

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. FOR CASE NO. 20448
COMPULSORY POOLING CERTAIN DEPTHS
IN THE BONE SPRING, LEA COUNTY,
NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

May 2, 2019

Santa Fe, New Mexico

BEFORE: SCOTT DAWSON, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, Scott Dawson,
Chief Examiner, and David K. Brooks, Legal Examiner, on
Thursday, May 2, 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
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1 APPEARANCES

2 FOR APPLICANT OXY USA, INC.:

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1 (9:52 a.m.)

2 EXAMINER DAWSON: With that, we will go to
3 Case Number 20448, which is an application for OXY USA,
4 Incorporated for compulsory pooling certain depths in
5 the Bone Spring, Lea County, New Mexico.

6 Please call for appearances.

7 MR. RANKIN: Mr. Examiner, Adam Rankin on
8 behalf of the Applicant in this case. I have two
9 witnesses to present today.

10 EXAMINER DAWSON: Okay. Any other
11 appearances?

12 Seeing none, can your witnesses please
13 stand and be sworn in by the court reporter?

14 (Ms. Delach and Ms. Fry sworn.)

15 EXAMINER DAWSON: When you're ready,
16 Mr. Rankin.

17 MR. RANKIN: Thank you, Mr. Examiner.
18 I would call my first witness, Mr. Amber
19 Delach.

20 (Laughter.)

21 MR. RANKIN: Oh. I think I'm
22 overcaffeinated. Sorry. I apologize.

23 EXAMINER DAWSON: Happens to all of us
24 (laughter).

25 EXAMINER BROOKS: It's because she's so

1 tall.

2 MR. RANKIN: I don't think that's the
3 problem. I think I'm just a little bit dazed.

4 AMBER DELACH,
5 after having been first duly sworn under oath, was
6 questioned and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. RANKIN:

9 Q. Ms. Delach, will you please state your full
10 name for the record?

11 A. Amber Delach.

12 Q. And by whom are you employed and in what
13 capacity?

14 A. Occidental Oil & Gas Corporation as a landman.

15 Q. And have you previously testified before the
16 Division and had your credentials as an expert in
17 petroleum land matters accepted as a matter of record?

18 A. Yes, I have.

19 Q. Are you familiar with the applications that
20 were filed -- the application that was filed in this
21 case?

22 A. Yes.

23 Q. Are you familiar with the status of the lands
24 as well?

25 A. Yes.

1 MR. RANKIN: Mr. Examiner, I would retender
2 Ms. Delach as an expert in petroleum land matters.

3 EXAMINER DAWSON: Ms. Delach will be
4 admitted as an expert in petroleum land matters at this
5 time.

6 MR. RANKIN: Thank you very much.

7 **Q. (BY MR. RANKIN) Ms. Delach, with respect to**
8 **this case, what is it that OXY is seeking from the**
9 **Division?**

10 A. We are seeking an order to pool the uncommitted
11 interests in approximately a 613.4-acre spacing unit
12 comprised of the west half of Sections 30 and 31 of
13 Township 22 South, Range 33 East in Lea County, New
14 Mexico.

15 **Q. Are you seeking to pool the entire pool or only**
16 **a portion of the pool -- a vertical portion of the pool?**

17 A. At this time we are seeking to pool a portion
18 of the pool below 10,591 feet to the base of the Bone
19 Spring.

20 **Q. Okay. And in addition are you asking -- are**
21 **you looking to dedicate a certain number of wells to the**
22 **spacing unit?**

23 A. Yes. We are looking to dedicate six wells to
24 the spacing unit.

25 **Q. And what are those wells?**

1 A. They are the Avogato 30 31 State Com 21H, 22H,
2 23H, 31H, 32H and 33H.

3 Q. And are you also requesting that OXY be
4 designated operator of those wells and of the spacing
5 unit?

6 A. Yes.

7 Q. Now, does OXY intend to drill these wells from
8 a single path?

9 A. It will be a single simul [sic].

10 Q. And is OXY intending to drill them more or less
11 simultaneously or sequentially?

12 A. Yes.

13 Q. As a consequence of that, is OXY requesting an
14 extension of time in which to drill and complete these
15 wells --

16 A. Yes.

17 Q. -- from 120 days to 365 days?

18 A. Yes, we are.

19 Q. Now, have you also prepared draft C-102s
20 reflecting the location and completed wellbore intervals
21 for each of these wells?

22 A. Yes.

23 Q. Are those marked in your exhibit packet as
24 Exhibit Number 1?

25 A. They are.

1 Q. Would you just review for the examiners if the
2 C-102s reflect the correct locations and the wellbore --
3 approximate wellbore paths for each of these wells?

4 A. Yes, they do.

5 Q. And has there been a pool and a pool code
6 assigned -- have these wells and spacing units been
7 assigned a pool and a pool code by the Division?

