

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

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

Docket No.  
8-25

Case Nos. 24864, 24865, 24872,  
24873, 24874, 24943, 24982,  
25031, 25035, 25037, 25038,  
25054, 25091, 25102, 25103,  
25123, 25124, 25204, 25205,  
and 25165

## HEARING

DATE: Thursday, February 27, 2025

TIME: 8:58 a.m.

BEFORE: Hearing Examiner Gregory A. Chakalian

LOCATION: Remote Proceeding

Santa Fe, NM 87505

REPORTED BY: James Cogswell

JOB NO.: 6972973

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A P P E A R A N C E S

ON BEHALF OF THE OIL CONSERVATION DIVISION:

CHRISTY TREVINO, ESQUIRE (by videoconference)  
New Mexico Energy, Minerals and Natural Resources  
Department, Office of General Counsel (OCD)  
1220 South Street Francis Drive  
Santa Fe, NM 87505  
christy.trevino@emnrd.nm.gov  
(505) 709-5687

ON BEHALF OF OXY USA, INC., MATADOR PRODUCTION  
COMPANY, READ & STEVENS, PERMIAN RESOURCES, APACHE,  
AND MEWBOURNE:

PAULA M. VANCE, ESQUIRE (by videoconference)  
Holland & Hart LLP  
110 North Guadalupe Street, Suite 1  
Santa Fe, NM 87501  
pmvance@hollandhart.com  
(505) 988-4421

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF XTO ENERGY, INC. AND 3R OPERATING:

MIGUEL A. SUAZO, ESQUIRE (by videoconference)

Beatty & Wozniak, P.C.

500 Don Gaspar Avenue

Santa Fe, NM 87505

msuazo@bwenergylaw.com

(505) 983-8545

ON BEHALF OF AVANT OPERATING LLC AND CIMAREX ENERGY  
CO.:

BENJAMIN B. HOLLIDAY, ESQUIRE (by

videoconference)

Holliday Energy Law Group, PC

107 Katherine Court

San Antonio, TX 78209

ben@theenergylawgroup.com

(210) 469-3197

1                   A P P E A R A N C E S (Cont'd)  
2       ON BEHALF OF CONOCOPHILLIPS, EOG RESOURCES, AND  
3       MARATHON OIL PERMIAN:  
4           KERI L. HATLEY, ESQUIRE (by videoconference)  
5           ConocoPhillips  
6           1048 Paseo De Peralta  
7           Santa Fe, NM 87501  
8           keri.hatley@conocophillips.com  
9           (505) 780-8006

10  
11       ON BEHALF OF MATADOR PRODUCTION COMPANY AND MRC  
12       PERMIAN COMPANY:

13           JAMES G. BRUCE, ESQUIRE (by  
14           videoconference)  
15           P.O. Box 1056  
16           Santa Fe, NM 87504  
17           jamesbruc@aol.com  
18           (505) 982-2043

19  
20  
21  
22  
23  
24  
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1                   A P P E A R A N C E S (Cont'd)

2       ON BEHALF OF CIMAREX ENERGY:

3           DEANA M. BENNETT, ESQUIRE (by videoconference)  
4           Modrall Sperling  
5           500 4th Street Northwest, Suite 1000  
6           Albuquerque, NM 87102  
7           deana.bennett@modrall.com  
8           (505) 848-1800

9  
10       ON BEHALF OF CIVITAS PERMIAN OPERATING LLC:

11           MICHAEL RODRIGUEZ, ESQUIRE (by videoconference)  
12           Civitas Permian Operating, LLC  
13           309 Johnson Street  
14           Santa Fe, NM 87501  
15           mrodriguez@civiresources.com  
16           (303) 312-8518

17  
18       ON BEHALF OF COG OPERATING AND 3R OPERATING:

19           JACLYN M. MCLEAN, ESQUIRE (by videoconference)  
20           Hinkle Shanor LLP  
21           218 Montezuma Avenue  
22           Santa Fe, NM 87501  
23           jmclean@hinklelawfirm.com  
24           (505) 982-4554

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF CIMAREX ENERGY COMPANY, WPX ENERGY  
PERMIAN, LLC, AND V-F PETROLEUM:

DARIN C. SAVAGE, ESQUIRE (by videoconference)  
Abadie & Schill, P.C.  
214 Mckenzie Street  
Santa Fe, NM 87501  
darin@abadieschill.com  
(970) 385-4401

ON BEHALF OF CAROLYN BEALL:

KAITLYN A. LUCK, ESQUIRE (by videoconference)  
P.O. Box 483  
Taos, NM 87571  
luck.kaitlyn@gmail.com  
(361) 648-1973

ON BEHALF OF FASKEN OIL AND RANCH LTD.:

SHELLY L. DALRYMPLE, ESQUIRE (by videoconference)  
Spencer Fane  
325 Paseo De Peralta  
Santa Fe, NM 87501  
sdalrymple@spencerfane.com  
(505) 986-2509

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A P P E A R A N C E S (Cont'd)

ALSO PRESENT:

Dean McClure, Technical Examiner, Oil  
Conservation Division (by  
videoconference)  
Million Gebremichael, Technical Examiner, Oil  
Conservation Division (by  
videoconference)  
Freya Tschantz, Law Clerk, Oil Conservation  
Division (by videoconference)  
Nicholas Karns, Witness (by videoconference)  
Travis Macha, Witness (by videoconference)  
Ira Bradford, Witness (by videoconference)  
Jordan Shaw, Witness (by videoconference)

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Exhibit 1	Affidavit of Nicholas Karns	14/14
Exhibit 2	Curriculum Vitae of Nicholas Karns	14/14
Exhibit 3	Notice of Violation Against M&M Energy, LLC, 12/04/2024	14/14
Exhibit 4	Nicholas Karns's Certified Mail Notice of NOV with Tracking Information	14/14
Exhibit 5	Nicholas Karns's Certified Mail Notice of Docketing Notice with Tracking Information	14/14
Exhibit 6	Revised Exhibit C-2, Surveyor-Marked C-102s	85/86
Exhibit 7	Revised Exhibit C-3, Second Updated Working Interest Control Pooling Exhibit in Favor of Permian	85/86
Exhibit 8	Revised Exhibit C-6 Including an Additional Letter of Support From Ard Oil, Ltd.	85/86
Exhibit 9	Revised Exhibit C-9 Including a Second Updated Timeline and Summary	85/86



1		E X H I B I T S (Cont'd)	
2	NO.	DESCRIPTION	ID/EVD
3	Exhibit 10	Supplemental Exhibit C-10,	
4		JOA Signed by Occidental	
5		Permian Limited Partnership	85/86
6	Exhibit 11	Supplemental Exhibit C-11,	
7		JOA Signed by Marathon Oil	
8		Company	85/86
9	Exhibit 12	Supplemental Exhibit D-7,	
10		Cross-Section Showing the	
11		Depth Severance Above	
12		Permian's Target Interval	71/71
13	Exhibit 13	Supplemental Exhibit D-8, Full	
14		Development Gunbarrel with	
15		First Bone Spring Referred to	
16		as "Future Inventory."	71/71
17	Exhibit 14	Revised Exhibit F, Updated	
18		Self-Affirmed Statement and	
19		Notice Information for Case	
20		Nos. 25145 Through 25148	71/71
21	Exhibit 15	Revised Exhibit G, Affidavit of	
22		Notice of Publication for Case	
23		Nos. 25145 Through 25148	71/71
24	Exhibit 16	TAB 1, Reference for Case	
25		No. 25115	74/79

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
Exhibit 17	TAB 2, Exhibit A, Revised Self-Affirmed Statement of Landman Jordan Shaw	74/79
Exhibit 18	TAB 3, Exhibit B, Self-Affirmed Statement of Geologist Stephen Burke	74/79
Exhibit 19	TAB 4, Exhibit C, Self-Affirmed Statement of Notice, Darin C. Savage	74/79
Exhibit 20	Rebuttal Exhibit 15, Rebuttal to Permian Resources Exhibit E-5 Commentary	74/79

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P R O C E E D I N G S

THE HEARING EXAMINER: It is 8:58 a.m.  
on February the 27th, 2025. This is one of the  
regularly scheduled dockets of the oil conservation  
division. My name is Gregory Chakalian. I'm the  
hearing examiner. I'm joined by Dean McClure, who is  
our technical examiner today. And let's get to the  
business at hand.

We are starting with a notice of  
violation case where the oil conservation division is  
the complainant, and we have M&M Energy, who is the  
respondent? This is Case Number 25165. Entrance of  
appearance, please.

MS. TREVINO: Christy Trevino with the  
Oil Conservation Division.

THE HEARING EXAMINER: Good morning.

MS. TREVINO: Morning.

THE HEARING EXAMINER: Do we have the  
respondent with us, Ms. Trevino --

MS. TREVINO: We have had no --

THE HEARING EXAMINER: Go ahead.

MS. TREVINO: We have had no contact.  
It's going to be Mr. Mickey McGhee, M-I-C-K-E-Y  
M-C-G-H-E-E.

THE HEARING EXAMINER: Okay. Let's see

1 if he's with us. Can you tell me what you've done to  
2 apprise him of today's hearing?

3 MS. TREVINO: Yes. We issued the  
4 notice of violation via certified mail and e-mail, and  
5 that was shown picked up by the individual. And then  
6 we also docketed this, and we also sent the docketing  
7 notice via certified mail and e-mail. And through  
8 tracking, it shows that it was picked up by the  
9 individual.

10 THE HEARING EXAMINER: Do you know how  
11 long ago it was --

12 MS. TREVINO: I --

13 THE HEARING EXAMINER: Do you know how  
14 long ago the docketing statement was picked up by the  
15 individual?

16 MS. TREVINO: I can give you that. It  
17 was picked up January 21st.

18 THE HEARING EXAMINER: Okay. And did  
19 that docketing information have today's date and time?

20 MS. TREVINO: It did as well as the  
21 NOV. I also e-mailed him the docketing notice from  
22 the clerk yesterday evening.

23 THE HEARING EXAMINER: And is that an  
24 e-mail that you've used to communicate with this  
25 person before?

1 MS. TREVINO: Yes. The information is  
2 in OCD permitting, and he's the operator of record.  
3 And that's where we received the information.

4 THE HEARING EXAMINER: Okay. Let's go  
5 on the record. What do you -- just give me a short  
6 opening statement of what you believe the evidence  
7 will show.

8 MS. TREVINO: We'd like to proceed via  
9 affidavit, as this is uncontested so far. This  
10 operator, M&M Energy, LLC, has three inactive wells  
11 that are non-compliant with 19.15.25.8 and 5.9.

12 This operator also lacks sufficient  
13 financial assurances in accordance with 19.15.8.9, and  
14 then no C-115 production reports have been filed since  
15 at least January 2021 in violation of 7.24 of the  
16 rules.

17 THE HEARING EXAMINER: Do you know if  
18 the State Land Office is involved in this case?

19 MS. TREVINO: They are not. Not in my  
20 case in chief.

21 THE HEARING EXAMINER: Okay.

22 MS. TREVINO: We're going to be  
23 requesting from this hearing that the operator plug  
24 and abandon all three of the wells, for revocation of  
25 authorization to transport, and a forfeiture of any

1 financial assurances, and it impose civil penalties of  
2 \$8,100.

3 THE HEARING EXAMINER: Okay. Why don't  
4 you offer your exhibits?

5 MS. TREVINO: We would ask to enter  
6 Exhibits 1 through 5, Exhibit 1 being the affidavit of  
7 Mr. Nicholas Karns, and then Exhibit 2 is his  
8 curriculum vitae. Exhibit 3 and its subsequent  
9 exhibits are the notice of violation of the alleged  
10 violations.

11 Exhibit 4 is the certified mail notice  
12 of the NOV tracking information with the United States  
13 Postal Service. And then Exhibit 5 is also the  
14 docketing notice tracking information with the United  
15 States Postal Service. And we're asking to enter  
16 those into the record.

17 (Exhibit 1 through 5 were marked for  
18 identification.)

19 THE HEARING EXAMINER: Are there any  
20 objections?

21 Not hearing any, your exhibits are  
22 admitted into evidence.

23 (Exhibit 1 through 5 were received into  
24 evidence.)

25 THE HEARING EXAMINER: How do you want

1 proceed?

2 MS. TREVINO: Via the affidavit, and  
3 then I guess closing the affidavit is accepted.

4 THE HEARING EXAMINER: Your exhibits  
5 are admitted into evidence, so when you say you want  
6 to proceed by the affidavit, what do you mean?

7 MS. TREVINO: I guess -- I mean, since  
8 it's admitted, then that's how we -- then we'll go to  
9 closing.

10 THE HEARING EXAMINER: Okay. I don't  
11 think we need a closing argument at this point, so  
12 please draft a proposed order in this case.

13 And do you want to -- since everything  
14 is -- since all these exhibits are based on Mr.  
15 Karns's testimony and exhibits, why don't you call him  
16 as a witness and have him adopt the exhibits under  
17 oath and see if he needs to make any corrections  
18 before we go off the record?

