24 whipper-snapper.

25 MR. McMILLAN: Not so young, Mr. Brooks.

1 EXAMINER BROOKS: Compared to me.

2 MR. McMILLAN: Feeling my age, man.

3 EXAMINER WARNELL: That's kind of funny, isn't
4 it, David.

5 EXAMINER BROOKS: Yeah, it is.

6 MR. McMILLAN: Okay. So just to back up,
7 Mr. Examiner, I'd like to present these cases as follows:
8 20157, 20158 and 20159 all concern the Bone Spring wells
9 here. 20160 and 20161 cover the Wolfcamp wells. I'd like
10 to start with the Bone Spring wells and then move to the
11 Wolfcamp wells, if that is acceptable to the examiner.

12 All right. We are presenting these by
13 affidavit, no witnesses.

14 Looking at, again starting with the packet
15 in 20157, -58 and -59, we've included as Exhibit 1 the
16 latest and greatest applications. There was an amendment
17 due to a typo in the caption. We had the wrong county in
18 the caption. That has been corrected and behind Tab 1 are
19 the operative applications.

20 Behind Tab 2 is the affidavit of Cari Allen
21 who is a landman with Devon. She has previously testified
22 before the Division and her credentials were accepted and
23 made a matter of record. She has nonetheless laid out her
24 education and work history just in case.

25 I don't know if procedurally it's

1 appropriate here for me to move for Cari Allen, tender
2 Cari Allen as an expert in petroleum land matters.

3 EXAMINER McMILLAN: Any objections, Jim?

4 MR. BRUCE: No objection.

5 MR. McMILLAN: So qualified.

6 EXAMINER McMILLAN: Yes.

7 MR. McMILLAN: Okay. Ms. -- I'm not going to
8 read these affidavits to you, I'll just do a gloss, but
9 Ms. Allen sets forth that no opposition is expected and
10 that interest owners being pooled or contacted who failed
11 to voluntarily commit their interests and otherwise are
12 not expected to oppose. That's why we are here on
13 affidavit.

14 In 20157 Devon seeks to dedicate a 320-acre
15 horizontal spacing unit comprised of the north half/north
16 half of section 13 and the north half/north half of
17 Section 14, Township 21 South, Range 27 East in Eddy
18 County.

19 That HSU will be dedicated to the Lone Tree
20 Draw 14-13 State Com 332H Well and the Lone Tree Draw
21 14-13 State Com. 331H Well.

22 In Case No. 20158 it's again a 320-acre
23 horizontal spacing unit. This one is south half/north
24 half of Section 13 and 14, same township, range and
25 county.

1 In 20159 Devon seeks to dedicate 640-acre,
2 horizontal spacing unit. This is the south half of
3 Section 13 and the south half of Section 14 in the same
4 township, range and county.

5 Backing up, in 20158 the well to be
6 dedicated is the Lone Tree Draw 14-13 State Com 333H well.

7 In 20159 the wells to be dedicated are the
8 Lone Tree Draw 335H, the 336H and the 334H. All of these
9 are horizontal wells.

10 Attached to Ms. Allen's affidavit as
11 Exhibits A-1, A-2 and A-3 are plats showing the units to
12 be pooled and the location of the proposed wells.

13 The lists of the parties to be pooled and
14 the nature of their interests are attached to the
15 affidavit as Exhibits B-1, B-2, and B-3. Included is
16 information regarding working interests and the overrides.

17 There are no depth severances in the Bone
18 Spring formation.

19 Ms. Allen lays out the locations and
20 proposed depths of the six wells to be drilled here,
21 total. She has conducted a diligent search looking for
22 contact information and mailed Well Proposals, including
23 an AFE. In fact those Well Proposal letters and AFEs, or
24 at least a sample thereof, are attached as Exhibits D-1,
25 D-2, and D-3 to Ms. Allen's affidavit. She testifies that

1 those costs in the AFEs are fair and reasonable and
2 comparable.

3 Our proposed C-102s, for the 335H and the
4 336H are attached as Exhibit C. These are the first two
5 wells to be drilled. C-102s have not yet been done for
6 the other wells but their locations are set forth in
7 Exhibit A.

8 All of these wells are developed in the
9 Bone Spring formation in the so-called Carlsbad Bone
10 Spring East Pool, Pool Code 91994. It's an oil and gas
11 pool.

12 Devon requests overhead and administrative
13 rates of \$7500 for drilling, \$7500 a month for drilling,
14 and \$750 month for producing.

15 Ms. Allen testifies that these rates are
16 fair and comparable and that they should be adjusted
17 periodically per COPUS.

18 Devon is asking for a maximum cost plus 200
19 percent risk charge, designated operator. The exhibits
20 were done by Cari Allen. She testifies that the granting
21 of the applications would be in the best interests of
22 conservation, the prevention of waste, and the protection
23 of correlative rights.

24 That concludes the land affidavit for the
25 Bone Spring wells. I'd move for the admission at this

1 time of my Exhibit 1, which are just the applications, and
2 Exhibit 2, which is the land affidavit for the Bone Spring
3 wells.

4 EXAMINER McMILLAN: Any objections?

5 MR. BRUCE: No objections.

6 EXAMINER McMILLAN: Exhibits 1 and 2 may now be
7 accepted as part on the record.

8 MR. McMILLAN: Questions or concerns as to Ms.
9 Allen's affidavit?

10 EXAMINER McMILLAN: Okay. Now, where are the
11 C-102s?

12 MR. McMILLAN: They would be -- let's see. Those
13 would be attached as Exhibit C. I hope. Let's turn
14 together and confirm that we have those.

15 EXAMINER McMILLAN: Exhibit C.

16 MR. McMILLAN: Yes. Huzzah.

17 EXAMINER McMILLAN: Okay.

18 MR. McMILLAN: They are labeled at the top,
19 Mr. Examiner, Exhibit C.

20 (Note: Pause.)

21 EXAMINER McMILLAN: Well, I see the two for the
22 335 and the 336. Where are the others?

23 MR. McMILLAN: Those are the only two that we
24 have at this time. Those are the first two wells.

25 EXAMINER McMILLAN: Okay. Because I'm confused,

1 because when I look at 57 it's the north half of the north
2 half, and from what I could tell it looks like for the 332
3 the surface is 1715 from the north, 240 from the west --

4 MR. McMILLAN: Yes.

5 EXAMINER McMILLAN: -- and the bottom hole is
6 1310 north, 230 from the east. And then 331 is 925 from
7 the north, 225 from the west, 440 from the west, and 230
8 from the east.