8 A. Yes. The pool code is 51687. The pool name is
9 Red Tank; Bone Spring, East.

10 Q. Now, is that pool subject to statewide rules
11 for setbacks?

12 A. Yes.

13 Q. And that's 330 feet, correct?

14 A. Uh-huh.

15 Q. Now, each of the wells that are identified in
16 the C-102, are they within the setback required by the
17 statewide rules for that pool?

18 A. So there the 22H and the 32H are not, but those
19 are going to be our proximity or defining wells.

20 Q. Okay. So those wells are in the east half of
21 the west half of Sections 30 and 31, correct?

22 A. Correct.

23 Q. And they are closer than 330 feet to the west
24 half-west half of those sections, and as a consequence
25 of the locations, you're including the west half-west

1 half as the proximity tracts to enlarge the spacing
2 unit?

3 A. Correct.

4 Q. And OXY has not yet determined which of those
5 two wells will be, for administrative purposes, the
6 defining well?

7 A. No. It would be either one of them.

8 Q. Okay. And that'll be determined at the time
9 you file your paperwork at the Division?

10 A. Correct.

11 Q. Now, what is the nature of the ownership of the
12 lands that is the subject of the spacing unit? Is it
13 state or fee?

14 A. It is all state.

15 Q. All state.

16 Now, you've noted that you're seeking to
17 pool only a portion of this pool within the spacing
18 unit. Is that because there are depth severances at
19 issue here?

20 A. It is, yes. There are depth severances within
21 the Bone Spring pool.

22 Q. Will you just review for the examiners what the
23 depths are for those various depth severances?

24 A. Yes. The depth severances are surface to 9,100
25 feet, 9,100 feet to 10,591 feet, and below 10,591 feet.

1 Q. Now, as a matter of further detail, the owners
2 that you've identified from the surface to 9,100 feet
3 and from 9,100 feet to 10,591 feet, those are the same
4 owners, but the ownership interests vary between those
5 depths?

6 A. Correct. It's the same owners. They just have
7 different working interest in the two depth severances.

8 Q. Now, those owners and those depths, from the
9 surface down to 10,591 feet, are not subject to this
10 proposed pooling in this case; is that correct?

11 A. Correct. We are filing for pooling in a
12 separate case for those.

13 Q. Okay. And that is Case Number 20447; is that
14 correct?

15 A. Correct.

16 Q. And that case has been readvertised, and the
17 Division has set it for hearing on June 13th, correct?

18 A. Correct.

19 Q. So let's bring our focus back to the depths at
20 issue in this case. Ms. Delach, OXY has been unable to
21 reach agreement with the parties and the owners you've
22 identified within this portion of the pool, correct?

23 A. Correct.

24 Q. And that includes an inability -- you haven't
25 reached agreement on how to allocate production within

1 the depths, so you're seeking to pool only as to these
2 depths you've identified?

3 A. Correct. We haven't come to an agreement with
4 all the owners.

5 Q. Now, is there any -- just for purposes of
6 setting out the backgrounds and facts for both this case
7 and the case that's going to be heard on June 13th, as a
8 consequence of the depth severances and the cases you
9 have now pending before the Division, is there any
10 portion of the pool that will not be included in either
11 one of these two cases that are before the Division?

12 A. In our current development plans, the portion
13 of the pool that is from the top of the Bone Spring to
14 9,100 feet, which is about 315 feet of the pool, will
15 not be -- we don't have current plans to develop that
16 portion.

17 Q. Okay. Now -- but the owners who exist within
18 that 315 feet at the top of the pool, those are the same
19 owners as are in the case that's going before the
20 Division on June 13th, correct?

21 A. Correct. It's the same owners, and they
22 actually have a lower working interest percentage in the
23 portion that is not -- doesn't have current development
24 plans.

25 Q. So they actually have a larger interest in the

1 portion that's set for hearing on June 13th?

2 A. Correct.

3 Q. Okay. So no owners in that 315 feet that are
4 being excluded from any of these cases will -- they will
5 all benefit from production should the well be
6 successful in that case, 20447, correct?

7 A. Correct.

8 Q. Now, has OXY been able to identify all the
9 interest owners across all depths within this pool?

10 A. We have identified all owners.

11 Q. Okay. And OXY has provided notice to each of
12 the owners in the vertical offsets within the pool who
13 are being excluded from pooling in this case?

14 A. Yes.

15 Q. And now has OXY received any objections to its
16 applications to separately pool within the depth
17 severances within this pool?

18 A. No.

19 Q. Now, Ms. Delach, I'd like you to turn your
20 attention to what's been marked as Exhibit Number 2 and
21 just review for the examiners what this exhibit shows.

