

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

ORIGINAL

5 APPLICATION OF BC OPERATING, INC ,
6 CROWN OIL PARTNERS V, CRUMP ENERGY
7 PARTNERS, AND NADEL AND GUSSMAN
8 PERMIAN, LLC FOR A NONSTANDARD SPACING
9 AND PRORATION UNIT AND COMPULSORY
10 POOLING, EDDY COUNTY, NEW MEXICO

CASE NO 15594

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 EXAMINER HEARING

13 February 2, 2017

14 Santa Fe, New Mexico

15 BEFORE PHILLIP GOETZE, CHIEF EXAMINER
16 DAVID K BROOKS, LEGAL EXAMINER

17 This matter came on for hearing before the
18 New Mexico Oil Conservation Division, Phillip Goetze,
19 Chief Examiner, and David K Brooks, Legal Examiner, on
20 Thursday, February 2, 2017, at the New Mexico Energy,
21 Minerals and Natural Resources Department, Wendell Chino
22 Building, 1220 South St Francis Drive, Porter Hall,
23 Room 102, Santa Fe, New Mexico

24 REPORTED BY Mary C Hankins, CCR, RPR
25 New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR APPLICANT BC OPERATING, INC

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

FOR MURCHISON OIL & GAS, INC AND PRIMERO OPERATING,
INC AND SOME OF PRIMERO'S WORKING INTEREST PARTNERS

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

FOR COG OPERATING, LLC

WILLIAM F CARR, ESQ
HOLLAND & HART
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421
wcarr@hollandhart com

1	INDEX	
2		PAGE
3	Case Number 15594 Called	3
4	BC Operating, Inc 's Case-in-Chief	
5	Witnesses	
6	Brandon Gianfala	
7	Direct Examination by Mr Feldewert	7
	Cross-Examination by Mr Bruce	21
8	Cross-Examination by Examiner Goetze	24
9	Mike Moylett	
10	Direct Examination by Mr Feldewert	25
	Cross-Examination by Mr Bruce	34
11	Cross-Examination by Examiner Brooks	36
	Cross-Examination by Examiner Goetze	37
12		
13	Primero Operating, Inc 's Case-in-Chief	
14	Witnesses	
15	Jim Schultz	
16	Direct Examination by Mr Bruce	41
	Cross-Examination by Examiner Brooks	44
17	Cross-Examination by Mr Feldewert	50
	Redirect Examination by Mr Bruce	56
18		
19	Murchison Oil & Gas, Inc 's Case-in-Chief	
20	Witnesses	
21	Eric Buddenbohn	
22	Direct Examination by Mr Bruce	59
23	Proceedings Conclude	63
24	Certificate of Court Reporter	64
25		

	EXHIBITS OFFERED AND ADMITTED	
		PAGE
1		
2		
3	BC Operating, Inc 's Exhibit Numbers 1 through 6 and 11	21
4		
5	BC Operating, Inc 's Exhibit Numbers 12 through 14	34
6		
7	Primero Operating, Inc Exhibit Number 1	58
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 (8 27 a m)

2 EXAMINER GOETZE This leaves us with two
3 remaining cases Seeing how the pressure maintenance
4 case from OXY will involve detailed information, we're
5 going to proceed with Case Number 15594, amended
6 application of BC Operating, Incorporated, Crown Oil
7 Partners V, Crump Energy Partners, and Nadel and Gussman
8 Permian, LLC for a nonstandard spacing and proration
9 unit and compulsory pooling, Eddy County, New Mexico

10 Call for appearances

11 MR FELDEWERT May it please the
12 Examiners, Michael Feldewert, from the Santa Fe office
13 of Holland & Hart, appearing on behalf of the
14 Applicants, and I have two witnesses

15 MR BRUCE Mr Examiner, Jim Bruce
16 appearing on behalf of Murchison Oil & Gas, Inc I have
17 three witnesses, but I don't know if I'm going to put on
18 any of them

19 And I'm also entering an appearance for
20 Primero Operating, Inc I have one witness, and I
21 probably will not put him on

22 And I am also entering an appearance for
23 some of Primero, Inc 's working interest partners, Crown
24 & Knox [phonetic], Venice Oil and Stovall, J T Jackson
25 Centennial, LLC and JTG Resources, LLC

1 MR CARR William F Carr, Counsel for
2 Concho Resources I'm entering my appearance for COG
3 Operating, LLC I will not call a witness

4 EXAMINER GOETZE Thank you

5 MR FELDEWERT I don't know how many sets
6 of exhibits to give to Jim

7 MR BRUCE Two

8 EXAMINER GOETZE And one procedural
9 clarification, Mr Bruce There was in your filing a
10 statement regarding a continuation You're not doing
11 that?

12 MR BRUCE It is not necessary

13 EXAMINER GOETZE Okay Very good

14 MR FELDEWERT Mr Examiner, we have two
15 witnesses, then, that need to be sworn

16 EXAMINER GOETZE Yes, but let's first do
17 this

18 Anybody other than that?

19 Okay Would the witnesses please stand
20 that are going to testify today, and the court reporter
21 will swear you in Please give your name, and she'll
22 make record and then swear you in

23 (Mr Gianfala and Mr Moylett sworn)

24 MR FELDEWERT Call our first witness

25 EXAMINER GOETZE Well, now, now, now Do

1 you have an opening statement, any of you gentlemen?

2 MR BRUCE Not at this time

3 MR CARR No, sir

4 EXAMINER GOETZE Proceed

5 BRANDON GIANFALA,

6 after having been previously sworn under oath, was

7 questioned and testified as follows

8 DIRECT EXAMINATION

9 BY MR FELDEWERT

10 Q Would you please state your name, identify by
11 whom you're employed and in what capacity?

12 A Brandon Gianfala I'm employed by BC
13 Operating, Inc as a landman

14 Q And how long have you been a landman with BC
15 Operating?

16 A Since August 15th of 2016

17 Q Okay And have your responsibilities included
18 the Permian Basin?

19 A Yes

20 Q Have you previously testified before the
21 Division, Mr Gianfala?

22 A I have not

23 Q Would you first outline your educational
24 background?

25 A I've an international business degree from

1 Stephen F Austin State University

2 Q When did you receive that degree?

3 A 1999

4 Q When did you commence your career as a landman?

5 A April of 2005

6 Q And where did you work, what general areas?

7 A Mississippi, Louisiana, all over Texas

8 Q And when did you start your work as a landman
9 in the Permian Basin?

10 A In June of 2016

11 Q Are you a member of any professional
12 affiliations or associations?

13 A Yes, AAPL, HAPL, PBLA

14 Q What is the HAPL?

15 A Houston Association of Petroleum Landmen

16 Q How long have you been a member of that
17 organization?

18 A Since 2011

19 Q And what about the PBLA?

20 A Since the summer of 2016

21 Q And the AAPL?

22 A Since 2005

23 Q Okay Do you have any professional
24 certifications?

25 A I do, CPL, Certified Professional Landman

1 Q And when did you receive that?

2 A October of 2016

3 Q Are you familiar with the application that's
4 been filed in this case?

5 A Yes

6 Q And are you familiar with the status of the
7 lands in the subject area?

8 A Yes

9 MR FELDEWERT Mr Examiner, I tender
10 Mr Gianfala as an expert in petroleum land matters

11 EXAMINER GOETZE Mr Bruce?

12 MR BRUCE No objection

13 EXAMINER GOETZE Mr Carr?

14 MR CARR No objection

15 EXAMINER GOETZE He is so qualified

16 Q (BY MR FELDEWERT) Would you please turn to BC
17 Exhibit Number 1? And does this exhibit identify the
18 well, as well the acreage at issue in this particular
19 application?