19 MS. TREVINO: We can do that,  
20 Mr. Hearing Examiner.

21 Mr. Nicholas Karns, if you can put your  
22 camera on and unmute yourself.

23 MR. KARNS: Good morning.

24 THE HEARING EXAMINER: Good morning,  
25 Mr. Karns. Would you raise your right hand, please.

1 WHEREUPON,

2 NICHOLAS KARNS,

3 called as a witness and having been first duly sworn  
4 to tell the truth, the whole truth, and nothing but  
5 the truth, was examined and testified as follows:

6 THE HEARING EXAMINER: Thank you.

7 Please proceed, Ms. Trevino.

8 MS. TREVINO: Mr. Karns, do you affirm  
9 and adopt Exhibit 1, your affidavit of the evidence?

10 MR. KARNS: I do, yes.

11 MS. TREVINO: Do you affirm and adopt  
12 Exhibit 2?

13 MR. KARNS: Yes, I do.

14 MS. TREVINO: The curriculum vitae?

15 MR. KARNS: Yes.

16 MS. TREVINO: Do you affirm and adopt  
17 the notice of violation and all the alleged violations  
18 as a true and accurate representation of the  
19 information?

20 MR. KARNS: Yes, I do.

21 MS. TREVINO: Do you affirm and adopt  
22 Exhibit 4, the certified mailing of the NOV and  
23 tracking information?

24 MR. KARNS: Yes -- yes, I do.

25 MS. TREVINO: Do you affirm and adopt



1 Exhibit 5, the certified mailing of the docketing  
2 notice and tracking information?

3 MR. KARNS: Yes.

4 MS. TREVINO: We have nothing further,  
5 Mr. Hearing Examiner.

6 THE HEARING EXAMINER: Okay. As I  
7 stated previously, we're in recess on this case.  
8 Please draft a proposed order and send it to me.

9 MS. TREVINO: Yes, Mr. Hearing  
10 Examiner. Thank you.

11 THE HEARING EXAMINER: Is there  
12 anything further?

13 MS. TREVINO: Nope.

14 THE HEARING EXAMINER: Thank you,  
15 Ms. Trevino.

16 MS. TREVINO: Thank you.

17 THE HEARING EXAMINER: Okay. I'm now  
18 on Number 2. This is OXY USA. It is case 25054. It  
19 is a continuation from a previous hearing to cure a  
20 notice issue. Entrance of appearance, please.

21 MS. VANCE: Good morning, Mr. Hearing  
22 Examiner. Paula Vance with the Santa Fe office of  
23 Holland & Hart on behalf of the applicant OXY.

24 THE HEARING EXAMINER: Good morning.  
25 Now, Ms. Vance, I don't know that we have the

1 technical examiners with us today. I don't know that  
2 they're needed. Why don't you tell us why we're back  
3 here today?

4 MS. VANCE: So and I will say I'm  
5 standing in for my colleague, Mr. Rankin, who is tied  
6 up today with some hearings. And it's my  
7 understanding that there is a notice of publication.  
8 There was a correction that needed to be made, I  
9 believe, to the land description, and so we were  
10 waiting to get that affidavit.

11 I am still waiting on that and have not  
12 received it yet. I asked my legal assistant to ping  
13 the newspaper and see if we -- if it got it. So  
14 basically we're just waiting to file that and get it  
15 on the record.

16 THE HEARING EXAMINER: Okay. Is there  
17 any point in coming back to this case later today at  
18 the end of the docket, or do you want to reschedule  
19 this for another day?

20 MS. VANCE: Could we go ahead -- and  
21 I'm still waiting to hear back from my legal  
22 assistant, so if we could put it at the end of the  
23 docket and I can check back in with her, that would be  
24 great.

25 THE HEARING EXAMINER: Of course.

1 Perfect. And you're involved in the last cases of the  
2 day, so I'll leave it to you to remind me to come back  
3 on the record in this case; otherwise, we'll be in  
4 recess on this case. Let me make a note here. Okay.  
5 Let's move on.

6 We are now on Number 3 on our docket.  
7 This is Matador Production Company. It's compulsory  
8 pooling application 24864. It is joint for hearing  
9 purposes with 24865. Entrance of appearance, please.

10 MS. VANCE: Good morning, Mr. Hearing  
11 Examiner. Paula Vance with the Santa Fe office of  
12 Holland & Hart on behalf of Matador.

13 MR. SUAZO: Good morning, Mr. Examiner.  
14 Miguel Suazo with the Santa Fe office of Beatty &  
15 Wozniak appearing on behalf of XTO Energy.

16 THE HEARING EXAMINER: Good morning. I  
17 wonder if Ms. Dalrymple is speaking, because she's  
18 muted. There we go.

19 MS. DALRYMPLE: Yes. Apologies,  
20 Mr. Hearing Examiner. Shelly Dalrymple of the Spencer  
21 Fayne Santa Fe office on behalf of Fasken Oil; and I'm  
22 sitting in for Sharon Shaheen, who is in another  
23 hearing.

24 THE HEARING EXAMINER: Yes. Thank you.  
25 Are there any other -- Ms. Vance, are

1       there any other parties that you know of?

2                       MS. VANCE:   No.

3                       THE HEARING EXAMINER:   Okay.   Let  
4       me -- before I turn to you, Ms. Vance, Mr. Suazo, did  
5       you enter an objection?

6                       MR. SUAZO:   We did, but we've withdrawn  
7       that objection, and we're appearing today for  
8       monitoring purposes only, Mr. Examiner.

9                       THE HEARING EXAMINER:   Okay.   So you  
10      withdrew your objection.   Okay.

11                      Ms. Dalrymple?

12                      MS. DALRYMPLE:   Mr. Hearing Examiner, I  
13      believe we have lodged an objection, and we have not  
14      withdrawn it.

15                      THE HEARING EXAMINER:   Ms. Vance, do  
16      you agree?

17                      MS. VANCE:   Yes -- yes.

18                      THE HEARING EXAMINER:   Perfect.   How do  
19      you want to proceed?

20                      MS. VANCE:   Well, I was e-mailing with  
21      Ms. Shaheen and I believe miss --

22                      And I apologize.   I'm not going to say  
23      your name right.

24                      -- was on the e-mail as well.   And so  
25      we'd like to set another status conference if

1 possible. The parties are working to resolve their  
2 issues, and so if we could do another status  
3 conference, I think that would be the preference.

4 If not, and the examiner would like to  
5 set a contested hearing date, we would just ask that  
6 it be pushed out as far as possible with the hopes  
7 that the parties would come to an agreement by then,  
8 and the protest would be dropped, and we can proceed  
9 by affidavit.

10 THE HEARING EXAMINER: I have some  
11 notes here that helped me in this case, but let me  
12 look at a few things to back that up. Ms. Vance, when  
13 was your case filed?

14 MS. VANCE: I knew you were going to  
15 ask me that, and I don't have it off the top of my  
16 head. I will look very quickly.

17 THE HEARING EXAMINER: I can find it.  
18 It's right here.

19 MR. SUAZO: September 10th.

20 THE HEARING EXAMINER: Thank you.

21 Ms. Vance, I can't keep this going.  
22 This, I've noted, was a final status conference today,  
23 so I can't set another status conference. And as much  
24 as I'd like to push it out as far as possible, the  
25 furthest I can push it would be in April.

1                   We have some dates that I was sent  
2                   today. Well, actually, April's not -- oh, here we go.  
3                   So the best I could do, Ms. Vance, would be either  
4                   April 1st or April 15th, and I'll leave that up to you  
5                   and Ms. Dalrymple to decide which is best.

6                   MS. VANCE: Matador would prefer the  
7                   15th.

8                   THE HEARING EXAMINER: I thought so.  
9                   Okay.

10                  MS. VANCE: But we're fine with either.

11                  THE HEARING EXAMINER: Okay.

12                  Ms. Dalrymple?

13                  MS. DALRYMPLE: I think that'll be  
14                  fine. And forgive me for not completely understanding  
15                  these procedures, but Sharon asked that we -- could it  
16                  be set for a conditional hearing by affidavit in case  
17                  we get that finalized before there's a full contested  
18                  hearing? We think that the --

19                  THE HEARING EXAMINER: Well,  
20                  that's -- it's not Ms. Shaheen's cases. These Matador  
21                  cases are -- Ms. Shaheen entered an appearance on  
22                  behalf of Fasken, as I understand it, and objected to  
23                  Ms. Vance proceeding by affidavit.

24                  So of course if for some reason Fasken  
25                  settles this case with Matador, they'll -- she will

1 enter a withdrawal of objection the way Mr. Suazo did,  
2 and then this case will be put on a docket where we  
3 have a technical examiner to hear it by affidavit. So  
4 that's the way it works.

5 MS. DALRYMPLE: Thank you. My  
6 apologies. We're fine with April 15th.

7 THE HEARING EXAMINER: Perfect.

8 So, Freya, would you please make a note  
9 that we will -- do we already have a case for April  
10 15?

11 THE CLERK: We do, so this would be the  
12 second hearing set.

13 THE HEARING EXAMINER: Okay. Perfect.

14 So, Ms. Vance, it's a perfect setting  
15 for this, so it encourages you to settle the case with  
16 Fasken; but if you can't, we're here to help you out.

17 MS. VANCE: Thank you.

18 THE HEARING EXAMINER: All right.  
19 Anything further on these two cases?

20 MS. VANCE: Not from me.

21 THE HEARING EXAMINER: All right.

22 MS. DALRYMPLE: Thank you, Mr. Hearing  
23 Officer.

24 THE HEARING EXAMINER: Thank you.

25 Okay. We're in recess on these two

1 cases.

2 We're moving on to Avant operating.  
3 This is 24872. Let's see if it's joined. Yes. With  
4 73. Entrance of appearance, please.

5 MR. HOLLIDAY: Good morning,  
6 Mr. Examiner. Ben Holliday with the Holliday Energy  
7 Law Group on behalf of Avant.

8 THE HEARING EXAMINER: Good morning.

9 MS. VANCE: Good morning, Mr. Hearing  
10 Examiner. Paula Vance with the Santa Fe office of  
11 Holland & Hart on behalf of Apache, Mewbourne, and  
12 Permian.

13 THE HEARING EXAMINER: Mewbourne and  
14 Permian. And did you enter an objection?

15 MS. VANCE: I believe we -- some of  
16 those parties did, but we've withdrawn all of them. I  
17 am just monitoring on behalf of all of those parties.

18 THE HEARING EXAMINER: Oh, fantastic.

19 Mr. Holliday, are there any other  
20 parties you know of that prevent you from proceeding  
21 by affidavit?

22 MS. HATLEY: Mr. Examiner, Keri Hatley  
23 entering appearance on behalf of ConocoPhillips.

24 THE HEARING EXAMINER: Okay. And did  
25 you enter an objection?



1 MS. HATLEY: We did enter an objection,  
2 but we are prepared to withdraw that objection now.

3 THE HEARING EXAMINER: So you haven't  
4 yet. Okay.

5 MS. HATLEY: We have not yet, but we  
6 are ready to.

7 THE HEARING EXAMINER: Okay. Perfect.  
8 Thank you.

9 Mr. Holliday, are there any other  
10 parties that you know of that prevent you from  
11 proceeding?

12 MR. HOLLIDAY: There are not.

13 THE HEARING EXAMINER: Okay. Very  
14 good. So then we need to move this to a docket in  
15 which we can handle this by affidavit.

16 MR. HOLLIDAY: Yes, sir.

17 THE HEARING EXAMINER: Okay. Very  
18 good.

19 So, Freya, when would that be?

20 THE CLERK: March 13th.

21 THE HEARING EXAMINER: Okay.

22 Mr. Holliday, would you move your two  
23 cases to March 13?

24 MR. HOLLIDAY: Yes. Well, we  
25 have -- there is one wrinkle. This case, 24872, we

1 can definitely set for hearing by affidavit on the  
2 13th, and I will move for that one.

3 We had a notice of intervention by  
4 Paloma on 24873, but I have not heard anything from  
5 them. I don't know if they're here today. I guess we  
6 can go ahead and set that if there's no live  
7 objection -- there's not in the record; I checked this  
8 morning -- we can go ahead and set that for hearing by  
9 affidavit on the 13th, too.

10 THE HEARING EXAMINER: Okay.

11 And now that I think of March 13,  
12 Freya, I thought that that docket was full at 60  
13 cases?

14 THE CLERK: It is full. I am prepared  
15 to move some of the new applications to next month.  
16 Since this is an older case, we can accommodate it.

17 THE HEARING EXAMINER: Okay. Thank  
18 you, Freya. I appreciate it.

19 Okay. So, Mr. Holliday, you have a  
20 notice of intervention. Are you opposing the  
21 intervention?

22 MR. HOLLIDAY: No, we're not opposing  
23 the intervention. There was an attempted objection,  
24 lack of standing. The filed notice of intervention, I  
25 mean, there's no live objection at this point, so we

1 can set it for affidavit. And if there is an  
2 objection filed later, I guess we can deal with that  
3 as it comes up.

4 THE HEARING EXAMINER: And who is the  
5 party that's intervening --

6 MR. HOLLIDAY: It was Paloma Permian  
7 Asset Company.

8 THE HEARING EXAMINER: Oh, Paloma. And  
9 who represents Paloma?

10 MR. HOLLIDAY: Jewell Jimmerson.

11 THE HEARING EXAMINER: I think I've  
12 heard that name before. Okay.

13 MR. HOLLIDAY: They're a Colorado firm.

14 THE HEARING EXAMINER: Oh, all right.  
15 Okay. All right. Have you reached out to them to see  
16 if they're objecting?

