

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:

CASE NOS: 20916 and 20917

APPLICATION of NOVO OIL & GAS NORTHERN
DELAWARE LLC for COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 15, 2019

SANTA FE, NEW MEXICO

This matter came on for hearing before the New Mexico Oil Conservation Division, EXAMINERS LEONARD LOWE, KATHLEEN MURPHY, PHILLIP GOETZE, DYLAN COSS and LEGAL EXAMINER ERIC AMES, on Friday, November 15, 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.

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1 HEARING EXAMINER LOWE: We will now call cases
2 Number 20916 and 20917. Call for appearances.

3 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe
4 representing the applicant. I have four potential
5 witnesses.

6 MR. LARSON: Good morning, Mr. Examiner. Gary
7 Larson and Dana Hardy, Santa Fe office of Hinkle Shanor for
8 BTA Oil Producers. We have two witnesses.

9 HEARING EXAMINER LOWE: Will the witnesses please
10 stand and be sworn.

11 MR. LARSON: Everyone went out.

12 MR. BRUCE: My witnesses stepped out.

13 MR. AMES: Why don't we take a five-minute break,
14 and then we can collect everyone together and we can get
15 started. My sense is we probably should get started, run
16 through 12 and take a break then. Is that all right?

17 MR. LARSON: Sure.

18 (Recess taken.)

19 HEARING EXAMINER LOWE: We are now back on the
20 record, and I will continue to call the cases 20916,
21 consolidated with case number 20917, Novo Oil and Gas for
22 compulsory pooling. Call for appearances.

23 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe
24 representing the applicant. I have four potential
25 witnesses.

1 HEARING EXAMINER LOWE: Any other appearances?

2 MR. LARSON: Mr. Examiner, Gary Larson and Dana
3 Hardy from the Santa Fe office of Hinkle Shanor for BTA Oil
4 Producers. We have two definite witnesses.

5 HEARING EXAMINER LOWE: Four witnesses? Will the
6 witnesses please stand and be sworn in?

7 (Oath administered to all witnesses.)

8 HEARING EXAMINER LOWE: Mr. Bruce, would you
9 please proceed?

10 BRANDON PATRICK

11 (Sworn, testified as follows:)

12 DIRECT EXAMINATION

13 BY MR. BRUCE:

14 Q. Would you please state your name for the record?

15 A. Brandon Patrick.

16 Q. Who do you work for and in what capacity?

17 A. Novo Oil and Gas as a land manager.

18 Q. Have you previously testified before the
19 Division?

20 A. I have.

21 Q. Were your credentials as an expert petroleum
22 landman accepted as a matter of record?

23 A. Yes, they were.

24 Q. And are you familiar with the land matters
25 involved in these two applications?

1 A. Yes, I am.

2 MR. BRUCE: Mr. Examiner, I tender Mr. Patrick as
3 an expert petroleum landman.

4 HEARING EXAMINER LOWE: He is so qualified.

5 MR. LARSON: No objection.

6 HEARING EXAMINER LOWE: He is so qualified.

7 BY MR. BRUCE:

8 Q. Couple of preliminary things before you get into
9 your exhibits, Mr. Patrick. I handed everybody a booklet
10 with 20 exhibits. The first ten relate to case 20916, and
11 the 11 through 20 relate to case 20917. Except in one
12 instance, are they basically the same for each case?

13 A. That is correct.

14 Q. And you will get to the difference in the second,
15 20917?

16 A. That's correct, I will.

17 MR. LARSON: Mr. Bruce, can I interject
18 something. I'm impressed with how organized you are.

19 MR. BRUCE: I'm not organized.

20 BY MR. BRUCE:

21 Q. And then second, this is a quick introduction.
22 It is one of the biggest items in Novo's well proposals for
23 its 2 mile lateral surface issues?

24 A. Correct. That is correct.

25 Q. Let's start with Exhibit 1. Could you examine --

1 A. Yes.

2 Q. Excuse me. Could you identify that and tell the
3 Examiners what it is?

4 A. Yes.

5 Q. Exhibit 1, also Exhibit 11, is all the C-102s for
6 all the wells that we have proposed, the Astrodog wells.

7 The ones through case 20916 are for our Wolfcamp
8 well proposals. There is nine well proposals, nine wells
9 total. These C-102 surveys were created to show the first
10 take point, last take point, and it also articulates, you
11 know, which wells they were. If it's 211H indicates --
12 211H, 212H and 215H are the Wolfcamp XY wells of the Upper
13 Wolfcamp.

14 221, 222, 225, that indicates the Wolfcamp A,
15 that's just the next one down.

16 And then 231, 232, 235 that's the Wolfcamp B,
17 that's the Lower Wolfcamp.

18 And then for Exhibit 11, 131, 132, 135H, those
19 are the Third Bone Spring wells that we have proposed.
20 Again, that's Third Bone Spring, that's below the Second
21 Bone Spring, and we'll get into the depth severance related
22 to why we were only proposing Third Bone Spring in the Bone
23 Spring application.

24 Q. And Exhibit 1, the C-102 is only for the Wolfcamp
25 wells?

1 A. For 20916, yes, only the Wolfcamp. And then
2 20917, the C-102s are for the Third Bone Spring wells.

3 **Q. Moving on to Exhibit 2, what is that?**

4 A. These are the well proposal letters that we sent
5 out. There is one letter dated August 1 that is our well
6 proposal letters for the Wolfcamp. We also have one for the
7 Third Bone Spring on Exhibit 2 or Exhibit 12.

8 This was sent -- these were sent to BTA, the
9 August 1 letter was. And then later in that -- later in
10 these exhibits we inadvertently left off Oxy, so on August
11 12 we sent a well proposal letter to Oxy to make sure we had
12 proposed to all the working interest owners in our proposed
13 unit.

14 **Q. Besides these proposals letters, have you had**
15 **discussions with the parties you seek to pool?**

16 A. Yes.

17 **Q. And just for the record, who are the two parties**
18 **you seek to pool?**

19 A. Oxy-Y-1 and BTA.

20 **Q. What is in Exhibit 3?**

21 A. Exhibit 3 are the AFEs for the wells we proposed.
22 Again, all of the -- it just corresponds to the pooling
23 applications. 20916 is all the Wolfcamp AFEs. 20917 are
24 all the Third Bone Spring AFEs for Exhibits 3 and 13.

25 **Q. Could you briefly identify or discuss briefly the**

1 **AFE -- total AFEs costs for these Wolfcamp wells?**

2 A. Yes. Our operations engineer, our VP of
3 operations engineer, he can actually speak more to that if
4 you want to go through that, but we believe that these are
5 competitive costs estimates based on our participation in
6 other wells that we've done with non-op, and also wells we
7 have drilled in the offsetting area. We actually drilled
8 wells in the S/2 of 4 and 5 in the same township, and in the
9 N/2 of 5 and 6 in the same township.

10 So we've drilled, you know, 2 mile laterals in
11 this township for Wolfcamp already, and these AFEs are based
12 on our knowledge and our ability to negotiate.

13 **Q. And the cost of these wells are about \$11.8**
14 **million each?**

15 A. That's correct. They're going to vary a little
16 bit by, you know, their specific depth. That's one of the
17 differences, and also the completion of design. Third Bone
18 Spring might have a slightly different one. Every one is
19 going to be tailored to the specifics of the reservoir, so
20 again, our VP of operations is more equipped to go into
21 details on that, but I can at least say that.

22 **Q. You are assuming, the costs set forth in the AFEs**
23 **fair and reasonable?**

24 A. Yes, I do.

25 **Q. Are they similar to the costs of similar wells**

1 **drilled to this depth in this area of Eddy County?**

2 A. Yes.

3 **Q. Okay. Let's go to Exhibit 4. What does that**
4 **show?**

5 A. Okay. Exhibit 4, we wanted to show you just a
6 land overview of the lands that we are seeking to pool. In
7 Case 20916, that's our Wolfcamp, we are pooling all the
8 Wolfcamp formation. There is no depth severance there.

9 But our Bone Spring application in Case 20917, we
10 we are limiting it in depth from 8773 to the base of the
11 Bone Spring, and that was driven by a depth severance in
12 title, and if you want to flip, actually, to Exhibit 14, I
13 will go into more detail on that.

14 Exhibit 14, if you flip to the next page after
15 the land overview, you will see the existing wells in the
16 area, and I wanted to highlight here the existence of the
17 Road Lizard well, the Second Bone Spring well that was
18 mentioned in the prior case, the Valkyrie case.

19 You can see it's a mile and three-quarter well, a
20 Second Bone Spring drilled by Concho.

21 **Q. That's the N/S well?**

22 A. That's correct, it's labeled as Number 1 on the
23 map.

24 EXAMINER MURPHY: What exhibit?

25 THE WITNESS: Exhibit 14, the second page. I

1 think you are on --

2 MR. BRUCE: Second page of Exhibit 14.

3 THE WITNESS: You are on Exhibit 4, I apologize.

4 A. So you could see the red box in the W/2 of the
5 NE/4 of Section 8, there is a depth severance there, and
6 that was driven by the drilling of the Road Lizard well.

7 So actually out here the history is that Concho
8 had all of these lands under a lease. They actually leased
9 the lands in Section 8 from a private mineral owner, TDY
10 Industries.

11 They had a lease covering all of Section 8, all
12 of Section 9 except for the NW/4 which is federal land.
13 They came out here and they drilled the Road Lizard Well and
14 they didn't drill anything more. The lease had a Pugh
15 clause which caused all the lands outside the proration unit
16 to terminate, also all the depths 100 feet below the deepest
17 perforation, and that's the reason why the depth severance
18 is at 8773. The TVD for the Road Lizard Well is
19 approximately 8673, so that's how they calculated depth
20 severance.

21 So again, depth severance was because the deepest
22 perforation was 8673, you skip down 100 feet, that's where
23 the title depth severance was. So we -- we are seeking to
24 pool the depths below that depth severance, and if --

25 Q. As to the Bone Spring?

1 A. That's correct. That's correct. And we
2 communicated with Concho on this matter, so if you flip to
3 the next page, I -- this is my e-mail correspondence with
4 Concho's landman. Their supervisor is copied on this e-mail
5 as well.

6 I just wanted to be able to present to the NMOCD
7 that we worked with the working interest owner and operator
8 of the Road Lizard Well in those depths that are effected by
9 this pooling application, the Bone Spring, and they do not
10 oppose these applications.

11 And then if you actually want to skip to the next
12 page, here is the partial release of the oil and gas lease.
13 So earlier when I described how Concho drilled a well, and
14 there was a Pugh clause in the lease, and they had to
15 release the lands outside of the proration unit in the
16 depths, the depths that were not drilled, this is the
17 release that Concho filed to create that title depth
18 severance.

19 So the very last page of this release actually
20 shows that they were released the lands below 8773.

21 **Q. Let's move on to Exhibit 5 and further discuss**
22 **the land ownership.**

23 A. Absolutely. So Exhibit 5, this shows the history
24 of the prospect. And first wanted to say these lands are in
25 the potash area, the designated potash area created by the

1 secretary's potash order, so here you have to establish, if
2 your surface locations are inside the designated potash
3 area, you have to have a drill island.

4 And no matter, the area you are going to develop,
5 you have create -- you have to get an approved development
6 area before you can get an approved permit as was described
7 in the prior case.

8 So BTA hangs their hat on a JOA, however, the JOA
9 isn't the only thing that matters here. We have to have a
10 development area approved by the BLM to be able to actually
11 develop the acreage. So it's not just the JOA and getting a
12 private agreement, it's getting the federal approval of a
13 development area.

14 The purpose of that is to avoid stranding acreage
15 and making sure that all the affected parties that are going
16 to be affected by your development have an opportunity to
17 comment on the -- on your proposed development, so --

18 But the history of the prospect here, first, the
19 first thing that actually happened, well, on this page that
20 are really relevant, a drill island in the NW NW/4 Section
21 of 8, that was establish in the December of 2017. It was
22 called the Nido de Solado Drill Island.

23 It was actually established by -- it was proposed
24 by a company called Titus. Titus came out here and they
25 were trying to lease the land that now Novo owns. Novo owns

1 these minerals unleased, so we own the working interest and
2 we don't have to pay a royalty to anyone because we own the
3 minerals.

4 But at the time in 2017, Titus came out here and
5 wanted to try to figure out how the lands could be
6 developed. They held an onsite with the BLM, and the BLM
7 steered them to the NW NW/4 of Section 8, and that's where
8 the drill island was established in December of 2017.

9 You fast forward 11 months, and BTA acquired
10 their interest in the N/2 of Section 7, NW of 8, and this is
11 critical because BTA should have known at the time they
12 bought this acreage, there was a drill island there, and
13 they understand how to operate in the potash because they
14 have drilled wells in the potash.

15 They have the Harroun Ranch Wells in Section 17
16 and 20, so they understand that the development area is
17 required, and they also understand that the presence of a
18 drill island should dictate, or should at least indicate to
19 them that the BLM is going to require you to develop the
20 acreage around that drill island from that drill island.

21 So BTA acquired their interest in November of
22 2018. Fast forward eight months, and Novo acquired its
23 interest, the unleased mineral interests that are shown in
24 yellow.

25 Q. In looking at this map, and you will get into

1 this a little bit later, but does Novo also have plans to
2 develop the S/2 of Section 8 and the S/2 of Section 9 with 2
3 mile laterals?

4 A. Yes.

5 Q. Go back to Exhibit 6, and get into the surface
6 issues which affect the drilling of wells out here.

7 A. Absolutely. So before, before Novo actually
8 acquired its interest, we wanted to do some due diligence.
9 We understand that it's in the potash, that there's lot of
10 constraints, and we didn't want to buy anything that we
11 couldn't develop.

12 So we bought the acreage in July, but we started
13 our due diligence in working with the surface owner in the
14 potash company in April. This slide shows some of my
15 correspondence with Mosaic's supervisor of land because they
16 own the surface.

17 Not only are they a potash lessee, but they own
18 the surface in all of Section 8 and all of Section 9 except
19 for the NW NW/4 of Section 8 where the drill island is
20 located.

21 So if we are going to put any pads anywhere else
22 in Section 8 other than where the existing drill island is,
23 we have to go through Mosaic. So I initiated a conversation
24 with Mosaic. I sent them the base map that's shown on this
25 slide.

1 Now, this map that I sent to her did not include
2 the railroad track. It did not include the direction of
3 drainage. The only thing it included was the potential Well
4 Pad Number 1 and potential Well Pad Number 2 polygon and the
5 callouts.

6 And I asked, I said, "Hey, we would like to try
7 to put these pads along the west line of 8 to develop 2 mile
8 laterals across Sections 8 and 9."

9 And you can see in her e-mail she, she rejected
10 the idea of putting pad locations southeast of the railroad
11 track.

12 And to elaborate, she said, "Our site team has
13 looked at your proposal, and they have some concerns with
14 Well Pad Number 2. The ground that close to the salt lake
15 is unstable and there is a risk of flooding, plus a very
16 high risk of contamination to the salt lake should there
17 ever be a release. They would prefer both well pads to be
18 on the NW west side of the rail tracks."

19 And the rail tracks are shown on that blue line,
20 that squiggly line, that's where the railroad tracks are.

21 So continuing with this exhibit, flip the page.
22 So we, we took that into consideration. We weren't going to
23 fight them on it because again we just wanted be able to
24 find suitable locations that address all of the risks.

25 And we, we said, "Okay. If we put our pads on

1 the NW side of the tracks, we're fine." And they were okay
2 with the locations that we picked.

3 The locations that you see in red are the Novo
4 proposed drill islands that are approved by Mosaic. And
5 then we proposed our wells across the N/2 of 8 and 9 to BTA
6 and Oxy.

