

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

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

7       APPLICATION OF OXY USA, INC. TO RESCIND     CASE NO. 20410  
8       THE HORIZONTAL SPACING UNITS AND API  
9       NUMBERS ASSIGNED TO FOUR APPLICATIONS FOR  
10      PERMITS TO DRILL ISSUED TO MURCHISON OIL &  
11      GAS, INC., EDDY COUNTY, NEW MEXICO.

12

13                           REPORTER'S TRANSCRIPT OF PROCEEDINGS

14               MOTION FOR EXPEDITED ORDER STAYING ADMINISTRATIVE  
15               APPROVAL OF HORIZONTAL SPACING UNITS AND API NUMBERS

16

17                               March 21, 2019

18                               Santa Fe, New Mexico

19       BEFORE:   TERRY WARNELL, CHIEF EXAMINER  
20                   KATHLEEN MURPHY, TECHNICAL EXAMINER  
21                   WILLIAM V. JONES, TECHNICAL EXAMINER  
22                   SUSAN SITA, LEGAL EXAMINER

23

24                       This matter came on for hearing before the  
25       New Mexico Oil Conservation Division, Terry Warnell,  
26       Chief Examiner; Kathleen Murphy and William V. Jones,  
27       Technical Examiners; and Susan Sita, Legal Examiner, on  
28       Thursday, March 21, 2019, at the New Mexico Energy,  
29       Minerals and Natural Resources Department, Wendell Chino  
30       Building, 1220 South St. Francis Drive, Porter Hall,  
31       Room 102, Santa Fe, New Mexico.

32

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39

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1 (11:04 a.m.)

2 EXAMINER WARNELL: Good morning. Welcome,  
3 everyone. My name is Terry Warnell.

4 We are going to hear Mr. Feldewert's motion  
5 for an expedited stay, representing OXY. And I  
6 understand Mr. Larson will be arguing for Murchison, on  
7 their behalf. And this is not a hearing. We won't be  
8 having any witnesses.

9 And, Mr. Bruce?

10 MR. BRUCE: Mr. Examiner, yeah, I'm  
11 representing Tap Rock Resources, LLC.

12 EXAMINER WARNELL: I see that right here.  
13 Okay. Call for appearances.

14 MR. FELDEWERT: May it please the  
15 examiners, Michael Feldewert, with the Santa Fe office  
16 of Holland & Hart, appearing on behalf of OXY USA, Inc.

17 MR. LARSON: Good morning, Mr. Examiner.  
18 Gary Larson with the Santa Fe office of Hinkle Shanor  
19 for Murchison Oil & Gas, LLC.

20 MR. BRUCE: And Jim Bruce, representing Tap  
21 Rock Resources, LLC, appearing here today in support of  
22 OXY USA, Inc.

23 MR. FELDEWERT: If I may approach, I want  
24 to make sure you have a copy of our motion which was  
25 filed, and we've inserted tabs for you to make it

1 easier. I'll also note that a picture is worth a  
2 thousand words, so I had, last night, the company put  
3 together a depiction of their OXY development plan on  
4 the first page involving 19 and 30. And the second page  
5 contains the Murchison development plan of this handout,  
6 which involves the north half of Section 30. And, in  
7 fact, all their wells are located in the north half of  
8 the north half of Section 30. One thing that is rather  
9 odd to me is one of them -- if you look at the C-102  
10 that's attached to our motion, it appears to be right on  
11 the quarter-quarter line, but they certainly have placed  
12 all their wells in the north half of the north half of  
13 Section 30.

14                   When you look at this -- these competing  
15 development plans, what you see immediately is that  
16 there is a disagreement over well orientation. OXY's  
17 are stand-up wells. Murchison's are lay-down wells.  
18 There is a difference in well length. Murchison's are  
19 limited to one mile. OXY's are longer. There's also  
20 differences in well spacing, differences in the number  
21 of wells that are being proposed and differences in the  
22 targeted zones within the Bone Spring and the Wolfcamp  
23 between these development plans.