17 MR. HOLLIDAY: You know, I haven't.

18 THE HEARING EXAMINER: Okay.

19 MR. HOLLIDAY: I will. We had been  
20 communicating regarding the intervention, and so there  
21 has been prior communication about the case. I have  
22 not called and asked them about this. I can and just  
23 let him know.

24 THE HEARING EXAMINER: Okay.

25 MR. HOLLIDAY: And my preference would

1 be to set it for hearing by affidavit. If for some  
2 reason that doesn't go forward, then we can set it for  
3 contested hearing at the next date.

4 THE HEARING EXAMINER: Okay. All  
5 right. So it sounds like Freya is making room for you  
6 on the March 13 docket and bumping some other newer  
7 cases to get your two cases heard.

8 MR. HOLLIDAY: Much appreciated. And I  
9 did look up the filing date on this. It was  
10 September 10th.

11 THE HEARING EXAMINER: Yeah. I knew it  
12 was older. Yeah. Anything 248 is older.

13 MR. HOLLIDAY: Yeah. Right.

14 THE HEARING EXAMINER: Okay. So is  
15 there anything further from Ms. Hatley or Ms. Vance on  
16 these cases?

17 MS. HATLEY: No, Mr. Examiner. Thank  
18 you.

19 THE HEARING EXAMINER: Okay. All  
20 right. Thank you.

21 MS. VANCE: No.

22 THE HEARING EXAMINER: So we'll see you  
23 March 13 for these two cases. Off the record on those  
24 two cases.

25 Let's move on to Avant Operating. This

1 is a final status conference. This is 24874.

2 MR. HOLLIDAY: Ben Holliday on behalf  
3 of Avant Operating and Cimarex Energy Co.

4 MS. VANCE: Good morning, Mr. Hearing  
5 Examiner. Paula Vance with the Santa Fe office of  
6 Holland & Hart on behalf of Devon.

7 THE HEARING EXAMINER: Devon,  
8 D-E-V-O-N?

9 MS. VANCE: That's correct.

10 THE HEARING EXAMINER: Did you object?

11 MS. VANCE: I believe so, yes.

12 THE HEARING EXAMINER: That's going to  
13 be a question I'm going to ask any time you, you know,  
14 are entered on someone else's case. So if you could  
15 be prepared, I appreciate it. Okay. And you're not  
16 withdrawing that objection to that; right, Ms. Vance?

17 MS. VANCE: No.

18 THE HEARING EXAMINER: Okay. Very  
19 good.

20 Mr. Holliday, are there any other  
21 parties that you know of?

22 MS. VANCE: I don't believe so, no,  
23 sir.

24 THE HEARING EXAMINER: Okay. How do  
25 you want to proceed?

1 MR. HOLLIDAY: I feel like I know how  
2 the answer's going to be. We'd like the -- we'd like  
3 to set this for --

4 THE HEARING EXAMINER: No.

5 MR. HOLLIDAY: No. Okay. We'll set it  
6 for a contested hearing at -- yeah. Okay.

7 THE HEARING EXAMINER: You're available  
8 in April?

9 MR. HOLLIDAY: Yes. And my preference  
10 would be the week of the 7th sometime, but we can --

11 THE HEARING EXAMINER: In April we have  
12 only three dates we can offer you based on technical  
13 examiner availability. We have the 1st, the 15th, or  
14 the 29th.

15 MR. HOLLIDAY: The 29th would be  
16 preferable.

17 THE HEARING EXAMINER: Okay. All  
18 right. 29th. All right. If you settle your  
19 differences with Devon, then we'll move you to the  
20 next, you know, affidavit hearing date that we have;  
21 okay?

22 MR. HOLLIDAY: Yes, sir. And then  
23 we -- I think Ms. Vance and I both expect this to get  
24 worked out, but thank you for setting --

25 THE HEARING EXAMINER: Great. And the

1     sooner you settle it, the sooner that we can get this,  
2     because this also being an older case, we would put  
3     this -- we would give this priority.

4                     MR. HOLLIDAY:   Yes, sir.

5                     THE HEARING EXAMINER:   Okay.   So we'll  
6     issue a pre-hearing order in this case for April 29th.  
7     Anything further, Mr. Holliday?

8                     MR. HOLLIDAY:   Nothing further from me,  
9     sir.

10                    THE HEARING EXAMINER:   Ms. Vance?

11                    MS. VANCE:   Nothing.

12                    THE HEARING EXAMINER:   We're in recess  
13     on this case.

14                    Let's move to Matador Production  
15     Company, 24943.   Now, it looks like it might be joined  
16     with some other case numbers, which are not in any  
17     order that I can understand, 24982, 25091, and 25102.  
18     Entrance of appearance, please.

19                    MR. BRUCE:   Mr. Examiner, Jim Bruce  
20     representing Matador Production Company and MRC  
21     Permian Company, and I can explain the difference in  
22     case numbers later.

23                    THE HEARING EXAMINER:   Okay.   Perfect.  
24     Thank you, Mr. Bruce.   Good morning.

25                    Mr. Suazo?

1 MR. SUAZO: Yes. Good morning,  
2 Mr. Examiner. Miguel Suazo with Beatty & Wozniak  
3 appearing on behalf of XTO Energy in cases 24982,  
4 25091, and 25102.

5 THE HEARING EXAMINER: I see. Okay.  
6 Perfect. Thank you.

7 MS. BENNETT: Good morning,  
8 Mr. Examiner. Deana Bennett on behalf of Cimarex  
9 Energy in all four cases.

10 THE HEARING EXAMINER: For Cimarex in  
11 all four. Ms. Bennett, did you enter an objection in  
12 all four cases?

13 MS. BENNETT: We entered an objection  
14 in the Matador cases, which are 24943 and 24982. We  
15 are the applicant in 25091 and 25102.

16 THE HEARING EXAMINER: Very good.  
17 Thank you. Are these competing applications?

18 MS. BENNETT: They are.

19 THE HEARING EXAMINER: Oh, very good.  
20 Excellent. Okay. Let me -- are there any other  
21 entrance of appearance before I look at my notes?

22 MS. HATLEY: COG Operating and  
23 ConocoPhillips.

24 THE HEARING EXAMINER: Ms. Hatley?

25 MS. HATLEY: Mr. Examiner?



1 THE HEARING EXAMINER: Yes.

2 MS. HATLEY: Yes. Sorry about that.

3 Keri Hatley entering an appearance for COG Operating  
4 and ConocoPhillips.

5 THE HEARING EXAMINER: And did you  
6 enter an objection in any of the four cases?

7 MS. HATLEY: We did enter objections,  
8 but we withdrew those in December.

9 THE HEARING EXAMINER: Oh, you  
10 withdrew. Okay.

11 And, Mr. Suazo, did you enter an  
12 objection in any case?

13 MR. SUAZO: Yes, we did.

14 THE HEARING EXAMINER: Which ones?

15 MR. SUAZO: 25102 and 25091 and 24982.

16 THE HEARING EXAMINER: Interesting. So  
17 both -- so you entered an objection in both Cimarex  
18 cases and in one Matador case?

19 MR. SUAZO: Correct.

20 THE HEARING EXAMINER: Interesting.  
21 All right. And those are -- you're maintaining those  
22 objections?

23 MR. SUAZO: Yes.

24 THE HEARING EXAMINER: For now?

25 MR. SUAZO: For now.

1 THE HEARING EXAMINER: All right.  
2 Sounds good. Okay. Let me just read my notes here.  
3 Hold on one second. And all this information was in  
4 Freya's notes. That's how complete they are.

5 Thank you, Freya.

6 Okay. So it looks to me that we -- the  
7 objective here is to set a contested hearing for late  
8 April. We have two dates. We have the 15th and 29th.

9 I'll start with you, Mr. Bruce. Which  
10 one's better for you?

11 MR. BRUCE: I think we'd be looking at  
12 a later date, but Ms. Bennett may have more to talk  
13 about on the hearing date. But we would prefer a  
14 later date.

15 THE HEARING EXAMINER: Okay.

16 Ms. Bennett?

17 MS. BENNETT: Thank you. Yes. We've  
18 been in discussions, XTO and MRC, and we've agreed on  
19 April 29th. Of course, if there's a potential for a  
20 later date than that in May, that'd be my preference,  
21 but I understand that the other parties may prefer the  
22 April 29th.

23 My main concern earlier today was when  
24 the hearing examiner didn't list April 29th as a  
25 possibility during one of the first status

1 conferences, and we weren't -- I've only asked about  
2 April 29th for my witnesses; so --

3 THE HEARING EXAMINER: Okay. So  
4 April 29th sounds like the date that Mr. Bruce and  
5 Ms. Bennett prefer.

6 Mr. Suazo, are you okay with  
7 April 29th?

8 MR. SUAZO: Yes. That's acceptable to  
9 XTO. And sorry. I was misreading my notes. I'd like  
10 to clarify for the record that XTO only objected to  
11 case 24982, not the other ones. Apologies.

12 THE HEARING EXAMINER: Okay. Well,  
13 then let's see. XTO only objects to 24982. Yep.  
14 That's what Freya has here. She got it right again.

15 Okay. Ms. Hatley, April 29?

16 MS. HATLEY: Mr. Examiner, we've  
17 withdrawn our objections in these cases, and we'll  
18 just be monitoring. So whatever the parties decide is  
19 acceptable to us.

20 THE HEARING EXAMINER: I just wanted to  
21 make sure it was convenient for you to attend, but  
22 that's great. Okay. We'll issue a pre-hearing order  
23 for April 29 in these four cases, the competing cases.  
24 Anything further, Mr. Bruce?

25 MR. BRUCE: No, sir.

1 THE HEARING EXAMINER: Ms. Bennett?

2 MS. BENNETT: Nothing further. Thank  
3 you.

4 THE HEARING EXAMINER: Mr. Suazo?

5 MR. SUAZO: Nothing further,  
6 Mr. Examiner.

7 THE HEARING EXAMINER: All right.

8 And, Ms. Hatley, I assume that you are  
9 just monitoring; so --

10 MS. HATLEY: Yes, sir. Thank you.

11 THE HEARING EXAMINER: Okay. We're off  
12 the record in these four cases.

13 We are moving on to Number 12 on our  
14 docket. This is Civitas Permian Operating, 25031.

15 Entry of appearance, please.

16 MR. RODRIGUEZ: Good morning,  
17 Mr. Hearing Examiner. Michael Rodriguez on behalf of  
18 the applicant.

19 THE HEARING EXAMINER: Mr. Rodriguez, I  
20 have a feeling there's another microphone open in your  
21 room.

22 MR. RODRIGUEZ: One moment. I am going  
23 to try to log in from my phone.

24 THE HEARING EXAMINER: Okay. Sounds  
25 good. And while you do that, are there any other

1 parties entered into this case?

2 MS. MCLEAN: Yes. Good morning,  
3 Mr. Examiner. Jackie McLean on behalf of COG  
4 Operating.

5 THE HEARING EXAMINER: Good morning.  
6 Did you enter an objection?

7 MS. MCLEAN: We did.

8 THE HEARING EXAMINER: All right. Any  
9 others?

10 MS. VANCE: Mr. Hearing  
11 Examiner -- wow. There's, like, a very bad echo.

12 MR. MCCLURE: So, Ms. McLean --

13 MS. MCLEAN: Yeah --

14 THE HEARING EXAMINER: Mr. Rodriguez, I  
15 have a feeling it's your microphone that's causing  
16 this. Can we get you to disconnect and reconnect? I  
17 can call this case again, but we can't deal with  
18 the --

19 MR. MCCLURE: Mr. Hearing Examiner, I  
20 think it might be Ms. McLean's microphone, actually.

21 THE HEARING EXAMINER: Ms. McLean,  
22 would that be possible?

23 MS. MCLEAN: Let me -- I'm in a  
24 conference room in Midland with nothing else except my  
25 laptop. So let me -- hold on one second. Let me turn

1 on my --

2 THE HEARING EXAMINER: It's better now.

3 MS. MCLEAN: Okay. So I haven't done  
4 anything. Okay. Do you still have feedback,  
5 Mr. McClure?

6 THE HEARING EXAMINER: No.

7 MR. RODRIGUEZ: Can you all hear me  
8 okay?

9 THE HEARING EXAMINER: Oh, now we do  
10 have it again.

11 MR. RODRIGUEZ: All right. I'm going  
12 to keep trying again from my phone.

13 THE HEARING EXAMINER: Thank you.

14 Hey. Let's take a five-minutes break.  
15 This would be the perfect time. It's 9:27. Let's get  
16 back on the record at 9:35. Thank you.

17 (Off the record.)

18 THE HEARING EXAMINER: All right. It  
19 is -- excuse me?

20 MR. MCCLURE: I think maybe there was a  
21 slight echo still actually. I thought it was fixed,  
22 but maybe I'm mistaken.