20 A Yes

21 Q And it provides the Examiner with the surface
22 and bottom-hole location for each well, correct?

23 A Yes

24 Q For the well

25 A Uh-huh

1 Q And it identifies the first and last take
2 points?

3 A Yes

4 Q Now, what is the target of this particular
5 well?

6 A The Wolfcamp Formation

7 Q And this particular C-102 has not yet been
8 filed, correct?

9 A Correct It's been sent off

10 Q It's been sent?

11 A Uh-huh Yes, sir

12 Q All right So it should show up in the
13 Division's file sometime this week?

14 A Or next week, yes

15 Q All right Now, I notice that the pool has not
16 been inserted here, but is this acreage, Mr Gianfala,
17 subject to the Division's most recent Purple Sage
18 Wolfbone Gas Pool that was created by Division Order
19 R-14262?

20 A Yes, it is

21 Q And have you briefly -- have you reviewed that
22 order?

23 A Yes, I have

24 Q Does it provide for 320-acre spacing?

25 A Yes

1 Q And 330-foot setbacks?

2 A Yes

3 Q And will this particular well comply with the
4 setbacks imposed by this new gas pool?

5 A Yes, it will

6 Q What now, then, does the company seek under
7 this particular application?

8 A We seek to pool the southeast quarter of
9 Section 25 with the east half of Section 36 to form a
10 480

11 Q Okay And as part of that process of forming a
12 nonstandard 480-acre spacing unit, is it now necessary,
13 because this is in the Purple Sage Wolfcamp Gas Pool, to
14 first create a nonstandard spacing unit comprised of the
15 southeast quarter of Section 25?

16 A Yes

17 Q Okay So we have a 160-acre nonstandard unit
18 there that you would tend to combine with the east half
19 of Section 36, correct?

20 A Yes

21 Q Okay What's the nature of the acreage in this
22 480-acre spacing unit? Is it state leases?

23 A It's three state leases

24 Q All right And I notice that your well is
25 roughly a mile and a half, so a half section and a

1 quarter section Why didn't the company extend that
2 horizontal lateral into the north half of Section 25?

3 A There's already a well drilled in the north
4 half of the north half, east-west orientation by Matador
5 in the Wolfcamp Formation

6 Q Okay And since it's in the Wolfcamp
7 Formation, that would be now in the same Purple Sage
8 Wolfcamp pool created by the Division, to your
9 understanding?

10 A Yes

11 Q And is that the Matador's -- is it the Paul
12 well or something like that?

13 A Yes Yes, it is

14 Q All right How does the company -- given your
15 orientation of your well here, on the east half of this
16 subject acreage, how does the company contemplate that
17 the west half of this acreage will be developed?

18 A Well, we've staked and surveyed two wells in
19 the west half -- the southwest quarter of Section 25,
20 west half of 36, and we're currently working with
21 working interest owners to develop that area, to develop
22 a companion well

23 Q So it will be like a mirror image of this
24 particular well?

25 A Correct

1 Q All right And you're currently working with
2 the working interest owners in that -- and I'll call it
3 the west-half acreage -- to get that staked-and-surveyed
4 well proposed and drilled?

5 A Yes We already have it staked and surveyed

6 Q All right Then focusing now on this
7 particular well, if I turn to what's marked as BC
8 Exhibit Number 2, does this contain the well-proposal
9 letter that was sent to the working interest owners for
10 what I'll call the east-half acreage well?

11 A Yes

12 Q And this particular letter would have been --
13 it's dated November of 2016, so it was sent before the
14 Division created that new Purple Sage pool But in this
15 particular letter, you proposed to drill -- you proposed
16 to create a 480-acre nonstandard spacing unit, correct?

17 A Yes

18 Q And with your 330-foot setbacks?

19 A Yes

20 Q And this letter that went out to the working
21 interest owners, did it contain, on the last page, an
22 AFE?

23 A Yes, it did

24 Q And that AFE is dated October of 2015 -- '16,
25 correct?

1 A Yes

2 Q Okay In preparation for this hearing, has the
3 company re-examined, now that we are in January, the
4 costs that were anticipated for this particular well?

5 A Yes

6 Q And if I turn to what's been marked as BC
7 Exhibit Number 3, is this a revised AFE dated late
8 December 2016?

9 A Yes, it is

10 Q And does this reflect now the cost that the
11 company anticipates incurring and drilling and
12 completing this well?

13 A Yes

14 Q And is it similar to what other operators are
15 incurring for drilling similar wells in this area?

16 A Yes, it is

17 Q All right And the costs actually went down
18 from what was originally proposed, correct?

19 A Yes, it did

20 Q If I look at your well-proposal letter, which
21 is Exhibit Number 2 on the first page, does it identify
22 for the Examiner overhead rates for both drilling --
23 monthly overhead rates for both drilling and while
24 producing for this particular well?

25 A Yes, it does

1 Q What are those numbers?

2 A 7,000 while drilling and 700 while producing

3 Q And are these overhead rates consistent with
4 what other operators in this area are charging for
5 similar Wolfcamp wells?

6 A Yes, they are

7 Q Now, if I turn to what's been marked as BC
8 Exhibit Number 4, this is a multipage exhibit Does it
9 identify the interest owners that were involved in this
10 particular well?

11 A It does

12 Q There are quite a few of them, right?

13 A Yes, there are

14 Q And it shows their interest in the consolidated
15 480-acre spacing unit?

16 A Yes, it does

17 Q All right Now, you have done some shading
18 here and also some italics with some of the names What
19 is the significance of the dark shading on these names?

20 A The entities involved are entities that I
21 haven't cut a deal with yet

22 Q Okay So are these the companies -- the
23 companies that are bolded, are they the companies that
24 remain to be pooled?

25 A Yes

1 Q Okay And then you've also identified some
2 interest owners with italics What's the significance
3 on the italics?

4 A Those are entities I could not locate

5 Q Okay All right One of the things I notice
6 as I go through here, I don't see BC Operating listed as
7 a working interest owner Why is that?

8 A BC Operating is the operating owner for Crown,
9 Crump and Nadel and Gussman

10 Q Okay So if I look at the first page of
11 Exhibit Number 4, I see three entities listed there with
12 their significant interests?

13 A Yes

14 Q And BC Operating is the operating arm for those
15 three entities?

16 A Yes

17 Q All right Now, with respect to the
18 companies -- or the interest owners you were unable to
19 locate who are shown in italics, what efforts did the
20 company undertake to locate these interest owners?

21 A We ran the names in every indices in the
22 courthouse We exhausted every Internet site that we
23 could I also spoke with other interest owners to see
24 if they knew who they were or could help me locate them

25 Q Okay And if I then turn to what's been marked

1 as BC Exhibit Number 5, is this notice of publication in
2 the newspaper directed by name --

3 A Yes

4 Q -- to the interest owners, including those that
5 you were unable to locate?

6 A Yes

7 Q All right Now, with respect to the remaining
8 interest owners that you were able to locate and that
9 remain to be pooled -- first off, are there overriding
10 royalty interest owners that you feel the need to pool?

11 A Yes

12 Q And is that because their instrument does not
13 clearly authorize the company to pool the interests?

14 A Yes

15 Q Now, are those interest owners -- overriding
16 royalty interest owners listed on here in some fashion
17 on Exhibit Number 4?

18 A They are

19 Q If I look at the last two pages, is that the
20 significance of the ORRI to the right of their interest?

21 A Yes, it is

22 Q If I turn to what's been marked as BC Exhibit
23 Number 6, is this the type of instrument that you sent
24 to these overriding royalty interest owners in an effort
25 to reach an agreement that would allow you to

1 voluntarily bring their interest into a pooled spacing
2 unit?