9 I'm trying to understand. I'm kind of
10 confused how you're getting the north half of the north
11 half in your -- I mean, I've got to have the fist and take
12 points.

13 MR. McMILLAN: Let's see.

14 If those are not set forth in the exhibits
15 already I can be sure and supplement the record with
16 those.

17 EXAMINER McMILLAN: Because I think it's
18 critical, because it --

19 MR. McMILLAN: I'm just going to take a quick
20 look as Ms. Allen's exhibits and make sure we don't
21 already have that.

22 I think you're right. We have surface hole
23 locations and bottom hole locations.

24 EXAMINER McMILLAN: Yeah, because it's difficult
25 just from that information how you're getting a north

1 half/north half spacing unit.

2 MR. McMILLAN: Okay.

3 EXAMINER McMILLAN: And that was that one.

4 Yeah, that was that one, that one, that one. Okay.

5 MR. McMILLAN: So just to be clear, since we
6 have had issues in the past with these affidavit cases and
7 this game of telephone we play where you request of me and
8 request I request of the client and I come back to you,
9 and we're doing this kind of thing. Let's just be clear
10 as to what would be helpful here.

11 EXAMINER McMILLAN: I want to see a C-102 for
12 these wells that clearly states the first take point and
13 the last take point, because to me it looks kind of odd
14 how you're going -- when the -- when I look at the 332
15 it's in Unit E, and then the bottom hole is in Unit A, and
16 we want to make sure how you're getting there.

17 MR. McMILLAN: Okay.

18 EXAMINER McMILLAN: Then the second question I'm
19 getting out of this. Yeah, this also brings up the
20 question is an NSL required.

21 MR. McMILLAN: I'm glad you brought that up.

22 To the extent an NSL was required Devon was
23 intending to take care of that administratively.

24 EXAMINER McMILLAN: Okay. Yeah, because I
25 think the way the Division is looking NSLs, they would

1 rather have them done administratively. Administratively
2 will do a better job of it than a hearing, because they
3 will look more closely at Notice.

4 MR. McMILLAN: So we are proceeding
5 appropriately then.

6 EXAMINER McMILLAN: I think that's how we want
7 to have it done.

8 Yeah, you'll do the same thing -- looks
9 like I have the same questions on 20158, too. So, yeah,
10 let's get that done.

11 MR. McMILLAN: Not a problem, Mr. Examiner.

12 Shall I move on to the geology testimony,
13 or do you have any question.

14 EXAMINER BROOKS: I think it would be very
15 helpful if we have -- if we had first take point and last
16 take point proposed --

17 MR. McMILLAN: Yes.

18 EXAMINER BROOKS: -- on exhibits in every case
19 where it's possible to do that.

20 I recognize that the first take point and
21 the last take point, especially the last take point, may
22 change, but I think we are better off with -- we are
23 better informed if we know what you're planning to do.

24 MR. McMILLAN: Sure.

25 EXAMINER BROOKS: That's just a comment, not

1 really a question.

2 MR. McMILLAN: Well, that seems perfectly
3 reasonable to me that you want to know where we are
4 putting these wells and whether they are orthodox.

5 EXAMINER BROOKS: Yeah. Yeah.

6 MR. McMILLAN: Okay. Okay.

7 EXAMINER McMILLAN: Proceed.

8 MR. McMILLAN: If I may move on to the affidavit
9 of Susan Estes. Susan is our geologist. She works for
10 Devon as a geologist and has previously testified as an
11 expert witness in petroleum geology. Her credentials have
12 been accepted and made a matter of record. I'd ask that
13 she be -- or I tender Ms. Estes as an expert in petroleum
14 geology matters at this time.

15 EXAMINER McMILLAN: Any objections?

16 MR. BRUCE: No objection.

17 EXAMINER McMILLAN: So qualified.

18 MR. McMILLAN: Great.

19 Okay. Ms. Estes' affidavit lays out
20 exactly as Cari Allen's affidavit did. In an attempt to
21 keep things clear, it just lays out what we're trying to
22 do in each of these three Bone Spring cases.

23 Then moving to the Exhibits A-1, A-2, and
24 A-3 correspond to our three case numbers. And these are
25 map views of Devon's development plan for the 3rd Bone

1 Spring Sand here in Sections 14 and 13.

2 Looking at the exhibits the proposed
3 wellbores are denoted by the red lines, bottom hole
4 locations -- hey, we may have -- let's take a look. I see
5 the bottom hole locations are identified by red circles
6 but they're not called out with useful numbers. So we
7 will get you those.

8 EXAMINER McMILLAN: Yeah.

9 MR. McMILLAN: Let's see. The blue outlined
10 boxes are the proposed horizontal spacing units.

11 Here is what Devon is up to here.
12 Initially Devon is planning six wells per section, based
13 on recent success of the same spacing pattern in a unit to
14 the northeast called the Parkway West Unit.

15 Because this program -- Devon considers
16 this program to be in the so-called appraisal phase, and
17 so they are starting with two wells to be drilled on the
18 southern edge of the development block. Those are the two
19 wells that we have C-102s for, the 335H and the 336H.

20 The intent here is to test the spacing and
21 economic viability of the proposed six-well program.
22 There will be more about this as I march through the
23 geology affidavits, and we have an engineering affidavit,
24 as well.

25 Exhibits B-2 -- or B-1, B-2 and B-3 to Ms.

1 Estes' affidavit are your subsea structure maps. They're
2 hung on the top of the 3rd Bone Spring Sand. Again the
3 horizontal spacing units are depicted in blue outlines,
4 contour interval is 50 feet, and the proposed wellbore
5 paths for the 331H and the 332H wells are depicted by red
6 lines. Again bottom hole locations are indicated by red
7 circles.

8 The structure map shows that overall the
9 area is dipping to the east and into the basin.
10 Ultimately the geologist did not observe any faults,
11 pinch-outs, or other geologic impediments or hazards to
12 developing the target interval with horizontal well
13 development.

14 Exhibits C-1, C-2 and C-3 are gross
15 isopach maps prepared for the 3rd Bone Spring Sand. Looks
16 like the -- it's laid out similarly to the prior exhibits
17 and the contour interval is 20 feet.