7 And then flipping to the next page, this
8 is the -- so we proposed the wells to BTA and Oxy, and BTA
9 responded and they said, "Hey, we want to drill the NW/4 of
10 8. We already have plans for the N/2 of 7, NW of 8."

11 And they asked why we couldn't move our pads to
12 the E/2 NW/4 of Section 8. And then a day or two later, I
13 think the landman for BTA requested that we meet in person,
14 and so we did. We met in person in Oklahoma City. He flew
15 to Oklahoma City and we hosted a meeting there.

16 During that meeting he said, "Hey, we want you to
17 move your pads over here."

18 And we expressed that, "Well, we have already
19 discussed some of this with Mosaic and we're not optimistic
20 in the ability to do that. Just given that we have already
21 kind of gone down that track with them a little bit, they
22 don't want any pads being on the SE/4 of -- or, sorry -- SE
23 of that rail track."

24 But we said, you know, "We will agree to jointly
25 communicate with the BLM about this. We are not going to

1 just disregard your concerns. If you want us to move it to
2 E/2 of the NW/4, we're happy to jointly go to BLM and
3 discuss that option."

4 And so -- let's see. Yeah, flip the page to the
5 next one. So this is where after that meeting or at the end
6 of that meeting, BTA's land manager said, "Well, let me go
7 talk to my engineer and I will get back to you guys and then
8 we can go to the BLM."

9 And so a couple of weeks passed, and our VP of
10 land reached out to landman and said, "Hey, have you had an
11 opportunity to talk to your engineer? We would like to, you
12 know, figure out how this is going to play out."

13 And that's whenever BTA's land manager revealed
14 that he had already gone to the BLM and discussed trying to
15 move that pad over to the E/2 NW/4, and not only just had
16 some discussion, he had actually convinced Jim Reilly at the
17 BLM to go out there and look at the site and start talking
18 to Mosaic about it.

19 And that ruffled our feathers a little bit
20 because we are going to be the operator of this pad and we
21 should have a say in the conversations.

22 However we said, "We will still consider, you
23 know, that move, so long as it fully meets Novo's
24 specifications, because it's not just a matter of whether
25 Mosaic and the BLM will approve it, we have our own concerns

1 if, you know, the surface is unstable there, and if there is
2 risk of contamination to the salt lake, we don't want to
3 take on a potential lawsuit. You know, if we have something
4 bad happen, a big rain and a pad washes out into the lake
5 and then it hurts the salt harvesting -- United Salt is
6 there in the salt lake and they have a big salt harvesting
7 operation there, we don't want to put a pad in a location
8 where we recognize that there is risk and basically
9 consciously disregard that risk."

10 So the next -- the next interactions between Novo
11 and BTA, when BTA had proposed their Ochoa development area,
12 Novo objected to it because we still needed to figure this
13 out. We needed to file an objection just to be able to
14 continue to figure this out because there is a time line
15 within which you have to file your objection, otherwise
16 there is a default judgment, basically, and they will
17 approve the development area.

18 So seeing that the development area they proposed
19 covered the NW/4, and our plans also were encompassing the
20 NW/4, we had to file an objection to be able to reserve the
21 right to continue to discuss this.

22 And after that, BTA wasn't happy. They, their
23 land manager wanted to talk to us some more. He wanted to
24 come have another meeting. That was in, I think, the week
25 of October 16 or so. We were unable to meet. That was

1 around our fall break and a lot of our people were out of
2 the office. I requested that we keep our communication in
3 e-mail just to make sure we're all on the same page, there
4 is no miscommunication.

5 And then our, our BLM onsite that we had
6 scheduled to actually get approval of the drill islands that
7 we were seeking to get approval of, that was scheduled for
8 October 24, so we knew we were going to be seeing them
9 anyway on October 24.

10 And that's whenever the day before BTA's land
11 manager sent an e-mail to us just saying that BTA will
12 oppose Novo's pooling application in the Astrodog wells.
13 We'll object to Novo's development areas, actually to any
14 development area that we file within the secretary's potash
15 area, not just for Astrodog, but if they were to get notice
16 of any development area proposal, not just Astrodog, they
17 would object to it.

18 We kind of took that as a threat, but we
19 continued the course, we went to the onsite, and that's --
20 that's where we can talk about the next slide. So October
21 24 --

22 **Q. This is final page of Exhibit 6?**

23 A. No, there is one more. There is one more. So
24 the slide labeled October 24, BLM Onsite, we had the onsite
25 with the BLM. They approved. The key takeaways from that,

1 that onsite is that BLM approved all of our pad locations
2 for the development of all Sections 8 and 9.

3 A. We also got to meet United Salt Carlsbad, the
4 surface -- the surface lessee for the salt lake who had salt
5 harvesting operations for the salt lake, we got to meet
6 their plant manager.

7 And you know, after that onsite, we had some more
8 communication with them after we got back to our office, and
9 this was a -- the bottom right of that slide, this quote was
10 from an e-mail from him saying, "We prefer the current
11 placement, the ones that were approved, much more than the
12 ones proposed by BTA," a/k/a, putting the pads in the E/2
13 NW/4.

14 "We prefer the current placement much more than
15 the one proposed by BTA due to less risk to harvesting
16 areas," reiterating our concern is legitimate that, you
17 know, if we put our pads where BTA wants us to, we are going
18 to be consciously disregarding a risk that has been raised
19 by the salt harvesting operation.

20 And then you can flip the page to the next one.
21 This is just a side-by-side comparison between Novo's plan
22 and BTA's proposed alternative. Now, our plan is to develop
23 all the N/2 of 8 and 9. And this is only plan that
24 guarantees that our 480 acres in the NE/4 of Section 8 and
25 the N/2 of 9 is not going to be stranded.

1 The S/2 of 4 and 5 that are just located above
2 Sections 8 and 9, that's already been developed actually by
3 us. We have already drilled a Lower Wolfcamp well across
4 the S/2 of 4 and 5 -- yeah, 4 and 5.

5 You can't come from the south due to topography
6 issues. You can't come from the east due to potash issues.
7 The only way to develop our minerals, that 480 acres, is
8 what we are proposing right here.

9 BTA'S proposed alternative to move our pads, the
10 E/2 NW/4, that's something that Mosaic has objected to. And
11 that box, that e-mail from the bottom right of this slide is
12 a cutout from an e-mail that was on November 7, just a week
13 ago, where Ric Bell from the Mosaic, I asked him, I said,
14 "Okay. What do you think about the E/2 NW/4 for our
15 location for, you know, surface, for a drill island?"

16 And he said, "Mosaic will object to the
17 relocation of this drill island," he is talking the Nido de
18 Solado Drill Island, they would object to that move because
19 it would impact ore reserves.

20 But it's not just the surface constraint, it's
21 actually the potash constraint as well. So Mosaic on two
22 grounds has rejected to this move, one, because they were
23 worried about the surface constraints and surface risk of
24 the land being unsteady as specified in Mary Lingman's
25 e-mail I went over earlier. And then we have Ric Bell's

1 e-mail here saying they have potash concerns as well.

2 So BTA's proposed alternative is not a feasible
3 plan, and if they are allowed to drill mile and a half wells
4 across the N/2 of 7 and NW of 8, we would be stranded, our
5 480 acres of unleased minerals would be stranded.

6 Q. In looking at this, as such, Novo isn't -- if it
7 could drill 1.5 mile laterals, you've drilled them before;
8 right?

9 A. And I spelled that out to Mr. Price at our
10 meeting that we had. At our first meeting I told him, "We
11 are not opposed to drilling 1.5 mile wells, it's just here
12 we can't."

13 Q. If you look at -- if you couldn't drill or you
14 couldn't perforate the NW/4 of Section 8, you'd have to
15 drill a half a mile --

16 A. Yes.

17 Q. -- to get to your acreage?

18 A. Correct. It would be half a mile of dead hole,
19 and actually to aggravate the concern, because we have
20 unleased minerals, our economics are superior to anybody who
21 has a lease. We don't have to pay a royalty. So we
22 actually can drill more horizon's than most just inherently
23 because our economics are better.

24 So whenever you're thinking about down hole, how
25 this would look, and our geologist will go into more detail

1 here, we are talking about a lot of wells down hole. And if
2 we've got multiple horizons that are all getting developed,
3 and with increased density, too, if we are drilling half a
4 mile of dead hole, and then BTA has to thread the needle, so
5 to speak, you have so much collision risk down hole in every
6 target interval that it doesn't make sense.

7 It's a safety hazard. It's an operational
8 hazard. It's an economic hazard. It's not efficient.

9 **Q. You are not proposing 2 mile laterals just to try**
10 **to impair BTA's development of this acreage?**

11 A. No. We are doing this because it's the only way
12 to develop our mineral.

13 **Q. What is Exhibit 7?**

14 A. Exhibit 7 is, is plat showing Marathon's Valkyrie
15 pooling applications, which I know everybody here is very
16 familiar with. Well, I don't need to go into too much
17 detail here, but we do agree with this development plan
18 because Marathon's -- we supported Marathon's plan because
19 their development of Section 7 does not impair our
20 development of Section 8.

21 To the contrary, BTA's development of Section 7
22 does impair our ability to develop Section 8. That is the
23 reason why we support Marathon's plan versus BTA's.

24 **Q. And over on the left --**

25 MR. BRUCE: Well, let me hand out an exhibit, two

1 exhibits.

2 Q. I handed you Exhibits 7 and 8. What are those?

3 A. These are support letters from Occidental
4 Petroleum, one of the pooled parties in this, and Marathon.
5 So one of the interest owners in the NW/4 of Section 8,
6 which is the federal lease which BTA owns an interest
7 supports your application.

8 A. Absolutely. Yes.

9 Q. Let's move on to Exhibit 8.

10 A. Exhibit 8, it's a conclusion slide here, but I
11 just wanted to show that we have support or all the parties
12 on the left side here either support or do not oppose Novo's
13 application. That's Mosaic, the surface owner, as well as
14 the potash lessee; United Salt Carlsbad, they are the
15 surface lessee of the salt lake; OXY, who is one of the
16 pooled parties; Marathon, the offset operator who has the
17 Valkyrie application; and Concho, the owner in the depths
18 that are above our Third Bone Spring depth severance pooling
19 application.

20 And the only party here that opposes Novo's
21 applications are BTA. And to reiterate, again, Novo's plan
22 is the only guaranteed path to avoid stranding our 480
23 acres.

24 Bta's plan is not feasible. They recommend us to
25 move it to a location that Mosaic will oppose -- they

1 have -- they already do oppose, so we would be taking --
2 they are pushing us into a hostile position that we are not
3 guaranteed to win.

4 And if we -- we would have to essentially go
5 through maybe the Surface Damage Act, and there is no
6 guaranteed victory there. So the only guaranteed path to
7 avoid stranding our 480 acres is what we are proposing
8 today.

9 **Q. And the BLM, the BLM is pretty sensitive as far**
10 **as the potash is concerned. Is that a fair statement?**

11 A. Absolutely. Jim Rutley, every time that I've --
12 we own, actually out here we own about 5,000 acres in the
13 potash area. This is our, you know, this is our main asset
14 here in New Mexico.

15 We, we aren't afraid of working in the potash
16 because we understand how to work with others. We have been
17 successful in doing that. We know we have to start with
18 Mosaic because the BLM is strongly dictated by what Mosaic's
19 response was going to be.

20 So our first step was actually to contact Mosaic
21 as we showed. In April we contacted Mosaic because we knew
22 it would be a lot easier to get BLM's approval if we went to
23 Mosaic first. And because we have so much interest in not
24 just this pooling application, but other lands inside the
25 potash area, our relationship with Mosaic, we have to be

1 very cognizant of that.

2 To avoid stranding more gas and oil resource, we
3 need to be able to work well with Mosaic, and so thrusting
4 upon us a very hostile situation with Mosaic would be
5 detrimental to this pooling application, as well as possibly
6 other lands.

7 **Q. What does Exhibit 9 show?**

8 A. Exhibit 9 is a summary of communication with
9 Mosaic, with United Salt Carlsbad, and with BTA. I have
10 already covered most of it in my testimony, so there is
11 really no need to go through it here, but this is a written
12 memorialization of those conversations for the convenience
13 of the Hearing Examiners.

14 **Q. And you didn't put it in here, but have you had,**
15 **other than the proposals you have had, have you had numerous**
16 **contacts with Oxy-Y-1 Company?**

17 A. Yes.

18 **Q. What is Exhibit 10?**

19 A. Exhibit 10 is the geology exhibits which our
20 geologist will go through.

21 **Q. Oh, yeah. Well, let's move on just very briefly**
22 **starting with Exhibit 11. Is this the equivalent or the**
23 **corollary to Exhibit 1, but only dealing with the Bone**
24 **Spring well, proposed Bone Spring wells?**

25 A. That's correct.

1 Q. And again, a corollary, Exhibit 12 is a corollary
2 of Exhibit 2 is the Bone Spring well proposals?

3 A. That's correct.

4 Q. And is Exhibit 13 the Bone Spring AFEs?

5 A. That's correct.

6 Q. Are these fair and reasonable and in line with
7 the cost of similar wells drilled to this depth in this area
8 of New Mexico?

9 A. Yes.

10 Q. And then Exhibit 14, you already went through.
11 It's Exhibit 4, but with little information, additional
12 information regarding the Bone Spring depth severance?

13 A. That's correct.

14 Q. Are Exhibits 15, 16, 17, 18, and 19 corollaries
15 to Exhibits 5 through 9?

16 A. That's correct. Yes, they are.

17 Q. In your opinion, has Novo made a good-faith
18 effort to obtain the voluntary joinder of the interest
19 owners in your proposed wells?

20 A. Yes.

21 Q. Do you request that Novo be named operator of the
22 wells?

23 A. Yes.

24 Q. What overhead rates do you request?

25 A. 8,000 during operations, and 800 during

1 producing.

2 Q. Are those rates fair and reasonable and in line
3 with the cost of Novo and other operators in this area
4 charge?

5 A. Yes. We have pooling orders with similar rates.

6 Q. And do you request a maximum cost plus 200
7 percent risk factor in the event a working interest owner
8 goes non-consent in the wells?

9 A. Yes.

10 Q. Were Exhibits 1 through 9, including Exhibit 7A
11 and 7B, and Exhibits 11 through 19 prepared by you or under
12 your supervision or compiled from company business records?

13 A. Yes.

14 Q. In your opinion, is the granting of Novo's
15 application in the interest of conservation and the
16 prevention of waste?

17 A. Yes.

18 MR. BRUCE: Mr. Examiner, I move the admission of
19 Exhibits 1 through 9 and 11 through 19 and Exhibits 7A and
20 7B.

21 HEARING EXAMINER LOWE: Mr. Larson?

22 MR. GARY LARSON: No objection.

23 HEARING EXAMINER LOWE: Exhibits 1 through 9, 11
24 through 19, including 7A and 7B will be admitted to these
25 cases.

1 (Exhibits 1 through 9, 11 through 19, 7A and 7B
2 admitted.)

3 MR. BRUCE: Mr. Examiner, Exhibit 21, which is
4 simply my affidavit regarding notice showing both BTA and
5 OXY were notified by certified mail and they did receive
6 notice of the applications, and I would move the admission
7 of Exhibit 21.

8 HEARING EXAMINER LOWE: Mr. Larson?

9 MR. GARY LARSON: No objection.

10 HEARING EXAMINER LOWE: Exhibit 21 is admitted
11 for the cases.

12 (Exhibit 21 admitted.)

13 MR. BRUCE: I have no further questions of the
14 witness, and amazingly, I was pretty accurate in the time it
15 took.