3 A Yes, it is

4 Q Okay Are you in the process of hopefully
5 obtaining signatures in return of these documents?

6 A Yes, I am

7 Q And once those are returned, there will be no
8 reason to force pool them under a pooling order,
9 correct?

10 A Correct

11 Q Now, with respect to the working interest
12 owners that you seek to pool, what -- generally, what
13 efforts did you undertake to reach an agreement with
14 these interest owners that you were able to locate?

15 A I offered them participation in the well for
16 their working interest I offered to buy them out if
17 they wanted to do that

18 Q Okay Were you able to contact most of these
19 parties and follow up with emails and telephone calls --

20 A I was

21 Q -- if you had an email address or a telephone
22 call -- telephone number, I should say?

23 A Yes Yes

24 Q And have you -- are you in the process --
25 you've reached an agreement with a number of them,

1 correct?

2 A I did

3 Q And are you in the process of reaching an
4 agreement with those owners?

5 A Yes, I am

6 Q What's the status? And I mean just generally

7 A I have the assignments written up, and
8 they're in -- they're with the working interest owners
9 to review and decide, you know, and sign off on them and
10 send them back to me

11 Q Okay Are there some interest owners that you
12 contacted that have indicated whether or not they're
13 going to participate?

14 A Yes

15 Q What have they told you? Have they said -- for
16 example, are there some interest owners that have said
17 they're just not going to participate in the well?

18 A Yes There are a few that said that

19 Q Okay Are there other interest owners that
20 have stated that they'll wait and see the results of the
21 pooling hearing?

22 A Yes

23 Q Okay

24 MR FELDEWERT Could I have one minute?

25 EXAMINER GOETZE Very good

1 (Pause in proceedings, 8 44 a m to 8 45
2 a m)

3 MR FELDEWERT I had a series of exhibits
4 dealing with one of Mr Bruce's clients Given our
5 discussion here, I think we can skip through those
6 exhibits

7 EXAMINER GOETZE Okay

8 Q (BY MR FELDEWERT) So, Mr Gianfala, let's then
9 turn to what's been marked as BC Exhibit Number 11
10 Does this then contain an affidavit prepared by my
11 office with attached letters providing notice of the
12 hearing to the affected parties?

13 A Yes

14 Q Okay And did the notice list that you
15 provided to our firm include the parties affected by the
16 creation of the nonstandard spacing unit in the
17 southeast quarter of Section 25?

18 A Yes

19 Q As well as the parties that you seek to pool,
20 correct?

21 A Uh-huh

22 Q And were BC Operating Exhibits 1 through 6
23 prepared by you or compiled under your direction and
24 supervision?

25 A Yes, they were

1 MR FELDEWERT Mr Examiner, I'd move the
2 admission into evidence of BC Operating Exhibits 1
3 through 6, as well as Exhibit 11, which is the notice
4 affidavit

5 EXAMINER GOETZE Mr Bruce?

6 MR BRUCE No objection

7 EXAMINER GOETZE Mr Carr?

8 MR CARR No objection

9 EXAMINER GOETZE Exhibits 1 through 6,
10 plus Exhibit 11 are so entered into the record

11 (BC Operating, Inc Exhibit Numbers 1
12 through 6 and 11 are offered and admitted
13 into evidence)

14 MR FELDEWERT That concludes my
15 examination of this witness

16 EXAMINER GOETZE Mr Bruce?

17 CROSS-EXAMINATION

18 BY MR BRUCE

19 Q Mr Gianfala, you said you made offers to
20 certain working interest owners Does that include
21 Primero and some of the other parties I named as I was
22 entering an appearance, to purchase their interest?

23 A I did make offers to the people that I got in
24 contact with, yeah

25 Q Yeah And has Primero preliminarily indicated

1 that the offer was sufficient?

2 A No

3 Q Okay And I can have my witness, when he gets
4 here, address that issue

5 One thing, Mr Gianfala You have proposed
6 a JOA to Murchison and the other parties, correct?

7 A Yes

8 Q And you know that the south half of Section 25
9 is part of a separate working interest unit under a JOA,
10 correct?

11 A Can you repeat that?

12 Q Is the south half of 25 under a separate JOA
13 than the one you proposed?

14 A Yes, it is

15 Q And it covers the south half of Section 25 at
16 additional acreage, is that correct?

17 A It does

18 Q And it's often referred to as a working
19 interest unit?

20 A Yes

21 Q Does the JOA that you have proposed for your
22 480-acre well unit state that it replaces or supersedes
23 the existing JOA?

24 A Yes

25 Q Now, if somebody only owns a contractual

1 working interest in the southeast quarter of Section 25
2 and that old JOA is superseded, wouldn't their interest
3 disappear?

4 A No

5 Q Would you be -- would BC be willing to put in
6 some clarifying language so that if the parties sign it,
7 Murchison's interest does not disappear?

8 A Yes, definitely

9 Q And is all of the acreage in the well unit
10 state acreage?

11 A Can you repeat that question?

12 Q Is all of the acreage in the proposed well unit
13 state acreage?

14 A State acreage? Yes

15 Q Okay So getting an APD issued won't take very
16 long, is that correct?

17 A It shouldn't

18 Q And let's just get to the west half of this
19 acreage You said that BC has staked two locations in
20 the west half 480 acres -- the west 480 acres?

21 A Yes

22 Q And does BC or its working interest partner --
23 not BC, but do its working interest partners own
24 interest in the west half or west 480 acres?

25 A Can you repeat that?

1 Q In the west 480 acres, does Nadel and Gussman
2 or other BC's working interest partners, do they own a
3 working interests in the --

4 A Yes, they do

5 Q So they have the right to propose a well?

6 A Yes

7 MR BRUCE That's all I have,

8 Mr Examiner

9 EXAMINER GOETZE Thank you very much

10 Mr Carr?

11 MR CARR No questions

12 EXAMINER BROOKS No questions

13 CROSS-EXAMINATION

14 BY EXAMINER GOETZE

15 Q In your best estimate, what is the amount of
16 acreage in your project area that's uncommitted at this
17 time, roughly?

18 A Hmm I would be guessing Maybe 20 acres --
19 20 net acres Maybe a little bit more than that
20 probably I'm not sure

21 Q And percentagewise we're not looking at a large
22 interest that's still outstanding as far as commitment?

23 A No, sir

24 Q And who prepared the JOA?

25 A I did

1 Q Okay What is the primary reason for the
2 reduction in the cost? Was there a significant change
3 from when originally proposed to the time you went out
4 with the second AFE?

5 A The completion procedures is different -- it's
6 going to be different, and that reduced the cost

7 Q Okay Very good

8 EXAMINER GOETZE You don't have any
9 redirect, do you?

10 MR FELDEWERT No, sir

11 EXAMINER GOETZE We're done with this
12 witness

13 Thank you

14 MR FELDEWERT Okay Call our next
15 witness

16 MIKE MOYLETT,

17 after having been previously sworn under oath, was
18 questioned and testified as follows

19 DIRECT EXAMINATION

20 BY MR FELDEWERT

21 Q Please state your name, identify by whom you're
22 employed and in what capacity

23 A My name is Mike Moylett I'm a vice president
24 of geosciences for BC Operating, Incorporated

25 Q And how long have you been with BC Operating?

1 A Five years

2 Q Mr Moylett, have you previously testified
3 before this Division as an expert in petroleum geology?

4 A Yes, I have

5 Q Are you familiar with the application filed in
6 this case?

7 A Yes, I am

8 Q And have you conducted a geologic study of the
9 lands that are the subject of this hearing?

10 A Yes, I have

11 Q Would you identify in more detail the target of
12 the proposed well?

13 A The target is the Upper Wolfcamp Formation
14 approximately 100 feet below the contact between the
15 base of the 3rd Bone Spring Sand and the top of the
16 Upper Wolfcamp We're targeting the same bench that the
17 Matador Paul well is in in the north half-north half of
18 Section 25