18 The thickness of the 3rd Bone Spring Sand
19 interval across the proposed units is approximately 320 to
20 420 feet.

21 These Exhibits C-1, C-2, and C-3 also show
22 the red A to A-prime cross section line. That becomes
23 important when we turn to D-1, D-2, and D-3, which should
24 show a cross section. Yes, indeed.

25 So these are your cross sections showing

1 gamma ray, resistivity, and porosity logs.

2 The proposed 3rd Bone Spring Sand target
3 interval is labeled and depicted in the yellow shade.

4 The cross section to the geologist's
5 satisfaction that the target interval extends across the
6 proposed unit; that is to say it's laterally contiguous
7 and is consistent in both thickness and log character.

8 Turning to Exhibits E-1, E-2 and E-3 these
9 are -- okay. Those are described by our geologist as
10 west-to-east dip sections illustrating type wells. Her
11 finding is that these cross sections demonstrate that the
12 targeted interval extends across these proposed units and
13 again is consistent in thickness and log character.

14 In the geologist's opinion the west-to-east
15 orientation of the proposed wells is appropriate in order
16 to effectively drain the targeted reservoirs; it's
17 effectively perpendicular to the maximum stress observed
18 in the area.

19 The geologist's ultimate conclusion is that
20 based on her geologic study the Bone Spring formation is
21 suitable for development by horizontal wells, and that the
22 acreage comprising the proposed units will contribute more
23 or less equally to the production of the wellbores.

24 Ms. Estes prepared the exhibits and
25 testifies that the granting of the applications would be

1 in the best interests of conservation, prevention of awful
2 waste, and protection of correlative rights.

3 At this time I would move the admission of
4 Exhibit and its sub exhibits, I guess we could call them,
5 that being the affidavit of Susan Estes and her exhibits.

6 MR. BRUCE: No objection.

7 EXAMINER McMILLAN: Exhibit 3 may now be
8 accepted as part of the record.

9 So all quarter-quarter sections?

10 MR. McMILLAN: Well, I suppose that depends on
11 how we parse the testimony.

12 Let's see. What did she say?

13 Ah, paragraph 11: The acreage comprising
14 our proposed units will contribute more or less equally to
15 the production of the wellbores.

16 Is that enough specificity?

17 EXAMINER McMILLAN: Yes. This is boilerplate
18 stuff we got to ask.

19 MR. McMILLAN: Yes.

20 EXAMINER McMILLAN: Okay. And once again,
21 you've put too much stuff on the map for me.

22 MR. McMILLAN: We will talk to our client, share
23 with our clients about their maps.

24 EXAMINER McMILLAN: Well, I've told everybody
25 that.

1 MR. McMILLAN: How do we remedy the situation?

2 You want, again, a separate map just
3 showing the cross section line?

4 EXAMINER McMILLAN: Yes. It's easier for
5 everybody.

6 MR. McMILLAN: Very good.

7 EXAMINER McMILLAN: And I have told other
8 applicants that -- what I thought of their maps, too.

9 MR. McMILLAN: Including the applicant right
10 before me.

11 EXAMINER BROOKS: What I haven't heard is any
12 applicant whose maps he liked.

13 EXAMINER McMILLAN: That's not true. There was
14 one a couple of years ago. That was really, really good.
15 (Note: Laughter.)

16 MR. McMILLAN: Got a gold star for that one.

17 You know, I don't know if we should do this
18 on -- can we go off the record for just a second?

19 EXAMINER McMILLAN: Sure. We're off the record.

20 (Note: Discussion held off the record from
21 9:14 a.m. to 9:22 a.m.)

22 MR. McMILLAN: Back on the record?

23 EXAMINER McMILLAN: Yes.

24 MR. McMILLAN: We'll move on to the engineering
25 affidavit on the Bone Spring wells. This is Exhibit 4 and

1 it's sub exhibits.

2 Our reservoir engineer here is named Karsan
3 Sprague. Mr. Sprague has not previously testified. He
4 obtained a Bachelor's degree in petroleum engineering from
5 Montana Tech, and has been working with Devon as a
6 petroleum engineer since 2015. He's familiar with the
7 subject applications and the engineering involved, and I
8 would tender Mr. Sprague as an expert in petroleum
9 engineering matters.

10 MR. BRUCE: No objection.

11 EXAMINER McMILLAN: So qualified.

12 MR. McMILLAN: Okay. What Mr. Sprague has done
13 here is completed an analysis of the 3rd Bone Spring using
14 Devon's wells in the Parkway West unit, which is nearby,
15 as well as wells operated by others in the area.

16 What Devon did was test multiple well
17 spacing scenarios and found that six wells per section was
18 the commercially successful number in this field, and
19 that's the spacing that's being tested by this development
20 plan.

21 Exhibits A-1, A-2 and A-3 three show the
22 Devon-operated wells in red and the Derringer wells which
23 are operated by others in green, and the upshot, again, is
24 that the well spacing here, according to Mr. Sprague, is
25 appropriate at six wells per section.

1 With respect to the Wolfcamp wells, which
2 we will be jumping to in a minute, Mr. Sprague also
3 completed an analysis of the Wolfcamp wells using wells
4 operated by other operators, in order to understand the
5 performance of those wells with respect to the Wolfcamp.

6 And ultimately here's what's going on here.
7 Mr. Sprague's opinion is that the Upper Wolfcamp and the
8 Lower Bone Spring will communicate here.

9 EXAMINER BROOKS: I've heard that opinion
10 expressed before. Go ahead.

11 MR. McMILLAN: Sure. Sure.

12 And so with that in mind what Devon wants
13 to do here is do horizontally landed wellbores that would
14 be drilled simultaneously.

15 Again, it appears that Mr. Sprague hasn't
16 found the appropriate wells to quantify that
17 communication, so this project is intended to figure out
18 just the degree to which these wells or these formations
19 are communicating. In any event, his analysis is that six
20 wells will effectively drain the Bone Spring, and his
21 exhibits were prepared by him, the granting of the
22 applications is in the interests of conservation and
23 prevention of waste and the protection of correlative
24 rights.

25 And that's the work that Mr. Sprague did

1 here.

2 Perhaps -- well, to the extent that the
3 examiner is curious about what Mr. Sprague has done here,
4 perhaps when we go over the Wolfcamp wells things will
5 make a bit more sense. But at this time I would move the
6 admission of Exhibit 4 and its sub exhibits, that being
7 the affidavit of Karsan Sprague.