22 A. So Exhibit Number 2 is a plat of the ownership
23 for this proposed pooled unit, and the green-dotted line
24 shows the proposed project area or horizontal spacing
25 unit. The light blue portion shows Tract 1, that I'm

1 indicating as Tract 1, where there are differing
2 ownerships of several working interest owners, which are
3 the ones that are being -- that we are seeking to pool
4 in this order. Tract 2 is the red tract. That shows
5 OXY has 100 percent working interest. And the lighter
6 portion, which looks white, is Tract 3, which OXY also
7 owns 100 percent working interest in.

8 **Q. So the next exhibit, page 3, is a breakdown of**
9 **those interest owners by tract and reflects the parties**
10 **that OXY is seeking to pool; is that correct?**

11 A. That is correct.

12 **Q. Will you just review for the examiners what**
13 **this exhibit shows? And it's two pages, correct?**

14 A. It is two pages. And this shows -- by the
15 tracts that I just described on the plat, it breaks down
16 the ownership in those tracts. So it has all of the
17 parties that we are seeking to pool that are listed in
18 Tract 1 with their working interest ownership, and then
19 it also lists Tract 2 and Tract 3 showing OXY's 100
20 percent working interest. And then the last page shows
21 the working interest for the full 613.40 proposed acres
22 in the proposed spacing units for each of the parties.

23 **Q. And the parties are highlighted in yellow? I'm**
24 **sorry if I missed that. Those are the parties you're**
25 **seeking to pool?**

1 A. Correct.

2 Q. Now, are there any unleased mineral interest
3 owners in the subject lands that require pooling?

4 A. No.

5 Q. Are there any overrides at issue who do not
6 have authority to pool?

7 A. No.

8 Q. Now, are there any interest owners -- you have
9 been able to identify all the interest owners of record;
10 is that correct?

11 A. Correct.

12 Q. Are there any interest owners for whom you do
13 not have correct addresses?

14 A. Yes. So we have three -- three of the parties
15 that we received returned mail from the address that we
16 had of record, and then we did some searches online and
17 tried sending -- I think we found that one of the
18 parties had another address that we were able to locate,
19 but that one was also returned. So there are three
20 parties that we have not been able to reach.

21 Q. Okay. And as a consequence -- and I'll review
22 this with our Notice of Affidavit -- have we published
23 notice identifying each of those parties by name in a
24 newspaper of general circulation within the county?

25 A. Yes.

1 Q. Now, in your opinion, Ms. Delach, did you
2 undertake a good-faith effort, diligent effort to
3 identify and locate all these parties of interest that
4 you're seeking to pool?

5 A. Yes.

6 Q. Now, let's talk about your proposals -- well
7 proposals for these wells that you made. Is Exhibit 4 a
8 copy of a sample of well-proposal letters that you
9 provided to each of the working interest owners in the
10 spacing unit that you're seeking to pool?

11 A. It is.

12 Q. And did you provide an update to these
13 well-proposal letters for certain of the interests?

14 A. I did. So you will see the first two proposals
15 there that are dated February 21st, 2019 are the initial
16 well proposals. And then on March 4th, 2019, you will
17 see the update to the working interest parties for an
18 amended working interest breakdown for the proposed
19 wells, as well an amended Exhibit A that corrected the
20 working interest that was sent in the February 21st,
21 2019 proposal.

22 Q. Okay. Now, did you include with these well
23 proposals an AFE of cost, Authorization for
24 Expenditures, reflecting the cost for each of the wells
25 you propose?

1 A. Yes.

2 Q. And are those AFEs included in Exhibit Number
3 4?

4 A. Yes, they are.

5 Q. Will you explain to the examiners how these
6 AFEs were presented? So by category or depth interval;
7 is that correct?

8 A. Yes. So if you look in the top right corner of
9 the AFEs for well type, the one for the 21, 22 and 23H
10 is labeled "2nd Bone Spring." And the AFEs for the 31H,
11 32H and 33H are labeled "3rd Bone Spring." And it's the
12 same cost for each of those wells.

13 Q. For each category of those wells?

14 A. For each category of those wells, correct.

15 Q. Now, are these costs that you presented
16 consistent with what other operators have incurred to
17 drill two-mile horizontal wells in the Bone Spring in
18 this area?

19 A. Yes.

20 Q. And has OXY identified as well the overhead and
21 administrative costs that will be incurred while
22 drilling the wells and while producing if the wells are
23 successful?

24 A. Yes. It'll be 7,500 while drilling and 750
25 while producing.

1 Q. And are those administrative costs consistent
2 with what other operators and OXY have incurred while
3 drilling and producing?

4 A. They are.

5 Q. In your opinion, Ms. Delach, has OXY undertaken
6 a good-faith effort to reach agreement with the working
7 interest owners that OXY is seeking to pool in this
8 case?