19 Q Thank you

20 And so the target, essentially, is the
21 sandy zone, is that right?

22 A Yes, it is

23 Q And does this targeted interval extend across
24 the acreage that's at issue?

25 A Yes, it does

1 EXAMINER GOETZE Before we go any farther,
2 do you want to qualify your witness?

3 MR FELDEWERT Yes I might do that
4 (Laughter)

5 EXAMINER GOETZE Well, I didn't know how
6 far I thought he was going to give us a little more of
7 a tour guide and then get into the --

8 MR FELDEWERT Uh-huh Thank you
9 I will tender Mr Moylett once again as an
10 expert witness in petroleum geology

11 EXAMINER GOETZE Mr Bruce?

12 MR BRUCE No objection

13 MR CARR No objection

14 EXAMINER GOETZE Welcome back

15 And proceed

16 MR FELDEWERT Thank you

17 Q (BY MR FELDEWERT) Have you examined the
18 structure of this particular subject area?

19 A Yes, I have

20 Q And if I turn to what's been marked as BC
21 Exhibit Number 12, is that the structure map that you
22 put together for this hearing?

23 A Yes It is a structure map, top of the
24 Wolfcamp Formation

25 Q Would you identify first -- orient us towards

1 the area -- the acreage that --

2 A I've highlighted in yellow In the southeast
3 quarter of Section 25 and the east half of Section 36,
4 24 South, 28 East is the acreage of the Southern Comfort
5 where we're proposing to drill

6 Q Okay Now, I see you mention the Matador well
7 in the north half-north half That is shown on here in
8 green, is that right?

9 A Yes This is a structure map that's contoured
10 on a one-inch as you go 100 feet It shows
11 approximately a 100 degree dip per mile Updip is to
12 the west, which would be to the left on this map
13 Downtip is to the right, which would be east So it
14 shows that regional dip of the area about one degree per
15 mile And what I've highlighted in green with the
16 sticks are the horizontal Wolfcamp wells producing on
17 this map And the Matador Paul well that we've been
18 talking about is in the north half-north half of Section
19 25, of 24 South, 28 East

20 Q Okay And you mention that that's the same
21 bench you are targeting with this proposed well,
22 correct?

23 A Yes, it is

24 Q Now, there is a mixture, I see, of stand-up and
25 lay-down wells in the Wolfcamp Formation in this area,

1 right?

2 A That's generally land driven by the acreage
3 position up in there The principal stress direction
4 out here is approximately north 30 to north 40 degrees
5 east So it does not really lend itself to drill
6 east-west or north-south to encounter, you know, the
7 major principal stress directions out in there

8 Q So in your expert opinion, does the orientation
9 of the wells to be stand-up or lay-down have an impact
10 on the ability of the well to efficiently drill the
11 acreage?

12 A No, they do not

13 On this map, I haven't identified the
14 Concho wells, but they have north-south, east-west
15 wells Matador has north-south, east-west wells
16 Another big driller out here, Mewbourne Oil & Gas
17 Company, has north-south, east-west wells

18 Q And based on your study, do you see any
19 structural -- any structural impediments to the
20 development of the Wolfcamp using horizontal wells in
21 this subject area?

22 A No What I hope to demonstrate on the
23 structure map is that it's basically a regional dip
24 We'll be drilling fairly -- pretty much on strike from
25 north to south We won't encounter any faults or

1 geologic impediments as we drill this well

2 Q Okay All right Now, did you also then
3 create a cross section of this area for the Wolfcamp
4 Formation?

5 A Yes I created two cross sections, a
6 north-south cross section following predominantly the
7 strike direction, then an east-west cross section going
8 across the dip

9 Q All right Let's turn to what is marked as BC
10 Exhibit Number 13 And is this your north-south cross
11 section?

12 A Yes, it is, but more to the left, as indicated
13 in the top of the cross section

14 Q And if I take a look first at the inset on the
15 right-hand side of this exhibit, does that identify for
16 the Examiners the wells that were utilized to create the
17 cross section?

18 A That is correct That is a line of cross
19 section It's a four-well cross section from north to
20 south using the wells on the acreage or adjacent --
21 immediately adjacent to the acreage and also using a
22 modern suite of logs The two wells -- modern suite of
23 logs and an older electric log or sonic log

24 Q In your opinion, are the wells that you've
25 chosen representative of this particular area?

1 A Yes, it is

2 Q Turning then to your cross-section study here,
3 have you identified for the Examiners the Wolfcamp
4 Formation?

5 A Yes The datum -- this is a stratigraphic
6 cross section, the datum on top of the Wolfcamp
7 Formation and the base of the 3rd Bone Spring Sand And
8 what I've shown is the target interval that our proposed
9 well will be encountering And on the cross section
10 from left to right, on Tract 1 is a gamma-ray log It's
11 an API from 0 to 100 units, and the highlighted over 50
12 ohms, some of carbonates in here If you notice in the
13 target interval, we don't have any of the blue shades in
14 there, so we're targeting sand Tract 2, to the right
15 of the depth track, is a neutron density-porosity log
16 scaled from minus 10 porosity units to 30 porosity
17 units, porosity increasing to the left And I've
18 highlighted over 8 percent of density porosity in the
19 targeted interval

20 And Tract 3 is a resistivity log And I
21 highlighted resistivities less than 100 ohmmeters, and
22 the resistivity decreases from right to left And
23 that's the correlation interval that we looked at And
24 what I have shown or tried to -- or am demonstrating on
25 this cross section is that bottom resistivity package is

1 the sand that we will be targeting in our Southern
2 Comfort well, which is the same sand or bench that the
3 Matador Paul 221 well targeted And with these 3,000
4 pound-per-foot fracs and 30 barrel-per-foot fluid
5 completions up there, you will be able to actually
6 produce that bench right above you There is no
7 barriers there So --

8 Q Now, did you then also create a similar cross
9 section running east-west?

10 A Yes, I have

11 Q Has that been marked as BC Exhibit Number 14?

12 A Yes

13 Q And, again, have you identified, in the bottom,
14 right-hand corner of that exhibit, the wells utilized to
15 create your cross section?

16 A Yes

17 Q And those wells, in your opinion, are
18 representative of the area?

19 A Yes

20 Q And do you show similar results on this -- on
21 Exhibit 14 as you saw in Exhibit --

22 A Yes It has the same cutoff that I've already
23 mentioned on the north-south cross section for the gamma
24 ray and the porosity and the resistivity logs The
25 tie-in well on the north-south cross section with this

1 east-west cross section is the Primero Queen Lake 36
2 State Com And this east-west cross section also
3 identifies -- it covers approximately three miles the
4 homogeneous thickness of that sand retardant So it's
5 fairly similar in the east-west direction or the dip
6 direction and also the north-south direction

7 Q Do you see any depreciable difference in the
8 sand as you move across the subject area, whether it's
9 north-south or east-west?

10 A No, I do not

11 Q And do you expect that each of the tracts
12 comprising the proposed nonstandard spacing and
13 proration unit will contribute to the production of the
14 proposed well?

15 A Yes, I do

16 Q And in your opinion, is the granting of this
17 application in the best interest of conservation, the
18 prevention of waste and the protection of correlative
19 rights?