8 MR. BRUCE: No objection.

9 EXAMINER McMILLAN: Exhibit 4 may now be
10 accepted as part of the record.

11 MR. McMILLAN: Is there anything I can address
12 with respect to Mr. Sprague's affidavit?

13 EXAMINER McMILLAN: So Devon dedicates a couple
14 of years ago, right similar to this, where basically they
15 showed that the optimum well spacing was six versus eight.
16 Is this kind of the continuation of that?

17 MR. McMILLAN: I'm honestly not aware of the
18 relationship with the prior case. I'm not sure if maybe
19 Mr. Karsan Sprague also worked on that case. I haven't
20 been with Devon that many years.

21 EXAMINER McMILLAN: And so with the Derringer
22 wells were you leaving reserves in the well, because
23 Derringer was a four-well?

24 MR. McMILLAN: That may well be. Those are
25 others' wells. The Derringer wells aren't Devon wells.

1 I'm not sure of the status of the reserves there.

2 EXAMINER McMILLAN: Okay. Because they did
3 reservoir modeling, they show that the optimum is six
4 wells, and I was just wondering if that was part of the
5 thinking.

6 MR. McMILLAN: I'm not sure we are trying to
7 cast any criticism on the Derringer wells as much as
8 trying to establish what the appropriate spacing is here.

9 EXAMINER McMILLAN: Oh, okay. All right.
10 What questions do you have?

11 EXAMINER WARNELL: No questions.

12 EXAMINER McMILLAN: David?

13 EXAMINER BROOKS: No questions.

14 MR. McMILLAN: Moving on to Exhibit 5, this is
15 my Notice affidavit. We sent copies of the applications
16 to all the parties, both overrides and working interests.
17 Our green cards are attached. We also published in the
18 Carlsbad Current-Argus to all of the interest owners and
19 the Affidavit of Publication is attached as Exhibit B.

20 Given the belt-and-suspenders approach, any
21 envelopes that were returned or otherwise didn't make it
22 to their intended destination -- the intended recipients
23 of those letters also received Notice by Publication.

24 So either by actual or constructive notice
25 all the interest notice and overrides were served with

1 notice in this case.

2 EXAMINER McMILLAN: Okay. But then for instance
3 I'm looking at George -- I'm looking at George M. O'Brien.
4 It says "Returned Envelope".

5 MR. McMILLAN: Okay.

6 EXAMINER McMILLAN: Does that mean he is
7 unlocatable?

8 MR. McMILLAN: I think that's our -- that's the
9 address that we had. That's the only address we could
10 find.

11 EXAMINER McMILLAN: So there were --

12 MR. McMILLAN: So we would call them
13 unlocatable, and I am, just as we speak, desperately
14 looking at the Notice of Publication to double check.

15 What is the name again?

16 EXAMINER McMILLAN: George M. O'Brien.

17 MR. McMILLAN: There he is. George M. O'Brien,
18 dealing in his sole and separate property, is listed among
19 the names on the Notice of Publication.

20 EXAMINER McMILLAN: So there are unlocatables.
21 Okay.

22 And you're pooling working interests?

23 MR. McMILLAN: Certainly, yes.

24 EXAMINER McMILLAN: And overrides?

25 MR. McMILLAN: Overrides.

1 EXAMINER McMILLAN: All cases?

2 MR. McMILLAN: All cases.

3 Let me see. There's a couple of others.

4 By way of further example, Mr. Examiner, we
5 had a returned envelops from a James J. Crafts, Jr.,
6 Trustee of the Adolph P. Schuman Trust. Mr. Crafts as
7 trustee is listed in the Affidavit of Publication.

8 EXAMINER McMILLAN: Okay.

9 MR. McMILLAN: Likewise Sam L. Shackelford.
10 Mr. Shackelford is in the Affidavit of Publication (Note:
11 Pause.)

12 EXAMINER McMILLAN: Okay.

13 MR. McMILLAN: Great. Did I move the admission
14 of this exhibit yet? If I haven't, I'd like to at this
15 time.

16 MR. BRUCE: No objection.

17 EXAMINER McMILLAN: Exhibit 5 may now be
18 accepted as part of the record.

19 MR. McMILLAN: I think I have successfully moved
20 and had accepted all of the exhibits in Cases 20157,
21 -58 and -59.

22 Moving on to the Wolfcamp.

23 EXAMINER McMILLAN: Do we want to take these
24 cases -- let's take these under advisement.

25 MR. McMILLAN: Okay. I ask these cases be taken

1 under advisement.

2 MR. BRUCE: No objection.

3 EXAMINER McMILLAN: 20157, -58, -59 shall be
4 taken under advisement at this time. Thank you.

5 MR. McMILLAN: All right.

6 EXAMINER McMILLAN: Let's take a 10-minute
7 break.

8 MR. McMILLAN: Let's do that.

9 EXAMINER BROOKS: Sounds like a good idea.

10 (Note: In recess from 9:31 a.m. to 9:43 a.m.)

11 EXAMINER McMILLAN: All right. Back on the
12 record. Case No. 20160 and 20161.

13 MR. McMILLAN: Okay. Looking at the exhibit
14 packet here, Exhibit 1 is again the operative application
15 for 20160 and for 20161. There was an amendment to
16 correct a scrivener's error in the caption as to the
17 county.

18 Moving on to -- I move the admission of
19 Exhibit 1 at this time.

20 MR. BRUCE: No objection.

21 EXAMINER McMILLAN: Exhibit 1 is part of the
22 record.

23 MR. McMILLAN: Great. Exhibit 2 is Cari Allen's
24 affidavit. Cari Allen is the landman on this matter, and
25 she's previously been before the Division and had her

1 credentials accepted and made a matter of record. She,
2 nonetheless, lays out her education and work experience.
3 She was just a moment ago tendered as an expert in
4 petroleum land matters, and I would retender her for
5 purposes of these cases.

6 EXAMINER McMILLAN: Any objection?

7 MR. BRUCE: No objection.

8 EXAMINER McMILLAN: So ordered.

9 MR. McMILLAN: So these matters are also in
10 Sections 13-14, Township 21 South, Range 27 East in Eddy
11 County. Here we are dealing with the Wolfcamp.

12 In case 20160 Devon seeks to dedicate a
13 standard 320-acre horizontal spacing unit comprised of the
14 north half/north half of Section 13 and the north
15 half/north half of Section 14 to be dedicated to the Lone
16 Tree Draw 14-13, State Com 621H well.