9 A. Yes.

10 Q. Does OXY -- now, going to Exhibit 5, this is a
11 copy of the --

12 MR. RANKIN: It looks like my affidavit was
13 excluded, Mr. Examiner.

14 But this is a copy of a letter that was
15 sent to each of the parties that are seeking to be
16 pooled in this case, Mr. Examiner. And the following
17 pages reflect the United States Postal Service tracking
18 information sheet reflecting the status of each of those
19 certified mailings. You'll notice on the last page of
20 Exhibit 5 is a status report reflecting the status of
21 the certified mailings, and you'll see that there are
22 three parties to whom notice was not confirmed at the
23 time this report was run.

24 And, therefore, on page -- Exhibit 6 is a
25 copy of the publication reflecting that notice of this

1 hearing of the pooling was provided to each of those
2 interest owners by name reflecting that the hearing was
3 going to be held today.

4 Mr. Examiner, with permission, I would ask
5 that I can provide you with my affidavit that was
6 inadvertently left out of this exhibit while it was
7 being prepared to perfect this exhibit for the record.

8 EXAMINER DAWSON: Yes, if you could please
9 provide that, Mr. Rankin.

10 Thank you.

11 MR. RANKIN: Thank you.

12 **Q. (BY MR. RANKIN) Ms. Delach, were Exhibits 1**
13 **through 6 prepared by you or under your direction and**
14 **supervision or with OXY business records?**

15 A. Yes.

16 MR. RANKIN: Mr. Examiner, I would ask that
17 Exhibits 1 through 7 be admitted to the record, with the
18 one exception that I be permitted to supplement my
19 affidavit, Exhibit Number 6.

20 EXAMINER DAWSON: Okay. You're asking for
21 Exhibits 1 through 6, correct?

22 MR. RANKIN: Yes. Did I say 7?

23 EXAMINER DAWSON: You said 7.

24 Exhibits 1 through 6 will be admitted to
25 the record at this time, and Mr. Rankin will provide the

1 affidavit that was omitted from the exhibits.

2 (OXY USA, Inc. Exhibit Numbers 1 through 6
3 are offered and admitted into evidence.)

4 MR. RANKIN: Mr. Examiner, I have no
5 further questions of my witness. Pass the witness.

6 EXAMINER DAWSON: Thank you.

7 Mr. Brooks?

8 CROSS-EXAMINATION

9 BY EXAMINER BROOKS:

10 Q. These six wells are being drilled -- are there
11 two different zones involved?

12 A. So these six wells are actually being drilled
13 just under one of the depth severances. So we're just
14 seeking to pool below 10,591 feet to the --

15 Q. That's a 3rd Bone Spring?

16 A. Correct. Well, sorry. So the depth severances
17 are not tied to intervals or targets within the pool.

18 Q. They're tied to specific depths?

19 A. They're just tied to depth --

20 Q. Fixed?

21 A. -- based off of the wells that were drilled to
22 earn that acreage at the time.

23 Q. Okay. So --

24 A. So it will actually be the 2nd Bone --

25 (The court reporter requested the parties

1 speak one at a time.)

2 A. So this covers -- this depth severance covers
3 the 2nd Bone and the 3rd Bone.

4 Q. Okay. And all of these six wells are within
5 that one depth-severance interval?

6 A. Correct.

7 Q. And the defining depth is what?

8 A. The interval that we're seeking to pool is
9 below 10,591 feet to the base of the Bone Spring.

10 Q. 10,591 to base of the Bone Spring?

11 A. Yes, sir.

12 EXAMINER DAWSON: Actually, it's 10,592 to
13 the base of the Bone Spring.

14 THE WITNESS: Well, yeah. Below 10,591
15 feet.

16 Q. (BY EXAMINER BROOKS) And did you notify of this
17 application and this hearing all owners within this
18 proposed spacing unit in any part of the Bone Spring
19 Formation?

20 A. Yes.

21 Q. Okay. Now, there are three different depth
22 severances, or are there more?

23 A. Three.

24 Q. Okay. The first zone is from the top of the
25 Bone Spring to where?

1 A. To 9,100 feet.

2 EXAMINER DAWSON: From the surface to 9,100
3 feet.

4 THE WITNESS: Yeah.

5 Q. (BY EXAMINER BROOKS) Well, for the purposes of
6 the Bone Spring, top of the BS is to 9,100.

7 And then there is another different
8 ownership from 9,100 to 10,591?

9 A. Correct.

10 Q. Now, the 9,100 to 10,591 is the subject of
11 another case?

12 A. The 9,100 to 10,591 is -- yes. So that is in
13 Case 20447.

14 EXAMINER DAWSON: Yes.

15 Q. (BY EXAMINER BROOKS) 20447.

16 Now, the concern I have here --

17 (Cell phone ringing.)

18 EXAMINER BROOKS: I have to take a call so
19 let me excuse myself.

20 EXAMINER DAWSON: We'll go on break for a
21 few minutes, let him take his call.

22 MR. RANKIN: There is one thing I wanted to
23 ask her for the record that I didn't get to, so after
24 you guys are done, depending what you guys ask, I'll
25 have a couple questions on follow-up just to help

1 clarify the record.