16 HEARING EXAMINER LOWE: Mr. Larson?

17 MR. GARY LARSON: I would prefer to cross after
18 lunch.

19 HEARING EXAMINER LOWE: At this time we will take
20 a one-hour lunch break and we'll reconvene at 1:10 -- 1:15.

21 (Lunch recess taken and proceedings resumed at
22 1:15 p.m. as follows:)

23

24 HEARING EXAMINER LOWE: We are now back on the
25 record to continue with the cases 20916 and 20917. And we

1 left off with Mr. Larson to deal with his cross.

2 CROSS-EXAMINATION

3 BY MR. LARSON:

4 Q. Good afternoon, Mr. Patrick. When did Novo
5 acquire its interest in the acreage?

6 A. July of 2019.

7 Q. At that time did you consider the possibility
8 that, as you said, your acreage might be stranded without
9 pooling some of BTA's acreage?

10 A. We understood there was no development area
11 covering 7, 8 and 9, and that a development area would need
12 to be proposed. But since there were no development areas
13 already established, that it was essentially green pasture,
14 if you want to call it that, for how the acreage would be
15 developed across 7, 8 and 9.

16 Q. But your real problem is your surface location,
17 isn't it?

18 A. Correct. And potash concerns as well.

19 Q. And prior to acquiring the acreage in July of
20 2019, were you aware of BTA's joint operating agreement?

21 A. I was aware that there was a -- there were
22 development areas, there was a drill island. And I was
23 aware that, you know, for BTA to be able to develop their
24 land across the N/2 of 7 and NW of 8, they would need to
25 propose a development area.

1 So I did not think that the existence of a JOA
2 would in and of itself dictate how the acreage would be
3 developed. But to answer your question, yes.

4 **Q. I believe you testified that in the prepurchase**
5 **due diligence, that you reached out to Mosaic?**

6 A. Correct.

7 **Q. Did you reached out to United Salt?**

8 A. Not before acquiring the interest, no.

9 **Q. Well, why didn't you reach out to BTA?**

10 A. Because we were still trying to figure out how
11 the land could be developed from a surface standpoint, and
12 then that would drive how the acreage would be developed.
13 So we didn't think it was necessary to right off the bat
14 start talking to BTA.

15 **Q. I don't want to misstate your testimony, but my**
16 **understanding is that because of surface location involving**
17 **Mosaic, United Salt, BLM, that all your acreage is stranded**
18 **unless you pool BTA?**

19 A. That's correct.

20 **Q. I believe you testified also that you have a lot**
21 **of experience in the potash area.**

22 A. Yes.

23 **Q. Is that something you could have foreseen when**
24 **you purchased the property?**

25 A. That it was -- I'm sorry.

1 **Q. You knew the situation when you went into that?**

2 A. I was confident that the BLM, because they're --
3 they, just like the NMOCD, don't want to strand resources, I
4 was confident that they would see the circumstance the same
5 way that I do, that it was unreasonable to allow 480 acres
6 to be stranded just because there is a privately negotiated
7 joint operating agreement that BTA has.

8 **Q. So what you are saying is that BLM's preference**
9 **of not having the acreage stranded trumps a private**
10 **voluntary agreement under New Mexico law?**

11 A. I would say under federal law, yes, because there
12 is the order that was issued by the Secretary of Interior
13 does bind their federal lease, so they can't just drill a
14 well because they have a joint operating agreement. They
15 are still bound to establish a development area.

16 Since there was none, I was confident that once
17 one was proposed, it would give us an opportunity to comment
18 and allow for our comment to say that we don't want to
19 strand our 480 acres. And just because it's reasonable to
20 assume that that's a bad thing, that's one of the things
21 that the NMOCD and the BLM want to avoid is stranding
22 resource, I was confident that they would see it our way.

23 **Q. But again, wasn't that risk reasonably**
24 **foreseeable when you purchased the property?**

25 A. Absolutely.

1 Q. I'm going to direct your attention to Novo
2 Exhibit 6, actually, I think the second page. And looking
3 at the verbiage under the -- is that a Google map there on
4 the left hand?

5 A. Yes, they are both Google.

6 Q. It says Mosaic approved pad locations?

7 A. Oh, are you saying from the red, the red box
8 that's in the bottom right of this slide?

9 Q. Exactly.

10 A. That is what that says. It does say, "Novo
11 proposed Astrodog wells to be drilled from Mosaic approved
12 drill island."

13 Q. Okay. and I'm actually looking at the one on the
14 left side.

15 A. Oh, okay. Yes, it does say, "Mosaic approved pad
16 locations NW of railroad track."

17 Q. Okay. And then what was the time frame you
18 received that approval from Mosaic?

19 A. Whenever we talked to them in April, it was Mary
20 Langman, their supervisor of land.

21 Q. And that was prior to the closing on the sale?

22 A. Correct.

23 Q. And then if we go to the next page, again in the
24 verbiage under the Google map on the left side, "Mosaic has
25 rejected BTA's alternative pad location."

1 A. That's correct.

2 **Q. What time frame did that occur?**

3 A. The formal -- well, the potash reason that Ric
4 Bell stated was the one on -- let's see, two -- let's see,
5 three pages later, if you go to Ric Bell's e-mail on
6 November 7 where he says, "Mosaic will object to the
7 relocation of this drill island," that's the most recent
8 instance of their disapproval of this relocation.

9 And then prior to that, Mary Langman had
10 expressed that she did not want, and she represented Mosaic
11 here, they did not want any pads SE of the, of the railroad
12 track, and they preferred that the pads be located NW of the
13 railroad track for the reasons stated in her e-mail.

14 **Q. And when did Novo send its well proposals?**

15 A. Immediately after closing on the acreage. We
16 closed on it in late July and we proposed the well at the
17 latest date of August 1.

18 **Q. Okay. And when did you actually first have your**
19 **first communication with BTA?**

20 A. Right after we submitted the well proposal. We
21 thought that would initiate a discussion.

22 **Q. If I understood you correctly, you were open to**
23 **both Novo and BTA doing mile and a half wells, if that was**
24 **feasible?**

25 A. Whenever we had that meeting in Oklahoma City, I

1 expressed that.

2 **Q. And --**

3 A. That was prior to -- I apologize.

4 **Q. That's all right.**

5 A. That was prior to -- so we had our initial
6 discussion with Mosaic who expressed disapproval of having a
7 location SE of the railroad track.

8 We heard BTA say that we want your pads to go in
9 the E/2 NW/4 which would be SE of the railroad track. And
10 because we were trying -- we had two different -- we had two
11 affected parties that were both expressing things that were
12 contradicting each other, we thought it was the best thing
13 to do was to say, "Well, let's hear this out. Let's jointly
14 approach the BLM and discuss it with them," because they
15 serve as sort of a referee on these matters, that's the
16 reason why they have the potash order. And that's the
17 reason why they authorized the officer under that order, to
18 make these decisions and take into consideration the potash
19 concerns, all the affected parties that are listed on
20 development area notice.

21 So I didn't think that it was -- we could make a
22 unilateral decision that we were not going to listen to BTA.
23 It wasn't for us to decide. That's why I said, let's
24 jointly approach the BLM and discuss.

25 **Q. If I'm hearing correctly, there was a proposal to**

1 move the wellsite that Mosaic had approved prior to your
2 purchase. Who proposed that alternative?

3 A. Can you reask the question? I'm sorry.

4 Q. Yeah. I heard something in your answer that
5 there was a second potential wellsite proposed to Mosaic
6 which Mosaic rejected. Who, who presented that alternative
7 site to Mosaic?

8 A. I think you might be confused. Let me go through
9 this. So if you flip to the first page on Exhibit 6.

10 Q. Uh-huh.

11 A. On April 3, that e-mail that I submitted where I
12 said potential Well Pad Number 1 and potential Well Pad
13 Number 2, the second location that you are referencing in
14 your question is potential Well Pad Number 2.

15 Potential Well Pad Number 1 and potential Well
16 Pad Number 2 were proposed to Mosaic simultaneously in the
17 same map and the same e-mail sent on April 3, so it was done
18 by Novo.

19 Q. And then looking at the next page of that
20 exhibit, you see, "Mosaic approved pad locations NW of the
21 railroad track."

22 A. Yes, that's correct.

23 Q. Which ones are those, 1 or 2 or both?

24 A. Well, Well Pad Number 2 was moved up NW of the
25 railroad track. Well Pad Number 2 -- there's the two pads

1 I'm talking about are the red ones. The green was already
2 preapproved by Mosaic back in December of 2017.

3 So the well, the drill island that we were
4 proposing are the ones shown in red on this image, and that
5 was potential Well Pad Number 1 on the page before. And
6 then we moved potential Well Pad Number 2 NW of the railroad
7 track as requested by Mosaic.

8 **Q. And is that marked in this agreement?**

9 A. No, they have not marked into the agreement.

10 **Q. So it's an entirely different one?**

11 A. It's an entirely different drill island.

12 **Q. Why did you propose Number 1 and 2?**

13 A. Because we own the S/2 of 8 and 9, and we want to
14 drill 2 miles from there as well.

15 And this acreage, as I mentioned before, since we
16 own unleased minerals, the nets are so high that we need --
17 we are going to drill potentially 48 plus wells here. We
18 think six wells per section. And in each target interval
19 that we are talking about, and our geologist and our
20 reservoir engineer can speak more to that, but there is the
21 Delaware, Avalon, First Bone Spring, Second Bone Spring,
22 Third Bone Spring Break Sand, Third Bone Spring Sand Stone,
23 Wolcamp XY --

24 REPORTER: Slow down.

25 THE WITNESS: Oh, I'm sorry. Apologize.

1 Apologize.

2 A. There's Avalon. I'm sorry, there's Delaware,
3 Avalon, First Bone Spring, Second Bone Spring, Third Bone
4 Spring Break Sand, Third Bone Spring Sand Stone, that's the
5 lowest part that communicates with the Wolfcamp.

6 You have Wolfcamp XY, Wolfcamp A and Wolfcamp B,
7 and there is even more that we haven't definitively said
8 that we are going to go out there and drill it. That's why
9 I said 48 plus.

10 So we would need more than just two pads to fit
11 all of that development, and that's the reason why we wanted
12 to get three pads, to be able to develop fully Sections 8
13 and 9.

14 Q. And looking again at the third page of your
15 Exhibit 6, your lower left-hand corner, "Mosaic has rejected
16 BTA's alternative pad location," when did you receive that
17 rejection?

18 A. November 7 in the e-mail from Ric Bell. On -- if
19 you flip two more pages, or three more pages forward, you
20 look on the bottom right, you will see the e-mail from Ric
21 Bell where he said, "Mosaic will object to the relocation of
22 this drill island as it would impact ore reserves."

23 And I have the rest of that e-mail
24 correspondence, and that's where I showed the oval shape
25 that represented the area within which BTA wanted us to

1 relocate our pad location.

2 **Q. Wasn't it a matter of BTA wanting you to move it**
3 **or suggesting a well pad that would facilitate both parties**
4 **doing 1.5 mile laterals?**

5 A. They said that they would oppose anything
6 developed the NW of 8, and they said that it was -- if we
7 couldn't -- if we couldn't move it there -- actually, they
8 said that they would oppose any development that we proposed
9 as the NW of 8.

10 **Q. That's based on their 100 percent interest under**
11 **the JOA?**

12 A. I don't believe they own 100 percent. I believe
13 they own 73.2 percent.

14 **Q. They control it.**

15 A. I believe that they don't control it because they
16 have to get a development area, as well as, they have the
17 joint operating agreement, and I think everybody agrees on
18 that. But that's not the only thing, you have to get the
19 developed acreage inside the designated potash area. You
20 have to have a drill island if your surface location falls
21 within the area, and second and most importantly, you have
22 to have a development area.

23 So the JOA, I understand that they have a JOA
24 with Oxy as a party to that JOA, but that doesn't dictate
25 the way that the lands will be developed, a development area

1 will.

2 Q. And did BTA submit a development area to BLM?

3 A. Yes, they did.

4 Q. And Novo objected?

5 A. Yes, because it encompassed the NW/4 of Section
6 8, and they actually proposed this after we sent our well
7 proposals.

8 Q. Okay. And what was the basis for objecting or
9 protesting to BTA's develop area proposal?

10 A. Because we would have to, one, we couldn't
11 develop our land. We couldn't put our pads in the E/2 NW/4
12 as we learned from our discussions with Mosaic. And the
13 only alternative, only alternative is to have existing pads
14 here and drill half a mile of dead hole and also incur for
15 both BTA and Novo, all the collision risk, the economic harm
16 created by doing that.

17 And whenever I say the collision risk, and our
18 engineers can go more into that if we want to, we are
19 talking about safety, we are talking about extreme economic
20 harm. If something bad happens where you drill into a
21 producing well or something like that you could be looking
22 at tens of millions of dollars of damage to the wells alone.

23 Then you have safety concerns where you harm
24 somebody, that's even more, you have bodily harm, plus, you
25 know, lawsuits on your hand that you would be taking on, it

1 seemed like an incredibly unreasonable risk to take on
2 especially whenever it can be completely avoided by Novo
3 just developing the NW/4 section of 8 and the 2 mile
4 development that we proposed here.

5 **Q. Aren't you disregarding BTA's interest in that**
6 **acreage?**

7 A. I don't believe that they have -- I don't think
8 that they have a right to be able to say that they can just
9 unilaterally develop the N/2 of Section 7 and the NW/4 of
10 Section 8. So I, I do understand that they are frustrated
11 that they can't operate the NW/4 of Section 8, however, that
12 pales in comparison to the alternative.

13 **Q. Do you know where BTA's surface location would be**
14 **for a mile and a half lateral?**

15 A. It would not be within the potash area.

16 **Q. I may have asked you this, and if I did, I**
17 **apologize. When did Mosaic reject BTA's alternative pad?**

18 A. If you look at -- so Exhibit 6, Page 1, 2, 3,
19 4 -- let's see, I think it might be the 5th or 6th page, the
20 one that has the heading "Novo's Plan versus BTA's Plan," I
21 direct your attention again to the e-mail on the bottom
22 right of that page that Ric Bell on November 7 said,
23 "Brandon," comma, "Mosaic will object to the relocation of
24 this drill island as it would impact our ore reserves."

25 **Q. Have you looked at any other possible alternative**

1 **location?**

2 A. Absolutely. We actually developed -- we have a
3 development area for the S/2 of 4 and 5 at the acreage just
4 to the north. To the east there is actually active mining
5 going on in Section 3 in a 1/2 mile buffer. You can
6 actually maybe see it. On this same slide, if you looked on
7 a Google Earth image, you might see a very fine blue line
8 that goes through, it looks like, the NE/4 of Section 8
9 there, and what that line represents is the 1/2 mile buffer
10 that Mosaic has.

11 So this is basically Mosaic says that they intend
12 on mining this resource, this ore. And under the
13 secretary's potash order, they have a 1/2 mile buffer and a
14 1/4 mile buffer line. This, for depths that are below the
15 Third Bone Spring -- or sorry -- below the Second Bone
16 Spring there is a 1/2 mile buffer.

17 So this -- that's what you have to look at for
18 our applications is the Third Bone Spring and Wolfcamp, you
19 have to honor that 1/2 mile buffer. So we have to have
20 locations no closer than 1/2 a mile from that blue line that
21 you see here.

22 That kills anything east of this acreage. We
23 already know that we can't -- we can't go north because we
24 have already developed the S/2 of 4 and 5. If you go south,
25 that's already part of, I think Marathon has the Blue Steel

1 in Section 16 and 21, and actually BTA has a Section 17 and
2 20 already drilled with the Harroun Ranch. So to answer
3 your question fully, there are no other alternatives.