17 In 20161, Devon seeks to dedicate a
18 standard 640-acre HSU comprised on the south half of
19 Section 13 and the south half of Section, 14 dedicated to
20 the Lone Tree Draw 14-13, State Com. 622H well.

21 Attached to Ms. Allen's affidavit as
22 Exhibits A-1, A-2 are plats showing the location of the
23 proposed well within the proposed spacing units. Again
24 while we provide for the examiners on this exhibit the
25 surface hole location and the bottom hole location for the

1 proposed wells, I will endeavor to get for you the first
2 and last take points, because we do not have C-102s in the
3 record yet for those wells.

4 EXAMINER BROOKS: We appreciate that.

5 MR. McMILLAN: Let's see. Where was I?

6 Moving on to Exhibit B-1 and B-2, these are
7 the lists of all parties to be pooled and the name of
8 their interests. These are both working owners and
9 overrides.

10 There are no depth severances in the
11 Wolfcamp formation here. Paragraph 11 lays out the
12 surface hole location and bottom hole locations as well as
13 the total depths of the proposed wells.

14 Ms. Allen conducted a diligent search for
15 the parties entitled to notification, and mailed to all
16 the parties Well Proposal Letters including AFEs. Those
17 letters and AFEs are attached as C-1 and C-2, and Ms.
18 Allen testifies that the estimated costs are fair,
19 reasonable and comparable.

20 She also notes that the C-102s for these
21 two wells are pending, this is in paragraph 14, however
22 the approximate locations are set out above in her table
23 in paragraph 11 and on Exhibit A.

24 The wells will develop the Wolfcamp
25 formation in the Alacran Hills Wolfcamp gas pool, Pool

1 Code 70070, which is identified here as a gas pool.

2 Devon is requesting \$7500 a month for
3 drilling overhead and \$750 a month for producing. These
4 rates are fair and comparable and should be adjusted
5 periodically as provided in COPUS.

6 Devon requests maximum costs and a 200
7 percent risk charge, requests it be designated operator.

8 Ms. Allen prepared the exhibits and
9 testifies that the granting of the applications is in the
10 interest of conservation, the prevention of waste, and the
11 protection of correlative rights.

12 Other than endeavoring to get some proposed
13 C-102s for these two wells that clearly set forth take
14 points, what else can I address with respect to Cari
15 Allen's affidavit here?

16 EXAMINER McMILLAN: Okay. The first question
17 I've got is I'm looking at 160.

18 MR. McMILLAN: Okay.

19 EXAMINER McMILLAN: Now, you state that it's --
20 the horizontal spacing unit is 320 acres, north half/north
21 half of 13, north half/north half of 14. Correct?

22 MR. McMILLAN: Let's see. That was 20160?

23 EXAMINER McMILLAN: Yes.

24 MR. McMILLAN: North half/north half of 13.
25 North half/north half of 14.

1 EXAMINER McMILLAN: Okay. The question that I'm
2 getting out of that is the Alacran Fields Wolfcamp Gas
3 Pool is 320-acre spacing, correct?

4 MR. McMILLAN: Sounds right to me, Mr. Examiner.

5 EXAMINER McMILLAN: So then -- so how are you
6 getting 320 acres when it's essentially comprised of two
7 sections?

8 MR. McMILLAN: Looking at Exhibit A-1.

9 EXAMINER McMILLAN: Okay. Hold on. Now, let's
10 see. Yes.

11 Okay. I'm looking at Exhibit A-1.

12 MR. McMILLAN: Okay. This would be our guide.
13 This is the land plat that Ms. Allen produced.

14 EXAMINER McMILLAN: Yes.

15 MR. McMILLAN: And looks to me -- Tract 2 looks
16 like we're pulling together four 80-acre tracts to create
17 our 320.

18 Did someone miscalculate here? I'm --

19 EXAMINER McMILLAN: Well, you expect it to be
20 640.

21 MR. McMILLAN: Meaning the entire...

22 EXAMINER McMILLAN: Entire north half 13, the
23 north half of 14 --

24 EXAMINER WARNELL: North half/north half.

25 EXAMINER McMILLAN: It's a 320-acre...

1 Because it -- conversely, with the 161
2 you're requesting a 640.

3 MR. McMILLAN: Right. What's going on here?

4 EXAMINER McMILLAN: Does that make sense?

5 MR. McMILLAN: I -- I'm struggling here,
6 Mr. Examiner. I think it --

7 EXAMINER WARNELL: 161 should be 320, too.

8 EXAMINER McMILLAN: 161 is a 320-acre, standard
9 320-acre spacing. Because --

10 MR. McMILLAN: 161.

11 EXAMINER McMILLAN: Let's be --

12 MR. McMILLAN: Yes, the intention is that 161 is
13 a 640.

14 EXAMINER McMILLAN: Yeah.

15 MR. McMILLAN: And that 160 is a 320.

16 EXAMINER WARNELL: That's what it says in Cari
17 Allen's affidavit.

18 MR. McMILLAN: Four is 320, six is 480. 640.

19 Uhm, it seems to me that just looking at
20 Exhibit A-2, it seems to me that again the acreages of the
21 respective tracts do add up to a 640.

22 EXAMINER McMILLAN: For?

23 MR. McMILLAN: For 20161.

24 EXAMINER McMILLAN: Yeah. It's the same pool.

25 How come you're not doing the same thing in 160?

1 Doesn't that in essence create a
2 nonstandard spacing unit?

3 MR. McMILLAN: I don't know.

4 EXAMINER McMILLAN: I think this is a legitimate
5 question about this one.

6 MR. McMILLAN: Uhm, --

7 EXAMINER BROOKS: Is it a standard spacing unit
8 with proximity tracts?

9 EXAMINER McMILLAN: But this is a gas.

10 EXAMINER BROOKS: What's the spacing for the
11 pool?

12 EXAMINER McMILLAN: It's statewide 320.

13 MR. McMILLAN: Should be.

14 EXAMINER BROOKS: So it's statewide gas. Well,
15 statewide gas in the Wolfcamp is 320.

16 EXAMINER McMILLAN: Yes.

17 EXAMINER BROOKS: And let's see. Bone Spring it
18 would normally be 40.

19 But I guess it would be 160 if it were gas
20 in the Wolfcamp, but this isn't gas in -- I mean in the
21 Bone Spring. But this is not gas at Bone Spring, right?