2 EXAMINER DAWSON: Okay. Sounds good.

3 (Pause in proceedings, 10:13 a.m. to 10:13
4 a.m.; Examiner Brooks present.)

5 EXAMINER DAWSON: Okay. Mr. Rankin, when
6 you're ready.

7 MR. RANKIN: Thank you, Mr. Examiner.

8 I'd like to clarify a couple of things, and
9 it might makes sense for me to wait until the examiners
10 are done with their questions to ensure I don't go over
11 anything you were planning to ask.

12 EXAMINER DAWSON: All right.

13 EXAMINER BROOKS: Okay. Very good. Thank
14 you.

15 **Q. (BY EXAMINER BROOKS) Now, that middle zone has**
16 **different owners from either the top or the bottom;**
17 **there are some owners with different interests?**

18 A. Correct. So in the -- in the two shallow depth
19 severances, it's the same owners. They just have
20 varying working interests across the two depth
21 severances.

22 **Q. Right.**

23 A. In the lower depth severance that we are
24 actually seeking to pool today, there is one owner who
25 is not included.

1 Q. Okay. Now, does your geologist's affidavit
2 indicate that there are barriers that will prevent
3 drainage between what you're asking -- the depths you're
4 asking to pool in this case and the depth that will
5 exist -- that have different ownership?

6 A. So Katie Fry will be --

7 Q. Oh, we're not going by affidavit.

8 EXAMINER DAWSON: No. She'll be on the
9 stand here in a little bit.

10 THE WITNESS: Our geologist will be here to
11 speak to that.

12 EXAMINER BROOKS: I will defer those
13 questions to her, and I think that's all my questions to
14 you. And I'm sorry. There have been so many cases by
15 affidavit, I can't remember what I'm doing.

16 MR. RANKIN: So go ahead, Mr. Examiner. I
17 may have some follow-ups after you.

18 EXAMINER DAWSON: I don't have any
19 questions.

20 REDIRECT EXAMINATION

21 BY MR. RANKIN:

22 Q. Ms. Delach, just to be clear, OXY is proposing
23 to complete and develop the entire portion of the Bone
24 Spring but for that 315 -- approximately 315 feet at the
25 very top; is that correct?

1 A. At this time, correct.

2 Q. Okay. And everybody that has an interest
3 within the Bone Spring has been given notice of this
4 case and the case that's going to be heard on --
5 presented on June 13th?

6 A. Correct.

7 Q. And you've received no objections from any
8 owners who are being pooled over the proposal to depth
9 sever or the locations of the wells within the spacing
10 unit and the distances from those depth severances?

11 A. Correct.

12 Q. Now, just one other point I wanted to bring up,
13 Ms. Delach. What are OXY's schedules here for drilling
14 these wells with respect to both these zones?

15 A. So we would -- our schedule is that we would
16 spud the deeper wells, so the 31, 32, 33H, in July. And
17 then the following month, we would spud the 21, 22 and
18 23H, so August. And then a month later, being
19 September, we would spud the 11H, 12H and 13H, which are
20 subject to Case 20447.

21 Q. Okay. So in other words, you have a drilling
22 schedule you are trying to maintain, and you would like
23 an order authorizing you to complete these wells in time
24 so they can timely do so under your drilling schedule?
25 Is that fair to say?

1 A. Correct.

2 MR. RANKIN: So, Mr. Examiner, no further
3 questions at this time.

4 EXAMINER DAWSON: I have no further
5 questions.

6 Thank you, Ms. Delach.

7 MR. RANKIN: Mr. Examiner, I would ask that
8 our second witness be called to the stand, Ms. Katie
9 Fry.

10 EXAMINER DAWSON: Mr. Rankin, when you're
11 ready.

12 KATIE FRY,
13 after having been previously sworn under oath, was
14 questioned and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. RANKIN:

17 **Q. Ms. Fry, would you please state your full name**
18 **for the record?**

19 A. Katie Fry.

20 **Q. And by whom are you employed and in what**
21 **capacity?**

22 A. Occidental Petroleum Corporation.

23 **Q. And have you previously had the honor of**
24 **testifying before the Division?**

25 A. I have not.

1 Q. Will you please review your education and work
2 experience, overall experience, as a petroleum geologist
3 for the examiners?

4 A. I received my bachelor's of science from the
5 University of California at Santa Barbara under the
6 direction of Dr. Phil Gans and Dr. Jim Boles. I
7 completed my master's of science in geology at the
8 University of Texas at Austin under the direction
9 of Dr. Bob Loucks. I've been working at Occidental
10 Petroleum, focus in New Mexico, Permian Basin for the
11 past four years.

12 Q. And are you familiar with the applications that
13 were filed in this case -- the application that was
14 filed in this case?