20 A Yes

21 Q Were BC Exhibits 12 through 14 prepared by you
22 or compiled under your direction and supervision?

23 A Yes

24 MR FELDEWERT Mr Examiner, I would move
25 admission into evidence BC Exhibits 12 through 14

1 EXAMINER GOETZE Mr Bruce? Mr Carr?

2 MR BRUCE No objection

3 MR CARR No objection

4 EXAMINER GOETZE Exhibits 12 through 14

5 are so entered

6 (BC Operating, Inc Exhibit Numbers 12

7 through 14 are offered and admitted into

8 evidence)

9 MR FELDEWERT That concludes my
10 examination of this witness

11 EXAMINER GOETZE Mr Bruce?

12 CROSS-EXAMINATION

13 BY MR BRUCE

14 Q On your Exhibit 12, how many -- I think you
15 said the Paul well in the north half of 25 is the Upper
16 Wolfcamp, correct?

17 A Yes

18 Q How many other Upper Wolfcamp wells are on
19 this?

20 A Well, it depends on what you'd call the Upper
21 Wolfcamp It's called different names We're calling
22 this, with Matador, the X-Y Sand

23 Q And I was just going to ask you to use that
24 terminology

25 A To the east in Section 31 is an XTO Golden

1 Child, and that's a sand below the X-Y To the -- in
2 Section 30 of 24-29, about 1,000 -- 800 to 1,000 feet
3 below the top of the Wolfcamp is a Wolfcamp B bench
4 There are numerous benches out here targeting the
5 Wolfcamp in this immediate vicinity And that's why you
6 will see, in 24 South, 28 East, for example, in Sections
7 13 and 14, the six horizontal wells in the south half of
8 those two sections targeting different benches that are
9 productive in this vicinity

10 Q Okay But on this plat, about how many are the
11 X-Y zone?

12 A On this plat?

13 Q Yeah

14 A Well, the one in Section 25 would be X-Y 13
15 and 14 has some X-Ys in 24-28 Section 10 is an X-Y
16 Section 5 is X-Y The majority of the wells out here --
17 and I have a list of all the Matador wells Two-thirds
18 of them are targeting the X-Y and about a third for the
19 B To the south in 25-28, Matador has targeted --
20 Mewbourne some B2 wells And in Section 25-29, that
21 two-mile lateral, Concho drilled the Admiral Fed, has
22 targeted the sand right below the X-Y, which they call
23 Upper Wolfcamp Some people call it A, some call it
24 upper There is no industry standard for naming these
25 different zones

1 Q Correct Correct

2 Are there any mile-and-a-half X-Y wells on
3 this map?

4 A On this map, there are not, but right off this
5 map, there are mile-and-a-half X-Y wells Up in 23-27,
6 immediately northwest of this map, Mewbourne has drilled
7 mile-and-a-half wells in the X-Y We're -- we're --
8 we're in the process of completing a well in 23-26
9 called the Red Light well That's a mile-and-a-half
10 well, X-Y sand

11 MR BRUCE That's all I have,
12 Mr Examiner

13 EXAMINER GOETZE Very good
14 Now Mr Carr

15 MR CARR No questions

16 EXAMINER GOETZE Mr Brooks?

17 EXAMINER BROOKS No questions

18 CROSS-EXAMINATION

19 BY EXAMINER BROOKS

20 Q Well, I do have one question It doesn't have
21 anything to do with the case (laughter)

22 What's the difference between a geologist
23 and a geoscientist?

24 A I don't see any difference Some people --
25 there is no difference, just how they print it on my --

1 Q I've heard the term "geoscientist" used
2 extensively recently, and I wasn't sure if it meant some
3 kind -- if it meant just simply what we've always called
4 a geologist --

5 A No There is -- there is no change in pay
6 grade versus a geologist or a geoscientist on the card,
7 at least that I'm aware of

8 Q Thank you

9 EXAMINER GOETZE Well, Mr Brooks,
10 geologists choose their colors more definitely

11 THE WITNESS They do, yeah

12 EXAMINER BROOKS I'm told that the
13 principal qualifications to be a geologist is to be able
14 to draw pretty pictures

15 THE WITNESS I was going to call myself a
16 geologist, but the card I handed you said "Geosciences"
17 on it, so I made sure it was apples and apples

18 CROSS-EXAMINATION

19 BY EXAMINER GOETZE

20 Q Okay Your target interval, do you have any
21 concept on the existing permeability-porosity
22 relationship there as far as -- I see in the logs --

23 A The porosity varies from 8 to 12 percent
24 density porosity

25 The permeability, you have to -- you have

1 different age logs here, but you try to get a gauge for
2 it We don't have any sidewall cores or any cores up in
3 there, separation on the resistivity logs These sands
4 are low-resistivity sands The permeability in the
5 Wolfcamp sands are a little lower than the Upper 3rd
6 Bone Spring And that would be evidenced by that
7 Primero Queen Lake well where the separation between the
8 curves on the resistivity log showed a little more
9 separation

10 But the drilling of the X sand that we
11 encountered in the 3rd Bone Spring Sand, it's very, very
12 similar It's very easy rock to drill versus some of
13 the Lower Wolfcamp where we start getting into the
14 shales and the laminated carbonates And these wells,
15 they act like a 3rd Bone Spring Sand as far as the GORs
16 are similar The gravities are similar The treating
17 pressures are similar

18 Q You mention the Matador well to the north
19 Have they shared information with you, or is this
20 something that you just --

21 A It's public information

22 Q And how successful was that well?

23 A Oh, the Paul well, that's the best well in this
24 area We haven't showed them as exhibits, but I have
25 decline curves on that Paul well, and it's one of the

1 better X-Y wells And that was 3,000 pounds-per-sand
2 frac, cemented liner, 40 gallons of fluid per foot
3 Some of the other operators are ramping up to that
4 number

5 Q Do you feel that what you've seen in the east
6 half of 36 and 25 is also going to be duplicated in the
7 west half?

8 A Yes That should be borne out by the east-west
9 cross section where it's a three-mile cross section, and
10 it's similar-looking sand

11 Q Very good

12 EXAMINER GOETZE I have no more questions
13 for this witness

14 MR FELDEWERT I have no further
15 questions That concludes our presentation

16 EXAMINER GOETZE Mr Bruce?

17 MR BRUCE (Indicating)

18 EXAMINER GOETZE We're done with you
19 Thank you very much

20 MR BRUCE I'm going to put up a witness
21 for Primero to clarify something, but if we can take a
22 five-minute recess so I can talk to my witnesses and
23 speed things up

24 EXAMINER GOETZE All right Give you ten
25 minutes

1 (Recess 9 10 a m to 9 23 a m)

2 EXAMINER GOETZE Okay Ladies and
3 gentlemen, we're back in session, again

4 At this point I believe, Mr Bruce, you
5 have the floor

6 MR BRUCE My first witness will be Jim
7 Schultz, who is appearing on behalf of Primero Operating
8 and some other entities He needs to be sworn in

9 EXAMINER GOETZE Yes We'd like to go
10 ahead and find out what he does for a living

11 MR BRUCE And then I will also present
12 the landman

13 EXAMINER GOETZE Okay So if the two
14 witnesses for this application -- part of the
15 application would please stand, identify yourselves and
16 be sworn in

17 MR SCHULTZ My name is Jim Schultz,
18 S-C-H-U-L-T-Z

19 MR BUDDENBOHN Eric Buddenbohn,
20 B-U-D-D-E-N-B-O-H-N

21 (Mr Schultz and Mr Buddenbohn sworn)

22 JIM SCHULTZ,
23 after having been first duly sworn under oath, was
24 questioned and testified as follows

25 EXAMINER GOETZE Mr Bruce

DIRECT EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR BRUCE

Q Please state your name for the record

A Jim Schultz

Q And where do you reside?

A Roswell, New Mexico

Q What is your occupation?

A I'm an independent petroleum landman

Q And in this case, are you working on behalf of
Primerio Operating and some other working interest owners
in the proposed well unit?

A Yes

Q Have you previously testified before the
Division?

A Yes

Q And were your credentials as an expert
petroleum landman accepted as a matter of record?

A Yes

Q And are you familiar with the land matters
involved in this well unit?