4 Q. There is simply no other avenues to go?

5 A. No.

6 MR. LARSON: I have no further questions for this
7 witness.

8 MR. BRUCE: Follow up, please?

9 REDIRECT EXAMINATION

10 BY MR. BRUCE:

11 Q. First of all, Mr. Patrick, the question of, is
12 Novo disregarding BTA's acreage, BTA will still own that
13 acreage?

14 A. Absolutely.

15 Q. And it can join with you in your wells?

16 A. Absolutely.

17 Q. And it will share in production from those wells?

18 A. We encourage them to participate in our wells.

19 Q. So those -- their correlative rights will still
20 be protected?

21 A. Absolutely, it will be fully developed.

22 Q. And just to clarify, on that last page on Exhibit
23 6, as of now there are three approved drilling islands, a
24 green, a red and a red?

25 A. That's correct. I would say that the green has

1 been fully vetted except for I think it requires, I think
2 they're pending NEPA, the NEPA analysis done by the BLM.
3 And we have onsited the red. That was done on October 24,
4 so they have --

5 **Q. They are proceeding?**

6 A. They are proceeding. They've preliminarily
7 approved it, and Mosaic has blessed it, so they still have
8 to go through the formal proceedings, but, yes, they are
9 moving forward with approving those.

10 **Q. When you are talking about the outline of the**
11 **mine reserves area, that's not only under the secretary's**
12 **order, but it's also under Division Order R 1111B; is that**
13 **not correct?**

14 A. That is correct.

15 **Q. And you have to comply with that in order to get**
16 **drilling permits issued by the OCD or BLM?**

17 A. That's correct.

18 **Q. And then the time line, the other factor is in**
19 **the time line, Exhibit 9 communications with BTA, Novo did**
20 **offer to acquire the NW/4 of Section 8 from BTA?**

21 A. Yes. We made trade offers. Novo owned minerals
22 under BTA-operated units that have been established and
23 drilled, and some that are being currently developed. I
24 think, I think we own around 240 acres of minerals, so 150
25 percent the size of the NW/4. We own minerals in this area,

1 too, so the geology is similar, and they obviously like it
2 because they are developing it.

3 And we offered, we made a trade offer to trade
4 them some minerals in their operated unit in exchange for
5 their working interest because we understood that they
6 didn't want to be in our development plan, and we wanted to
7 try to find a way to make things work.

8 Q. And then finally, Mr. Larson asked you whether a
9 pooling order can trump a JOA. To be clear, Novo's acreage
10 is not subject to a JOA?

11 A. That's correct.

12 Q. So you're not bound by the BTA-OXY JOA?

13 A. Correct. Their privately-negotiated JOA only
14 encompasses the NW/4 and has nothing do with our interest in
15 the 480 acres in the NE/4 and N/2 of Section 9.

16 Q. Thank you.

17 MR. BRUCE: Pass the witness.

18 EXAMINER MURPHY: Say what you just said one more
19 time.

20 THE WITNESS: I was just saying that their joint operating
21 agreement covers the NW/4 Section of 8. It's a
22 privately-negotiated agreement between OXY and EOG, the
23 original party. I'm not sure that BTA has ever been named
24 successor of that JOA, but neither here nor there, it's a
25 privately-negotiated agreement and has no bearing on our

1 unleased minerals that are located in the NE/4 of Section 8,
2 and N/2 of Section 9. Our interest is unencumbered by
3 anything except for the designated -- or the order, the
4 potash area order, secretary's potash order.

5 EXAMINER MURPHY: So you could develop from those
6 three, three pads, you could develop from those three pads
7 all of 8 and 9?

8 THE WITNESS: Yes, all of Sections 8 and 9.

9 EXAMINER MURPHY: And how many wells were you
10 proposing in each section?

11 THE WITNESS: We have only proposed right now the
12 Third Bone Spring and three intervals of the Wolfcamp. And
13 we proposed six wells in each of those targets, so a total
14 of 24 wells across all of Sections 8 and 9.

15 However, own the N/2 gets 12 of the wells. And
16 what I was saying earlier is this does not represent our
17 full life of the asset development plan. There are other
18 targets that will make sense to drill at some later date,
19 those being Delaware and all the other shallower depths, and
20 potentially maybe some day the deeper depths, but we have
21 identified a lot of upside in addition to proven zone.

22 Most of those zones I mentioned earlier have
23 offsetting production that's been delineated. It's proven,
24 so we think a total of 48 wells across all Sections 8 and 9,
25 that's not including some of the upside, and it's

1 obviously -- or we are looking at -- that number is not set
2 in stone.

3 We are looking at the offset spacing test.
4 There's -- our geologist will go more into that, but there
5 is offset spacing test done by XTO, Marathon, Chevron,
6 Mewborne, and even our in own development, there is spacing
7 tests being done for all those target that we are developing
8 right now.

9 So today we say six wells per target. That could
10 increase or decrease based on the results of this offsetting
11 space tests that are being executed and some of them flowing
12 back right now. So some targets might be four wells per
13 section, some might be eight wells per section, that will be
14 driven by, you know, looking at some of this data.

15 We are going to make an educated decision, is my
16 point is that we are not going to go into this just saying
17 it's blindly six wells per section. It's based on a
18 technical understanding of the area, and we are learning
19 more, just like everybody else because there's a lot of
20 activity in, you know, a five-, six-mile radius.

21 EXAMINER MURPHY: Okay. Thank you.

22 EXAMINER COSS: Good afternoon. I was curious,
23 my question is, who owns the land in the NE part of the S/2
24 of 7 where the drill island Number 2, the second proposed
25 red island is located?

1 THE WITNESS: The surface is owned by Mosaic, and
2 the minerals are owned by us -- I'm sorry, I take that back.
3 That's not correct. The minerals are owned by the federal
4 government as part of their lease, BTA's lease.

5 EXAMINER COSS: So the -- on the --

6 THE WITNESS: I apologize. I misspoke. I didn't
7 mean to cut you off. You said 7, didn't you?

8 EXAMINER COSS: Yeah, the S/2 of 7.

9 THE WITNESS: I apologize. No, the surface, I
10 believe, is owned by Mosaic -- no, that's not correct
11 either -- no, it is correct. Yeah, surface is owned by
12 Mosaic. It's a federal, yeah, it's federal lease. I think
13 it covers right there. I can't say definitely, but I'm
14 giving you my best guess. I'm pretty sure it's a federal
15 lease that covers right there.

16 Actually, I'm sorry, I do know that. I'm
17 recalling right now that during the onsite the reason why
18 the BLM was involved with that pad was because the surface
19 location, although private surface, it was going -- we were
20 going to be traversing through in Section 7 federal
21 minerals, and then going into our own private minerals right
22 there. So the surface on that pad in Section 7 is private,
23 owned by Mosaic, and the minerals in Section 7 on that where
24 that pad is located is federal.

25 EXAMINER COSS: I see. And what did Mosaic say

1 it's -- not Mosaic, sorry -- what did BTA say the problems
2 were with the location?

3 THE WITNESS: Because they wanted to operate the
4 N/2 of 7, NW of 8, and they had plans for it.

5 EXAMINER COSS: Well, they might -- would there
6 be any problems with the one that's in the Section 7, in the
7 S/2 of Section 7 then?

8 THE WITNESS: No. I don't believe they're
9 contesting any of that. That pad will actually be solely
10 dedicated to our S/2 of 8 and 9. We showed it here because
11 it was relevant. It was one of the pads that we did onsite
12 at the October 24 onsite, and we are going to be using that
13 pad to develop the S/2 of 8 and 9.

14 So I don't -- I don't want to speak for BTA on
15 that, but I don't believe they have expressed any concern
16 with that particular pad location.

17 EXAMINER COSS: I see. And then you are unable
18 to put any other pads further south in the S/2 of 7?

19 THE WITNESS: That is as close as we could get
20 south, and we would have preferred to put it farther south.
21 We tried, but the BLM said they didn't want us to go farther
22 south. It's going to be a heck of a kickout, but it's not
23 outside the realm of possibility, and it's definitely
24 something we can do from a technical standpoint, but, yeah,
25 we can't go farther south.

1 EXAMINER COSS: Sure. And I'm hearing, too, you
2 stated that Novo has 100 percent of the mineral rights in 8
3 and 9; is that correct?

4 THE WITNESS: Except for the NW/4 of 8.

5 EXAMINER COSS: Sure. Is there any breakout in
6 here of the interest ownership or documentation that
7 explains that.

8 THE WITNESS: There isn't, but I can certainly
9 provide it. It's a mineral deed. It was one transaction.
10 The mineral owner was TDY Industries. There was a lawsuit
11 between BTA and TDY on that earlier in the year. Ultimately
12 in the settlement I believe that BTA got some other land,
13 and TDY ended up keeping the lands that are in Sections 8
14 and 9, and Novo acquired from TDY those minerals, and the
15 minerals that are in Sections 8 and 9. And it was in one
16 mineral deed executed at the end of July, and they owned 100
17 percent working interest in because there is no lease
18 burdening these lands.

19 EXAMINER COSS: Okay. And could you provide
20 that?

21 THE WITNESS: Absolutely.

22 EXAMINER COSS: And then the breakup of ownership
23 in the NW/4 of the case?

24 THE WITNESS: Absolutely, there is a breakup of
25 the ownership if you -- I don't know if it's sufficient,

1 and we can provide more, but let me look here. I think it's
2 Exhibit 4. Yes, Exhibit 4, if you see these maps, BTA would
3 own an 18.3 percent working interest based on the prior
4 hearing, the prior case, and the numbers that I think were
5 given during that testimony I think they were aligned on
6 that number. And OXY would own a 6.7 percent working
7 interest in our pooled unit, and we would own 75 percent.
8 Would you like me to provide -- is it that sufficient?

9 EXAMINER COSS: That's sufficient. So -- and I
10 do believe those are all the questions at this time. Thank
11 you.

12 MR. AMES: No questions.

13 HEARING EXAMINER LOWE: Good afternoon,
14 Mr. Patrick. I have a few questions on Exhibit 5. I just
15 want to get a clear understanding on your -- on your map you
16 stated here where you indicate the Novo acreage in yellow,
17 specifically where on the map would you consider yellow in
18 that area?

19 THE WITNESS: I should have shown this better.
20 Only the lands in Sections 8 and 9 were acquired in July of
21 2019. And that would be specifically -- well, I guess
22 everything that's yellow in Section 8, and everything that's
23 yellow in Section 9, and that would be the SW/4 of Section
24 8, the E/2 of Section 8, and all of Section 9.

25 HEARING EXAMINER LOWE: Okay. And that portion

1 that is north of Section 9, that sliver, that's not part of
2 that Novo area is it?

3 THE WITNESS: We do own that, yes. Yes, we do
4 own that, we do. And we own and operate -- we have a pooled
5 unit that covers the S/2 of Section 4 and 5, so 4 is just
6 located north of 9, and 5 is located just north of 8, and we
7 own and operate a well that we just actually drilled, it's
8 the Ranna Solada 0504 Fed Com 234H, we drilled that well.
9 We're actually completing it right now, and we might even be
10 finished with it, but that's a pooled unit that covers the
11 S/2 of 4 and 5.

12 And, sorry, I think your question was, is some of
13 that part of the acreage that we acquired in July 2019, and
14 some of it is.

15 HEARING EXAMINER LOWE: Okay. Thank you for
16 that. When you were talking about Exhibit 8, you mentioned
17 Jim Rutley.

18 THE WITNESS: Yes.

19 HEARING EXAMINER LOWE: Who exactly is Jim
20 Rutley?

21 THE WITNESS: Jim Rutley is -- he is -- his
22 formal title is geologist, but he is, I would like to say,
23 he is the head of the potash area for the BLM. He is the
24 one that organizes the onsites for drill islands that are
25 being proposed inside the designated potash area.

1 He also sort of serves as referee whenever there
2 is issues like the ones between Novo and BTA regarding an
3 objection to a development area that's been proposed, so
4 he's sort of, I guess, just the head of all the designated
5 potash area for the BLM.

6 HEARING EXAMINER LOWE: BLM, okay. Thank you for
7 that. And on Exhibit 6.

8 THE WITNESS: Sir, may I -- I said Jim Rutley.
9 His actual name is James Rutley. He just goes by Jim. I
10 don't know if that matters, I just wanted to --

11 HEARING EXAMINER LOWE: Okay.

12 I think it was Exhibit 6 you indicated there was
13 a -- the potash mining area, I think it was potash, there is
14 a blue line. I thought it was in Exhibit 6.

15 THE WITNESS: It is. You can look on the second
16 page of Exhibit 6, yeah.

17 HEARING EXAMINER LOWE: So that's the 1/2 mile
18 buffer?

19 THE WITNESS: It's that -- I want make sure we
20 are talking about the same one. It's definitely not a
21 straight line. It's the small blue and maybe -- it's quite
22 hard to see.

23 HEARING EXAMINER LOWE: Purple line?

24 THE WITNESS: Yeah, it's the one that cuts across
25 the NE corner of Section 9, dips up into Section 4, and then

1 cuts down it through the NE/4 of Section 8 and then comes
2 back into Section 9 and then comes back down into Section
3 16.

4 HEARING EXAMINER LOWE: And that's a 1/2 mile
5 buffer; right?

6 THE WITNESS: Correct.

7 HEARING EXAMINER LOWE: Okay. And who exactly
8 was that again?

9 THE WITNESS: Mosaic.

10 HEARING EXAMINER LOWE: Mosaic.

11 You verbalized Section 8 and 9, that you kind of
12 threw out 24 wells you all intend to drill in that area.

13 THE WITNESS: In the N/2 of Sections 8 and 9, 24
14 wells in the S/2 the same number, so total across all
15 Sections 8 and 9, 48 wells. And that's, again, put an
16 asterisk on that, saying subject to learning more about some
17 of the offset spacing tests, also delineation of upside
18 targets, so it could be more or less, but right now based on
19 what we understand, I think that that's a pretty solid
20 estimate.

21 HEARING EXAMINER LOWE: And of all those wells
22 you intend to drill in those two sections, depending on what
23 you conclude, you ran through all the different pools and so
24 forth, that's what you expect to shoot for.

25 THE WITNESS: Yes. Yes.

1 And I will say, the Second Bone Spring will have
2 to have a different layout because of the Road Lizard. We
3 have to honor the Road Lizard -- I was anticipating a
4 question there because we actually worked with -- the day
5 before our October 24 onsite with the BLM, we showed up a
6 day early.

7 And we had a meeting with basically the full
8 sweep of all the management at the BLM just as a, hey, we
9 have a lot of operating acreage in the potash, and we just
10 wanted to show them our development plans in a stick layout,
11 because the way that we go about doing this is we pretend as
12 if there is no yellow on the map, and we start trying to
13 figure out how all the acreage based on all the constraints
14 as we understand it, how everything can be developed on
15 every target without stranding anything.

16 So that's the way we put together our development
17 plan, and then we presented our development plan, full
18 development, not just for the Astrodog, but for everything
19 that we own, we shared that with the BLM on October 23. It
20 was a private meeting, obviously, because some of that
21 information is very proprietary, but we talked to them about
22 that.

23 During that, we went target by target, so we do
24 have a stick layout for the Second Bone Spring, and we are
25 pursuing that, the W/2 of Section 8 we intend to drill by

1 putting a location, a pad location, proposing a drill island
2 that would be just NE of that Nido de Solado drill island in
3 the NW NW/4 of 8, so this would be tucked up into -- it
4 might still be in Section 8, but it might fall into Section
5 5, but we think there is room to put a pad right there, and
6 we'll be able to drill the W/2 of Section 8, single mile for
7 the Second Bone Spring well.