15 A. Yes.

16 Q. And have you conducted a study of the geology
17 and the lands at issue here?

18 A. Yes.

19 MR. RANKIN: Mr. Examiner, I do have a copy
20 of Ms. Fry's CV. If you would like, I would be happy to
21 enter it as an exhibit in the record. Otherwise, I
22 would ask that Ms. Fry be tendered as an expert in
23 petroleum geology.

24 EXAMINER DAWSON: Ms. Fry will be admitted
25 to the record as an expert in petroleum geology at this

1 time.

2 MR. RANKIN: Thank you very much,
3 Mr. Examiner.

4 Q. (BY MR. RANKIN) Now, Ms. Fry, you've prepared
5 some exhibits that go along with your analysis and
6 opinions reflecting the suitability of this acreage for
7 development by horizontal wells, correct?

8 A. Yes.

9 Q. Will you please turn to what's been marked as
10 Exhibit Number 7 and review for the examiners what this
11 shows, what the map shows?

12 A. Absolutely.

13 So you see Exhibit Number 7 is contained by
14 a layout on every side. The left side will have your
15 legend and title box, and your maps will be on the right
16 side.

17 So if you see on the right side, you have a
18 16-section plan view map showing the area where Avogato
19 is located. Around the center of the map, you see a
20 thick dashed red line highlighting the area of
21 investigation that we're speaking of today. The three
22 north-south trending purplish-blue lines in the center
23 indicate the 21H, 22H, 23H and the subsequent 30 series
24 in which we were discussing. If you look around the
25 rest of the map, you can orient yourself with other Bone

1 Spring pool wells that are in the off-yellow,
2 red-to-green color, as well as our type log well in
3 Section 31, Red Tank 31 5H.

4 Q. Now, you were present for Ms. Delach's
5 testimony where she testified there were three different
6 depth severances within the Bone Spring in this area; is
7 that correct?

8 A. Yes.

9 Q. Have you prepared a type log that reflects
10 those various depth severances, along with the target
11 interval for this case?

12 A. Yes.

13 Q. Is that presented in Exhibit Number 8?

14 A. Yes.

15 Q. Will you review for the examiners what that
16 shows?

17 A. So if you take a look at Exhibit Number 8,
18 you'll see that the plan view mapped that you reviewed
19 in Exhibit 7 is on the bottom left side. In the center,
20 you have a zoomed-out type log with a turquoise box that
21 zooms into our Bone Spring section of interest. You
22 have your gamma ray in green on the left and your
23 resistivity in red on the right. You note that there
24 are the top of Bone Spring, a depth severance at 9,100
25 feet, a depth severance at 10,591, our two zones of

1 interest, the 20 series zone in green, our pink series
2 for 30 series, the zone of interest, and then the top
3 Wolfcamp or base Bone Spring. So within this 10,591,
4 the base of the Bone Spring, you can see our two
5 different zones of interest.

6 Q. And although it's not exactly clear on this, is
7 it your opinion that the -- within this type log, the
8 top of the Bone Spring, is that a stratigraphic
9 equivalent of approximately 8,785 feet measured depth?

10 A. Yes.

11 Q. And at the base of the Bone Spring, is that a
12 stratigraphic equivalent of approximately 12,088 feet
13 measured depth within this well?

14 A. Yes. Uh-huh.

15 Q. Okay. Now, in preparing this type log, you
16 also look at the structure of the geology within the
17 proposed spacing unit, correct?

18 A. Yes.

19 Q. And is that reflected on the next exhibit?

20 A. Yes. If you turn to Exhibit 9, you can see a
21 structural map. So what you see here is you have
22 structural contours lined in black and the same plan
23 view map that you've already seen. What you notice is
24 that we have a structural high that's on the west side
25 of the area of interest so that we have downdip

1 structure -- gradational downdip structure both east and
2 southeast along the line of the wellbore.

3 Q. And in your opinion, is there any geologic
4 impediments, pinch-outs or faulting that would impair
5 the ability to drill and complete horizontal wells in
6 this spacing unit?

7 A. No.

8 Q. Now, this map shows the existence of some other
9 Bone Spring wells in the area; is that correct?

10 A. Yes.

11 Q. Okay. What is shown here is only the Bone
12 Spring wells, right?

13 A. Yes.

14 Q. Now, did you also prepare a cross section
15 reflecting the structure or the stratigraphy within the
16 spacing unit?

17 A. Yes.

18 Q. Okay. And is your line of cross section
19 reflected in Exhibit 10?

20 A. Yes.

21 Q. Will you review what that shows?

22 A. In Exhibit 10, you see our north-south trending
23 cross section labeled A to A prime where we use the Big
24 Horn, which is the more northernmost well. And we use
25 our type log, Red Tank 31-5, and then a southern well to

1 bracket a north-south cross section along the interval
2 of interest.