24                   I want to be clear here. When you look at  
25 our motion, Exhibit 2 contains just a sample of the

1 well-proposal letters that OXY sent out once they  
2 learned of Murchison's plan here, so it's just a sample.  
3 I have four pages. I didn't give you the well proposals  
4 for all the wells depicted on the first page because  
5 otherwise it would be about 40 pages, and I didn't see  
6 the benefit of that. But all the wells that you see on  
7 first page of this handout have been proposed to the  
8 working interest owners in this -- in these sections.

9                   It's also important to note that OXY holds  
10 the majority of the working interest in this area,  
11 whether you're looking at its spacing units involving 19  
12 and 30 or whether you're looking at where Murchison  
13 seeks to develop with one-mile wells the north half of  
14 Section 30. Murchison only owns 29 percent of the north  
15 half of 30. They only own 7 percent of this acreage  
16 that's depicted here in 19 and 30. OXY holds the  
17 majority whether you look at their proposed plan or its  
18 proposed plan.

19                   Murchison seeks to drill -- they're shorter  
20 laterals in the north half-north half of 30 under an  
21 older JOA. It's a 2010 JOA. It's before horizontal  
22 wells became prevalent. But because they are proceeding  
23 rather quickly now under an existing JOA under the north  
24 half -- it covers only the north half of 30. There's  
25 been no real oversight opportunity yet by this Division

1 or the Commission with respect to the proposed  
2 development. Murchison, simply all they had to do was  
3 file their federal APDs, and then they processed their  
4 spacing units, their shorter, one-mile spacing units, on  
5 a Division Form C-102, which was administratively  
6 approved by the Division's district office. That's been  
7 it. And that administrative approval by the Division's  
8 district office of those horizontal spacing units on  
9 that C-102 was on February 15th.

10 So all that was done here without any  
11 notice or input from OXY and the other working interest  
12 owners in this acreage. They only learned of  
13 Murchison's drilling plans when Murchison finally sent  
14 out their ballots. Their affidavit said it was sent out  
15 on February 28th, which means everybody got it the first  
16 part of March. Okay? And that was after they had filed  
17 their federal APDs and gotten the Division to approve  
18 their spacing units on their Form C-102. So nobody had  
19 any input up until that point.

20 And then when OXY got their ballots and as  
21 you'll see other working interest owners got their  
22 ballots, OXY objected and suggested to Murchison that we  
23 should -- that this area should be developed with longer  
24 stand-up laterals. I think Murchison said they weren't  
25 interested. They intend to commence drilling later this

1 month. And now I find out yesterday -- Mr. Larson was  
2 kind enough to inform me -- that they intend to now  
3 drill this weekend. That's their timetable.

4 So OXY filed this application for hearing,  
5 and, in conjunction with that, they filed this motion  
6 for a stay. And I appreciate you accommodating this  
7 motion for a stay, but you can understand the timeline  
8 that forced that hand given Murchison's position here.

9 And all we seek today -- all OXY seeks  
10 today -- it's not a decision on which is the better  
11 plan. Okay? All we're seeking is a stay on the  
12 approved C-102s, which was done by the Division's  
13 district office because that's what sets the spacing  
14 unit and that's what assigns the API numbers. All we're  
15 asking is that you stay that approval so that Murchison  
16 doesn't barrel forward here with their drilling plan  
17 this weekend and so that OXY, Murchison and all the  
18 other affected working interest owners will have time to  
19 discuss development plans and discuss what is best here  
20 and, if necessary, will then have time to allow for a  
21 hearing for this Division or the Commission, whichever  
22 is the right body, to examine the competing development  
23 plans if we can't reach an agreement.

24 Now, we filed our motion and supported it  
25 with findings from the Division and facts. First off,

1 our motion cites the Division's Order Number R-20223, if  
2 may I approach. I have a copy. I think Mr. Jones is  
3 familiar with this order. This was a case in which  
4 Devon Energy was proposing longer laterals and Pride  
5 Energy wanted to develop with shorter one-mile laterals.  
6 And I apologize. In my motion, they incorrectly cited  
7 this as 20233. We had a little typo there. It's 20223.