23 THE HEARING EXAMINER: All right.  
24 Well, let's just try to get through this case as  
25 quickly as possible and then we can have people sign

1 out, I guess. Okay. So we are talking about Case  
2 Number 25031. We have Mr. Rodriguez for Civitas. We  
3 have Ms. McLean for COG. Is there any other parties?

4 MR. RODRIGUEZ: Not that I'm aware of.

5 THE HEARING EXAMINER: Thank you. How  
6 do you want to proceed, Mr. Rodriguez?

7 MR. RODRIGUEZ: I believe the parties  
8 would like to set a contested hearing date preferably  
9 in May. But I did want to address one issue whenever  
10 you'd like me to get into that.

11 THE HEARING EXAMINER: Okay. I can  
12 offer you May 13 if that works for you and Ms. McLean.

13 MR. RODRIGUEZ: I believe that should  
14 work for Civitas.

15 THE HEARING EXAMINER: What was the  
16 issue you want to address --

17 MS. MCLEAN: Yeah. And that works for  
18 COG.

19 THE HEARING EXAMINER: Thank you,  
20 Ms. McLean.

21 Mr. Rodriguez, what is the issue?

22 MR. RODRIGUEZ: So subsequent to  
23 filing, our land team identified a vertical well that  
24 a spacing unit would overlap. It's a 40-acre vertical  
25 spacing unit covering the southwest corner of the

1 southeast corner of section 3.

2 And it's a COG Operating LLC well, and  
3 because of that, I went ahead and filed a revised  
4 application yesterday that incorporated a request for  
5 the overlapping spacing unit approval, and it's set  
6 for an April 10th hearing date. But it has not  
7 received a case number yet, but it has been submitted.

8 THE HEARING EXAMINER: So, Ms. McLean,  
9 I'm sure you're going to object to that case as well?

10 MS. MCLEAN: Yes. I believe that we  
11 will.

12 THE HEARING EXAMINER: Perfect.  
13 Ms. McLean, do you anticipate filing a competing  
14 application?

15 MS. MCLEAN: Yes. I believe that we  
16 are going to be filing. COG owns or, you know,  
17 controls 100 percent of the working interest in the  
18 units we're seeking to pool. But we have to pool the  
19 overrides, so that's all that this will be. And we  
20 are planning on filing so that we can be on the April  
21 docket.

22 THE HEARING EXAMINER: So,  
23 Mr. Rodriguez, would you please -- once you get a case  
24 number for the amended application, would you please  
25 file a notice of dismissal for the other case?



1 MR. RODRIGUEZ: Yes. I can do that.

2 THE HEARING EXAMINER: And then,  
3 Ms. McLean, would you please file your case as soon as  
4 possible so that there is no notice issue with the  
5 May 13th hearing?

6 MS. MCLEAN: Certainly.

7 THE HEARING EXAMINER: Okay.

8 So, Freya, we're doing to do a  
9 pre-hearing order for May 13 for the amended  
10 application once we get a number for it.

11 And then, Ms. McLean, when you file  
12 your case, would you file a motion to consolidate that  
13 case with the May 13 hearing?

14 MS. MCLEAN: Yes. We'll do that.

15 THE HEARING EXAMINER: Okay. Perfect.  
16 Is there anything further?

17 MR. RODRIGUEZ: Not from Civitas.

18 MS. MCLEAN: Not from COG.

19 THE HEARING EXAMINER: Okay. Then  
20 we're off the record in that case. Let's move on.

21 MS. MCLEAN: Thank you.

22 MR. RODRIGUEZ: Thank you.

23 THE HEARING EXAMINER: Thank you.

24 All right. So I'm now calling three  
25 cases for Matador Production. These are case numbers

1 25035, 37, and 38. Entrance of appearance, please.

2 MS. VANCE: Good morning, Mr. Hearing  
3 Examiner. Paula Vance with the Santa Fe office of  
4 Holland & Hart on behalf of Matador.

5 MR. SUAZO: Good morning, Mr. Examiner.  
6 Miguel Suazo with Beatty & Wozniak appearing on behalf  
7 of XTO Energy in cases 25035 and 37 only.

8 THE HEARING EXAMINER: Okay. Thank  
9 you.

10 MR. SAVAGE: Good morning, Mr. Hearing  
11 Examiner. Darin Savage with Abadie & Schill on behalf  
12 of Cimarex Energy Co.

13 THE HEARING EXAMINER: Thank you. So,  
14 Mr. Savage, let's start with you. Did you file an  
15 objection?

16 MR. SAVAGE: We did.

17 THE HEARING EXAMINER: Okay. And why?

18 MR. SAVAGE: They're doing negotiations  
19 right now. And as I understand, they are  
20 contemplating a potential competing application, but  
21 that hasn't been finalized.

22 THE HEARING EXAMINER: Okay. All  
23 right.

24 And Ms. Vance?

25 MS. VANCE: Yes. Good morning. That's

1 the first I'm hearing of that. So we were wanting to  
2 request at least another status conference in a month,  
3 but understand now that there's a potential that  
4 Cimarex may be filing competing applications.

5 THE HEARING EXAMINER: Okay. These  
6 don't look like very old cases. Do you know when they  
7 were filed?

8 MS. VANCE: I do.

9 THE HEARING EXAMINER: Good.

10 MS. VANCE: On December 9th.

11 THE HEARING EXAMINER: December 9th.  
12 Okay. Let's see. If we go to another status  
13 conference, that'll be the final status conference.  
14 So that would be all right.

15 And, Mr. Suazo, are you objecting?

16 MR. SUAZO: We did initially. We've  
17 resolved our concerns, which is over acreage and a  
18 number of other development plans, and we've withdrawn  
19 that objection. So just here for monitoring purposes  
20 today in these two cases.

21 THE HEARING EXAMINER: Perfect. Thank  
22 you, sir.

23 Mr. Savage, let me come back to you for  
24 a moment. Do you have any idea how much ownership you  
25 have in this on Cimarex's behalf?

1 MR. SAVAGE: I don't know the details.  
2 And then if I could just clarify for the record,  
3 negotiations are very fruitful. And the potential for  
4 a competing application is probably minimal, but it is  
5 on the table.

6 THE HEARING EXAMINER: Okay. All  
7 right.

8 So, Ms. Vance, how much time do you  
9 think you need to at least try to resolve the issues  
10 with Cimarex?

11 MS. VANCE: We would like a month if  
12 that works for the Division and for Cimarex.

13 THE HEARING EXAMINER: Okay. Perfect.

14 So, Freya, what would be the status  
15 conference docket in March?

16 THE CLERK: It's March 27.

17 THE HEARING EXAMINER: March 27. So  
18 it's almost exactly a month.

19 Ms. Vance, does that work for you?

20 MS. VANCE: Yes.

21 THE HEARING EXAMINER: All right. This  
22 will be the final status conference. It'll be  
23 March 27. At that point, if these cases are  
24 not -- the objections are not withdrawn, then we'll  
25 look to set this for a contested hearing in May

1       sometime. That'll be two months out.

2                       And let me give you -- Mr. Savage and  
3       Ms. Vance, let me give you -- the only dates in May  
4       that we have are May 27 and May 13, so please think  
5       about those two dates as possible contested hearing  
6       dates.

7                       MS. VANCE: I do not want to do a  
8       contested hearing on my birthday.

9                       THE HEARING EXAMINER: Which one is  
10      that? The 27th?

11                      MS. VANCE: The 27th.

12                      THE HEARING EXAMINER: Oh, so we're two  
13      days apart. So you must be a Gemini.

14                      MS. VANCE: I'm a double Gemini. Both  
15      my parents double are Geminis.

16                      THE HEARING EXAMINER: A double. Well,  
17      congratulations. I'm two days after you. All right.  
18      So we'll give you, then, May 13, and it makes sense  
19      why. So May 13. All right. Thank you.

20                      Mr. Savage, anything further?

21                      MR. SAVAGE: No. Thank you.

22                      THE HEARING EXAMINER: Thank you.

23                      Ms. Vance?

24                      MS. VANCE: No.

25                      THE HEARING EXAMINER: Very good.

1 We're off the record in these three cases.

2 Let's move to OXY USA. This is a  
3 compulsory pooling case, 25103. It looks like it's  
4 joined to 104, 105, 106, 107, and 108. Oh.

5 MS. VANCE: Yes. Good morning,  
6 Mr. Hearing Examiner.

7 THE HEARING EXAMINER: You know,  
8 Ms. McLean, I have you feeling it's you.

9 MS. MCLEAN: It is me.

10 THE HEARING EXAMINER: I have a feeling  
11 it is, you devil. Okay. So who's representing OXY  
12 here?

13 MS. VANCE: Good morning,  
14 Mr. Hearing Examiner. Paula Vance with the Santa Fe  
15 office of Holland & Hart on behalf of OXY.

16 THE HEARING EXAMINER: Ms. McLean,  
17 maybe what you could do is you could mute your  
18 microphone unless you're speaking. What do you think?

19 MS. MCLEAN: Yes. I can do that.

20 THE HEARING EXAMINER: Okay. Good.  
21 Would you enter an appearance, please.

22 MS. MCLEAN: Certainly. Jackie McLean  
23 on behalf of 3R Operating. Also Gemini.

24 THE HEARING EXAMINER: Oh, really?

25 MS. MCLEAN: May 26th. And I think,

1 Mr. Chakalian, my son shares your May 29th birthday.

2 THE HEARING EXAMINER: Along with JFK,  
3 as you probably knew.

4 MS. MCLEAN: Yes. So --

5 THE HEARING EXAMINER: You knew that --

6 MS. MCLEAN: Yes.

7 THE HEARING EXAMINER: I grew up --

8 MS. MCLEAN: So here I am. All the  
9 Geminis together.

10 THE HEARING EXAMINER: That's very  
11 cool. So, Ms. McClean, did you enter an objection?

12 MS. MCLEAN: We did.

13 THE HEARING EXAMINER: And any  
14 particular reason?

15 MS. MCLEAN: Well, I think we, OXY, and  
16 3R, are getting close to coming to a deal, and it's my  
17 understanding that we should be able to withdraw our  
18 objection in time for them to present by affidavit at  
19 the March 13th docket.

20 THE HEARING EXAMINER: Okay. Thank  
21 you. That's good information.

22 So, Ms. Vance, I'm not promising  
23 March 13th, because we have older cases that may have  
24 to go before yours if you do resolve your issues.  
25 These are very new cases, so do you want to just set

1       them for another status --

2                       MS. HATLEY:   Excuse me.   Mr. Examiner?

3                       THE HEARING EXAMINER:   Sorry?

4                       MS. HATLEY:   Excuse me.   So sorry to  
5       interrupt, sir.   Keri Hatley entering an appearance on  
6       behalf of COG Operating and Marathon Oil Permian in  
7       these cases, and we are monitoring only.   No  
8       objection.

9                       THE HEARING EXAMINER:   Thank you.

10                      So, Ms. Vance, do you want to set  
11       these -- do you want to be optimistic and set these,  
12       let's say, on the April hearing by affidavit docket?

13                      MS. VANCE:   Yes.   We would appreciate  
14       that.

15                      THE HEARING EXAMINER:   Good.   That'll  
16       reserve a spot for you, because it will fill up, and I  
17       don't want yours to get bumped any further than that.  
18       So we'll make these a priority for the April --

19                      Freya, what is the April hearing by  
20       affidavit date?

21                      THE CLERK:   It's April 10th.

22                      THE HEARING EXAMINER:   April 10.   Thank  
23       you.

24                      And good luck to the parties to work  
25       their differences out.



1                   Anything further, Ms. Vance,  
2       Ms. McLean?

3                   MS. VANCE:   No.

4                   THE HEARING EXAMINER:   Okay.   We're off  
5       the record --

6                   MS. MCLEAN:   Nothing here.

7                   THE HEARING EXAMINER:   Excuse me?

8                   MS. MCLEAN:   Oh, I said, "Nothing  
9       here."

10                  THE HEARING EXAMINER:   Okay.   I just  
11       heard an echo, and I wasn't sure what I was listening  
12       to.   Okay.   Thank you.   All right.   So we're off the  
13       record in these cases.

14                  Let's go to 3R Operating cases 25123,  
15       24, and then it looks like 25204 and 25205.   Entrance  
16       of appearance, please.

17                  MR. SUAZO:   Good morning, Mr. Examiner.  
18       Miguel Suazo with Beatty & Wozniak appearing on behalf  
19       of 3R Operating.

20                  THE HEARING EXAMINER:   Thank you.

21                  MS. HATLEY:   Good morning,  
22       Mr. Examiner.   Keri Hatley on behalf of Marathon Oil  
23       Permian.