8 HEARING EXAMINER LOWE: Okay. That is all the
9 questions I have. Mr. Bruce?

10 MR. BRUCE: Just one follow-up question.

11 FURTHER REDIRECT EXAMINATION

12 BY MR. BRUCE:

13 Q. Looking at your Exhibit 4, just to clarify
14 something, Mr. Patrick, when you look at this, just look at
15 the Wolfcamp, it says Novo 75 percent, that's -- you own, in
16 the yellow acreage, you own 100 percent?

17 A. Oh, yes.

18 Q. The 75 percent only pertains to the 2 mile well
19 unit?

20 A. That's correct. These working interest
21 percentages are in relation to overall pooled unit.

22 Q. So when you got over in the NW/4 Section 8 BTA
23 and OXY, they together own 100 percent in the NW/4 of
24 Section 8?

25 A. That's correct.

1 Q. And that would be, their interest would be the 2
2 mile well units?

3 A. That's correct, yes. They, those numbers, as you
4 see 18.3 percent plus 6.7 percent adds up to 25 percent,
5 that makes sense because they have a 1/4 mile, and it's a 2
6 mile unit, and we would own 75 percent because we own the
7 entirety of the NE/4 and N/2 of 9.

8 MR. BRUCE: Thank you. That's all I have.

9 EXAMINER COSS: Can I ask -- so this 18.3
10 percent, 6.7 percent by BTA and OXY is only set for the
11 whole 1/2 of Section 8 and 9. They own 100 percent in the
12 NW/4?

13 THE WITNESS: That's correct.

14 EXAMINER COSS: Okay.

15 EXAMINER MURPHY: This is kind of like a unit
16 recapitulation graph, but you've made it into a page on the
17 sections.

18 THE WITNESS: Yes.

19 EXAMINER MURPHY: Unit recapitulation.

20 THE WITNESS: I believe so. I'm not --

21 EXAMINER MURPHY: We are used to seeing how much
22 they own in each maybe 1/4 section --

23 THE WITNESS: Okay.

24 EXAMINER MURPHY: -- versus the whole area. And
25 I think that was confusing to me. It's hard to believe I

1 was tag-teaming with you, Mr. Bruce.

2 MR. BRUCE: That's frightening.

3 EXAMINER MURPHY: But I kind of see these two as
4 the layout of a unit recapitulation.

5 THE WITNESS: I'm happy to provide a more
6 thorough one if that's what you guys want.

7 EXAMINER MURPHY: I understand it now.

8 THE WITNESS: Okay.

9 HEARING EXAMINER LOWE: Mr. Larson, any cross?

10 RECROSS-EXAMINATION

11 BY MR. LARSON:

12 Q. Mr. Patrick, if I heard you correctly, you stated
13 that BTA doesn't actually control the NW of 8 because it has
14 to have a development area --

15 A. That's correct.

16 Q. -- completed. Would that also apply to Novo?

17 A. Absolutely.

18 Q. So you don't own 100 percent, do you, based on
19 your analysis of BTA?

20 A. Are we talking about title?

21 Q. I've made a statement that BTA owns 100 percent
22 of the NW in 8, and what I believe your response was, no,
23 it's not 100 percent because it doesn't have an approved
24 development plan.

25 A. I would say that nobody, not BTA or Novo actually

1 controls any of the acreage in 7, 8 or 9 right now because
2 there are no development areas approved.

3 Q. And looking at Exhibit 4 exactly, can you point
4 out to me exactly what acreage you believe will be stranded
5 if your application is denied?

6 A. All of the 480 acres.

7 Q. And is there any option to do a 1 mile lateral
8 there?

9 A. No.

10 Q. Why not?

11 A. Where would the 1 mile lateral be? I apologize,
12 I'm just -- you are inferring that I understand where the 1
13 mile would be, so I would like you to --

14 Q. How about N/2 of 9?

15 A. That's in the lake, so no, to be clear.

16 Q. And where would your surface hole location be for
17 a 2 mile well that has a bottom hole in the NW of 8?

18 A. A bottom hole in the NW of 8? I don't believe we
19 proposed a well with a bottom hole in the NW of 8.

20 Q. Are you coming from the other direction? Do I
21 have it wrong? Where are you going that NW/4?

22 A. You said a bottom hole in the NW of 8, and all of
23 our wells have a bottom hole in the NW of 9.

24 Q. Where is your surface hole?

25 A. On the pad locations that we articulated in if

1 you want to say Exhibit 5.

2 **Q. So the well that would be coming into -- I'm**
3 **looking at your Exhibit 5, your well would be coming into**
4 **the NW of 8, where would the surface --**

5 A. I apologize, I said Exhibit 5. I meant Exhibit
6 6, but -- I apologize.

7 **Q. That's okay. I'm looking at, no, this is 5. 1,**
8 **2 and 3, what are those blue numbers on 5?**

9 A. That was just for your convenience to understand
10 that, you know, the top of this slide seems to paint a time
11 line, and you know, one represents the first thing that
12 occurred, which was in December of 2017, the BLM established
13 the Nido de Solado drill island.

14 And then the second thing to occur was 11 months
15 later when BTA acquired the interest, it's shown in orange.
16 And the point of that was to show that BTA should have known
17 that the existence of that drill island, since they
18 understand how to develop acreage in the potash, that that
19 should raise a concern to them that maybe the NW/4 of 8
20 wouldn't be developed by them, or they could have proposed
21 wells from that drill island themselves, but rather they
22 disregarded that drill island.

23 And then the third thing was that Novo acquired
24 its interest in July 2019.

25 **Q. Do I recall you had C-102s in your Exhibit?**

1 A. That would be Exhibit 1 and 11.

2 **Q. I'm looking at 1. Are these the Wolfcamp or the**
3 **Bone Spring?**

4 A. 1 would be the Wolfcamp. 11 would be the Bone
5 Spring.

6 **Q. So your surface location is in the NW/2?**

7 A. From the Nido de Solado drill island, located in
8 the NW NW/4 of Section 8 for some of the wells. For some of
9 the wells that are closer to the middle of the section, they
10 are from the well pad, the potential Well Pad Number 1, the
11 preliminarily approved drill island that we onsited on
12 October 24 onsite with the BLM.

13 **Q. So you couldn't move that surface location to the**
14 **east?**

15 A. I would redirect you to looking at Exhibit 6, the
16 last page -- actually the first page. We can go to the last
17 page after that. The first page where Mary Langman says,
18 "Our site team has looked at your proposal," which included
19 some surface locations that were SE of the railroad track.

20 And Mary Langman said, "We have concerns with
21 Well Pad Number 2," the pad that's located SE of the
22 railroad. She said, "The ground that close to the salt lake
23 is unstable and there is a risk of flooding, plus a very
24 high risk of contamination to the salt lake should there be
25 a release. We would prefer both well pads to be on the NW

1 side of the rail track."

2 So that was the surface concerns raised by Mary
3 Langman at Mosaic. And if you flip to the last page of
4 Exhibit 6, and if you go back to the bottom right, you will
5 see Ric Bell's e-mail where he specified potash concerns
6 raised by Mosaic.

7 He said, "Mosaic will object to the relocation of
8 this drill island as it would impact our ore reserves."

9 So to answer your question, we cannot move the
10 pad in the E/2 N2/4 as BTA wants us to, and as a result, our
11 acreage would be stranded because there are no other
12 alternatives, as I've said earlier in my testimony.

13 **Q. The bottom line, you bought this acreage knowing**
14 **you had to pool BTA's interest?**

15 A. I bought the acreage -- we bought the acreage
16 knowing that there were no development areas. We also knew
17 that BTA sought this acreage, too. They filed -- they were
18 in the middle of a title lawsuit with TDY trying to acquire
19 the same acreage, so I imagine that they saw the value in
20 it, too.

21 But to answer your question, yes, we understood
22 that to develop the N/2 or the NE/4 of 8, and the N/2 of 9,
23 wells would most likely need to be drilled 2 mile across the
24 N/2 of 8 and 9. However, we did entertain the idea of
25 moving the pads to the east to accommodate BTA's concerns,

1 but after we tried that, we learned from the BLM -- from
2 Mosaic that that was not an alternative.

3 And also United Salt Carlsbad raised their
4 concerns, which gave us concern that we don't, we don't
5 think it would be a good idea to put the location there,
6 either.

7 **Q. So that was all after the closing, though?**

8 A. No. So if we want to go back to the first page
9 of Exhibit 6, the e-mail from Mary Langman where she
10 expressed the surface concerns was in April of 2019.

11 And if we want to go to Exhibit 5, you can see
12 that Novo acquires its acreage in July of 2019, three months
13 later. So we actually reached out to Mary Langman three
14 months in advance of closing on the acreage because we
15 wanted to do our due diligence and understand what we were
16 buying.

17 **Q. Okay. So if I'm hearing you right, you knew in**
18 **April you were probably limited to the NW of 8 for a surface**
19 **hole?**

20 A. That's correct.

21 **Q. So you did buy it with the knowledge that if you**
22 **didn't acquire that acreage, you would have to pool?**

23 A. We knew that there would need to be a development
24 area established as well as pooling because there was no
25 development area covering anything in 7, 8 and 9.

1 Q. That's all I have. Thank you.

2 MR. AMES: Any redirect?

3 FURTHER REDIRECT EXAMINATION

4 BY MR. BRUCE:

5 Q. One question, your wells are being drilled west
6 to east?

7 A. That's correct.

8 Q. And because of potash, you cannot get approval to
9 drill from east to west?

10 A. That's correct.

11 Q. And therefore you need 2 mile laterals?

12 A. That's correct.

13 MR. BRUCE: Thank you.

14 HEARING EXAMINER LOWE: I got one quick question.

15 In reference to your proposed surface location, the one
16 that's closest to the southern portion, the more southern
17 portion one, how high above the lake is that?

18 THE WITNESS: I'm going to need to -- I would --
19 to give you the best answer, I would need to be able to go
20 look at this --

21 HEARING EXAMINER LOWE: Just your best estimate.

22 THE WITNESS: Let me look at it real quick.

23 HEARING EXAMINER LOWE: I want to know how high.

24 THE WITNESS: We do know that the kickouts for
25 our laterals, assuming a 330 foot, you know, setback

1 requirement because this is in the Purple Sage Wolfcamp, and
2 for Bone Spring it's 330, from those surface locations we
3 estimated that the kickout would be about 1800 feet.

4 So I would guess that the tip of the southern
5 edge of that pad is most likely, maybe 1000 feet, 1500 feet
6 from the lake, I would -- I would say. Oh, maybe less than
7 that. Actually probably less than 1000 feet.

8 HEARING EXAMINER LOWE: Okay.

9 FURTHER REDIRECT EXAMINATION

10 BY MR. BRUCE:

11 Q. Mr. Patrick, I think Mr. Lowe was asking
12 elevation rather than distance.

13 A. Oh, I apologize.

14 HEARING EXAMINER LOWE: That was good, too.

15 THE WITNESS: I'm sorry. Do you mind reasking
16 your question?

17 HEARING EXAMINER LOWE: That was, what Mr. Jim
18 Bruce said, that was good for me as well.

19 EXAMINER COSS: The railroad track is like a
20 berm.

21 THE WITNESS: Yes, that's what was raised by
22 Mosaic and United Salt, and we verified it. You can even
23 verify it on Google Earth. You can just look at the
24 elevation drop. So, yes, you know, if you're putting your
25 pad that's NW of the railroad track, there is much less risk

1 of having anything wash out into the lake.

2 Further, actually I forgot to mention this
3 earlier, in locating the pads in the E/2 NW/4, that's
4 exposing you to the salt harvesting area. If you want to
5 look at the first page of Exhibit 6, you might notice some
6 of those darker green rectangular shapes, that's the salt
7 harvesting area. So that, that is the operation that United
8 Salt is doing.

9 So, and they expressed to us that if you put a
10 pad in the E/2 NW/4, you are moving it very close to that
11 salt harvesting area, and that's the basis on which the
12 plant manager, Tom Vandecross, said that they would much
13 prefer our locations be where we, Novo, have pitched it,
14 rather than the location BTA has suggested.

15 And to add to that, the plant manager also said
16 that the white portion on this map that's in the southern
17 part of Section 8, that's in the lake, but it's not a salt
18 harvesting area. So they -- that's another reason why they
19 prefer the pads to be further to the west and specifically
20 where Novo has them.

21 So that if there were any washout from a big rain
22 or anything like that, it would drain most likely down into
23 this area that is not a salt harvesting area which might not
24 be as big of a deal as having contamination to the salt
25 harvesting operation.

1 HEARING EXAMINER LOWE: Okay, thank you.

2 You may be excused.

3 Could you please state your name?

4 MR. HALE: Yes, Michael Hale.

5 MICHAEL HALE

6 (Sworn, testified as follows:)

7 DIRECT EXAMINATION

8 BY MR. BRUCE:

9 Q. Yes, please state your name and your residence
10 for the record?

11 A. Michael Hale, Oklahoma City.

12 Q. Who do you work for and in what capacity?

13 A. Vice president of geoscience and exploration for
14 Novo Oil and Gas.

15 Q. Have you ever testified live before the OCD?

16 A. No, I have testified via affidavit on numerous
17 occasions, but this is my first time in front of the board.

18 Q. Would you please summarize your educational and
19 employment background for the Examiners?

20 A. Yes. I have both my bachelors and masters in
21 science and geology from East Carolina University. I have
22 over 12 years' experience in the oil and gas industry. I
23 have been working in the capacity of vice president at Novo
24 for about a year.

25 Prior to that I spent about five and a half years

1 with Ascent Resources, also in Oklahoma City, as geological
2 advisor. Before that I worked for three and a half years
3 with Sandridge working the, primarily, Permian Basin,
4 Central Basin platform assets and Mid Con.

5 And before that I spent a few years with a
6 geologic consulting firm doing micro resistivity formation
7 image interpretation and some rudimentary petrophysics.

8 Q. And does your area of responsibility at Novo
9 include the Permian Basin of SE New Mexico?

10 A. It does.

11 Q. Have you prepared geologic exhibits for
12 presentation today?

13 A. I have.

14 MR. BRUCE: Mr. Examiner, I would submit Mr. Hale
15 as an expert petroleum geologist.

16 HEARING EXAMINER LOWE: Mr. Larson?

17 MR. LARSON: No objection.

18 HEARING EXAMINER LOWE: Mr. Hale is so qualified.

19 MR. BRUCE: Thank you.

20 BY MR. BRUCE:

21 Q. Mr. Hale, could you -- let's do your Exhibit 10
22 first. You have two exhibits with several pages in each.
23 Let's just thumb through those.

24 A. Absolutely. Page 1 of Exhibit 10 is showing a
25 locator map. You will see highlighted in the red box with

1 the words Astrodog Fed Com 0809, and then there are several
2 numbers after. That's showing the arrows pointing to the
3 unit. So there is a dashed navy blue outline showing the
4 640-acre spacing unit, and three dashed red lines represent
5 the wellbore locations.

6 The SH on there represents surface hole locations
7 which are -- which will correlate to the approved BLM pad
8 sites that we had approved, and the three circles with the
9 BH represent the bottom hole locations.

10 Now, what you will see is that, in that list of
11 well names there are four different numbers. As Brandon
12 Patrick had already testified, those correspond to different
13 horizons that we are going to -- that we are proposing.

14 So anything with a 1-3 is automatically Bone
15 Spring which represents 1, and 3 would be Third Bone
16 interval, so the 131, 132 and 135 are all Third Bone Spring
17 locations.

18 2 with a 1 after it is Wolfcamp XY, the uppermost
19 Wolfcamp, and so 211, 212 and 215 are three Wolfcamp XY
20 locations.