8 But what's important here is the Division  
9 has already made some very important observations about  
10 where we are today with horizontal development and what  
11 we can do today that we couldn't do even a few months  
12 ago. Okay? If you go to page 11, paragraph 14(40),  
13 this is what the Division found after having a hearing  
14 on these different lateral lengths. And, again, the  
15 only issue here, difference in their development plans,  
16 is lateral lengths. And the Division concluded that  
17 "Devon's testimony and exhibits clearly indicated that  
18 wells drilled to increased lengths can have a production  
19 and economic advantage and thereby" -- this is  
20 important -- "prevent waste and protect correlative  
21 rights." That's your primary duty. "These wells if  
22 properly completed at longer lateral lengths are  
23 extremely lucrative without doubling the costs. In  
24 addition to increased production of oil and gas, wells  
25 drilled and completed at two-mile lengths have



1 advantages over one-mile-long wells including reduced  
2 surface disturbance, half the need to drill overburden  
3 rocks, half the otherwise required pumping equipment,  
4 separation, power lines, tanks, and pipeline hookups."  
5 That's what the Division has put out there to all the  
6 operators.

7                   Now, I know each case is different, and I  
8 know all the facts have to be examined in each case.  
9 This may not always apply, but this is the starting  
10 point, because the Division has already observed that  
11 when you have the ability to do increased laterals, they  
12 prevent waste and protect correlative rights, and they  
13 have the added advantage of decreasing the surface  
14 disturbance and providing all the other efficiencies  
15 that you observed here.

16                   Now, this finding alone to me supports a  
17 stay here to allow review by the Division, if necessary,  
18 of the competing plans and certainly to allow the  
19 working interest owners time to discuss these competing  
20 development plans involving different well lengths. But  
21 in addition to this, we've provided to you an affidavit  
22 from Mr. Evans. This is Exhibit 3 to our motion. He's  
23 a geologist, and he affirms that we know we have a  
24 mixture out there. We have lay-down and stand-up wells  
25 up till now. They've looked -- OXY's looked at the

1 data. Other working interest owners have looked at the  
2 data. And he affirms, in his opinion, the data shows  
3 that stand-up wells more efficiently and effectively  
4 recover hydrocarbons in this area than lay-down wells.  
5 That's why he recommended to OXY that they develop this  
6 acreage with these longer laterals in a stand-up  
7 orientation.

8                   So we have the Division's findings that  
9 longer laterals are generally better, if not always. We  
10 have these opinions noting that a stand-up orientation  
11 is better than a lay-down to prevent waste, to protect  
12 correlative rights and to avoid unnecessary surface  
13 disturbance. And now on top of all that -- I don't know  
14 what you -- I know I've received them. I'm assuming the  
15 Division has received them.

16                   May I approach?

17                   Yesterday and today -- I don't know about  
18 today. Yesterday, certainly, the Division has received  
19 a number of letters now from the working interest  
20 owners, besides OXY, that are being impacted by  
21 Murchison's sudden development here, and they have  
22 submitted letters to the Division making it clear that  
23 they, too, have looked at the data, and they, too, have  
24 looked at what's going on in this area. And they  
25 believe that OXY's plan is much more efficient and much

1 better at recovering hydrocarbons in this area. And  
2 we're talking about Tap Rock, we're talking about  
3 Mewbourne and other working interest owners that are  
4 directly affected by this proposal that came out from  
5 Murchison at the end of February.

6 Now, I'm not asking you to decide the  
7 merits. Okay? I'm asking you to give the parties time  
8 to look at this and, if we can't reach an agreement with  
9 Murchison, to have a hearing to determine what is best  
10 out there to develop these reserves and what is best out  
11 there to protect correlative rights, because OXY and all  
12 these workings interest owners have looked at this and  
13 said, "You know what? Stand-ups are better than  
14 lay-downs, and longer lateral lengths are better than  
15 shorter lateral lengths if we want to be efficient."

16 So look at all that, and what has Murchison  
17 responded with here this morning? They said: Well,  
18 we've got this rig coming this weekend. We've already  
19 barreled ahead. We've already built our location.  
20 We've already got our rig under contract. We're already  
21 coming out there. And they laid out all this money that  
22 they say is going to be impacted because they chose to  
23 move forward here without consulting with any of the  
24 working interest owners that are being affected. That's  
25 their decision. So whatever harm they say they're going

1 to incur is of their own creation because they didn't  
2 sit down with the working interest owners and they  
3 didn't give them an opportunity to discuss development  
4 until after they had their BLM permits, after they had  
5 the Division's approval of their C-102s, and then they  
6 finally send out a ballot at the end of February, which  
7 nobody gets until the first of March, just a couple of  
8 weeks ago. No consulting with the working interest  
9 owners prior to that about how to develop this area. So  
10 whatever they've come up with here in their affidavits  
11 as their harm is of their own creation.