A Yes

MR BRUCE Mr Examiner, I tender
Mr Schultz as an expert in petroleum land matters

EXAMINER GOETZE Mr Feldewert?

MR FELDEWERT No objection

1 EXAMINER GOETZE Mr Carr?

2 MR CARR No objection

3 EXAMINER GOETZE He is so qualified

4 Q (BY MR BRUCE) Mr Schultz, following the
5 proposal from BC Operating of this well, have you been
6 in contact with BC and Primero Operating and a number of
7 other working interest owners regarding the drilling of
8 the well either participating or having an interest in
9 purchase?

10 A Yes, I have

11 Q And what happened within the last 24 hours?

12 A I believe we've had an oil agreement with BC to
13 farm out our interest to them

14 Q And it was reached under -- although it's not
15 reduced to writing, there were mutually agreeable terms?

16 A Yes

17 Q And so at this point, I mean, Primero, et al
18 would like to see the well drilled?

19 A Yes, they would

20 MR BRUCE So there was a little -- I just
21 wanted to clear up the fact that agreements have been
22 reached with certain parties, Mr Examiner, since
23 Mr Gianfala was uncertain of that point

24 Q (BY MR BRUCE) Are there some title issues in
25 the Section 36 acreage?

1 A Yes, there are

2 Q Due to unwritten agreements, et cetera, and how
3 they've been interpreted?

4 A Yes There's been contractual obligations and
5 rights that were not actually put of record They're
6 referenced in the assignments and stuff But yeah, they
7 have created ambiguities in title which do need to be
8 settled

9 Q And are you and Primero willing to work with BC
10 to help clarify these title matters?

11 A Yes It would be in our best interest to work
12 with them

13 Q Thank you

14 MR BRUCE That's all I have,
15 Mr Examiner

16 EXAMINER BROOKS Well, I guess --

17 EXAMINER GOETZE Let's ask Mr Feldewert
18 if he has any questions

19 EXAMINER BROOKS Yeah That's what is
20 going to happen next

21 MR FELDEWERT No

22 EXAMINER GOETZE Mr Carr?

23 MR CARR No questions

24 EXAMINER GOETZE Mr Brooks?

25 EXAMINER BROOKS I do have questions

CROSS-EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY EXAMINER BROOKS

Q Since you mentioned ambiguities in title, are there any people that you know of who have interests that are apparent from instruments of record who are not included and not listed in this -- what was the exhibit number for the title for the owners -- list of owners? I'm trying to find it here

MR FELDEWERT 4

EXAMINER GOETZE Exhibit 4, yes

Q (BY EXAMINER BROOKS) Are there any people who have interests that are apparent from recorded interests, whether valid or not, that are listed -- that are not listed in Exhibit 4?

MR FELDEWERT Mr Brooks, while he's looking, I will offer one thing for the record My understanding is that Crown Oil, Crump Energy and Nadel and Gussman have reached an agreement with the interest owners --

EXAMINER BROOKS Yes, sir

MR FELDEWERT -- and that would absorb their interest and, therefore, would not appear on this list

EXAMINER BROOKS Okay That may resolve the matter I'm not sure because when I have indefinite

1 testimony that there are titles -- that there are title
2 issues in this unit, then I don't know what that shows
3 in terms of the record I don't need to know in detail
4 I just need to know if there are any parties whose
5 interests are apparent of record who, in fact -- well,
6 now, if they have -- if they have acquired the interests
7 of any such parties, then, of course, those parties no
8 longer have interests It becomes a moot point But
9 I'm trying to ascertain if there is anyone -- if there
10 is any possible defect of notice

11 THE WITNESS Yes, sir There are other
12 parties that may own an interest that were originally of
13 record, probably around four to six parties

14 Q (BY EXAMINER BROOKS) And have the parties that
15 have made a deal with -- with the operator -- according
16 to the testimony, have they acquired the interest of
17 those parties that --

18 A That, I don't know I don't think so

19 Q Okay Well, under this -- and those interests
20 that you're speaking of are of record? I mean, there is
21 an instrument of record?

22 A There are some instruments which give them at
23 least some sort of claim to an interest I think it
24 would have to be either a stipulation of interest or
25 maybe a quiet title suit to settle the issue But,

1 again, we have talked with BC about some of these
2 issues, that we may be able to put together a type of
3 assignment which would include that interest also, that
4 if, in the foreseeable future, title is altered or could
5 be proved up to 100 percent to where these parties may
6 have been included in our oral agreement and have the
7 matter settled

8 EXAMINER BROOKS Well, does anybody else
9 want to ask any questions following up on mine?

10 MR BRUCE Just a comment, Mr Examiner
11 I think the parties are trying to work together to make
12 sure everybody's tied up one way or the other And, of
13 course, if there are people who might have interests and
14 proven up in the future either by voluntary agreement or
15 by a subsequent hearing, they could be force pooled
16 But, obviously, you know, I don't think they all need to
17 be noticed in this case

18 EXAMINER BROOKS Well, I'm unclear on that
19 because the rule requires notice to everybody who has an
20 interest that is evidenced by a recorded instrument
21 And, of course, if there is a recorded instrument that
22 evidences title in A and then there is another recorded
23 instrument from A to B, then A no longer has title, and
24 they still -- that's one of the problems with the way
25 the rule is stated, because A still has an interest

1 shown by an interest of record, but not -- it's not an
2 instrument apparently from title, which is what I think
3 they meant to say

4 I'm going to suggest that we continue this
5 case for four weeks to give us an opportunity to either
6 resolve this matter or correct any defects in notice

7 MR FELDEWERT Mr Examiner, may I comment
8 on a couple of things?

9 EXAMINER BROOKS You may

10 MR FELDEWERT Number one, as you can
11 imagine, we had a four-page list of interest owners --

12 EXAMINER BROOKS Right

13 MR FELDEWERT -- some of which have a
14 very small percentage of interest

15 EXAMINER BROOKS Right

16 MR FELDEWERT Now -- and I can have a
17 witness come to the stand if you want But I can tell
18 you, for example, there are companies like Mark
19 [phonetic] Oil, okay, that have acquired within the last
20 couple of weeks the interests of seven other parties
21 Okay? You're going to have a lot of deals like that
22 going on When that instrument hits the record, I don't
23 know But clearly they have -- they acquired of an
24 interest of a party who, depending upon when you look at
25 the -- at the interest owner of record, okay --

1 EXAMINER BROOKS Yeah

2 MR FELDEWERT -- they may show up -- you
3 may have looked at them in December, and then they show
4 up as an interest of record But by the time they get
5 to hearing, their interest has been acquired by another
6 party, so they are, therefore, no longer --

7 EXAMINER BROOKS Have an interest in
8 the -- they're not entitled to notice

9 MR FELDEWERT Exactly

10 EXAMINER BROOKS If your client, as the
11 applicant, knows of an instrument -- of an instrument
12 that takes that interest out of the parties of record,
13 then I think it's no longer --

14 MR FELDEWERT So one thing Mr Gianfala's
15 been doing here in trying to get ready for this hearing
16 is to keep track of all those transactions, okay, and to
17 give you an accurate list of parties that need to be
18 pooled after having noticed the parties that were of
19 record at the time we filed the application Okay?