21 22 is Wolfcamp A, so 221, 222 and 225 are all
22 Wolfcamp A. And then 23 represents Wolfcamp B or Lower
23 Wolfcamp. So what this is really a simplified version of is
24 three sticks representing four separate horizons, because if
25 I put four -- three sticks for all four horizons on here, it

1 would just look complicated.

2 You can also see on this map that there are
3 sticks with colored circles at the end. Those represent
4 producing intervals in vicinity of the proposed Astrodog Fed
5 Com 0809 unit. You can see directly below there are three
6 Wolfcamp B producing wells. Those are the BTA Harroun Ranch
7 Wells 2, 3 and 4H.

8 On the left side there is a red circle that's a
9 Wolfcamp XY, that's El Toro Invicta drilled by Rock Cliff.
10 Directly below that, another Wolfcamp B, El Toro Gigante 23
11 431H.

12 I have two Wolfcamp A wells, which are the RB NE
13 532 Federal 11 and 12H, and the Cypress 33 Fed 10H is a
14 Third Bone Spring. So these formations have all been
15 derisked in this area.

16 **Q. Page 2?**

17 A. Yes. Page 2 is showing the proposed full
18 development plan for the wells that we have proposed. So of
19 course as Brandon had also mentioned, we have intentions to
20 develop the Bone Spring as well, but for this pooling
21 hearing, we are only talking about Third Bone Spring,
22 Wolfcamp XY, Wolfcamp A, and Wolfcamp B. So that's shown on
23 here.

24 So what this is, it is a three-dimensional block
25 diagram that is tied into a type log which is indicated by

1 the set of logs there, and there is a star above it, and if
2 you look on the locator map on the bottom left, that shows
3 you where that pilot log is located that we are basing this
4 off of.

5 I have highlighted on this block diagram starting
6 at the bottom, those black circles with a blue outline
7 around them, those represent the locations of wellbores
8 within the productive intervals.

9 So starting from the bottom, the Wolfcamp B flow
10 unit, we would have a, for the full north and half -- or,
11 I'm sorry -- north and south halves of Sections 8 and 9, we
12 would propose six wellbores.

13 And then there's a frac barrier that's
14 approximately 320 feet thick separating the Wolfcamp B flow
15 unit from the Wolfcamp A, XY, and Third Bone Spring flow
16 unit. And I think what's important here is to see that
17 there are no geologic barriers inherent to that particular
18 flow unit, so all three of those formations will
19 communicate.

20 So the Wolfcamp A, Wolfcamp XY and Third Bone
21 Spring Sand all do need to be co-developed, and this is
22 based off of really just geologic understanding, but also
23 our communication with other operators that have seen
24 parent-child relationships when returning and developing
25 these other intervals.

1 Now, as you saw, we are proposing a six well
2 spacing for all of these horizons, that's based off of three
3 lines of thinking. So one is, of course, we believe that
4 it's better to over permit and under drill because it does
5 take a really long time for a lot of these permits to get
6 approved.

7 On our first traunch of permits that we filed, it
8 actually took 11 months. So we think it behooves us to get
9 a lot of these done at once because it gives us a lot of
10 permits and a lot of optionality.

11 Two, as Brandon had also mentioned, within a
12 five-mile radius of our acreage, we actually have something
13 like six or seven different spacing tests taking place, and
14 they are all testing down spacing for every horizon shown
15 that is here that we've proposed.

16 So basically we want to be a prudent operator,
17 and we would rather, as I mentioned, over permit, monitor
18 what our competitors are doing, and if they prove up down
19 spacing in these intervals, it obviously benefits us
20 economically.

21 Third would be the fact that, as Brandon had also
22 alluded to, we have very high nets in these acres. What
23 means is the economic hurdle necessary for us to drill
24 economic wells is far lower. And so we believe that
25 permitting additional wells in here is actually a much more

1 feasible thing for us to do because our nets.

2 Q. In looking at this also, let's go to the depth
3 severance --

4 A. Yes.

5 Q. -- Mr. Patrick referred to. I believe that's
6 actually like 100 feet below the Second Bone Spring --

7 A. That is correct.

8 Q. -- interval that was tested by COG?

9 A. That's correct. So that is a producing well.
10 The Road Lizard, as Brandon had shown in his testimony, it
11 kind of lies somewhat awkwardly relative to the other
12 proposed development plans that we would like to do because
13 it's drilled N/S and it's one well in the middle of the
14 sections, I think -- is it 5 and -- is it 5 and 8?

15 I think it's 5 and 8, so it makes it a little
16 awkward. But that depth severed interval is 100 feet below
17 the lowest perf. So their lowest perf TVD-wise is 8673, so
18 there is a 100-foot buffer below that. It does place it
19 within the Second Bone Spring carbonate.

20 Q. And that Second Bone Spring or Third Bone Spring
21 carbonate, does that act as a frac barrier so that any
22 completions by Novo will be -- will not affect COG's Second
23 Bone Spring well?

24 A. Yes, absolutely. For the most part that is
25 really a tight -- very low porosity and permeable limestone.

1 There are some decent porosity intervals in there, but still
2 there's an 840-foot buffer just in terms of thickness
3 between the lowermost Second Bone Spring interval the top of
4 the Third Bone, and we would still propose to land wells 300
5 feet below that.

6 So basically there is about approximately an
7 1150-foot gap between any well we would drill and that COG
8 Road Lizard, so there is very little if, you know, very
9 little risk, if any, at all, of us communicating with that
10 well.

11 **Q. And again, looking at the Lower Third Bone Spring**
12 **and the two Upper Wolfcamp zones, you need to co-develop**
13 **those zones?**

14 A. Absolutely.

15 **Q. Just so that there is no diminution of recovery**
16 **of reserves from any of those zones?**

17 A. Correct.

18 **Q. Okay. Go on to Page 3.**

19 A. What Page 3 shows is a top of Third Bone Spring
20 subsea structure map. You can see that there are 25 foot
21 contour intervals. I do have on here obviously the location
22 of our proposed Astrodog Fed Com Third Bone Spring wells,
23 which would be the 131, 32 and 35H.

24 I also have on here, you can see in kind of a
25 magenta color, it gives you the depths. So those are

1 basically the actual physical data points that were
2 incorporated into this map.

3 And really what you need to see is that it's a
4 relatively benign structure dipping to the east, and we do
5 not see any geologic impediments, no indications of faults
6 or anything like that, no geo hazards.

7 **Q. Run through the next three pages.**

8 A. Yes. The next three really are the exact same
9 thing. If you look at all three of the structure maps, what
10 you see is that they pretty much look very similar to each
11 other. They are all on 25 foot contours. You see a very
12 gentle dip to the east, and there is nothing that indicates
13 any, any major geo hazards, so I think we can apply that to
14 the next.

15 **Q. You do not see any geologic impediments to**
16 **drilling these wells as you have proposed?**

17 A. No, not at all.

18 **Q. Okay. And the final page of your exhibit?**

19 A. Yes. The final page is a three-well cross
20 section, and you can look at the cross section map in the
21 bottom left-hand corner that shows the three wells that are
22 incorporated -- or the location of the three wells that are
23 incorporated into this.

24 What I really want you to see is that, for the
25 most part, reservoir quality is incredibly consistent. I

1 have highlighted the target intervals on there in arrows,
2 but then also in green, those are kind of the main target
3 intervals.

4 I think that the main thing you need to take away
5 from this is that there is about approximately a 600-foot
6 barrier between where we would propose to land wells in the
7 Wolfcamp B, and our next target which would be at the very
8 bottom of the Wolfcamp A.

9 So you have about a 600-foot barrier, and then
10 within that 600-foot barrier, you have 300 feet of very poor
11 quality shale. So we feel there is a very good barrier
12 between that Wolfcamp B, and then the Wolfcamp A, XY and
13 Third Bone Spring.

14 But as you can also see, the proposed target
15 intervals for those other three zones are really within
16 about 150 to 200 feet of each other, so they absolutely need
17 to be co-developed together because there is a very strong
18 risk of, of potential communication if you develop one now
19 and then come back later.

20 **Q. Let's move on to your Exhibit 20, kind of a**
21 **similar set of exhibits; is that correct?**

22 A. Yes, that's correct.

23 **Q. Again, the well names?**

24 A. Yeah, I can go through it if you want, but it's
25 really just an absolute replica.

1 Q. This is really the Third Bone Spring --

2 A. Correct.

3 Q. -- structure maps --

4 A. Yes.

5 Q. -- and everything else is the same?

6 A. Yes, that's right.

7 Q. Is there -- well unit orientation, is that a big
8 issue out here?

9 A. Not at all. In this kind of area, most of the
10 wells have been drilled as stand-ups, you know, N/S, but
11 what I did not include on this map is that we had drilled
12 two wells just to the north of here, so along the southern
13 lease line of 5 and 4, we drilled a laydown Wolfcamp B
14 lateral, and then along the very northern edge of 6 and 5,
15 just north of that Astrodog unit, we also drilled a laydown
16 lateral.

17 I only included producing wells on this map, but
18 if I had included proposed, permitted and drilled but not
19 completed wells, you would see a completely different
20 configuration. An obviously BTA and Marathon would agree
21 with me because they are both proposing west to east
22 orientation wells as well.

23 Q. So not only those, but other operators in this
24 area are also drilling laydown wells?

25 A. Correct, yes.

1 Q. Mr. Patrick alluded to something, and I think you
2 are the one that hit this up, because of the net revenue
3 interests that Novo has in its acreage, you have a lot of
4 leeway in drilling additional zones that other people who
5 might have very low net revenue interest might not test?

6 A. Correct.

7 Q. And will that lead to additional recovery?

8 A. Absolutely. Well, I mean, first of all, any time
9 you down space you are really going to get additional
10 recovery because you are going to get a better overlap of
11 your frac wings. It's just whether or not sometimes that
12 overlap is a bit too much and it will affect each other.

13 But like I said, because we have such high nets,
14 our economic hurdles aren't as steep as some other
15 operators, so it gives us a lot more leeway. We wouldn't
16 necessarily need to produce as much each well, but we can
17 get more recoverable reserves out of any one particular
18 section than other operators could because we just don't
19 have to make as much in order to have an economic well.

20 Q. Does that benefit BTA as well as Novo?

21 A. It could, yeah.

22 Q. Were Exhibits 10 and 20 prepared by you or under
23 your supervision?

24 A. All of them were prepared by me.

25 Q. In your opinion, is the granting of these

1 **applications in the interest of conservation and prevention**
2 **of waste?**

3 A. It is.

4 MR. BRUCE: Mr. Examiner, I move the admission of
5 Exhibits 10 and 20.

6 HEARING EXAMINER LOWE: Mr. Larson?

7 MR. LARSON: No objection.

8 HEARING EXAMINER LOWE: Exhibits 10 and 20 will
9 be admitted with the cases.

10 (Exhibits 10 and 20 admitted.)

11 MR. BRUCE: Pass the witness.

12 HEARING EXAMINER LOWE: Mr. Larson?

13 CROSS-EXAMINATION

14 BY MR. LARSON:

15 Q. **Good afternoon, sir.**

16 A. Good afternoon.

17 Q. **These wells that you have identified in one of**
18 **your exhibits, have APDs been submitted to the BLM for them?**

19 A. I do -- I'm not entirely certain of that. I
20 don't believe so. I think we have a policy within the
21 company of trying to get our development areas approved
22 first.

23 Q. **My last question is, who named this well?**

24 A. I want to say our CFO. Astrodog is actually a
25 very delicious beer from a local brewery in Oklahoma City.

1 Q. I was wondering if he was just -- I'm dating
2 myself with that reference. That's all the questions I
3 have.

4 MR. BRUCE: Nothing, no.

5 EXAMINER MURPHY: Well, just bear with me. Do
6 you have a vertical development plan, are you looking at the
7 Bone Spring first and the Upper Wolfcamp then would be
8 developed first?

9 THE WITNESS: No, we would probably start at the
10 bottom. We would most likely develop the Wolfcamp B, the
11 lowermost interval first and then come up. But the main --
12 the main important thing is you have to do the A, the XY and
13 Third Bone together.

14 And so more than likely we would probably deploy
15 multiple rigs to take that down. It doesn't really matter
16 which order you drill them in, we just make sure we complete
17 them simultaneously. We don't want any one well on for
18 longer than it needs to because then it will adversely
19 affect any next-door well that we bring on.

20 EXAMINER MURPHY: When you develop some of the
21 formation in the Lower Wolfcamp that are gas prone, have
22 higher gas content, do you -- I mean, do you reuse that gas?
23 Or do you flare it, or do you already have pipelines for it?

24 THE WITNESS: I -- we definitely don't like to
25 flare at all. We want to sell it. Our intention would be

1 to sell, and to sell as quickly as possible. If we flared,
2 it would only be temporarily and it would be minimally. Our
3 intention is to make sure we have a full pipeline
4 development for this area.

5 EXAMINER MURPHY: So I have seen applications
6 that are short-term flare, and it's three years.

7 THE WITNESS: Yeah, that's --

8 EXAMINER MURPHY: But could you, if you got the
9 gas first, could you reuse it combining power on other
10 equipment on the well pad for that?

11 THE WITNESS: We can definitely use it for gas
12 lift. We have been thinking of some other opportunities
13 where gas lift is required, so, yes, we could potentially
14 use it.

15 EXAMINER MURPHY: In powering the fracs and
16 equipment?

17 THE WITNESS: That, I don't know if I would be
18 able to answer that.

19 EXAMINER MURPHY: But if you had a whole suite of
20 development that went up the stratigraphic column, certainly
21 things could be reused in other --

22 THE WITNESS: I would imagine so. I think maybe
23 Kurt might be more qualified to answer that.

24 MR. BRUCE: That's our next witness.

25 THE WITNESS: Yeah, next witness, VP of

1 operations.

2 EXAMINER MURPHY: Can I ask one last question?
3 Does Novo tend to flare much?

4 THE WITNESS: No. No. As a matter of fact, our
5 CFO gets very angry with us if we flare, so --

6 EXAMINER MURPHY: All right. Thank you.

7 EXAMINER COSS: I guess the only question came
8 up, what type of beer is Astrodog?

9 THE WITNESS: It's an IPA, and it's delicious.

10 EXAMINER COSS: That's all the questions I have.

11 HEARING EXAMINER LOWE: Eric?

12 MR. AMES: No, I'm okay.

13 HEARING EXAMINER LOWE: Just one question, on
14 your Exhibit 10, and 20 as well, which is the same thing?

15 THE WITNESS: Yeah, both of them are the exact
16 same thing.

17 HEARING EXAMINER LOWE: They are the exact same
18 thing?

19 THE WITNESS: Yes.

20 HEARING EXAMINER LOWE: Here it's showing 24
21 wells; right?

22 THE WITNESS: Yes.

23 HEARING EXAMINER LOWE: If you are going to go
24 for a full 48, is it going to be pretty much about the same?

25 THE WITNESS: Yes. It will be about the same,

1 just bring in intervals above this. Yeah, so that 48 was
2 kind of given as, we believe that that is actually a very
3 doable number of wells in this area, it's just that as this
4 particular pooling order goes, we are only talking -- yeah,
5 we're only talking about the lower portion of those.

6 HEARING EXAMINER LOWE: Okay. And you indicated
7 you are going to start from the Wolfcamp B and work your way
8 up?

9 THE WITNESS: Yeah, correct.

10 HEARING EXAMINER LOWE: Okay. That is all my
11 questions.

12 MR. BRUCE: No more questions from me.

13 HEARING EXAMINER LOWE: Okay. Good.

14 MR. LARSON: Nothing further.

15 HEARING EXAMINER LOWE: You may be excused then.
16 You may call your next witness.

17 KURT SHIPLEY

18 (Sworn, testified as follows:)

19 DIRECT EXAMINATION

20 BY MR. BRUCE:

21 **Q. Would you please state your name and city of**
22 **residence, for the record?**

23 A. I'm Kurt Shipley from Oklahoma City.

24 **Q. Who do you work for and in what capacity?**

25 A. Novo Oil and Gas, and I'm the vice president of

1 operations.