12 And they don't appear to care about the  
13 efficiencies that have been expressed in the order  
14 because they've made it very clear to OXY -- we've had  
15 discussions with them. They made it very clear to OXY,  
16 "We don't care what you guys say. We're drilling this  
17 weekend. Period." That's what they said. And they  
18 don't care what these other working interest owners say.  
19 "We're drilling this weekend." That's where we're at,  
20 and that's why we filed our motion.

21 So whatever they've come up with is of  
22 their own creation. It's caused by their decision not  
23 to consult with the working interest owners and not to  
24 ballot their wells until the first part of March --  
25 February 28th, everybody gets it the first part of

1 March. That was their decision. So they've created  
2 whatever issues they've come up with. And I submit to  
3 you that that is not the type of substantial harm that  
4 would prevent a stay motion here.

5           So OXY is the majority owner. It has  
6 competing development plans that it and these other  
7 working interest owners believe will more efficiently  
8 and effectively drain the hydrocarbons based on the data  
9 we've received now from lay-down and stand-up wells in  
10 this area. And we're not asking the Division, again, to  
11 decide this case. We're not asking you to do that.  
12 We're asking you to put the brakes on this by issuing a  
13 stay order, a stay of the Division's approval of these  
14 C-102s and the assignment of API numbers, until a  
15 hearing can be held so that we can allow the parties to  
16 discuss this and, if necessary, have this regulatory  
17 body look at the evidence and determine what is best to  
18 prevent waste and protect correlative rights, your  
19 primary duty. And that primary duty is not dictated by  
20 anybody's timelines or their rig schedule or anything  
21 like that. Okay? Those types of concerns don't trump  
22 your duty. Your duty is to do what's best to get those  
23 hydrocarbons coming out of the ground. And just because  
24 somebody wants to barrel forward without consulting with  
25 everybody, doesn't mean you just throw your duty out the

1 window.

2                   So we think a stay is appropriate here.  
3 Under the Division's Rule 19.15.4.23B, it's warranted,  
4 and it is necessary to prevent waste and protect  
5 correlative rights and avoid unnecessary surface  
6 disturbance. So we ask that you issue an order -- and I  
7 think it's going to have to be verbal today because they  
8 want to drill this weekend -- issue an order staying the  
9 administrative approval of your C-102s until the parties  
10 can talk about this, examine the competing development  
11 plans, although I think we've seen where a few of them  
12 are at already, and we have a hearing as soon as  
13 possible, if necessary, to address these competing  
14 development plans.

15                   Thank you for taking this today.

16                   EXAMINER WARNELL: Questions?

17                   I have a question or two. I believe  
18 that -- I think I should wait to hear Mr. Larson's  
19 argument.

20                   EXAMINER JONES: Mr. Bruce, do you want to  
21 go last on this?

22                   Or what are you going to do, Terry? Do you  
23 want him to go last on this, Terry?

24                   EXAMINER WARNELL: I think that's a good  
25 idea.

1 EXAMINER JONES: Okay.

2 EXAMINER WARNELL: Mr. Larson.

3 MR. LARSON: Mr. Examiner, what I'm handing  
4 out is a written response to OXY's motion, which was  
5 actually filed first thing this morning, and copies were  
6 provided during the earlier hearing that Mr. Feldewert  
7 and Mr. Bruce had. Murchison had a short fuse to file  
8 the response to the OXY motion application and motion  
9 filed at the end of last week.

10 Now, attached to the response are  
11 affidavits from Murchison's in-house counsel and land  
12 manager and also one of Murchison's geologists. And the  
13 affidavits address Murchison's development plan for the  
14 north half of Section 30 and the adverse impact to  
15 Murchison that will result from the entry of a stay.