24                  THE HEARING EXAMINER:   Thank you.  
25       And before I go to you, Mr. Savage.

1                   Ms. Hatley, did you enter an objection?  
2                   MS. HATLEY: We did not.  
3                   THE HEARING EXAMINER: Okay.  
4                   Mr. Savage?  
5                   MR. SAVAGE: Yes. Good morning,  
6                   Mr. Hearing Examiner. Darin Savage on behalf of WPX.  
7                   THE HEARING EXAMINER: WPX?  
8                   MR. SAVAGE: Energy Permian.  
9                   THE HEARING EXAMINER: Perfect. And so  
10                  you did enter an objection?  
11                  MR. SAVAGE: We did.  
12                  THE HEARING EXAMINER: Good. And  
13                  what's the basis of the objection?  
14                  MR. SAVAGE: We do have competing  
15                  applications that we have filed and noted them as  
16                  competing.  
17                  THE HEARING EXAMINER: That's the  
18                  difference in the numbers? Are yours 204 and 205?  
19                  MR. SAVAGE: I believe that's correct.  
20                  THE HEARING EXAMINER: Okay. All  
21                  right. Well, if we have competing applications, then  
22                  it's pretty obvious that this should go to a contested  
23                  hearing; right?  
24                  MR. SAVAGE: Yes.  
25                  MR. SUAZO: Yes, Mr. Examiner. That's

1     what we would like to discuss today, and that's what  
2     we anticipated being scheduled. You know, per our  
3     last hearing, we were supposed to choose a date of  
4     either April 15th or April 29th for the contested  
5     hearing date.

6                     And I've conferred with Mr. Savage.  
7     We've been unable to agree on those two dates. My  
8     client strongly prefers an April 15th date, because it  
9     has an expiring lease later this year, and my client  
10    has prepared to drill as early as July.

11                    So it's pretty critical that we get  
12    this, you know, in order so that we can begin  
13    productions hopefully and set the contested case  
14    hearing as soon as possible.

15                    THE HEARING EXAMINER: Okay.

16                    So, Mr. Savage, before I go to you.

17                    Mr. Suazo, how much ownership does 3R  
18    have in this area?

19                    MR. SUAZO: Let me look.

20                    THE HEARING EXAMINER: Thank you. And  
21    while you're looking.

22                    Mr. Savage, what's your preference on  
23    dates?

24                    MR. SAVAGE: WPX's preference is  
25    April 29th.

1 THE HEARING EXAMINER: I see. And is  
2 there a reason?

3 MR. SAVAGE: Yeah. That works best for  
4 WPX'S team. And these two competing applications have  
5 a overlapping section, and I believe that the lease  
6 issue that Mr. Suazo speaks to involves one section, I  
7 believe, in which they own 100 percent.

8 And WPX's position is they -- if they  
9 wanted to, they could do a -- they could drill and  
10 develop that and address the lease issue that way.  
11 They could either do a one-mile or they could do a  
12 two-mile with a U-turn, so we feel like that they have  
13 options that would optimize production for them.

14 THE HEARING EXAMINER: Okay.

15 MR. SUAZO: May I respond to that,  
16 Mr. Examiner?

17 THE HEARING EXAMINER: Well, of course.  
18 Definitely. So Mr. Savage is saying that his client  
19 is prepared for 4/29, and you would prefer 4/15. What  
20 did you want to say?

21 MR. SUAZO: So I confirm that 3R owns  
22 nearly 50 percent and almost one of the two sections  
23 involved in the pooling. I think that, you know, what  
24 I'd like to raise is that WPX's position is that 3R  
25 can drill a one-mile lateral or a two-mile lateral,

1 and the geology in this area essentially requires a  
2 two-mile lateral for economic viability.

3 And that's exactly what 3R has planned.  
4 So I think that, you know, overall, our application  
5 proposals, you know, fit the needs of the area.

6 THE HEARING EXAMINER: Okay. I  
7 understand. And, for me, that's neither here nor  
8 there right now.

9 MR. SUAZO: Sure.

10 THE HEARING EXAMINER: It's your  
11 applications, but they're competing applications. So  
12 normally I give preference to the applicant when it  
13 comes to the hearing date, but here we have competing  
14 applications.

15 Mr. Suazo, it seems that two weeks is  
16 not a huge difference in time for me to override the  
17 preference of Mr. Savage. So I'll set it for 4/29  
18 unless there's a strenuous objection, and you can give  
19 me some reason why you'll suffer, you know, undue  
20 prejudice from it.

21 MR. SUAZO: Yeah. I think I will for  
22 the record make a strenuous objection simply because,  
23 you know, I think, time is of the essence. And I will  
24 say that WPX has issues with the BLM with its  
25 sections. It hasn't, you know, submitted its APDs

1 with a -- virtual connectivity interruption --

2 So since our client has put in all the  
3 work and is prepared to drill as soon as July and  
4 because there is a lease expiration issue, you know,  
5 having it sooner rather than later, you know, it does  
6 matter in terms of weeks. So that's my objection for  
7 the record. Thank you.

8 THE HEARING EXAMINER: Sure.

9 Mr. McClure, just a question to you for  
10 the Division's operations. If we hear this case, you  
11 know, instead of April 15, we hear it on April 29, is  
12 there a chance that we'll get an order out before that  
13 July --

14 What's the deadline that in the lease,  
15 Mr. Suazo?

16 MR. SUAZO: It expires in October.

17 THE HEARING EXAMINER: Oh, October.  
18 Okay.

19 Is there a chance, Mr. McClure, that  
20 we'll get orders out in July?

21 MR. MCCLURE: Mr. Hearing Examiner, I  
22 wasn't following the discussion. Is this the  
23 competing cases or via affidavit?

24 THE HEARING EXAMINER: Yes. Competing  
25 cases.

1 MR. MCCLURE: I mean, it's conceivable,  
2 but competing cases do take a substantial more amount  
3 of time to write the order for.

4 THE HEARING EXAMINER: Okay. I  
5 understand. That makes sense.

6 Mr. Suazo, I understand your objection.  
7 We are only talking about a two-week difference, so  
8 I'm going to go with the April 29 date that's  
9 agreeable to both parties. And if for some reason  
10 your witnesses can't appear on April 29, file a  
11 motion, and we'll deal with it that way; okay?

12 MR. SUAZO: Yes, Mr. Examiner. We'll  
13 make it happen.

14 THE HEARING EXAMINER: All right.  
15 Thank you, sir.

16 Mr. Savage, anything further?

17 MR. SAVAGE: No. Thank you  
18 Mr. Examiner.

19 THE HEARING EXAMINER: All right.  
20 You're welcome. Okay. We're off the record in these  
21 cases.

22 Let's move on to -- mine are out of  
23 order now.

24 204 and 205 are not -- Mr. Savage, your  
25 cases 204 and 205 are not on today's docket, are they?

1 MR. SAVAGE: No.

2 THE HEARING EXAMINER: Okay.

3 MR. SAVAGE: I believe Ms. Tschantz put  
4 them on there -- listed them on the worksheet to  
5 address this contested hearing matter.

6 THE HEARING EXAMINER: Sounds good.  
7 When are your cases? I suspect that you just filed  
8 these cases?

9 MR. SAVAGE: Yes, we did.

10 THE HEARING EXAMINER: Okay.

11 MR. SAVAGE: And they're set for  
12 March 13th.

13 THE HEARING EXAMINER: Oh, very good.  
14 March 13th. Okay. Oh, so that's for the first. So  
15 then do they really need to be on March 13th? Because  
16 they're competing cases. I mean, what's the point?

17 MR. SAVAGE: Right. We will continue  
18 those to the 29th, and we -- yes, sir.

19 THE HEARING EXAMINER: April 29. Yes.  
20 What were you going to say?

21 MR. SAVAGE: Oh, we -- there's  
22 also -- in that group of cases, there's some Bone  
23 Spring cases that are not conflicting. But they're in  
24 the subject lands, and we plan to go forward with  
25 those by affidavit on the 13th. Just for some



1 additional information

2 THE HEARING EXAMINER: Okay. All  
3 right. That's not on my docket today; so --

4 MR. SAVAGE: Right. Yes, sir.

5 THE HEARING EXAMINER: Recess on those  
6 four, on those cases, those four cases.

7 Okay. I'm now calling the competing  
8 compulsory pooling cases between Read & Stevens, also  
9 known as Permian Resources, and V-F Petroleum.

10 These are 11 cases that have been  
11 continued where the hearing started on the 28th of  
12 January, and because of notice issues, they were  
13 continued to February 13 and then to today. Let's get  
14 entries of appearance first.

15 MS. VANCE: Good morning, Mr. Hearing  
16 Examiner. Paula Vance with the Santa Fe office of  
17 Holland & Hart on behalf of Read & Stevens and  
18 Permian.

19 THE HEARING EXAMINER: Thank you.

20 MR. SAVAGE: Good morning, Mr. Hearing  
21 Examiner. Darin Savage with Abadie & Schill on behalf  
22 of V-F Petroleum, Inc.

23 THE HEARING EXAMINER: Thank you.

24 MS. LUCK: And good morning. Kaitlyn  
25 Luck on behalf of Carolyn Beall.

1 THE HEARING EXAMINER: Okay. Good  
2 morning.

3 Okay. We have some motions that I want  
4 to deal with as a preliminary matter. And then let's  
5 talk about the exhibits, get those admitted, and deal  
6 with the multiple filings. And then we'll get on the  
7 record and get some testimony.

8 Are your witnesses available,  
9 Ms. Vance? I know one of your witnesses was not  
10 available at the time.

11 MS. VANCE: Yes. Mr. Macha is  
12 available. I do believe that our geologist,  
13 Mr. Cantin, he is unavailable; however, we do have his  
14 colleague, Mr. Ira Bradford, who assisted with putting  
15 together the exhibit materials. And he is familiar  
16 with the applications and is available to answer any  
17 geological questions.

18 THE HEARING EXAMINER: Okay. Perfect.  
19 Thank you.

20 And, Mr. Savage, your witnesses?

21 MR. SAVAGE: Yes. Mr. Jordan Shaw, the  
22 landman, is available; and Stephen Burke, the  
23 geologist, is also available.

24 THE HEARING EXAMINER: Perfect.

25 And, Ms. Luck, do you have any

1 witnesses?

2 MS. LUCK: I am similarly calling  
3 Mr. Shaw, and he is available.

4 THE HEARING EXAMINER: Okay. All  
5 right. Let's deal with some motions.

6 First of all, the first group of  
7 motions that I received wanted me to or asked me to  
8 reduce a verbal ruling that I made on the 28th of  
9 January to a written order. Just to refresh the  
10 record, there was a motion to dismiss Read & Stevens'  
11 cases that were newly filed two weeks before the  
12 January 28th contested hearing, and I denied that.

13 I laid out my reasons why today is a  
14 continuation of that hearing to cure the notice issue  
15 that we did have going into the January 28th hearing.  
16 I laid it all out, and there was an assertion from  
17 Ms. Luck and joined by Mr. Savage that I needed to  
18 reduce that logic to a written order.

19 So, Ms. Luck, let me start with you.  
20 Where in the rules do you find that I must issue a  
21 ruling in writing?

22 MS. LUCK: And I'm not sure that  
23 there's a specific rule that requires hearing  
24 examiners to issue written orders every time we've  
25 requested a written order in this case for purposes of

1 preserving, and I'll just defer to Mr. Savage if he  
2 has additional information on that.

3 But it's simply our request for a  
4 written order so that there is an appealable order to  
5 take up to the Commission at this point in time  
6 regarding the notice issue.

7 THE HEARING EXAMINER: Okay.

8 Mr. Savage, specifically answering my  
9 question, where in the rule does it state that I need  
10 to issue an order in writing?

11 MR. SAVAGE: Mr. Hearing Examiner, it's  
12 clearly delineated in the case law. And because this  
13 issue is an interlocutory appeal, we believe that it  
14 would be beneficial to have a written explanation for  
15 the OCC to review.

16 THE HEARING EXAMINER: Okay. Let's  
17 see. In the rule that we are following, 19.15.4.16  
18 NMAC, there is a section C that talks about hearings  
19 on motions.

20 And it talks about, the first sentence,  
21 "The director or division examiner may rule on motions  
22 that are necessary or appropriate for the disposition  
23 prior to a hearing on the merit." And then it talks  
24 about the Commission, which I'm not going to read.

25 "Prior to ruling on a motion, the

1 director or division examiner shall give written or  
2 oral notice to each party who has filed an appearance  
3 in the case and who may have an interest in the  
4 motion's disposition and shall allow interested  
5 parties an opportunity, reasonable under the  
6 circumstances, to respond to the motion."

7 And that, I did. And we did hear from  
8 Read & Stevens. Is that right -- I don't want to  
9 confuse this. There's been several motions and  
10 responses.

11 Ms. Vance, did you respond to this  
12 motion for a written order?

13 MS. VANCE: I did not.

14 THE HEARING EXAMINER: Okay. You did  
15 not, you said; right?

16 MS. VANCE: Correct. I did not.

17 THE HEARING EXAMINER: Okay. Very  
18 good. Then it says "The director or division examiner  
19 may conduct a hearing on the motion following written  
20 or oral notice to interested parties either at a  
21 pre-hearing conference or otherwise." And that's all  
22 it says, so there's nothing here that talks about an  
23 order having to be in writing.

24 Now, the next issue -- and I deny it,  
25 of course, so I'm denying this motion for a written

1 order. I'm denying it because there's nothing in the  
2 rules that talk about issuing an order in writing.  
3 This is under the authority that the hearing examiner  
4 has. I will discuss that.

5 This is under 19.15.4.19 NMAC, Division  
6 Examiner's Power and Authority: "The Division  
7 examiner to whom the director refers a matter shall  
8 have full authority to hold hearings on such matter in  
9 accordance with" -- another rule -- "subject only to  
10 the limitations that the director may order in a  
11 particular case.