22 EXAMINER McMILLAN: No, this is the Wolfcamp
23 pool.

24 EXAMINER BROOKS: Yeah. But I mean the same
25 area, because these pools are in the same area.

1 MR. McMILLAN: Uhm, what would be the pleasure
2 of the Division as to addressing this issue?

3 EXAMINER McMILLAN: My only --

4 MR. McMILLAN: Is it --

5 EXAMINER McMILLAN: I mean, it becomes a
6 Notice -- David will correct me if I'm stating this wrong.

7 EXAMINER BROOKS: Okay. Go ahead and state it
8 and I'll --

9 EXAMINER McMILLAN: My question is: Should this
10 have been 640 for 160? Should that have been a 640 but
11 you're only requesting a 320? And does it become a Notice
12 question, No. 1.

13 No. 2, if it is in reality a 640, are the
14 working percentages that you -- are the working interest
15 percentages and royalty percentages, are they are actually
16 correct?

17 MR. McMILLAN: I don't know.

18 EXAMINER BROOKS: I don't know, either.

19 MR. McMILLAN: I don't know.

20 EXAMINER McMILLAN: That's where I am right now
21 on this issue.

22 MR. McMILLAN: You know -- well, I guess we've a
23 couple of options, which is to say that I can go back to
24 my client and we can attempt to -- you know, I'm not going
25 to be -- I'm neither physically able right now to satisfy

1 the queries of the examiner, nor am I going to try to
2 interpret what my client has provided me here in a way
3 that will satisfy the examiner but might not be consistent
4 with the intentions of my client.

5 It seems to me either we can try to fix
6 this behind the scenes or I can just bring back witnesses,
7 I suppose, in a month to discuss this. Because this is
8 not going to go very far between me and the Division
9 without there being a lot of back and forth.

10 EXAMINER BROOKS: Well, then, why don't we just
11 continue it, if you don't mind continuing it until the
12 21st of March.

13 MR. McMILLAN: I think we have to.

14 EXAMINER McMILLAN: Okay. 160 can be
15 continued.

16 MR. McMILLAN: Okay.

17 EXAMINER McMILLAN: Yeah. And then 161 can
18 probably be taken under advisement, and we can go -- I
19 assume -- and because -- and then we can just bring -- he
20 needs to get additional land testimony.

21 MR. McMILLAN: And that's solely with respect to
22 20160.

23 EXAMINER McMILLAN: Yes. And the question is
24 the dedicated acreage.

25 MR. McMILLAN: Well, if it's just the land

1 testimony and the dedicated acreage -- I mean, this is
2 conceivably something that I could circle back with my
3 client and we could sort out by way of amended affidavit.

4 EXAMINER McMILLAN: Right. But then it becomes
5 a question of Notice, because -- someone could think that
6 they have 50 percent of the well, but then if you include
7 the whole 320 they go from 50 to 25.

8 And that's where I am right now.

9 MR. McMILLAN: Okay.

10 EXAMINER McMILLAN: Does that makes sense,
11 David?

12 EXAMINER BROOKS: Well, I don't understand
13 enough of it to be able to tell you at this point. Now, I
14 would point out that since this is an uncontested case,
15 Mr. McMillan -- Mr. McMillan is ambiguous so I'll call
16 you Seth.

17 MR. McMILLAN: That works.

18 EXAMINER BROOKS: You can discuss it with me or
19 the other Mr. McMillan ex parte, because there's no --
20 between now and the next hearing, because there's no ban
21 on ex parte communications in an uncontested case. You
22 know.

23 MR. McMILLAN: Okay. Well, I would -- okay.
24 Given the choice between agreeing to a continuance on
25 behalf of my client, who may or may not be enthusiastic

1 about that option, but given the choice between that and
2 endeavoring over the next week or two to work this out
3 behind the scenes with you gentleman, I think I'd prefer
4 the latter option. But if a continuance in light of -- if
5 the Division is going to insist upon, that's fine,
6 bringing in a witness and doing this by live testimony, we
7 can work with that as well.

8 It's just I'm not sure, as I sit here now,
9 the drilling schedule, the kind of things that the
10 operators are concerned about when we talk about
11 continuing.

12 EXAMINER BROOKS: And furthermore, we have a
13 problem that this new continuance docketing procedure has
14 not been -- the bugs have not been worked out of it yet.
15 So --

16 EXAMINER McMILLAN: Yeah.

17 MR. McMILLAN: I don't want to make life harder
18 for you guys. That's why I suggested just bringing a
19 witness in, because that always seems to be the easiest
20 way to do it, is to have you guys talk personally with the
21 person who knows more than the attorneys sitting here.

22 But at the same time I hesitate to slow
23 this up such that we are going a full month continuance,
24 bringing in a land witness, and then even possibly
25 supplementing on the back end of that testimony.

1 EXAMINER BROOKS: Well --

2 MR. McMILLAN: I don't know, I guess I'd prefer
3 to work this out with you guys sooner than all that.

4 EXAMINER McMILLAN: Go ahead, Jim.

5 MR. BRUCE: My only comment is just -- I don't
6 care either way, but the thing is if it needs to be
7 readvertised and renoticed, then you -- rather than
8 continuing it four weeks you're looking at 10 weeks.

9 MR. McMILLAN: Yeah.

10 MR. BRUCE: And -- because --

11 MR. McMILLAN: So --

12 MR. BRUCE: Or eight weeks.

13 MR. McMILLAN: Yeah.

14 EXAMINER BROOKS: Let's do it this way. The
15 Division will grant a continuance without a motion, and
16 you can -- you don't have to tell your client that you
17 didn't vociferously object to it.

18 Don't put that on the record.

19 MR. McMILLAN: No, wait. Put it on the record
20 that I vociferously object to this.

21 EXAMINER BROOKS: Whatever you want to do. I
22 don't want to put on the record that you don't have to
23 tell your clients something that happened here, because
24 that's not true. I mean, you have some discretion in what
25 you tell your client, but I can't instruct you -- you are

1 not required to, because that's between you and your
2 client whether you're required to put anything -- what you
3 are required to tell them.

4 MR. McMILLAN: Can we do it this way? As a
5 matter of record, we will continue 20160 to, what is it,
6 the March 21st docket?

7 EXAMINER BROOKS: March 21st.

8 But in the meantime try to work it out.

9 MR. McMILLAN: Try to work it out. And to Jim's
10 point, try to figure out if we have a Notice issue.

11 EXAMINER BROOKS: We have one week to figure
12 out if we would have to renotice.

13 MR. McMILLAN: That sounds right. That sounds
14 right. So why don't, if it's okay with you guys, can I
15 circle back with you early next week.