16 The north half of Section 30 is covered by  
17 one federal lease, and as Mr. Feldewert noted, it's  
18 governed by a 2010 JOA. But what he didn't tell you is  
19 100 percent of the working interests are committed to  
20 the JOA. Murchison began its development plan for this  
21 acreage almost two years ago, in July of 2017, with a  
22 BLM on-site inspection. The following June, Murchison  
23 submitted APDs to the BLM for its initial horizontal  
24 wells. The BLM approved the APDs in January of this  
25 year, and two months later, Murchison built the first

1 two well pads. And as we speak, a rig is moving on  
2 location and is scheduled to spud the first well this  
3 weekend.

4 So that is a complete context of what we're  
5 looking at in terms of the extraordinary relief that OXY  
6 requests.

7 And, basically, OXY has three arguments in  
8 its motion. First, we have the generalized proposition  
9 that a stand-up horizontal well with a two-mile lateral  
10 is preferable, but that generalization has little  
11 relevance to the specific circumstances presented in  
12 this case. If you look at Exhibit B to Murchison's  
13 response, there are several maps that were generated by  
14 the geologist, Mr. Ward, and if you look at Exhibit A,  
15 he has identified on this map 248 wells in the vicinity  
16 of the acreage at issue. And of that total, 142 are  
17 lay-down wells, including the 70 that OXY itself has  
18 drilled and completed. And if you flip to the next map  
19 and some of the subsequent maps, you'll see that other  
20 operators in Township 24 are recently drilling -- have  
21 recently completed or are currently drilling lay-down  
22 horizontal wells. As Mr. Ward states in his affidavit,  
23 Murchison's experience is that the performance of  
24 lay-down wells is very similar to that of stand-up wells  
25 that have been drilled in this area.



1                   And second, OXY's motion states that it is  
2   unaware of negative consequences that would inure to  
3   Murchison if a stay was entered. As stated in my  
4   response, entry of a stay would have a significant  
5   adverse financial impact on Murchison. As stated in the  
6   affidavit of Petra Marie Pogue, P-O-G-U-E, who is the  
7   in-house attorney, Murchison has spent \$521,833 to date  
8   on its drilling program in the north half of Section 30.  
9   She also notes that Murchison is currently incurring  
10   \$350,000 in costs to have the rig on location this week.  
11   And finally, she addresses the cost Murchison would  
12   incur if the stay were to be entered, and those costs  
13   total \$2.2 million if a stay is entered and Murchison  
14   has to move the rig to another location that is not yet  
15   built.

16                   And thirdly, OXY argues in its motion it is  
17   unaware -- I'm sorry -- that it made an offer to  
18   purchase Murchison's interest, which was rejected. That  
19   on its face is true, but we need to go back in time and  
20   look at the parties' initial communications.

21                   In June of 2018, OXY reached out to  
22   Murchison and expressed an interest in purchasing  
23   Murchison's working interest in the north half of  
24   Section 30, and that's reflected in an email that's  
25   attached to Exhibit C to the response. That is the

1 affidavit of the land manager, Mr. Buddenbohn, as  
2 Exhibit 1 to his affidavit. The following month,  
3 Murchison responded to OXY that it had submitted APDs to  
4 the BLM and planned to development acreage under the  
5 JOA. So as of July of last year, OXY was aware that  
6 Murchison had submitted APDs to the BLM and was planning  
7 to go forward with this development. Murchison didn't  
8 hear anything further from OXY until the end of last  
9 month and the following week, during which it made two  
10 offers to Murchison to purchase this interest.

11 Murchison, in its judgment, deemed those offers to be  
12 inadequate in light of the fact that it was very far  
13 down the road with its drilling program.

14 And what OXY is effectively requesting in  
15 its application is that the Division nullify  
16 BLM-approved APDs and terminate Murchison's  
17 long-standing development plan.

18 And addressing specifically some of the  
19 points made by Mr. Feldewert, the OCD order that he  
20 cites to, the language about two-mile laterals is an  
21 observation, not a finding. It certainly has no force  
22 of law in terms of how the Division should rule in a  
23 particular set of circumstances.