20 Number one

21 Number two, we gave -- we provided an
22 Affidavit of Publication --

23 EXAMINER BROOKS Right

24 MR FELDEWERT -- that named the interest
25 owners that were of record at the time that the

1 application was filed and the publication was made
2 Okay? I'm sure there have been transactions since that
3 time

4 EXAMINER BROOKS Well, I believe that
5 the -- if I recall right -- I don't have the rule book
6 here and my recollection needs to be refreshed -- it
7 refers to the time -- the rule refers to the time of the
8 application

9 MR FELDEWERT Yes Yes So my point is
10 I don't know what we gain by sitting here for another
11 four weeks and delaying this project This project's
12 already been delayed, as you know, by the continuances
13 90 days This was first proposed back in -- give me a
14 minute -- back in November I'm a little off, 60 days
15 Okay? So we've already had a substantial delay in
16 moving this well forward We're trying to get this well
17 drilled Notice has been provided to the interest
18 owners of record as has been testified to, and there is
19 no evidence that -- any record that there are parties
20 who own an interest that have not been notified So I
21 don't know why we would be delaying for four weeks

22 EXAMINER BROOKS Well, I thought this
23 witness' testimony was contrary to that, that there was
24 evidence in the record that parties owning -- that's the
25 reason I raised it I thought that the present witness'

1 testimony was that there is evidence of notice -- of
2 people who own -- his testimony constitutes evidence
3 that people own interests of record that are not listed
4 in this exhibit Now, maybe they don't, and that should
5 be shown, but that seems to me to be the state of the
6 evidence at this point

7 MR FELDEWERT Well, may I cross-examine
8 the witness

9 EXAMINER BROOKS You may

10 CROSS-EXAMINATION

11 BY MR FELDEWERT

12 Q Mr Schultz, when did you conduct any type of
13 review to ascertain who is an interest owner of record
14 in this 480-acre spacing unit? How long ago was that
15 analysis done?

16 A Probably end of November, first of December

17 Q So it would be over 60 to 30 days old?

18 A Yes

19 Q Does it take into account the transactions that
20 have occurred since that time?

21 A No

22 Q Okay And can you identify any particular
23 interest owner today that you know has an interest in
24 this acreage that has not been noticed?

25 A Well, let me preface this by I have seen the

1 title opinions prepared by BC, Brian Street [phonetic]
2 And after examining those, I have questions as to why
3 some of the potential owners were admitted and
4 showing -- owning no interest in these particular zones

5 Also, I talked to one particular lady Her
6 name is Billie Michaud And she and her husband have a
7 company called Geo-Finance Nadel and Gussman purchased
8 their interest and originally had informed her that she
9 owned 57 net mineral acres But when they went to pay
10 her, they paid her for 35 net mineral acres And based
11 on my calculations, what I thought she owned at that
12 time, she probably had the 57 net acres Now, the
13 language was changed in the assignment to include all
14 contractual rights and various things But they said
15 that they really didn't think she owned more than 35 net
16 acres But yet when I looked at the BC title opinion,
17 Nadel and Gussman was owning somewhere around 49
18 percent, and I don't know how they get to that 49
19 percent I still do not understand that Okay?

20 And I go right back to where I was I
21 think there needs to be probably a quiet title suit as
22 to at least the northeast quarter tract of land, maybe
23 even the southeast -- well, take that back -- including
24 the southeast quarter

25 There's just -- I know quite a few of these

1 people personally who have working interests in there,
2 and it was their understanding that they owned not just
3 shallow rights, which I'm talking about, from surface
4 down to the base of the Delaware, but they also own
5 below the base of the Delaware, and they're not shown
6 any interest in the BC title opinion

7 EXAMINER BROOKS Well, the question that I
8 asked and the question that matters for this purpose is
9 whether or not they own the title that was apparent of
10 record and refers to the specific date that this
11 application was filed So I don't know when this
12 application was filed

13 MR BRUCE November 1

14 EXAMINER BROOKS November 1? Okay

15 I think the best thing to do is to continue
16 the case and allow -- allow the parties some time to
17 straighten this matter out or at least figure out who
18 the parties are and be sure everyone's been notified
19 That will obviate us having to go through another one of
20 these proceedings where we amend a compulsory pooling
21 order due to discovery of additional parties I'm
22 trying to get away from that if possible It's not
23 always going to be possible

24 If the parties think that by conferring
25 some more this morning that we could get this evidence

1 cleared up, well, I would say we can take a recess, but
2 I don't know if that's going to be possible because
3 complicated titles usually don't get sorted out that
4 quickly

5 MR FELDEWERT Mr Brooks, I'm trying to
6 figure out exactly what you want I mean, he's
7 testified that there may be need to be a quiet title
8 suit I would hope that the pooling order is not going
9 to be held up by a quiet title suit

10 EXAMINER BROOKS Absolutely not, because
11 we don't have to determine who actually has title or who
12 has apparent title of record or had such on November 1st
13 of 2016

14 MR FELDEWERT And I'm trying to figure
15 out if you delay this for four weeks, what do you expect
16 to occur in terms of additional notice if we don't have
17 individuals identified that have not -- who someone
18 thinks may have title?

19 EXAMINER BROOKS Well, we can ask the
20 witness here to identify the people he has said are not
21 listed on that list, and that matter can be
22 investigated If they don't have title apparent of the
23 record or if they've divested it, there won't be any
24 necessity for any more proceedings We can then
25 thereafter -- or we could -- we could take this case

1 under advisement for two weeks because it's only -- we
2 only need four weeks if we discover additional parties
3 that need to be noticed We need four weeks if we
4 discover that because there wouldn't be time to notify
5 them within two weeks

6 MR FELDEWERT Okay Then let's at least
7 accomplish a list of parties Mr Schultz thinks have
8 title that didn't receive notice

9 EXAMINER BROOKS Okay Mr Schultz, can
10 you provide us with the names, either now or when you go
11 back to your office, with the names of the people that
12 you have said you think own interest in this unit and
13 are not included on BC's Exhibit 3 or whatever it is

14 What exhibit is it?

15 EXAMINER GOETZE Exhibit 4

16 EXAMINER BROOKS BC's Exhibit 4

17 THE WITNESS Yes In fact, I've already
18 prepared a comparison between what I think is owner and
19 what BC's title opinion shows So that should be real
20 easy to get you those names

21 Q (BY MR FELDEWERT) Do you have that here today?

22 A Yes, I do

23 Q Can you get that for us?

24 A I think we gave one to BC already

25 Q Have you done an examination of the difference

1 of your list and Exhibit Number 4?

2 A No I haven't seen Exhibit 4 until just now

3 MR BRUCE I can give you that list,

4 Mr Examiner

5 Q (BY MR FELDEWERT) All right So you can't
6 testify here today that there are people on your list
7 that are not on Exhibit Number 4?

8 A Are you saying I can't?

9 Q Yeah

10 A No I can

11 Q Okay Can you identify the individuals on your
12 list that are not on Exhibit Number 4?

13 A Yes

14 Q That's what I'm asking

15 A If I could use my list, I probably can I
16 won't have a chance to compare them, you know, make sure
17 I don't duplicate or something like that

18 EXAMINER BROOKS Well, maybe we should
19 take a recess for this purpose because this list is very
20 long, and comparing long lists is sometimes a tedious
21 process It can be done -- it's not a process that
22 takes days, but the process may take 30 minutes or so

23 MR FELDEWERT Well, I would like to have
24 an opportunity to understand who he thinks owns an
25 interest that is not on our list, and then perhaps we

1 can address those issues today, because I suspect a
2 number of them will have what the witness can testify
3 have been --

4 EXAMINER BROOKS And if we can address
5 those matters today, I think it would be in the interest
6 of justice to do so

7 MR FELDEWERT Great Thank you

8 EXAMINER BROOKS So let's take a 30-minute
9 recess

10 EXAMINER GOETZE Let's take a 30-minute
11 recess

12 (Recess 9 44 a m to 10 09 a m , Mr Carr
13 not present)

14 EXAMINER GOETZE We're back on the record
15 At this point Mr Bruce is the attorney
16 offering testimony and questioning I believe you also
17 presented an exhibit?