16 EXAMINER BROOKS: Okay. Yeah.

17 MR. McMILLAN: Try and decide, if we have a
18 Notice issue if I have to renotice, that kind of good
19 stuff.

20 Does that sound reasonable?

21 EXAMINER BROOKS: I said we have one week. This
22 isn't Thursday, it's Friday, so we have six days to figure
23 out if we have to renotice.

24 MR. McMILLAN: In my world that's all the time
25 in the world. Six whole days? We can get that done.

1 Does that sounds reasonable, Mr. Examiner?

2 EXAMINER McMILLAN: Yeah, if it sounds
3 reasonable to David it sounds reasonable to me.

4 EXAMINER BROOKS: Okay.

5 MR. McMILLAN: Okay. Great.

6 Well, let me just complete the presentation
7 as to geology and engineering.

8 EXAMINER McMILLAN: Okay.

9 EXAMINER BROOKS: Might as well. There's no
10 reason to put anything off that doesn't have to be put
11 off.

12 MR. McMILLAN: Right.

13 (Note: Reporter inquiry.)

14 EXAMINER BROOKS: Submit the record and I will
15 submit a statement to attach to the record, because
16 contrary to what they always do on television it's not
17 proper for the Court to ever instruct that something be
18 stricken from the record.

19 MR. McMILLAN: At least I don't have to spell
20 the worth vociferous.

21 Did I make it through all the exhibits? I
22 don't even remember.

23 I think we were actually only at --

24 No, I had made it through the entire land
25 affidavit. I would move the admission of Exhibit 2 and

1 its attachments at this time.

2 MR. BRUCE: No objection.

3 EXAMINER McMILLAN: Exhibit 2 may now be
4 accepted as part of the record.

5 MR. McMILLAN: Okay. Moving on to Exhibit 3,
6 this is the affidavit of Susan Estes. She's a geologist
7 with Devon, previously testified and her credentials were
8 accepted and made a matter of record. She's familiar with
9 the applications here, she's conducted geologic study. I
10 tender Ms. Estes as an expert in geology for purposes of
11 these cases.

12 MR. BRUCE: No objection.

13 EXAMINER McMILLAN: So qualified.

14 MR. McMILLAN: This is very similar to Ms.
15 Estes work on the Bone Spring wells. Exhibits A-1 and A-2
16 are her subsea structure maps prepared from the top of
17 Wolfcamp Y Sand; it shows the overall dip. And,
18 critically, Ms. Estes testifies that she doesn't observe
19 any faulting, pinch-outs or other geologic impediments or
20 hazards to developing the targeted interval with a
21 horizontal well.

22 Exhibits B-1 and B-2 are gross isopach maps
23 prepared for the Wolfcamp Y. Contour interval is 10 feet.

24 Examiner McMillan will note that there are
25 two lines of cross section on this already busy map. I

1 will, of course, endeavor to get you a separate map on the
2 cross section lines.

3 In any event, the A to A-prime line is the
4 strike section of type wells that penetrate the Wolfcamp
5 within and offsetting the Lone Tree Draw unit. The blue
6 line, the B to B-1 cross section is a dip section of type
7 logs that penetrate the Wolfcamp.

8 EXAMINER McMILLAN: What's the difference?

9 MR. McMILLAN: Oh, it's a dip section as
10 opposed to the strike section.

11 C-1 and C-2 are your strike sections from
12 this information, that Ms. Estes determines that the
13 targeted interval extends across the proposed unit and is
14 consistent in thickness and log character.

15 Exhibits D-1 and D-2 are your dip sections.
16 Again it's Ms. Estes' conclusion that the target interval
17 extends across the entire proposed unit and is consistent
18 in thickness and in log character.

19 For Exhibits E-1 and E-2 Ms. Estes has done
20 what we she calls gun-barrel diagrams. She sets forth
21 that these illustrate the manner in which Devon is being
22 proactive in dealing with potential communication issues
23 here between the 3rd Bone Spring and the Upper Wolfcamp.
24 Because the publicly available data suggests that there is
25 apparently communication between these two formations,

1 Devon is doing everything possible to mitigate that risk
2 and be a prudent operator.

3 Since it is unknown how much these two
4 formations communicate, Devon is, accordingly, approaching
5 this development block as an appraisal program to obtain
6 data to inform future decisions. The data will allow
7 Devon to optimize the spacing patterns, that is to say the
8 wells per section, in production, as well as preventing
9 both overwaste and overcapitalization.

10 The idea is that if the data collected
11 supports drilling the Upper Wolfcamp Sand, then Devon will
12 be co-developing the 3rd Bone Spring and the Wolfcamp Y
13 due to potential communication issues.

14 Karsan Sprague has a little bit more in his
15 affidavit on this, but Ms. Estes, for her part, lays out
16 in great detail her findings with respect to the
17 gun-barrel diagrams and Devon's intended development plan
18 here.

19 Ultimately Devon is planning to obtain data
20 up front, and so that, again, is why they are only
21 planning two Wolfcamp wells at this time. It has to do
22 with the timing of data acquisition and subsequent
23 evaluation.

24 Ms. Estes testifies that the west-to-east
25 orientation of the proposed wells is appropriate here to

1 drain the targeted reservoirs. It's also perpendicular to
2 the maximum stress. Based on her study she finds that the
3 Upper Wolfcamp underlying the subject area is suitable for
4 development by horizontal wells and -- here's the key
5 language -- that the acreage comprising the proposed units
6 will contribute more or less equally to the production
7 from the wellbores.

8 Ms. Estes prepared her exhibits to her
9 affidavit. The granting of the application is in the
10 interest of conservation, the prevention of waste, and the
11 protection of correlative rights.

12 That concludes Ms. Estes' geology
13 affidavit. I would move for admission of Exhibit 3 and
14 its corresponding attachments at this time.

15 MR. BRUCE: No objection.

16 EXAMINER McMILLAN: Exhibit 3 may now be
17 accepted as part of the record.

18 MR. McMILLAN: Other than acquiring for you, Mr.
19 Examiner, separate maps showing those two cross section
20 lines, is there anything else I can address with respect
21 to this affidavit?

22 EXAMINER McMILLAN: No.

23 MR. McMILLAN: Thank you.

24 EXAMINER WARNELL: No questions.

25 MR. McMILLAN: Great.

1 Moving to our engineering affidavit here,
2 this is Karsan Sprague again. Mr. Sprague is a reservoir
3 engineer with Devon. Just moments ago he was tendered as
4 an expert witness in petroleum engineering matters, and
5 for purposes of these cases I would retender him at this
6 time.