3 Q. And the exhibit reflects that cross section?

4 A. Yes.

5 Q. Will you review that, please?

6 A. Yes. So in Exhibit 11, you'll see a
7 north-south cross section, A to A prime. And what you
8 see is there is a slight change in structure where you
9 move downdip along the north-south trend, but it's only
10 minute. You also can see that within the green- and
11 pink-shaded boxes, that respectively represent the 20
12 series and 30 series, that you have continuous and
13 consistent packages of sedimentation to be landing the
14 wells.

15 Q. In your opinion, are these three wells you've
16 identified for your cross section representative of the
17 geology in the area?

18 A. Yes.

19 Q. Now, did you also prepare an east-west cross
20 section?

21 A. Yes.

22 Q. Will you review for the examiners what Exhibit
23 12 shows?

24 A. In Exhibit 12, you see the plan view map again
25 identifying what wells are used within the east-west

1 cross section. So you see the westernmost well labeled
2 B and then the easternmost is labeled B prime. And once
3 again, we are revisiting the type log for the Red Tank
4 31-5.

5 Q. And, again, you're comparing the cross
6 section -- verifying the cross section for each of these
7 three wells?

8 A. So in Exhibit 13, you see the west-to-east
9 cross section labeled B to B prime where you see both
10 zones of interest landing depthwise, and you see that we
11 have a consistent and continuous package that exists
12 from the eastern and western sides of the section.

13 Q. And based on your assessment of the structure
14 and the target intervals here, is it your opinion that
15 the target interval for all these wells are consistent
16 and exist in a pure -- across the entire spacing unit
17 that you're proposing?

18 A. Yes.

19 Q. Is your opinion that the Bone Spring Formation
20 within the west half of Sections 30 and 31 -- is it
21 suitable, in your opinion, for development by horizontal
22 wells?

23 A. Yes.

24 Q. And is it your opinion that the proposed
25 stand-up orientation of these wells is appropriate for

1 the area?

2 A. Yes.

3 Q. Do you expect each tract of land within the
4 purposed spacing unit within the west half of these
5 sections to contribute more or less equally to
6 production from the wells you're proposing?

7 A. Yes.

8 Q. In your opinion, will the granting of this
9 application be in the best interest of conservation, the
10 prevention of waste and the protection of correlative
11 rights?

12 A. Yes.

13 MR. RANKIN: Mr. Examiner, I would move the
14 admission of Exhibits 7 through 11 -- sorry -- 7 through
15 13 into the record.

16 EXAMINER DAWSON: At this time Exhibits 7
17 through 13 will be admitted to the record.

18 (OXY USA, Inc. Exhibit Numbers 7 through 13
19 are offered and admitted into evidence.)

20 MR. RANKIN: No further questions from me,
21 Mr. Examiner. Pass the witness.

22 EXAMINER DAWSON: Okay. Mr. Brooks, do you
23 have any questions?

24 EXAMINER BROOKS: I do have.

25

1 CROSS-EXAMINATION

2 BY EXAMINER BROOKS:

3 Q. The depth severance at 10,591 feet, that would
4 be -- the land person testified that that was a fixed
5 depth severance, not a stratigraphic depth severance?

6 A. Yes.

7 Q. So this well is going to be within the zone
8 that's below 5,000 -- 10,591 feet as far as -- the
9 actual location of the perforations will all be below
10 10,591 feet?

11 A. Yes.

12 Q. Can you give -- can you testify that there are
13 geological -- valid geological reasons for concluding
14 that it will not drain any hydrocarbons from above
15 10,591 feet within this spacing unit?

16 A. Drainage within low permeability rocks is
17 poorly understood. So at this point, we're targeting
18 the 2nd Bone Spring Sand, but due to the nonlithologic
19 boundary, we can know that we will drain the sands
20 within the area.

21 Q. And is the sand -- the sand -- I'm not sure I'm
22 understanding this because geologists and lawyers speak
23 different languages, so it's very hard to tell. What
24 you're saying is you're going to drain the sands from
25 wherever they are; is that correct?

1 A. Not completely. Just the zone of interest,
2 which is below 10,591 feet.

3 Q. So you believe that all the sands that this
4 well will probably drain are located -- is it your
5 opinion as a geologist that the sands from which this
6 well will drain hydrocarbons are located below 10,591
7 feet?

8 A. The sands that we target are only located
9 10,591 feet.

10 Q. And you do not -- do you believe that there is
11 not going to -- I'm not going to use that word because I
12 don't know what it means. Do you believe that there are
13 barriers -- geologic barriers of some kind that will
14 tend to prevent drainage of hydrocarbons from above
15 10,591 feet? Not that they have to be at 10,591 feet,
16 but they'll prevent drainage from above that level?

17 A. Yes. There are potential barriers.

18 Q. "Potential barriers." You're hedging.

19 MR. RANKIN: Mr. Brooks, I might just -- if
20 I might, I think one of the unknowns here is, for
21 example, what would happen. But I think the point in
22 this case is everybody that has an interest across all
23 these zones has been given notice of what is being
24 proposed. And, of course, they're all stuck with the
25 fact that there are depth severances. There is nothing

1 to be done about them other than try to reach agreement,
2 which has been attempted but not been able to be done.
3 So in light of that, I don't know that we have to do
4 more than to have given notice to each of the parties
5 that have an interest.