24 Secondly, he asks for a stay but doesn't  
25 really address the ramifications of a stay. So we have

1 to assume that it would be stayed until there is a  
2 hearing. I believe it's currently set for May 2nd or  
3 will be set for May 2nd. Well, we're not going to get  
4 an order until probably late summer or early fall at  
5 that point. So you're basically saying: Murchison  
6 can't drill its wells. It has to incur this more than  
7 \$2 million in cost, and it has to lose its sunk costs in  
8 developing the wells.

9 In terms of OXY's plan, there is no JOA in  
10 place. As far as Murchison knows, OXY has not applied  
11 for APDs from the BLM. So in order for their program to  
12 go forward, I think we're looking at a minimum of a year  
13 out. In the meantime, Murchison can't develop and,  
14 again, will (A) lose its sunk costs and (B) have  
15 approximately \$2 million in costs to move the well  
16 that's currently on location.

17 And it's Murchison's position that there is  
18 no legal or factual basis to grant this extraordinary  
19 relief that OXY is requesting, and there is no legal or  
20 factual basis for granting the relief requested in OXY's  
21 application. This is not a situation similar to the one  
22 in the order cited by Mr. Feldewert. Those were two  
23 competing programs just getting off the ground. Here we  
24 have a program that's been in place for almost two  
25 years, and the OXY program was just started two weeks

1 ago and has nothing concrete going forward in terms of  
2 implementing its plan.

3 And because the relief requested in the  
4 application cannot be granted, neither can the motion  
5 for stay, and I, therefore, request that the stay be  
6 denied.

7 EXAMINER WARNELL: Any questions?

8 MR. BRUCE: Mr. Warnell, may I also say  
9 something?

10 EXAMINER WARNELL: Yes, Mr. Bruce.

11 MR. BRUCE: And I wish I had more complete  
12 files, but I only got this about 4:30 yesterday  
13 afternoon, and I was preparing for other stuff. But I'm  
14 here on behalf of Tap Rock supporting OXY, and after  
15 listening to the arguments, I realize that I'm more in  
16 this than I thought I was for Tap Rock.

17 What I'm looking for is uniformity. I can  
18 give you most case numbers. I don't have them all. But  
19 this has happened to my clients time and again, where  
20 they have had drilling programs they have been working  
21 on for a year and a half or two years and they send a  
22 pooling application out, and then they get a proposal a  
23 year and a half later -- after they've been doing title  
24 and everything else, getting APDs, and they get a  
25 proposal letter and continuance request, and I go fight

1 the continuance request, and the uniform decision of the  
2 Division has been to continue my client's cases until  
3 the other party can file their own applications and put  
4 it to the test of an evidentiary hearing. It happened  
5 first between Mewbourne and Black Mountain a couple of  
6 years ago, where -- and that was a case of different  
7 well lengths. But that was in a fight for a year even  
8 though Mewbourne had already been spending a year and a  
9 half trying to get that project going.

10 Another one -- this was heard just a couple  
11 of weeks ago -- Mewbourne and Catena Resources.  
12 Mewbourne had been working for quite some time to get a  
13 Lea County well up and going, and Catena comes in late  
14 and gets a continuance, hadn't even -- I don't even know  
15 if they've filed applications yet. But Mewbourne's  
16 cases were continued for a couple of months to allow  
17 Catena to go file its applications.

18 On the docket today, set for a special  
19 hearing, Ascent Energy and Apache, Cases 16481, 16482,  
20 20171, 20202, those are ones where Ascent had been  
21 working diligently. Apache came in and said, "We're  
22 going to file applications." Well, guess what?  
23 Ascent's cases were continued.

24 It's also happened between Mewbourne and  
25 Marathon, another special hearing that's coming up.

1 Mewbourne's cases were 16492, et al. Marathon's, filed  
2 later, 20166. Again, Mewbourne fights the continuance,  
3 but the Division grants the continuance.