2 Q. Have you previously testified before the
3 Division?

4 A. Yes.

5 Q. Were your credentials as an operations engineer
6 accepted?

7 A. Engineer and as a vice president of operations,
8 both.

9 Q. Were they accepted as a matter of record?

10 A. Yes, they were.

11 Q. Are you familiar with the operations or the
12 proposed operations on the wells involved in these
13 applications?

14 A. Yes.

15 MR. BRUCE: Mr. Examiner, I tender Mr. Shipley as
16 an expert in operations.

17 HEARING EXAMINER LOWE: Mr. Shipley is so
18 qualified -- sorry.

19 MR. LARSON: No objection.

20 HEARING EXAMINER LOWE: Okay, sorry.

21 BY MR. BRUCE:

22 Q. Obviously one of the issues that has come up,
23 Mr. Shipley, is if Novo can't drill 2 mile units, it would
24 have to drill across kind of a half mile of dead zone to
25 reach its acreage. Is there a risk or -- or a waste

1 **associated with drilling 1/2 mile of dead hole in each well?**

2 A. Yes, there is.

3 **Q. And what are those risks?**

4 A. Again, we don't have an option for the 2 mile
5 lateral wells from the east because it is under the lake, so
6 our real -- really only option is from this drill island
7 associated or that was presented earlier. But the type of
8 risk that we have to drilling a half mile of unused or dead
9 hole just to get to our first or shallowest perforations,
10 things that come into mind there are -- or problems -- are
11 collisions with offset wells, such as -- which could be
12 BTA's wells, that presents a potential drilling nightmare in
13 the area.

14 There is also the waste created by drilling so
15 much unused lateral. In this case there could be as much as
16 24 wells, times a half mile per each well of drilled hole
17 that we will not get to complete.

18 And then there is also additional, any time we
19 drill -- I don't like to drill unneeded and unused hole
20 because then there is additional risk for equipment failures
21 or slow drilling, or stuck pipe, those things. So
22 definitely do not like drilling unused or uncompleted hole.

23 And then I'm also concerned with the less
24 efficient completion or production -- I'm sorry --
25 production aspects of producing wells from the toe of these

1 wells and not being able to produce from the heel, and then
2 it's just longer to produce through the wellbore without
3 having that, that initial half mile to the heel. I'd rather
4 produce the whole lateral if we can have that option.

5 Q. And so a couple of those points that you have
6 outlined would adversely affect well economics, would they
7 not?

8 A. Yes, I mean --

9 Q. Ignoring the collisions and stuff like that, it
10 would still adversely affect economics?

11 A. Right. Just standard drilling operations to
12 drill the extra hole and not be able to use or complete that
13 hole, that would lower our economics dramatically.

14 Q. Okay. Thank you. In your opinion, is the
15 granting of Novo's application in the interest of
16 conservation and the prevention of waste?

17 A. Yes, I do.

18 MR. BRUCE: I have no further questions.

19 HEARING EXAMINER LOWE: Any questions?

20 MR. LARSON: I have no questions.

21 EXAMINER MURPHY: No questions.

22 EXAMINER COSS: No questions.

23 MR. AMES: No.

24 HEARING EXAMINER LOWE: I have no questions as
25 well. Thank you. You may be excused.

1 MR. BRUCE: Mr. Examiner, if this would be a good
2 time for a five-minute break, I can confer with my clients,
3 I think I'm done presenting my case.

4 HEARING EXAMINER LOWE: Sure, we can do that.
5 Let's take a 15-minute break.

6 (Recess taken.)

7 HEARING EXAMINER LOWE: We are back on the
8 record. Mr. Bruce?

9 MR. BRUCE: Mr. Examiner, I'm through presenting
10 my case.

11 HEARING EXAMINER LOWE: Okay. Mr. Larson?

12 WILLIS D. PRICE III

13 (Sworn, testified as follows:)

14 DIRECT EXAMINATION

15 BY MR. LARSON:

16 Q. **Good afternoon, Mr. Price.**

17 A. Good afternoon.

18 Q. **Would you state your full name for the record?**

19 A. Willis D. Price III.

20 Q. **Where do you reside?**

21 A. Midland, Texas.

22 Q. **And by whom are you employed and in what**
23 **capacity?**

24 A. BTA Oil Producers LLC.

25 Q. **Are you the land manager?**

1 A. I'm the land manager at BTA.

2 Q. And your responsibilities include BTA development
3 of what BTA calls the Ochoa acreage?

4 A. That's right.

5 Q. Are you familiar with the land matters that
6 pertain to Novo's applications in this case?

7 A. Yes.

8 Q. Have you previously testified at a Division
9 hearing?

10 A. Yes.

11 Q. Were you qualified as an expert in petroleum land
12 management?

13 A. Yes.

14 MR. LARSON: Mr. Examiner, I tender Mr. Price as
15 an expert petroleum landman.

16 MR. BRUCE: No objection.

17 HEARING EXAMINER LOWE: He is so qualified.

18 BY MR. LARSON:

19 Q. Would you identify the document that's marked BTA
20 Exhibit 1?

21 A. That is a Bone Spring and Wolfcamp Spacing unit
22 outline of the Loving area.

23 Q. And was this map prepared under the direction and
24 supervision of Mr. McQuien who will also be testifying this
25 afternoon?

1 A. Yes.

2 Q. And what is the area identified by the green
3 line?

4 A. It's the area that BTA owns that's under a joint
5 operating agreement that covers 474.11 acres.

6 Q. And is BTA the designated operator under the JOA?

7 A. Yes.

8 Q. And what is the breakdown of working interest
9 governed by the JOA?

10 A. BTA owns 73 percent, and Oxy Y-1 Company owns 27
11 percent.

12 Q. And is it fair to say that 100 percent of the
13 working interest is committed to the JOA?

14 A. Yes.

15 Q. And does the JOA cover all intervals underlying
16 the N/2 of Section 7 and the NW of Section 8?

17 A. It does.

18 Q. And have any wells been drilled in the acreage
19 covered by the JOA?

20 A. There was a well called the Yates BLV Number 1H
21 that's shown on the -- on the exhibit with the Ds that's a
22 mile -- mile and a half Delaware well.

23 Q. And does BTA currently have plans to drill
24 additional wells on the Ochoa acreage?

25 A. Yes. BTA entered into a trade with EOG for this

1 acreage so that we could fully develop the Bone Spring and
2 Wolfcamp formation under the JOA.

3 Q. Those would also be 1.5 mile laterals?

4 A. Yes.

5 Q. And has BTA proposed any wells?

6 A. Yes. We proposed four Wolfcamp wells.

7 Q. I want you to next identify the document marked
8 as Exhibit 2.

9 A. Yes. Again, that's a letter agreement between
10 BTA and Oxy Y-1 Company.

11 Q. And what's the substance of the agreement between
12 BTA and Oxy?

13 A. The substance is that Oxy requested that they be
14 allowed to make their election under the JOA 30 days from
15 BTA's receipt of an approved application of a permit to
16 drill.

17 Q. And as a working interest owner governed by the
18 JOA, does Oxy have an ability to join, for instance, a well
19 proposed by Novo?

20 A. No.

21 Q. And those four Wolfcamp wells will be completed
22 in the N/2 of 7 and the NW of 8?

23 A. That's right.

24 Q. Where will the surface locations for those wells
25 be?

1 A. The surface location is in Section 12.

2 Q. That's outside the potash area?

3 A. That's correct.

4 Q. But the completed laterals will be in the potash
5 area?

6 A. That's correct.

7 Q. Because of the location of the surface hole,
8 BTA's obligation to Mosaic was to notify them of this well?

9 A. That's correct.

10 Q. And have you received -- have you provided that
11 notification?

12 A. Yes.

13 Q. And have you received any negative feedback
14 from --

15 A. No.

16 Q. -- Mosaic? Has BTA submitted APDs to the BLM for
17 the four Wolfcamp wells?

18 A. Yes, we have.

19 Q. Have you also submitted a development proposal to
20 BLM?

21 A. We have.

22 Q. And has that development area proposal been
23 protested?

24 A. Yes, it has. Novo objected to it.

25 Q. And in their objections do they primarily rely on

1 Marathon's proposed wells coming from --

2 A. Yes, they did. Yes, they did.

3 Q. As far as you know, has Novo submitted its own
4 development proposal?

5 A. No.

6 Q. But they opposed yours even though they have not
7 submitted one?

8 A. That's right.

9 Q. When did you first communicate with Novo about
10 its proposed Astrodog well?

11 A. When we got well proposals from them.

12 Q. Do you remember the time frame when you received
13 them?

14 A. No, I don't.

15 Q. I think we established through Mr. Patrick that
16 Novo purchased its interest in its acreage at issue I
17 believe it was July 1 of 2019?

18 A. Yes.

19 Q. Did Novo contact you prior to the sale and
20 inquire about your interest under the JOA?

21 A. No.

22 Q. And after you received the well proposals, what
23 communications did you conduct with Novo?

24 A. I believe that I -- we responded back to say
25 that BTA had plans for our acreage covered by the JOA.

1 Q. Did you initiate a meeting with Novo?

2 A. Yes. We initiated a -- set up a meeting to meet
3 with them in Oklahoma City.

4 Q. And do you agree with Mr. Patrick that at least
5 at that point in time there was discussions between the
6 parties about both doing 1.5 mile laterals?

7 A. Yes. I laid out BTA's preference to drill 1.5
8 mile horizontals, and Novo responded that they were not
9 opposed to it if they could find a drill site that, that met
10 their qualifications.

11 Q. And following that did you have any conversations
12 with Jim Rutley at the BLM about that?

13 A. Yes, I did.

14 Q. What did those entail?

15 A. Those entailed describing an area to investigate
16 whether it was possible for us -- for Novo to locate a well
17 where they could develop their wells on a, drill a mile and
18 a half horizontal.

19 Q. Was your intent to do something behind Novo's
20 back?

21 A. No.

22 Q. Was it trying to find an accommodation where you
23 could both drill your mile and a half laterals?

24 A. My intent was to investigate if we could make
25 that happen.

1 Q. And what was the substance of your communications
2 with Mr. Rutley?

3 A. The substance was to find out if it was possible
4 to get a surface location that, that they would approve, the
5 BLM would approve that would allow Novo to develop a mile
6 and a half.

7 Q. And do you recall the time frame of your meeting
8 with Mr. Rutley?

9 A. I want to say, these were telephone calls with
10 Mr. Rutley, but I would say it was in late September.

11 Q. And did you have additional communication with
12 him following that?

13 A. Yes.

14 Q. Did he indicate to you that BLM might approve an
15 alternative location you proposed if Mosaic would go along
16 with it?

17 A. In my discussions with Jim Rutley, he indicated
18 that the Mosaic was not opposed to the, to the area that we
19 had identified, but they needed further information that
20 would have to come from Novo, and that's when basically
21 they, they took it over from there.

22 Q. When you say took it over from there --

23 A. I mean took over the discussions with Jim Rutley,
24 or I assume that they did, I don't --

25 Q. So if I'm hearing you correctly, as of late

1 September or early October, Mosaic had not shut the door on
2 your potential alternative location?

3 A. Yes, that's correct.

4 Q. In your mind you were working on behalf of both
5 parties by engaging BLM?

6 A. Yes.

7 Q. Were there ever any discussions with Novo about a
8 potential trade?

9 A. Yes. Novo sent a proposed trade to us that
10 involved trading our operated interest for non-operated
11 interest in the area.

12 Q. And obviously that was not appealing to you?

13 A. It wasn't appealing to BTA because we prefer to
14 operate properties rather than be a non-operator.

15 Q. And that was your purpose in acquiring the
16 acreage that we call the Ochoa acreage was to have
17 operatorship with 100 interest committed so you could
18 operate your own wells.

19 A. Yes.

20 Q. Did Novo make any additional offers or further
21 offers after you rejected their first offer?

22 A. No.

23 Q. Did you make any offers to Novo?

24 A. We just expressed our interest in drilling mile
25 and a half wells.

1 Q. Which was your intent in purchasing that acreage
2 in the first place?

3 A. That's correct.

4 Q. In your opinion, has Novo made good-faith efforts
5 to resolve the conflict between BTA's development in the
6 Ochoa acreage and Novo's proposed wells?

7 A. No.

8 Q. And if Novo's application is granted, will it
9 negatively impact BTA's development plans for the Ochoa
10 acreage?

11 A. Yes, it will.

12 Q. In your opinion, would the granting of Novo's
13 applications result in an impairment of BTA's correlative
14 rights?

15 A. Yes.

16 Q. And Mr. Bruce raised the point that you would
17 become a non-operating revenue recipient; is that right?

18 A. That's right.

19 Q. Is that the purpose that you purchased that
20 acreage for, to have -- to assume its correlative rights?

21 A. No.

22 MR. LARSON: Mr. Examiner, I move the admission
23 of Exhibits 1 and 2.

24 MR. BRUCE: No objection.

25 HEARING EXAMINER LOWE: Exhibits 1 and 2 are

1 accepted for the case.

2 (Exhibits BTA 1 and 2 admitted.)

3 MR. LARSON: I will pass the witness.

4 HEARING EXAMINER LOWE: Mr. Bruce?

5 MR. BRUCE: Just a couple.

6 CROSS-EXAMINATION

7 BY MR. BRUCE:

8 Q. Look at your Exhibit 1. You mentioned the
9 Delaware, have those wells been drilled?

10 A. There's been one well drilled on the Delaware.

11 Q. Are you aware that Novo has been in contact with
12 Jim Rutley at the BLM regarding approval of the development
13 area for the N/2 of Section 8 and 9?

14 A. I'm aware that they -- they asked them about it.
15 I don't know that I have seen -- we haven't been notified of
16 the development of the area.

17 Q. But you were -- was that discussed in your
18 face-to-face meeting in Oklahoma City?

19 A. Yes.

20 Q. In looking at this, I wasn't involved in the
21 Marathon Valkyrie hearings, but are they proposing N/2 wells
22 in Sections 12 and 7?

23 A. Yes.

24 Q. Okay. So there's -- there is really no issue of
25 stranded acreage. All the acreage is going to be developed

1 one way or the other.

2 A. There is an issue of correlative rights as far as
3 BTA's ability to operate.

4 Q. And is BTA aware that, whether it's a JOA, or oil
5 and gas lease that you acquire interest, that that's subject
6 to the New Mexico pooling statutes?

7 A. Yes, we are.

8 Q. And of course you knew you would have to get a
9 development area from the BLM -- either party would have to
10 get -- either of the three parties would have to get
11 development from BLM?

12 A. Yes.

13 Q. Thank you, Mr. Price.

14 MR. BRUCE: That's all I have.

15 HEARING EXAMINER LOWE: Okay.

16 MR. AMES: Any follow-up?

17 MR. LARSON: No redirect, but I will wait to hear
18 Examiner questions.

19 HEARING EXAMINER LOWE: Ms. Murphy?

20 EXAMINER MURPHY: Nobody can get a development
21 area because of BTA. Is that correct?

22 THE WITNESS: Are you asking me? We filed our
23 development area and were objected to it because we had to
24 notify Novo, and they objected to it because it conflicts
25 with their development area.

