

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

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

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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

March 21, 2019

Santa Fe, New Mexico

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

This matter came on for hearing before the
New Mexico Oil Conservation Division, Terry Warnell,
Chief Examiner; Kathleen Murphy and William V. Jones,
Technical Examiners; and Susan Sita, Legal Examiner, on
Thursday, March 21, 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 C. Hankins, CCR, RPR
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

1 APPEARANCES

2 FOR APPLICANT OXY USA, INC.

3 MICHAEL H. FELDEWERT, ESQ.
 4 HOLLAND & HART, LLP
 5 110 North Guadalupe, Suite 1
 6 Santa Fe, New Mexico 87501
 (505) 988-4421
 mfeldewert@hollandhart.com

7 FOR RESPONDENT MURCHISON OIL & GAS, INC.:

8 GARY W. LARSON, ESQ.
 9 HINKLE SHANOR, LLP
 218 Montezuma Avenue
 Santa Fe, New Mexico 87501
 (505) 982-4554
 glarson@hinklelawfirm.com

12 FOR INTERESTED PARTY TAP ROCK RESOURCES, LLC:

13 JAMES G. BRUCE, ESQ.
 14 Post Office Box 1056
 Santa Fe, New Mexico 87504
 (505) 982-2043
 jamesbruc@aol.com

17 INDEX

	PAGE
19 Case Number 20410 Called	3
20 Argument by Mr. Feldewert	3, 23
21 Arguments by Mr. Larson	15, 25
22 Statement by Mr. Bruce	20
23 Proceedings Conclude	29
24 Certificate of Court Reporter	30
25	

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.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
Paul Baca Professional Court Reporters

25