18 MR BRUCE Yes, that's right Although
19 it's not marked Primero Exhibit 1, I submitted Primero
20 Exhibit 1 to you

21 REDIRECT EXAMINATION

22 BY MR BRUCE

23 Q And, Mr Schultz, what is that exhibit?

24 A I can't read that

25 Q "E-X 1 "

1 A Exhibit 1 Okay

2 Q What is that exhibit?

3 A It is a comparison list between what the joint
4 interest billing debt from Primero shows and what the BC
5 title opinions show being ownership in the different
6 depths Just a comparison that I put together

7 Q And did you discuss with BC's landman some of
8 the differences between what you consider the interests
9 in the well unit and what BC's opinion shows?

10 A Yes Yes

11 Q And are you ready to testify about that to the
12 Examiner?

13 A Yes

14 Q Are there -- could you discuss any names that
15 you think -- persons who do own interest that might not
16 be a BC's list?

17 A After talking with BC, I believe that the
18 parties that I originally thought required notification,
19 they have acquired their interest subsequently to the
20 title opinion

21 EXAMINER BROOKS BC has? BC has acquired
22 their interest?

23 THE WITNESS Yes

24 EXAMINER BROOKS Okay Great

25 THE WITNESS So right now I don't see any

1 other names that would probably need notification of
2 this hearing -- prior notification of this hearing

3 EXAMINER BROOKS Okay That satisfies me
4 Do you have anything further,
5 Mr Feldewert?

6 MR FELDEWERT No, Mr Examiner

7 EXAMINER BROOKS Okay Mr Goetze

8 EXAMINER GOETZE At this point we are
9 missing one attorney, but I don't think Mr Carr would
10 have any issues

11 You have Exhibit 1 you wish to enter?

12 MR BRUCE Yeah Could we submit Exhibit
13 1 into the record?

14 EXAMINER GOETZE And who prepared this?

15 Q (BY MR BRUCE) Did you prepare this,
16 Mr Schultz?

17 A I did

18 EXAMINER GOETZE Mr Feldewert?

19 MR FELDEWERT No objection

20 EXAMINER GOETZE Primero Exhibit 1 is
21 entered into record

22 (Primero Operating, Inc Exhibit Number 1
23 is offered and admitted into evidence)

24 EXAMINER GOETZE I have no more questions
25 for you

1 You're done?

2 EXAMINER BROOKS I'm done

3 EXAMINER GOETZE Therefore, this witness
4 may stand down

5 And do you have a second witness?

6 MR BRUCE I do just very briefly, a
7 landman for Murchison Oil & Gas

8 EXAMINER BROOKS Has he been sworn?

9 EXAMINER GOETZE He's been sworn

10 ERIC BUDDENBOHN,

11 after having been previously sworn under oath, was
12 questioned and testified as follows

13 DIRECT EXAMINATION

14 BY MR BRUCE

15 Q Could you please state your name and city of
16 residence for the record?

17 A Eric Buddenbohn, Plano, Texas

18 Q Who do you work for and in what capacity?

19 A Murchison Oil & Gas, senior landman

20 Q Have you previously testified before the
21 Division?

22 A No, I have not

23 Q Could you summarize your educational and
24 employment background for the Examiners?

25 A Sure I have a bachelor's in business

1 administration from Texas Tech, energy commerce degree
2 I started work -- I graduated in 2010 I worked for
3 Axia Land Services, Chesapeake Energy, Texaco Resources,
4 a brief period as an independent landman, and then last
5 is Murchison Oil & Gas

6 Q And at Murchison, are you one of the land
7 people responsible for this area of southeast
8 New Mexico?

9 A Yes, sir, I am

10 Q Are you familiar with the land matters involved
11 in this application?

12 A Yes, sir

13 MR BRUCE Mr Examiner, I tender
14 Mr Buddenbohn as an expert in petroleum land matters

15 EXAMINER GOETZE Mr Feldewert?

16 MR FELDEWERT No objection

17 EXAMINER GOETZE He is so qualified

18 Q (BY MR BRUCE) Does Murchison own interest in
19 the proposed well unit?

20 A Yes, we do

21 Q Now, I've handed you what's marked Murchison
22 Exhibit 1 What is reflected in that?

23 A What we have here is -- with the green-dashed
24 line is the lands covered by the existing joint
25 operating agreement that includes the south half of

1 Section 25 In this joint operating agreement, in the
2 orange tracts, the designated operator is COG The
3 yellow tract, the designated operator is Murchison

4 Q So the southeast quarter -- what BC has
5 proposed is the southeast quarter of Section 25 and the
6 east half of Section 36 in the well unit, correct?

7 A Correct

8 Q Just in the abstract, does Murchison object to
9 a mile-and-a-half lateral?

10 A We do not

11 Q What is your main concern looking over at the
12 southwest quarter of Section 25?

13 A Our main concern is stranding the southwest
14 quarter -- our interest in the southwest quarter of
15 Section 25

16 Q Okay And have you had discussions with BC
17 about protecting that acreage?

18 A Yes, we have, several

19 Q And is it your understanding that BC is working
20 toward -- you've heard that they staked wells over in
21 the west 480 acres?

22 A Correct

23 Q And your concern is just getting that well
24 drilled in a timely fashion?

25 A That's correct

1 Q And as long as that occurs, then Murchison
2 doesn't have any objection to the forced pooling?

3 A Yes Correct

4 Q Okay Now, was Exhibit 1 prepared by you or
5 under your supervision?

6 A Yes, sir

7 MR BRUCE Mr Examiner, I tender
8 Exhibit -- Murchison Exhibit 1

9 EXAMINER GOETZE Mr Feldewert?

10 MR FELDEWERT No objection

11 EXAMINER GOETZE Murchison Exhibit Number
12 1 is so entered

13 (Murchison Oil & Gas, Inc Exhibit Number 1
14 is offered and admitted into evidence)

15 MR BRUCE And I have no further questions
16 for the witness

17 MR FELDEWERT I have no questions

18 EXAMINER GOETZE Mr Brooks?

19 EXAMINER BROOKS Well, I have no questions
20 for the witness

21 I guess I'm not sure where Mr Bruce is
22 going with this

23 MR BRUCE Well, I think if you looked at
24 the pre-hearing statement, Murchison was objecting --
25 originally objecting to the application because it

1 didn't want its southwest quarter of Section 25 acreage
2 stranded

3 EXAMINER BROOKS Now you're withdrawing
4 that objection?

5 MR BRUCE So long as BC moves forward --
6 Mr Gianfala had said BC is moving forward in drilling
7 that 480 acres Provided that happens --

8 EXAMINER BROOKS But we don't have the
9 power to issue additional orders

10 MR BRUCE We understand that

11 EXAMINER BROOKS We're prepared for --

12 MR BRUCE Which is why we entered our
13 appearance, to preserve our right We wanted you to
14 know what the situation was

15 EXAMINER BROOKS Okay Thank you

16 EXAMINER GOETZE Very well I have no
17 questions for this witness

18 And with that, Mr Feldewert?

19 MR FELDEWERT We ask this case be taken
20 under advisement

21 EXAMINER GOETZE And since notification
22 seems to have been satisfied, we will go ahead and take
23 this case under advisement

24 Thank you very much

25 (Case Number 15594 concludes, 10 16 a m) 15594
02/02/2017

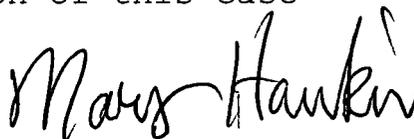
1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3
4 CERTIFICATE OF COURT REPORTER

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

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

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

20 

21 MARY C HANKINS, CCR
22 Certified Court Reporter
23 New Mexico CCR No 20
24 Date of CCR Expiration 12/31/2017
25 Paul Baca Professional Court Reporters