12 "The Division's examiner shall have the  
13 power to perform all acts and take all measures  
14 necessary and proper for the hearing's efficient and  
15 orderly conduct, including administering oaths,  
16 receiving testimony and exhibits, and ruling upon  
17 objections that may be interposed."

18 So that's what the rule talks about  
19 when it comes to my authority to rule on motions and  
20 conduct hearings.

21 MS. LUCK: And, Mr. Hearing Examiner,  
22 may I also direct your attention to 19.15.4.21? I'm  
23 not sure if that was cited in our request, but it does  
24 indicate that after a division examiner's hearing that  
25 a division examiner must issue a report and

1 recommendations for the Division's disposition of the  
2 matter or proceeding.

3 And so while I think that that rule  
4 generally contemplates a complete proceeding, in this  
5 case, we did request a written order due to the nature  
6 of the proceeding that was held on January 28th before  
7 the continuance to today's date.

8 And so I would just refer you back to  
9 19.15.4.21: "Upon the conclusion of a hearing before  
10 a division examiner, the Division examiner shall  
11 promptly consider the proceedings in such a hearing  
12 and based upon the hearing's record prepare a written  
13 report with recommendations for the Division's  
14 disposition of the matter or proceeding."

15 And so, in this case, although it's not  
16 a complete proceeding at this point in time, it was  
17 that there was a complete issue regarding notice that  
18 we felt was proper for consideration and should be  
19 appealed up to the Commission. So we'd just like to  
20 make a record of that. Thank you.

21 THE HEARING EXAMINER: And I think by  
22 your own reading of the rule, this rule doesn't apply  
23 to where we are. This hearing is not complete. So  
24 thank you, Ms. Luck, for that citation. Okay. So now  
25 we have the concept of appealing a ruling on a motion

1 to the Commission.

2 So, Ms. Luck, where in the rules does  
3 it give you the ability to file an interlocutory  
4 appeal?

5 MS. LUCK: Well, I think that at any  
6 point in time, a party of record who's adversely  
7 affected by a decision by a division hearing examiner  
8 can immediately file a de novo application to the  
9 Commission.

10 Just referring to 19.15.4.23: "When  
11 the Division enters an order pursuant to a hearing  
12 that a division examiner held, a party of record whom  
13 the order adversely affects has the right to have the  
14 matter heard de novo before the Commission, provided  
15 that within 30 days from the date the Division issues  
16 the order, the party files a written application for  
17 de novo hearing with the Commission clerk."

18 And so that would be what we read as a  
19 right to a de novo appeal. Even if there's not a  
20 written decision, there was an order entered regarding  
21 notice and allowing these cases to proceed at this  
22 point in time.

23 And so the Commission and the Division  
24 have concurrent jurisdiction over matters relating to  
25 oil and gas in the state of New Mexico, so whether the



1 issue is being heard before the Commission or the  
2 Division, but both can simultaneously hear the same  
3 issues.

4 THE HEARING EXAMINER: Okay. Thank  
5 you, Ms. Luck. Okay. So then there was the notice of  
6 intervention that you filed. There was a response to  
7 the notice of intervention --

8 MR. SAVAGE: Mr. Hearing Examiner?

9 THE HEARING EXAMINER: I'm ruling in  
10 favor of intervention in this case based on the record  
11 from the last hearing, so that issue is decided.

12 MR. SAVAGE: Mr. Hearing Examiner --

13 THE HEARING EXAMINER: I assume you're  
14 not appealing that, Ms. Luck?

15 MS. LUCK: I'm not appealing the notice  
16 of intervention decision at this time, no, Mr. Hearing  
17 Examiner. And I'll just defer to Darin if he has  
18 something to add.

19 THE HEARING EXAMINER: I didn't ask  
20 Mr. Savage if he had anything to add, but thank you,  
21 Ms. Luck. I'll conduct the hearing if you don't mind.  
22 Okay. So now we go to the joint motion for stay of  
23 proceedings, and this -- Ms. Luck, you filed this, or  
24 Mr. Savage filed this?

25 MS. LUCK: Mr. Savage.

1 THE HEARING EXAMINER: Mr. Savage, did  
2 you file this joint motion?

3 MR. SAVAGE: We both executed the  
4 motion, and I filed it.

5 THE HEARING EXAMINER: Can you tell me  
6 why you called it a joint motion?

7 MR. SAVAGE: We both signed it.

8 THE HEARING EXAMINER: But you're not  
9 the only parties in the case.

10 MR. SAVAGE: Yes, sir. It was a  
11 joint -- jointly between counsel for Ms. Beall and  
12 counsel for V-F Petroleum.

13 THE HEARING EXAMINER: And can you tell  
14 me where you put Read & Stevens' position on this  
15 motion?

16 MR. SAVAGE: It was an oversight that  
17 we did not include, but I believe Read & Stevens  
18 promptly stated their position on this matter.

19 THE HEARING EXAMINER: Well, that  
20 doesn't relieve you the duty to follow the rules. And  
21 rule 1-007.1 requires that you include the position of  
22 an opposing party, and that wasn't done here.

23 And, Ms. Luck, did you review this  
24 before you signed onto it?

25 MS. LUCK: Yes, I did. And I join with

1 Mr. Savage's statement that that was an oversight that  
2 we didn't include Permian or Read & Stevens' position  
3 on that joint motion. It was just filed on behalf of  
4 V-F and Ms. Beall.

5 THE HEARING EXAMINER: All right.  
6 Well, I don't see any authority -- this opposed motion  
7 provides no authority for an interlocutory appeal  
8 while the hearing is going on. Until a final order is  
9 issued by the Division, I don't believe there is a  
10 right to an appeal.

11 And, nevertheless, it's a motion to the  
12 hearing examiner to stay the proceedings, and I'm  
13 denying that. I issued a written order this morning  
14 saying so. So this is denied. Okay. Now we're  
15 here at the hearing --

16 MR. SAVAGE: Mr. Hearing Examiner,  
17 may I --

18 THE HEARING EXAMINER: Let's continue  
19 our hearing.

20 MR. SAVAGE: Mr. Hearing Examiner, may  
21 I add --

22 THE HEARING EXAMINER: Sorry. What,  
23 Mr. Savage?

24 MR. SAVAGE: Yes. So if I understand  
25 this at this point, based on your rulings, it sounds

1 like you're denying the OCC appeal. You're  
2 denying -- dismissing the OCC hearing that was AP  
3 approved; is that correct? April --

4 THE HEARING EXAMINER: I didn't  
5 understand what you said. Would you repeat what you  
6 said?

7 MR. SAVAGE: Yes. So we received  
8 approval for an OCC appeal on April 17th -- to be  
9 conducted on April 17th. So it sounds like you're  
10 dismissing that hearing.

11 THE HEARING EXAMINER: I have no power  
12 to dismiss anything before the Commission. I am  
13 denying the motion to stay.

14 MR. SAVAGE: Okay. So the appeal is  
15 still an act of appeal, and it's been set for  
16 April 17th. Is that a correct understanding?

17 THE HEARING EXAMINER: You'd have to  
18 speak to the administrator for the OCC to find out  
19 when it's set. I don't know

20 MR. SAVAGE: If you're ruling on this  
21 that a interlocutory appeal is not valid --

22 THE HEARING EXAMINER: I'm not saying  
23 that. That's my belief. Reading the rules, I'm  
24 saying that I don't believe you have the ability to  
25 appeal anything but a final order. There is no final

1 order in this case. It's going to take months to get  
2 a final order from the Division that I believe is  
3 appealable.

4 However, you filed a de novo appeal.  
5 It was accepted by the administrator. I say nothing  
6 more about that. I have no other opinion about that.

7 MR. SAVAGE: If the administrator  
8 agrees with your position and it's dismissed, I would  
9 assume that on this issue that administrative remedies  
10 have been exhausted, and it is ripe for appeal to a  
11 district court.

12 THE HEARING EXAMINER: I just -- I  
13 answered your question as thoroughly as I can. I  
14 don't understand what you're asking now.

15 MR. SAVAGE: I was just trying to  
16 understand the scope and authority of your denial or  
17 belief on the record that a interlocutory appeal is  
18 not valid.

19 THE HEARING EXAMINER: Well, you  
20 haven't provided any authority for an interlocutory  
21 appeal. There's no authority here. So I'm not making  
22 a comment about that. I just told you that I have  
23 denied your motion -- your opposed motion for a stay.  
24 I did it in writing. You have that document. Now,  
25 are you ready to proceed with your case?

1 MR. SAVAGE: Yes, sir.

2 THE HEARING EXAMINER: Okay. Good.

3 Now, I wanted to talk to you about the exhibits,  
4 because I want -- when this hearing is over today, I  
5 want there to be one complete document from each party  
6 of exhibits for the technical examiners to review.

7 Ms. Vance has complied with that. She  
8 has filed a single document that has all of the  
9 exhibits, the rebuttal exhibits all laid out in one  
10 document, and that's what I'm asking you to do as  
11 well. I know that you have filed rebuttal exhibits  
12 separate back on the 6th or so of February.

13 And what I'm asking you to do is after  
14 today's hearing is over, depending on what happens  
15 with today's exhibits -- I don't know what's going to  
16 happen -- that you combine everything into one exhibit  
17 packet and file it that way. I want to avoid  
18 confusion.

19 I haven't heard you say anything,  
20 Mr. Savage.

21 MR. SAVAGE: Understood.

22 THE HEARING EXAMINER: Okay. Great.  
23 Excellent. Okay. So let's deal with the exhibits.  
24 Mr. Savage, have you had a chance to review Read &  
25 Stevens' revised exhibit packet that was filed?

1 (Exhibit 12 through 15 were marked for  
2 identification.)

3 THE HEARING EXAMINER: When was it  
4 filed, Ms. Vance?

5 MS. VANCE: I believe it was the 18th  
6 of February.

7 THE HEARING EXAMINER: Okay. Thank you  
8 Mr. Savage?

9 MR. SAVAGE: Yes, I have.

10 THE HEARING EXAMINER: You have. Okay.  
11 Good. Are there any objections to any of the  
12 exhibits?

13 MR. SAVAGE: No objections.

14 THE HEARING EXAMINER: Very good.

15 Ms. Vance, your revised exhibit packet  
16 filed February 18 is admitted into evidence.

17 (Exhibit 12 through 15 were received  
18 into evidence.)

19 THE HEARING EXAMINER: And Ms. Tschantz  
20 will take out anything else that you previously filed.  
21 Is that acceptable?

22 MS. VANCE: Yes.

23 THE HEARING EXAMINER: Very good.

24 Thank you.

25 Okay. Mr. Savage, what do you have

1 filed that we need Ms. Vance's concurrence on?

2 MR. SAVAGE: So we did not file any  
3 additional exhibits as of the deadline of  
4 February 6th; however, we have some rebuttal exhibits  
5 that may come into play based on the testimony that we  
6 would like to have considered, if they're applicable,  
7 during the testimony to rebut matters addressed. But  
8 that would be dependent upon the answers to the  
9 questions.

10 THE HEARING EXAMINER: Okay. So  
11 Ms. Tschantz, what do we have --

12 After the January 28 hearing,  
13 Mr. Savage, you were directed to clean up your  
14 exhibits and refile them. Do you remember that?

15 MR. SAVAGE: And we did.

16 THE HEARING EXAMINER: Okay. Good. So  
17 you did. That's what I'm asking you. When did you  
18 refile that?

19 MR. SAVAGE: We did it by the -- we did  
20 it, I think -- I don't have that detail in my head,  
21 but I believe we did it pretty readily after that  
22 hearing.

23 THE HEARING EXAMINER: Okay. All  
24 right. So that's what I was asking you if you had  
25 anything that you needed Ms. Vance to take a look at



1 and to either object to or to agree to let in as  
2 evidence. So do you want to look, Mr. Savage, and  
3 give me the date of that filing so that I can ask  
4 Ms. Vance properly?

5 MR. SAVAGE: Okay.

6 THE HEARING EXAMINER: Thank you. And,  
7 Ms. Luck, while Mr. Savage is looking for that date of  
8 his filing, let me ask you, do you have any objections  
9 to Read & Stevens' exhibits?

10 MS. LUCK: No, Mr. Hearing Examiner.

11 THE HEARING EXAMINER: Did you say no?

12 MS. LUCK: "No."

13 THE HEARING EXAMINER: I wanted to make  
14 sure I could hear that -- I could hear you.

15 Okay. Mr. Savage?

16 MR. SAVAGE: I have to pull up the case  
17 on the website here. I'm sorry for the delay.

18 THE HEARING EXAMINER: Which case  
19 number are you looking for?

20 MR. SAVAGE: I was looking for -- I  
21 thought we filed them in 25117 and -- yes. So it  
22 looks like that was received. So we did it by the  
23 deadline of 2/6/2025.

24 THE HEARING EXAMINER: Okay. I see  
25 multiple filings, and I have to look at each one to

1 make sure I have the right -- okay. That's not  
2 them --

3 MR. SAVAGE: Yes --

4 THE HEARING EXAMINER: That's okay.  
5 It'll just take me a moment. I just want to look at  
6 this. Okay. I see here a notice of rebuttal exhibit.  
7 But that's not what we're talking about, is it?