4                   And that's what should happen here.  
5 Murchison's cases should be continued so that OXY can  
6 file -- I don't know if they've filed yet, but file  
7 their applications and go to hearing. If -- if -- all  
8 I'm looking for is uniformity because my clients have  
9 been consistently ruled against. Consistently, time and  
10 again, if they're trying to drill a well -- it doesn't  
11 matter even if they've got a rig contracted -- my  
12 clients' cases have always been continued, and the other  
13 party has been given a chance to file applications and  
14 contest the poolings. That's no different from this  
15 one, and I believe that -- and if you're going to change  
16 around now, then it's just going to be an enticement for  
17 parties, operators, to go out and threaten to start  
18 drilling in the next day or two or wherever it is, and  
19 you're going to have tons of these hearings more  
20 complicated than this. And I think Murchison's case  
21 ought to be continued. OXY should file its applications  
22 and go to an evidentiary hearing.

23                   MR. FELDEWERT: May I add just a few other  
24 observations --

25                   EXAMINER WARNELL: Please.

1 MR. FELDEWERT: -- after hearing the  
2 arguments and having gotten this this morning as well?

3 You know, in terms of timeline, okay,  
4 these -- these leases are held by production. Okay?  
5 There is no lease expiration here. There is no need to  
6 rush -- of a rush here to move forward with a  
7 development plan. It does not appear, at least with OXY  
8 and other working interest owners, to be the best way to  
9 proceed here. So there is no rush here. Okay?

10 Number two, we're not asking you to nullify  
11 any BLM action. I'm asking you to nullify the  
12 Division's action on its C-102s. I mean, the Division  
13 is the one that designates and approves the C-102s.  
14 It's their form. Okay? They approve the spacing unit.  
15 They assign the API number. We're asking you to stay  
16 that action by the district office, done  
17 administratively without any notice to the working  
18 interest owners, so that the parties have time now to  
19 discuss this development plan that Murchison has  
20 essentially kept under wraps. Okay. The most they say  
21 they did -- and I take them by the email -- is to tell  
22 OXY when OXY offered to purchase their acreage: Well,  
23 we want to develop it ourselves. We've got a few  
24 permits that we're going to file or have filed. Okay?  
25 But there was no disclosure in any fashion of the well

1 lengths or the well orientation or how they were going  
2 to do it. Okay? And there was no discussion with the  
3 working interest owners about what Murchison wanted to  
4 do. They kept this under wraps until they had their  
5 permits and had their Division approval, and then here  
6 at the end of March, February 28th, they finally send  
7 out their ballots and tell the working interest owners  
8 what they're planning to do, which means everybody got  
9 it about two weeks ago. That's it.

10 And OXY acted diligently here. We didn't  
11 sit around and wait to take action. We saw this. We  
12 called Murchison. They said, "We're going to drill."  
13 And so we filed our motion here today. So we acted as  
14 diligently as we could here knowing the facts. And all  
15 we're asking is that you stay this -- this Division  
16 approval so that we can address the issue and, if  
17 necessary, have a hearing.

18 And any economic impact it has on  
19 Murchison is a direct result of their decision not to  
20 have bought [sic] earlier and not to talk to the working  
21 interest owners about their plans. That's a problem  
22 they created for themselves. And that is not a problem  
23 that they created for their themselves that should trump  
24 your responsibility, your primary duty to prevent waste  
25 and protect correlative rights.



1                   Yes, we have disagreements. Their  
2 geologist says, "Oh, we think lay-downs are okay."  
3 Doesn't say anything about the well length. And we have  
4 OXY and other working interest owners who have been  
5 drilling out there, different orientations, different  
6 lengths, who are now telling you the best way to go here  
7 is stand-up orientation, longer laterals. And you ought  
8 to have an opportunity to look at that before they go  
9 barreling forward and drill and prevent this acreage  
10 from being developed in an efficient and effective  
11 manner.

12                   MR. LARSON: Mr. Examiner, can I respond to  
13 Mr. Bruce's point?

14                   EXAMINER WARNELL: You may.

15                   MR. LARSON: His point is well-taken, and I  
16 agree with it. I think we have a different situation  
17 here. This is not competing pooling applications. OXY  
18 is the unit operator under the 2010 joint operating  
19 agreement. One hundred percent of the working interest  
20 owners are committed. They don't have to pool the  
21 interests. So that's not that situation. And as is  
22 presented by the case Mr. Feldewert cited that you're  
23 seeing more and more of and I've been involved in, too,  
24 is parties coming in with competing development plans  
25 that are in their early stages and cases get continued

1 and so on and so forth. And, again, I can relate to  
2 Mr. Bruce's concern, but I just think that's not  
3 presented here.