1 EXAMINER MURPHY: And it just seems odd, the last
2 case, you had all the cards, in this case you have all the
3 cards, too, and it just -- is Novo still -- is it that you
4 were engaging with Mosaic?

5 I mean, again, I don't understand why
6 organizations can't get together and try to work this out
7 because you have have you all the cards here. You have two
8 companies by their tails now. I thought you just had one,
9 and now I'm even more impressed with the hand that you have
10 been dealt.

11 I'm sorry, I just can't believe that an agreement
12 can't be worked out.

13 MR. AMES: Do you have a question?

14 EXAMINER MURPHY: No, thank you.

15 HEARING EXAMINER LOWE: Mr. Coss.

16 EXAMINER COSS: I guess I -- good afternoon, sir.

17 THE WITNESS: Good afternoon.

18 EXAMINER COSS: I seem to have lost focus or
19 couldn't follow the discussions regarding your interactions
20 with the BLM attempting to get a development area.

21 So you were in discussions with BLM to try to get
22 a drill pad in the NE corner of 12. Is that what I
23 understand?

24 THE WITNESS: No. The north, NE/4 of 8 so that
25 Novo would be able to drill a mile and a half, and BTA would

1 be able to drill a mile and a half.

2 EXAMINER COSS: I see. Because currently there
3 is only a drill pad in the NE -- NW/4 of 7 -- of 8 -- or is
4 it --

5 THE WITNESS: May I?

6 EXAMINER COSS: Sure.

7 THE WITNESS: BTA's drill pad is in Section 12.
8 So we were -- we were -- our plan is to drill mile and a
9 half laterals that cover the N/2 of 7 and the NW of 8. What
10 we were trying to work with Novo is to get over on the E/2
11 of the NW of 8 so they could drill a mile and a half
12 covering the NE of 8 and the N/2 of 9.

13 EXAMINER COSS: I see.

14 THE WITNESS: So they could develop their
15 acreage, we could develop ours.

16 EXAMINER COSS: Okay. So that was my question.
17 Thank you.

18 MR. AMES: Nothing. Thank you.

19 HEARING EXAMINER LOWE: No questions?

20 Just to clarify, did you say you already drilled
21 a well in the Delaware units?

22 THE WITNESS: We, we, BTA did not drill the well.
23 The well was already there when we got the property. It was
24 drilled by Yates Petroleum, but when we got the property, we
25 operate the well.

1 HEARING EXAMINER LOWE: Okay. Okay. That is all
2 the questions I have. Thank you. Mr. Bruce?

3 MR. BRUCE: No, I have no further questions.

4 MR. LARSON: Couple of follow-up questions, Mr.
5 Examiner

6 REDIRECT EXAMINATION

7 BY MR. LARSON:

8 Q. BTA acquired its interest in the Ochoa acreage
9 prior to Marathon acquiring their interest in the subject of
10 Valkyrie well case; is that correct?

11 A. That's correct.

12 Q. And BTA also acquired its interest prior to Novo
13 acquiring the acreage that's included in this area?

14 A. That's correct.

15 Q. And I having a little trouble saying you hold all
16 the cards because you are being attached by both directions.
17 Isn't your intent to exercise your correlative rights to
18 develop your acreage?

19 A. That's correct.

20 MR. LARSON: That's all I have.

21 RE CROSS-EXAMINATION

22 BY MR. BRUCE:

23 Q. Mr. Price, if all of your acreage is going to be
24 developed one way or another, how is that an impairment of
25 your correlative rights?

1 A. BTA is an operating company much as Novo is, and
2 we -- we are in business to operate and control the interest
3 that we have.

4 **Q. Is operating, the right to operate a well**
5 **mentioned in the statutory definition of correlative rights?**

6 A. No.

7 MR. BRUCE: Thank you.

8 HEARING EXAMINER LOWE: Does that conclude your
9 questions?

10 MR. BRUCE: That's it.

11 HEARING EXAMINER LOWE: Are you done with the
12 witness?

13 MR. BRUCE: I certainly am.

14 HEARING EXAMINER LOWE: You may be excused.

15 BRITTON McQUIEN

16 (Sworn, testified as follows:)

17 DIRECT EXAMINATION

18 BY MR. LARSON:

19 **Q. Good afternoon, Mr. McQuien.**

20 A. Good afternoon.

21 **Q. Will you state your full name for the record?**

22 A. Britton McQuien.

23 **Q. Where do you reside?**

24 A. Midland, Texas.

25 **Q. By whom are you employed, and in what capacity?**

1 A. I'm the Permian exploration manager for BTA Oil
2 Producers.

3 Q. And your responsibilities include BTA's drilling
4 activities in Southeast New Mexico?

5 A. Yes.

6 Q. Are you personally involved in the development of
7 BTA's acreage that Mr. Price has referred to as the Ochoa
8 acreage?

9 A. I have.

10 Q. And are you familiar with Novo's application for
11 the proposed Astrodog wells?

12 A. I am.

13 Q. Have you previously testified at a Division
14 hearing?

15 A. Yes.

16 Q. At each of those hearings, were you qualified by
17 the Examiners as an expert in petroleum engineer?

18 A. Yes.

19 MR. LARSON: Mr. Examiner, I tender Mr. McQuien
20 as an expert as a petroleum engineer.

21 MR. BRUCE: No objection.

22 HEARING EXAMINER LOWE: He is so qualified.

23 BY MR. LARSON:

24 Q. Would you identify the document that's been
25 marked as BTA's Exhibit 3?

1 A. Yes.

2 **Q. And was this map prepared under your direction**
3 **and supervision?**

4 A. Yes, it was.

5 **Q. And what is your exhibit intended to depict?**

6 A. So this exhibit, we describe it as the Loving
7 area in Eddy County, New Mexico. It just shows BTA's
8 operated acreage positions in the solar blue with project
9 names shown, for example, the Ogden, Pardue, Harroun Ranch,
10 and as of right now the Ochoa is an operated projected. And
11 it also showed in the blue crosshatching that shows BTA's
12 non-operated positions in this area where we have
13 participated in a number of horizontal developments. BTA
14 has also drilled and completed a number of horizontal wells
15 in this area.

16 **Q. Have those laterals been at varying lengths?**

17 A. Yes, they have, 1 mile, 1.5 mile, 2 miles.

18 **Q. You have experience with all of those length of**
19 **laterals?**

20 A. We do.

21 **Q. And generally, what's the determining factor with**
22 **regard to the length of the lateral?**

23 A. Typically or the most common factor that
24 determines the length of the lateral is your -- for us is
25 the being our contiguous acreage position is usually the

1 final determining of it.

2 Q. And referring to Exhibit 3, and it appears you
3 did research of BTA and other operators wells in what you
4 describe as the Loving area?

5 A. I have.

6 Q. And in your research, did you find any well
7 drilled by Novo?

8 A. Using the, the New Mexico OCD website as my
9 source, I have not been able to find any material on wells
10 operated by Novo or drilled and completed by Novo.

11 Q. Mr. Bruce asked several questions of Mr. Price
12 regarding a potential non-operatorship interest --

13 A. Yes.

14 Q. -- for BTA in this acreage, and I believe you
15 also heard the testimony about Novo's royalty position --

16 A. Yes.

17 Q. -- in these wells? Is there a point where, in
18 your mind, that being a non-operator would be an optimal
19 financial condition for BTA?

20 A. Yes. You know, specifically in this case, Novo
21 has spoken several times about how their, their interest is
22 not encumbered by any royalty. BTA, in the Ochoa acreage,
23 you know, we discussed BTA and Oxy are interest owners in
24 there, and those were federal leases and all the interest in
25 that, under that Ochoa acreage JOA is subject to a 1/8

1 royalty burden from the, you know, its federal lease.

2 This sets up or creates an issue for us. Right
3 now we can go drill wells, and the revenue produced is the
4 same for every party in those wells. As Mr. Hale testified
5 earlier today, they're at this significant advantage because
6 they are not encumbered by any royalty and they can be more
7 aggressive in some of their development plans.

8 That creates a real concern for BTA on a
9 correlative rights basis because they could potentially
10 start proposing wells that would be economic for Novo
11 because they don't have to pay royalty on it, but would not
12 be economic for BTA because we are paying royalty on that.

13 So that's why, you know, a large part of the
14 reason why we want to maintain the Ochoa acreage. The
15 integrity of the Ochoa acreage is the same for every party
16 or every company that's a party to it.

17 **Q. So that's potentially the downside to BTA is if**
18 **it becomes a non-operator in that area?**

19 A. Potentially, yes.

20 **Q. In your opinion, would the 1.5 mile horizontal**
21 **wells that BTA plans to drill in the N/2 of 7 and NW/4 of 8**
22 **be economic and efficient?**

23 A. Yes, they would.

24 **Q. And Mr. Price testified about the four Wolfcamp**
25 **wells in the proposed area. Are there more wells in the BTA**

1 **long-term development plan?**

2 A. Yes. As we discussed earlier in the previous
3 hearing, we do intend to fully develop the Wolfcamp and the
4 Bone Spring, you know. There is one Delaware well in here
5 we are still even, you know, considering the Delaware and
6 evaluating it as well. So there is still a lot of
7 development that we do intend to pursue out here over time.

8 **Q. Is that Delaware a Brushy Canyon well?**

9 A. Yes, it is. Sorry, just for the record,
10 Mr. Price referred to that as the Yates BL, but it's
11 actually the Culebra Number 1H drilled by Yates, so --

12 **Q. And do you agree with Mr. Price that Novo's**
13 **proposed well development under the Ochoa acreage would**
14 **unreasonably impact BTA's development of that acreage?**

15 A. It would.

16 **Q. And in your opinion, would the granting of Novo's**
17 **application result in an impairment of BTA's correlative**
18 **rights?**

19 A. Yes.

20 MR. LARSON: I would move the admission of
21 Exhibit 3.

22 MR. BRUCE: No objection.

23 MR. LARSON: And I will pass the witness.

24 HEARING EXAMINER LOWE: Exhibit 3 will be
25 accepted for the case.

1 (Exhibit BTA 3 admitted.)

2 CROSS-EXAMINATION

3 BY MR. BRUCE:

4 Q. Just from this plat, BTA does join in
5 non-operated wells?

6 A. We do.

7 Q. And whether this under a JOA or forced pooling
8 order, you are not required to join in the well. BTA is not
9 required to join in a well if they think it's not economic.

10 A. I'm having trouble following the question there,
11 so --

12 Q. Well, you said something like -- I don't mean to
13 put words in your mouth, but you said that Novo may propose
14 wells that, that BTA didn't agree with the economics on, or
15 words to that effect.

16 A. Okay.

17 Q. But you can't be forced to join in that well.
18 You can always go non-consent, can't you?

19 A. We can go non-consent, but then we do not get to
20 recover some of the reserves that we might otherwise have
21 recovered, particularly if it's a spacing issue.

22 Q. That doesn't matter whether it's under a JOA or
23 force pooling order, does it? You are not spending money up
24 front, are you?

25 A. No.

1 Q. And regarding, you said you couldn't find wells,
2 you sat through the Novo presentation, did you not?

3 A. I did.

4 Q. You heard them mention a couple of wells that
5 have been drilled just immediately to the north of you in
6 Section 4, 5, 6?

7 A. Yes, I believe he mentioned two wells in 5 and 6
8 and then one well in 4 and 5. I just was unable to locate
9 any records on it.

10 Q. Okay. And then one final question. You said
11 mile and a half laterals would be economic?

12 A. Yes.

13 Q. And I don't think Novo disagrees with you, but
14 would 2 mile laterals be economic?

15 A. I would have to see the development plan
16 associated with the 2 mile wells to make an evaluation.

17 Q. Maybe this question should be directed at
18 Mr. Price, but how long ago did BTA acquire its interest in
19 the Ochoa JOA area, I will call it? Roughly, I don't need
20 an exact.

21 A. It was -- I can't remember -- off the top of my
22 head, I thought it was last November 2018, it might have
23 been.

24 Q. That's good enough. Late 2018?

25 A. Yes.

1 **Q. That's all I have. Thank you.**

2 MR. BRUCE: No more questions.

3 HEARING EXAMINER LOWE: Okay.

4 MR. LARSON: I will wait.

5 HEARING EXAMINER LOWE: Okay. Ms. Murphy?

6 EXAMINER MURPHY: No questions.

7 EXAMINER COSS: I guess I am confused in some
8 area of expertise on how the royalties might be distributed
9 in the different cases here. Would BTA, if it's more
10 economical, from what I'm understanding, for Novo to drill
11 some of these wells than for BTA, but if they can -- if they
12 can do it cheaper and more of them because of their
13 interest, kind of ownership interest in their section, would
14 BTA -- BTA wouldn't stand to benefit from royalties from
15 those wells, or what's the argument there?

16 THE WITNESS: No. So you so just take a single
17 well, and -- if I can just put out a kind of a hypothetical.
18 If Novo has a well that they own 50 percent of, and it's
19 drilled in their minerals, so they pay for 50 percent of the
20 costs and receive 50 percent of the revenue of that.

21 Meanwhile BTA joined with their federal lease,
22 which is subject to a 1/8 royalty, at that point we would
23 have to pay -- we would be paying 50 percent of the cost,
24 but we would only be getting 40 -- 43.75 percent of the
25 revenue from that well. You know, so we are paying the same

1 amount of cost, but BTA does not get the same revenue stream
2 that Novo gets since they own the minerals.

3 So, you know, there comes a point where, for
4 certain wells, that it may be economic for Novo to drill
5 that well, but it's not economic for BTA to -- or for Novo
6 to participate in that well, but it's not economic for BTA
7 to participate in that well just because we don't get as
8 much revenue for the amount of money we are investing in
9 that well. Does that make sense?

10 EXAMINER COSS: I understand. Thank you for
11 clarifying.

12 HEARING EXAMINER LOWE: Good?

13 EXAMINER COSS: That's the question.

14 MR. AMES: None.

15 HEARING EXAMINER LOWE: Okay. I had just one
16 question for you. You indicated the correct name for the
17 Yates well; is that correct?

18 THE WITNESS: Yes.

19 HEARING EXAMINER LOWE: What's the API for that
20 number, do you happen to have it?

21 THE WITNESS: I don't have that.

22 HEARING EXAMINER LOWE: That's okay. I can look
23 for that.

24 THE WITNESS: It's on Exhibit 3. It is named on
25 here Culebra BLV Number 1H.

1 HEARING EXAMINER LOWE: That's all the questions
2 I have.

3 THE WITNESS: All right.

4 HEARING EXAMINER LOWE: Thank you.

5 MR. BRUCE: I have nothing else in these matters.

6 MR. LARSON: I have nothing further.

7 MR. AMES: No more witnesses?

8 MR. LARSON: No more witnesses.

9 MR. AMES: Okay, great.

10 HEARING EXAMINER LOWE: You may be excused.

11 MR. BRUCE: You want findings and conclusions.

12 MR. AMES: Were you here for the earlier
13 discussion about the pleadings? And so 15 pages for a
14 memorandum. There are some legal issues to address in this
15 case regarding correlative rights and waste.

16 So, yes, the same same scenario, findings of
17 fact, conclusions of law, and a 15-page, not to exceed a
18 15-page memorandum.

19 MR. BRUCE: Would five be okay?

20 MR. AMES: Yes it would be. It would be fine
21 with me. And if you want to write five, that's that's fine,
22 as well, but you have 15.

23 Anything else?

24 MR. BRUCE: Let's go home.

25 MR. AMES: The same as earlier, we will make sure

1 that you get notice that the transcript is available so you
2 will know when the, when the clock starts.

3 MR. LARSON: Thank you.

4 HEARING EXAMINER LOWE: We will take it under
5 advisement.

6 (Concluded at 3:36 p.m.)

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