6 Ms. Delach did testify that the interest
7 owners are all the same across the zones. Interests may
8 vary, and this is one additional interest owner in the
9 depth below 10,591 feet. So in light of that, everyone
10 has gotten notice, and no one has objected.

11 EXAMINER BROOKS: Well, I'm not going to be
12 the stone in the stream. I will not pursue this matter
13 any further, but, you know, sometimes it's necessary to
14 train your expert witnesses because scientists are often
15 too truthful.

16 (Laughter.)

17 MR. RANKIN: Science is truth. What can we
18 say?

19 EXAMINER DAWSON: Is that all, Mr. Brooks?

20 EXAMINER BROOKS: That's all.

21 EXAMINER DAWSON: I have one question on
22 the other end.

23 CROSS-EXAMINATION

24 BY EXAMINER DAWSON:

25 Q. The 31, 32 and 33H wells' landing zone on the

1 top of the Wolfcamp, they will not -- they will not
2 drain any reserves from the Wolfcamp? It will only be
3 Bone Spring production?

4 A. We are targeting only the Bone Spring with the
5 intent to only drain the Bone Spring.

6 Q. So there won't be any -- any possible drainage
7 from the Wolfcamp zone is what you're telling me?

8 A. Likely not.

9 Q. Can you expand on that?

10 REDIRECT EXAMINATION

11 BY MR. RANKIN:

12 Q. Mr. Examiner, I might ask Ms. Fry: Do you
13 know, does OXY own an interest in that Wolfcamp zone, or
14 is that something that maybe Ms. Delach would have to
15 address in terms of who is going to be operating in that
16 depth?

17 MS. DELACH: OXY owns all -- all depths.

18 MR. RANKIN: Do you want to recall
19 Ms. Delach if you have any concerns about the
20 development in the Wolfcamp.

21 EXAMINER DAWSON: That's fine if you want
22 to explain further on that.

23 Do you feel like -- my question is: Do you
24 feel like these 31H, 32H and 33H, the landing zone
25 within those wells, will not interfere with the

1 Wolfcamp -- with the Wolfcamp zone, or will not drain
2 any potential reserves from the Wolfcamp?

3 MR. RANKIN: Mr. Examiner, I think we would
4 like to recall Ms. Delach. The owners are the same in
5 that interest of the well as well, and we have given
6 notice of the location of these wells, and they haven't
7 protested.

8 EXAMINER DAWSON: Okay.

9 MR. RANKIN: So go ahead, Ms. Delach.
10 Maybe you can explain -- verify for the examiners what
11 the issue is with the ownership in the Wolfcamp.

12 AMBER DELACH,
13 after having been previously sworn under oath, was
14 re-called and testified as follows:

15 THE WITNESS: So the ownership in the
16 Wolfcamp is the same as the ownership in this interval
17 of the Bone Spring that we are seeking to force pool
18 right now. So the ownership is the same below 10,591
19 feet to the core of the earth.

20 **Q. (BY EXAMINER DAWSON) Okay. So these wells will**
21 **be approved for a Red Tank; Bone Spring pool, correct?**

22 A. Correct.

23 **Q. Yeah. Okay. I just want to make sure they're**
24 **not draining from the Wolfcamp on these wells, on those**
25 **32 series -- on the 30 series wells.**

1 EXAMINER BROOKS: Well, on both drainage
2 from below and drainage from above.

3 EXAMINER DAWSON: From above. Same
4 question.

5 EXAMINER BROOKS: It just seems to be that
6 we don't really know, but that's often the answer from
7 science. That's the intersection of law and science.
8 Law has to define a boundary, and science can't really
9 define one, seems like what we're talking about. But
10 maybe we will need to consult with Mr. Brancard, because
11 while he's probably not that much wiser than I am, he is
12 more powerful.

13 (Laughter.)

14 MR. RANKIN: That's on the record.

15 EXAMINER BROOKS: That shouldn't be on the
16 record.

17 (Laughter.)

18 EXAMINER BROOKS: That's what I used to say
19 about the judges of the Court of Appeals when I was a
20 district judge.

21 EXAMINER DAWSON: Is that all the questions
22 you have, Mr. Brooks?

23 EXAMINER BROOKS: That's all the questions.

24 EXAMINER DAWSON: That's all I have, too.

25 MR. RANKIN: Thank you. With that, we ask

1 that Case Number 20448 be taken under advisement.

2 EXAMINER DAWSON: Okay. 20448 will be
3 taken under advisement at this time.

4 Thank you very much.

5 (Case Number 20448 concludes, 10:34 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 21st day of May 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
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