7 EXAMINER McMILLAN: Jim?

8 MR. BRUCE: No objection.

9 EXAMINER McMILLAN: So qualified.

10 MR. McMILLAN: Okay. Mr. Sprague completed an
11 analysis for the Wolfcamp XY using other operators' wells
12 in Township -- to understand the performance of these
13 wells, the understanding being that these other Wolfcamp
14 XYs are in a comparable reservoir to our Sections 13 and
15 14 here.

16 The wells in the field that Mr. Sprague
17 used had a wide range of spacing, in the range of three to
18 four wells per section. Exhibits A-1 and A-2 attached to
19 the affidavit provide more information in that regard.

20 Mr. Sprague then went and completed an
21 analysis -- well, no, this is the analysis attached to his
22 Bone Spring affidavit.

23 And the combined effect of the two analyses
24 he ran, the Wolfcamp analysis and 3rd Bone Spring
25 analysis, is there is potentially communication here; that

1 the wells probably should be drilled simultaneously, but
2 that because so far they don't have any examples showing
3 that communication in any readily quantifiable way, the
4 plan here is that Devon is using its initial well landings
5 to test the commercial viability of drilling both of these
6 formations in tandem.

7 With respect to Mr. Sprague's work in the
8 Wolfcamp, he found that the appropriate spacing is three
9 wells per section; however, as explained previously, due
10 to the timing of data acquisition and analysis, Devon is
11 doing two wells initially here.

12 Mr. Sprague prepared his own exhibits and
13 testifies that the granting of the application is in the
14 interests of conservation, the prevention of waste, and
15 protection of correlative rights.

16 Thus concludes my presentation of Mr.
17 Sprague's affidavit. I would move for the admission of
18 Exhibit 4 and its attachments at this time.

19 MR. BRUCE: No objection.

20 EXAMINER McMILLAN: Exhibits 4 may now be
21 accepted as part of the record.

22 Any questions?

23 EXAMINER BROOKS: Mr. McMillan, I don't really
24 have any questions except can I understand what's going on
25 with this spacing issue just by looking at what is

1 presented in 20160 and 20161, or do I also have to go back
2 and look at the Bone Spring? Do the Wolfcamp and the Bone
3 Spring stand separately.

4 MR. McMILLAN: The idea is that our engineer
5 studied the two formations, studied analog wells for the
6 two formations separately. He remains under the
7 impression that there's probably going to be communication
8 here, but Mr. Sprague did not have access to data that
9 would help him understand just how much they're
10 communicating.

11 EXAMINER BROOKS: Well, none of this surprises
12 me, because the industry seems to be very much in conflict
13 of perspectives about communication between the Lower Bone
14 Spring and the Upper Wolfcamp, and our geologist has
15 designated certain areas in which he thinks they should be
16 reclassified as Wolf Bone, although this is not in one of
17 those areas.

18 MR. McMILLAN: No. Maybe not yet.

19 In any event, yeah, it's got to be location
20 specific, right? Our geology isn't uniform. It's as
21 close as it gets but not entirely uniform.

22 EXAMINER BROOKS: We always assume a homogenous
23 reservoir. I'm not sure there is one anywhere.

24 MR. McMILLAN: I can't imagine.

25 EXAMINER BROOKS: Anywhere. Well, I have

1 nothing further.

2 MR. McMILLAN: Okay. Finally, my Notice
3 affidavit for these cases is actually exactly the same as
4 the Notice affidavit for the prior cases, and it's the
5 same result. We had a few envelopes returned; however, in
6 my close review the returned env- -- the entities to whom
7 the returned envelopes were intended were all recipients
8 of constructive Notice by way of the Affidavit of
9 Publication attached as Exhibit B to my Notice affidavit.

10 So unless upon reexamination of the Notice
11 situation in 20160, unless that examination reveals that
12 we do have to do some additional Notice, I believe that to
13 date Notice has been completed, whether actual or
14 constructive, with respect to all working interest owners
15 and the overrides.

16 EXAMINER McMILLAN: Okay.

17 MR. McMILLAN: That concludes my presentation.

18 EXAMINER McMILLAN: Exhibit 5?

19 MR. McMILLAN: Oh, yes. I move for the
20 admission of Exhibit 5 at this time.

21 MR. BRUCE: No objection.

22 EXAMINER McMILLAN: Exhibit 5 may now be
23 accepted as part of the record.

24 MR. McMILLAN: I believe that covers all of the
25 exhibits here, and I would ask that 20161 be taken under

1 advisement and that as to 20160, it seems to me that the
2 best approach is to, for the time being, continue the
3 matter to the March 21 docket. And I will connect with
4 Mr. Brooks and/or Examiner McMillan next week to try to
5 determine the path forward for 20160 and whether we are
6 going to have to serve additional Notice.

7 EXAMINER McMILLAN: Okay. Is that acceptable,
8 Jim?

9 MR. BRUCE: That's fine.

10 EXAMINER BROOKS: What was the last words you
11 said? Whether we are going to have to...

12 MR. McMILLAN: Do additional notice with respect
13 to that matter.

14 EXAMINER BROOKS: Thank you. That's what I
15 thought you said.

16 MR. McMILLAN: Sorry. I probably trailed off.

17 EXAMINER McMILLAN: Case 20160 shall be
18 continued to March the 21st. Case No. 20161 shall be
19 taken under advisement.

20 MR. McMILLAN: Thank you very much,
21 Mr. Examiner.

22 EXAMINER McMILLAN: And we're done.

23 (Time noted: 10:10 a.m.)

24

25 STATE OF NEW MEXICO)

1) :SS

2 COUNTY OF TAOS)

3

4 REPORTER'S CERTIFICATE

5 I, MARY THERESE MACFARLANE, New Mexico Reporter
6 CCR No. 122, DO HEREBY CERTIFY that on Friday, February
7 22, 2019, the proceedings in the above-captioned matter
8 were taken before me; that I did report in stenographic
9 shorthand the proceedings set forth herein, and the
10 foregoing pages are a true and correct transcription to
11 the best of my ability and control.

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

17

18

19 _____
MARY THERESE MACFARLANE, CCR
20 NM Certified Court Reporter No. 122
License Expires: 12/31/2019

21

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24

25