8 (Exhibit 16 through 20 were marked for  
9 identification.)

10 MR. SAVAGE: No, sir. These were  
11 notice of filings amended hearing packet, and we did  
12 it for 24994, 24995, and 25115 through 25117. Hold  
13 on.

14 THE HEARING EXAMINER: Okay. I have a  
15 77-page document. Is that the one you're talking  
16 about?

17 MR. SAVAGE: Well, this one, it looks  
18 like it's 77, yes.

19 THE HEARING EXAMINER: All right. Very  
20 good. Does this include that rebuttal exhibit that I  
21 just mentioned?

22 MR. SAVAGE: The rebuttal exhibit that  
23 we -- I'm not sure if I understand.

24 THE HEARING EXAMINER: Well, on the  
25 same -- on the 6th of February, the same day that you

1 filed your notice of filing amended hearing packet,  
2 you also filed a notice of rebuttal exhibit, Rebuttal  
3 Exhibit 15.

4 MR. SAVAGE: Rebuttal Exhibit for  
5 25115?

6 THE HEARING EXAMINER: Well, sir, I  
7 don't know which case it goes in, but it was filed in  
8 25115, yes. It's notice of exhibit -- Rebuttal  
9 Exhibit 15 is what it's called.

10 MR. SAVAGE: Okay.

11 THE HEARING EXAMINER: And my question  
12 to you is, is that Rebuttal Exhibit 15 in your other  
13 document? I'm trying to avoid confusion, which  
14 obviously we have confusion already.

15 MR. SAVAGE: Yes, sir. I apologize.

16 THE HEARING EXAMINER: You know, I  
17 don't see rebuttal exhibits in your exhibit table of  
18 contents, so I have a feeling --

19 MR. SAVAGE: We didn't file a  
20 rebuttal -- additional rebuttal exhibits.

21 THE HEARING EXAMINER: Well, on the 6th  
22 of February, you did file a Rebuttal Exhibit  
23 Number 15.

24 MR. SAVAGE: Number 15 --

25 THE HEARING EXAMINER: Which leads me

1 to believe that there's 14 other rebuttal exhibits.

2 MR. SAVAGE: So in 25115 -- case 25115,  
3 there is also a notice of filing amended hearing  
4 packet. But I apologize. I don't recall us filing  
5 additional rebuttal exhibits.

6 THE HEARING EXAMINER: Okay.  
7 Mr. Savage, would you look in the case that we were  
8 talking about originally, which was 25117?

9 MR. SAVAGE: Yes, sir.

10 THE HEARING EXAMINER: All right. And  
11 if you look at the document that's right next to the  
12 document notice of filing amended hearing packet, you  
13 will see a notice of rebuttal exhibit. It says that  
14 it's a rebuttal to Permian Resources Exhibit E-5  
15 Commentary.

16 MR. SAVAGE: It is right next to -- so  
17 I see the notice of filing amended hearing packet, and  
18 that was dated -- posted on 2/7.

19 THE HEARING EXAMINER: Look next to it.

20 MR. SAVAGE: To the right? To the  
21 left? Notice of --

22 THE HEARING EXAMINER: Either way. I  
23 can't tell you, sir --

24 MR. SAVAGE: Yes. Notice -- yeah. I  
25 apologize. Rebuttal Exhibit 15.

1 THE HEARING EXAMINER: So this rebuttal  
2 exhibit, it's called Number 15. It's filed in all of  
3 the cases based on --

4 MR. SAVAGE: Right, right. This was a  
5 geology -- the geologist had this, and it was filed to  
6 address density, patterns of density, spacing density.  
7 Yes. You're correct, Mr. Hearing Examiner. And that  
8 was filed in the cases, yes.

9 THE HEARING EXAMINER: Yes. So let me  
10 go back to the question I was asking you before.  
11 First of all, does that mean that there are 14 other  
12 rebuttal exhibits?

13 MR. SAVAGE: I believe it would've been  
14 filed in every case.

15 THE HEARING EXAMINER: Okay. You're  
16 not answering my question. I'm asking a very direct  
17 question. Are there 14 other rebuttal exhibits?

18 MR. SAVAGE: That would reflect this  
19 filing, yes. I believe that is correct.

20 THE HEARING EXAMINER: I'm not asking  
21 what you believe. I'm asking you, are there -- do you  
22 have 15 rebuttal exhibits? Because this document only  
23 has one of them.

24 MR. SAVAGE: No. This -- I think that  
25 Exhibit 15 would be a continuation of the order.

1 THE HEARING EXAMINER: Oh, I see.

2 MR. SAVAGE: Yes.

3 THE HEARING EXAMINER: Okay. So then  
4 it's just the choice of words you used here which  
5 leads to confusion.

6 MR. SAVAGE: Yes.

7 THE HEARING EXAMINER: Because it looks  
8 like -- so this really is Rebuttal Exhibit 1, then?

9 MR. SAVAGE: Well, this is a singular  
10 rebuttal exhibit.

11 THE HEARING EXAMINER: Fine. Is this  
12 rebuttal exhibit included in that packet that you also  
13 filed that same day?

14 MR. SAVAGE: No.

15 THE HEARING EXAMINER: Okay. Very  
16 good. Okay. So what I'm directing you to do is at  
17 the end of today, let's clear the confusion, and you  
18 file a new exhibit packet with both of these PDFs  
19 merged so that one document has all of your exhibits.

20 And if you want to call it Rebuttal  
21 Exhibit 15, that's your choice. I'm not telling you  
22 what to change the number to, but it does lead to  
23 confusion, because it looks like there's 14 others.

24 MR. SAVAGE: Understood.

25 THE HEARING EXAMINER: Anyway. So,

1 Ms. Luck, have you reviewed the exhibits that V-F  
2 filed?

3 MS. LUCK: Yes. And I don't have any  
4 objection to those. Thank you.

5 THE HEARING EXAMINER: Okay.

6 Ms. Vance?

7 MS. VANCE: Yes. I've reviewed them,  
8 and I do not have any objections.

9 THE HEARING EXAMINER: Fantastic.

10 So let me be very specific, Mr. Savage.  
11 Your amended hearing packet filed on the 6th of  
12 February that includes a table of contents with tab 1,  
13 2, 3, and 4, and your Rebuttal Exhibit Number 15 are  
14 admitted into evidence.

15 (Exhibit 16 through 20 were received  
16 into evidence.)

17 THE HEARING EXAMINER: Is there  
18 anything else that you want to deal with preliminarily  
19 before we begin the hearing?

20 MR. SAVAGE: Mr. Hearing Examiner, as I  
21 mentioned, we may have additional rebuttal exhibits  
22 that may come up to respond to testimony and answers  
23 during testimony. And I would like to ask, as a  
24 preliminary matter, could we address those if they are  
25 appropriate?

1 THE HEARING EXAMINER: You always have  
2 the opportunity to present a rebuttal case. As long  
3 as you can show me how you -- how it is properly  
4 admitted as a rebuttal exhibit, then of course you do.  
5 But since there's nothing to be offered right now,  
6 there's nothing for me to consider. So are you ready  
7 to proceed with the hearing?

8 MR. SAVAGE: I am.

9 THE HEARING EXAMINER: Okay. Very  
10 good.

11 And, Ms. Vance, are you ready to  
12 proceed?

13 MS. VANCE: Actually, do you mind if we  
14 take a short break so I can run and use the restroom?

15 THE HEARING EXAMINER: I don't mind at  
16 all. But when you come back, will you be ready to  
17 start?

18 MS. VANCE: I will. Thank you.

19 THE HEARING EXAMINER: Okay. Good.  
20 And before you go, Ms. Vance, I want to clear up the  
21 order that we're going to deal with things.

22 And, Ms. Luck, are you ready to  
23 proceed?

24 MS. LUCK: Yes. Thank you.

25 THE HEARING EXAMINER: All right.



1                   So, Ms. Vance, since you didn't have  
2     your landman available, I would like you to finish  
3     presenting your case. You began on the 28th, but you  
4     didn't -- because, first of all, four of the cases had  
5     not been -- the notice had not been cured. We had  
6     that issue, but also you had one witness who was  
7     missing.

8                   So I'd like you to finish presenting  
9     your case, and then we'll go to Mr. Savage, especially  
10    because it sounds like he may have some rebuttal  
11    evidence. And I know Ms. Luck would like to  
12    cross-examine your witnesses to bring out more of what  
13    she had already began to explore in the first hearing.

14                  So, Mr. Savage, is that acceptable?

15                  MR. SAVAGE: Yes, sir.

16                  THE HEARING EXAMINER: Ms. Luck, is  
17    that acceptable?

18                  MS. LUCK: Yes, Mr. Hearing Examiner.

19                  THE HEARING EXAMINER: Okay. Very  
20    good.

21                  So, Ms. Vance, when we come back from  
22    our break, would you be prepared to have your  
23    witnesses sworn in, and we'll begin?

24                  MS. VANCE: Yes. Just a quick question  
25    for opposing counsel is, which of our witnesses

1 are -- would you -- are they going to want to talk  
2 with? Because I just want to make sure that they're  
3 all online. Mr. Macha is online, but I just want to  
4 make sure everyone is also.

5 THE HEARING EXAMINER: Mr. Savage?

6 MR. SAVAGE: Yes, sir. So I believe we  
7 thoroughly cross-examined the geologist and the  
8 reservoir engineer, and I believe that Mr. Macha is  
9 the remaining one that we would cross-examine.

10 THE HEARING EXAMINER: Ms. Luck?

11 MS. LUCK: I'm in agreement. That's  
12 correct.

13 THE HEARING EXAMINER: Okay.  
14 Mr. McClure?

15 MR. MCCLURE: Mr. Hearing Examiner,  
16 I'll likely have questions for both their landman and  
17 substitute geologists, I guess.

18 THE HEARING EXAMINER: Yes. What is  
19 the name, Ms. Vance?

20 MS. VANCE: His name is Ira Bradford.

21 THE HEARING EXAMINER: Thank you.  
22 Okay.

23 MS. VANCE: And, Mr. Hearing Examiner,  
24 because it's -- the questions for Mr. Bradford are  
25 going to be limited to Mr. McClure and it may not take

1 as long, would it be possible to let Mr. McClure ask  
2 his questions first?

3 THE HEARING EXAMINER: Sure. By all  
4 means.

5 MS. VANCE: Thank you. Perfect.

6 THE HEARING EXAMINER: Okay. Let's go  
7 on a -- what? Five-minute break, Ms. Vance? Perfect.  
8 Thank you. We're off the record. It is 10:30 a.m.

9 (Off the record.)

10 THE HEARING EXAMINER: Let's get back  
11 on the record.

12 Ms. Vance, why don't you call your two  
13 witnesses? I'll get them sworn in.

14 MS. VANCE: Okay. And, unfortunately,  
15 I had my times wrong. Mr. Bradford is out of pocket  
16 for a little while.

17 THE HEARING EXAMINER: Okay. All  
18 right.

19 MS. VANCE: But I think that  
20 we'll -- Mr. Macha's testimony will take as long as it  
21 I takes for him to come back and be with us; so --

22 THE HEARING EXAMINER: I understand.  
23 Got it.

24 Mr. Macha, I see you. Mr. Macha,  
25 would you raise your right hand, please.

1 WHEREUPON,

2 TRAVIS MACHA,

3 called as a witness and having been first duly sworn  
4 to tell the truth, the whole truth, and nothing but  
5 the truth, was examined and testified as follows:

6 THE HEARING EXAMINER: State and spell  
7 your name.

8 MR. MACHA: Travis Macha, T-R-A-V-I-S  
9 M-A-C-H-A.

10 THE HEARING EXAMINER: Have you been  
11 qualified as an expert before this division?

12 MR. MACHA: Yes, sir.

13 THE HEARING EXAMINER: In what field?

14 MR. MACHA: Land.

15 THE HEARING EXAMINER: Land. Okay.  
16 Perfect.

17 Ms. Vance, do you have -- do you want  
18 to run through with Mr. Macha any evidence, any  
19 exhibits, have him adopt them under oath and to make  
20 any corrections before he stands for cross?

21 MS. VANCE: Yes, please.

22 THE HEARING EXAMINER: Go right ahead.

23 MS. VANCE: Thank you.

24 Mr. Macha, you've already stated your  
25 full name. By whom are you employed and in what

1 capacity?

2 MR. MACHA: Permian Resources  
3 Operating. I am the New Mexico Land Manager.

4 MS. VANCE: Okay. And your credentials  
5 as an expert have already been accepted?

6 MR. MACHA: Yes, ma'am.

7 MS. VANCE: And you're familiar with  
8 the applications filed in these contested cases?

9 MR. MACHA: Yes, ma'am.

10 MS. VANCE: And you're familiar with  
11 the lands within the proposed spacing units?

12 MR. MACHA: Yes, ma'am.

13 MS. VANCE: Okay. And you prepared  
14 written testimony in advance of today's hearing?

15 MR. MACHA: Yes, ma'am.

16 MS. VANCE: And they are marked  
17 as -- give me one second to just double check, make  
18 sure I've got -- they are marked as Exhibit C and C-1  
19 through Supplemental Exhibit C-11; correct?