4 And in terms of the length of the lateral,  
5 if you look at Exhibit A to the geologist's affidavit,  
6 there aren't any two-mile laterals in this area.  
7 They're all one- and one-and-a-half-mile lay-downs and  
8 stand-ups. And as Mr. Ward says in his affidavit, the  
9 production history of both orientations are very similar  
10 and that he believes Murchison's lay-down wells will be  
11 very economically viable wells. So we have to look at  
12 the circumstances presented.

13 And one last point, on that map, you see  
14 there are lay-down wells in the two adjoining sections  
15 to Section 30. So Murchison doesn't have the  
16 opportunity to go east or west.

17 And, again, I ask that the stay be denied  
18 for the reasons I've put forth.

19 EXAMINER WARNELL: Okay. I appreciate  
20 that.

21 We're going to have to take this under  
22 advisement. Is there any way we could get kind of a  
23 summary brief from you like ASAP, this afternoon? I  
24 don't know when we can act on this. We have to go  
25 upstairs and talk with some folks.

1                   MR. FELDEWERT: Well, to be honest with  
2 you, our motion is really our brief. I've also attached  
3 a proposed form of orders as Exhibit 4. In terms of --  
4 you know, clearly, the debate here is they think  
5 lay-down and one-miles are good, and other people think  
6 stand-ups and two miles are better. And all we're  
7 asking is the opportunity to address that with this  
8 Division before they barrel forward. I'm not sure what  
9 I would add to a brief. I mean, I certainly can address  
10 whatever you want me to address.

11                   I looked at Exhibit A. I'm not sure I'm  
12 looking at the right one, but I see some two-mile wells  
13 on this Exhibit A in the Bone Spring where they're  
14 thinking to drill. So I think there's been a lot of  
15 experience, and we have a lot more data today than we  
16 did just a few months ago.

17                   But I can certainly address whatever you  
18 think you would want me to address.

19                   EXAMINER SITA: Mr. Warnell, may I ask a  
20 question, please?

21                   EXAMINER WARNELL: Please do.

22                   EXAMINER SITA: I will direct this to  
23 Mr. Feldewert and Mr. Bruce. Would you be able to  
24 provide the Division with any specific statutory  
25 authority in the Oil and Gas Act or within the

1 regulations that would allow the Division to rescind an  
2 administrative approval or an API number?

3 MR. FELDEWERT: Well, just to be clear,  
4 we're asking you to rescind the Division's approval of  
5 the C-102s, which is your form, that was done  
6 administratively. The only mechanism to actually have  
7 it rescinded is to file an application for hearing now  
8 that we have the action by the administrative body. The  
9 statute just says nothing more than you've got the duty  
10 to prevent waste and protect correlative rights, and you  
11 can do whatever necessary to do that, and it allows you  
12 to have hearing. That's what the statute says. The  
13 rest talks about initiating a hearing. You've got to  
14 file an application, the Division decides whether it  
15 goes to the Division or the Commission, and you give the  
16 proper notice and you have the hearing.

17 Then there is the provision I cite,  
18 19.15.4.23B, which allows for the issuance of stay  
19 orders where necessary to prevent waste and protect  
20 correlative rights.

21 EXAMINER SITA: Thank you.

22 MR. BRUCE: I don't really have anything to  
23 add to that. My only comment is -- is, you know, OXY  
24 isn't seeking to revoke the federal APDs. Those are  
25 still valid. It's just withdrawing the API approval,

1     which we understand is necessary. To commence a well,  
2     you have to have an API number.

3                   EXAMINER WARNELL: Okay. With that, we'll  
4     take this under advisement and try to get back with you  
5     as soon as we possibly can.

6                   MR. FELDEWERT: We appreciate the expedited  
7     treatment.

8                   MR. LARSON: Thank you.

9                   (Case Number 20410 concludes, 11:46 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO  
3

4 CERTIFICATE OF COURT REPORTER

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

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

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

20 DATED THIS 22nd day of March 2019.  
21

22  
23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
25 New Mexico CCR No. 20  
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