20 (Exhibit 6 through 11 were marked for  
21 identification.)

22 MR. MACHA: Yes, ma'am.

23 MS. VANCE: Okay. And these were  
24 prepared -- these exhibits were prepared in connection  
25 with your testimony today?

1 MR. MACHA: That is correct.

2 MS. VANCE: And they are attached to  
3 your sworn testimony?

4 MR. MACHA: That is correct.

5 MS. VANCE: Do you have any corrections  
6 or modifications or changes to your testimony that  
7 were submitted as part of Exhibit C?

8 MR. MACHA: No. I do -- I do not  
9 believe I do.

10 MS. VANCE: Okay. And do you adopt  
11 your written testimony and exhibits under oath?

12 MR. MACHA: Yes, ma'am.

13 MS. VANCE: Okay. And you affirm the  
14 veracity of the exhibits you prepared?

15 MR. MACHA: Yes, ma'am.

16 MS. VANCE: All right.

17 Mr. Hearing Examiner, I would ask that  
18 Mr. Macha's statement and exhibits be accepted into  
19 the record.

20 THE HEARING EXAMINER: And they are.  
21 (Exhibit 6 through 11 were received  
22 into evidence.)

23 THE HEARING EXAMINER: Thank you. Do  
24 you have any direct exam for Mr. Macha? Or do you  
25 want me to move right to cross-exam?

1 MS. VANCE: You can move right to  
2 cross-examination.

3 THE HEARING EXAMINER: Okay. Well, I  
4 don't see Ms. Luck on the screen, so let's start with  
5 Mr. Savage.

6 Mr. Savage?

7 MR. SAVAGE: Yes, sir. Thank you.

8 Mr. Macha, thank you for your time  
9 answering the following questions. If you happen not  
10 to hear a question or if a question isn't clear to  
11 you, please do not hesitate to ask me to repeat the  
12 question or rephrase the question.

13 Mr. Macha, I'd like to direct your  
14 attention to your paragraph 19 in your landman  
15 statement where you state that Permian has letters of  
16 support from select owners. Are you familiar with  
17 those?

18 MR. MACHA: Yes, I am. Let me go to  
19 paragraph 19.

20 MR. SAVAGE: The select owners  
21 themselves, now, they didn't sit down and write on  
22 their own initiative, they didn't write these letters;  
23 is that correct?

24 MR. MACHA: That is correct.

25 MR. SAVAGE: And so you obviously

1 drafted these letters and sent them out. Did you send  
2 these support letters as drafted to all the interest  
3 owners in the units?

4 MR. MACHA: Yes. Including V-F.

5 MR. SAVAGE: Including V-F. And how  
6 many letters of support did you receive?

7 MR. MACHA: I think you can count.  
8 That's one, two, three, four, five, six.

9 MR. SAVAGE: Six letters of support.  
10 Okay. And one of the letters is from Javelina. How  
11 much working interest does Javelina own in the units?

12 MR. MACHA: Javelina is the -- the  
13 reversionary rights owner to the -- V-F's interest in  
14 section 15. They own an override currently.

15 MR. SAVAGE: They own -- okay. So  
16 they're not a working interest owner?

17 MR. MACHA: Correct. Assuming that  
18 term assignment does not terminate.

19 MR. SAVAGE: And the other letters, it  
20 looks like are from DHB, NM Western, Ard Oil. Can you  
21 tell me how much interest each of these parties own in  
22 the units?

23 MR. MACHA: I would direct you to my  
24 exhibits. Those are pretty small, yes. But also,  
25 it's -- it's us, Oxy, and then a bunch of small



1 owners, so yes. Who is -- Oxy assigned the JOA; so --

2 MR. SAVAGE: I also noted -- saw that  
3 you listed Moore Shelton as owning interest in your  
4 ownership?

5 MR. MACHA: That is correct, because  
6 that's the record title.

7 MR. SAVAGE: Are you familiar with  
8 title on that matter?

9 MR. MACHA: Yes. As of the last -- I  
10 have not looked at the county record in the last 30  
11 days, but there is no assignment from Moore & Shelton  
12 into V-F. I understand that V-F thinks  
13 there -- thinks or has some sort of agreement.

14 I don't think Moore & Shelton has  
15 signed any sort of assignment into V-F, though, which  
16 I assume there's going to be some sort of resolution  
17 at some point. But at this point, we have to rep  
18 Moore & Shelton with an interest. It's -- it's, like  
19 I say, record title; so --

20 MR. SAVAGE: So you did not see a  
21 memorandum of a term assignment assigning interest to  
22 V-F?

23 MR. MACHA: When was that filed?

24 THE HEARING EXAMINER: Mr. Macha,  
25 please don't ask questions. Mr. Savage is not a

1 witness. If you can't answer the question based on  
2 the way it's asked, just answer it that way. You're  
3 the one under oath, and Mr. Savage is not.

4 MR. MACHA: Yes, sir.

5 No, I did not. I have not seen a  
6 memorandum file.

7 MR. SAVAGE: Okay. So I am looking at  
8 a memorandum of term assignment of oil and gas lease  
9 from Moore & Shelton Co. to V-F Petroleum recorded in  
10 book 1191, page 919.

11 Mr. Hearing Examiner, may I share this?

12 THE HEARING EXAMINER: By all means.  
13 Is it an exhibit of yours, or is it Permian's?

14 MR. SAVAGE: It is a title document  
15 that addresses whether or not Shelton  
16 has -- Shelton Co. assigned its interest to V-F  
17 Petroleum.

18 THE HEARING EXAMINER: The question,  
19 Mr. Savage, was, is this an exhibit from Permian or  
20 your exhibit?

21 MR. SAVAGE: This would be my -- this  
22 would be -- it's not in the exhibits, but it is a  
23 document that shows the ownership has been  
24 transferred.

25 THE HEARING EXAMINER: So this is a

1 document that -- have you shared this document with  
2 Permian yet?

3 MR. SAVAGE: I have not. This would be  
4 an example of one of the rebuttal exhibits.

5 THE HEARING EXAMINER: Right. I got  
6 that already, Mr. Savage. Thank you. Okay. So I  
7 will -- so bring it up on the screen. So this exhibit  
8 is for demonstrative purposes only at this point.

9 If Ms. Vance chooses to object to it  
10 for some reason, you can voir dire the witness,  
11 Ms. Vance, if necessary. Let's get a look at the  
12 exhibit -- or not the exhibit -- the document.

13 MR. SAVAGE: Okay. Did that come up?

14 THE HEARING EXAMINER: No. I see an  
15 e-mail.

16 MR. SAVAGE: Oh, sorry. Okay. Share.  
17 Windows. What do -- is that sharing?

18 THE HEARING EXAMINER: No, sir. Again,  
19 maybe you have too many windows open on your computer,  
20 because it's sharing something you don't want to  
21 share.

22 MR. SAVAGE: Okay. Is it? I hope it's  
23 not incriminating.

24 THE HEARING EXAMINER: It is, but  
25 that's okay.

1 MR. SAVAGE: It is? Oh, no. I  
2 don't -- so I'm hitting the share button, and it goes  
3 to Windows. Okay. Here we go.

4 THE HEARING EXAMINER: Mr. Savage, if  
5 you continue having trouble, why don't you e-mail the  
6 document to Freya?

7 MR. SAVAGE: No. Mr. Hearing Examiner,  
8 I have this.

9 THE HEARING EXAMINER: Yes. We can see  
10 that now.

11 MR. SAVAGE: Okay.

12 So, Mr. Maka, this is the memorandum of  
13 term assignment filed in book 1191, page 919. And as  
14 you can see, it's entered into between Moore & Shelton  
15 Co. as assignor and V-F Petroleum as assignee, and it  
16 assigns to assignee by term assignment all of its  
17 operating rights in and to those certain oil and gas  
18 leases listed in Exhibit A. And then that would be  
19 the Exhibit A.

20 Based on this, do you agree that V-F  
21 Petroleum owns the interest that Moore Shelton had  
22 owned in your ownership report?

23 MR. MACHA: Do you mind scrolling back  
24 up a little bit to the signatures?

25 MR. SAVAGE: Yes.

1 MR. MACHA: Yeah. If -- if Moore &  
2 Shelton signed that, then that would be -- that would  
3 be a transfer. It looks like it was filed this month,  
4 so that would not have been in my last 30 days of  
5 review; so --

6 MR. SAVAGE: Okay. Thank you. In  
7 Permian's original hearing packet submitted for the  
8 January 28th hearing, you provided preliminary C-102s,  
9 which were unsigned and uncertified; is that correct?

10 MR. MACHA: That is correct.

11 MR. SAVAGE: Help me understand. Why  
12 did you provide uncertified C-102s for the  
13 January 28th hearing instead of signed and certified  
14 C-102s?

15 MR. MACHA: It was the most readily  
16 accessible C-102 form that I had. Our regulatory  
17 department did not -- did not upload them to our share  
18 site until I had to request it; so --

19 MR. SAVAGE: Isn't it standard practice  
20 to include certified C-102s as exhibits if you have  
21 them for the OCD to evaluate?

22 MR. MACHA: Yes. If I had them readily  
23 available. I just did not have them readily  
24 available.

25 MR. SAVAGE: Okay. But your counsel,

1 on January 28th, stated that the C-102s that you filed  
2 with the original hearing packet were the preliminary  
3 ones, but the actual C-102s that had been signed off  
4 by a surveyor were submitted with APDs. On what date  
5 did you submit the APD application to the BLM?

6 MR. MACHA: That would've been, I  
7 think, probably the -- somewhere in the  
8 mid -- third -- probably the third week of January,  
9 according to the signed APDs and my regulatory  
10 department.

11 MR. SAVAGE: Okay. So in your letter  
12 of support, which are dated December 5, 2024, you  
13 state that Permian has submitted APDs? Did you --

14 MR. MACHA: Yeah. So that -- that came  
15 from my correspondence with our regulatory department.  
16 They had them ready to submit. They were waiting on  
17 the 121-H and 131-H in the north half, north half,  
18 which is not in these cases -- north half, north half  
19 of section 14, 'cause they -- they were corresponding  
20 with the BLM on moving a monument marker.

21 They would -- they were going to try to  
22 just file them all at once. My interpretation from  
23 their e-mail was that they were already filing  
24 the -- the south half of the north half and the south  
25 half, so that was included in my letter. Obviously,

1 we -- we were about a month behind on that; so --

2 MR. SAVAGE: So this was not an  
3 accurate statement to the owners. Do you agree with  
4 that?

5 MR. MACHA: It was my interpretation at  
6 the time and a good faith statement, so yes. But yes.  
7 It -- obviously it was -- we were 30 days behind;  
8 so --

9 MR. SAVAGE: So is it possible that the  
10 recipients signed the support letter and agreed to  
11 possibly sign the JOA because you sent them out to all  
12 the owners? Maybe even they agreed to sign the JOA  
13 because they thought you were on the verge of  
14 receiving BLM permits?

15 MR. MACHA: No. No owner that has  
16 signed the JOA was under -- under any guise from that  
17 letter. The letter that was sent to the owners that  
18 signed that, I can resend it to them if you would  
19 like. I can get e-mails from them if you would like.  
20 But I'm not under the interpretation that that APD  
21 statement was the deciding factor.

22 MR. SAVAGE: But it was represented to  
23 the owners. And as a -- as a layman, if you received  
24 that, would you not reasonably believe that the APDs  
25 had been filed and were likely to be approved?

1 MR. MACHA: Yeah. I would also view it  
2 as a operator telling me APDs are filed, and they're  
3 drilling wells. So, in general, that's a general  
4 statement that I would -- I would approve of --

5 MR. SAVAGE: So you said that you  
6 filed -- you said you filed the APDs the third week of  
7 January; correct?

8 MR. MACHA: The third or fourth. I'm  
9 not in the regulatory department. I don't file the  
10 APDs.

11 MR. SAVAGE: Okay.

12 Mr. Hearing Examiner, I'd like the  
13 Division to take judicial notice of 43 CFR, section  
14 3171.12(b), which states within 30 days after the  
15 operator has submitted a complete application, the BLM  
16 will one, approve the application; two, defer action  
17 on the permit; or three, deny the permit.

18 THE HEARING EXAMINER: Okay. And,  
19 Mr. Savage, why are you asking the Division to take  
20 notice of a federal statute or rule?

21 MR. SAVAGE: Because based on  
22 Mr. Macha's testimony, if he filed those in the third  
23 week of January, then that 30 day time period should  
24 come into play.

25 THE HEARING EXAMINER: So, Ms. Vance,



1 any objection?

2 MS. VANCE: No.

3 THE HEARING EXAMINER: Okay. We'll  
4 take judicial notice of it. Thank you.

5 MR. SAVAGE: Mr. Macha, have you  
6 received notification of approval of your APDs since  
7 you submitted the APDs?

8 MR. MACHA: BLM timing for federal  
9 permits, we're looking at between 12 to 15 months  
10 right now, so -- unless you request an expedite; so --

11 MR. SAVAGE: So you're stating --

12 MR. MACHA: No. I am not -- I am not.  
13 in the regulatory department. I don't deal with the  
14 BLM in terms of APD approvals process; so --

15 MR. SAVAGE: Mr. Macha, the BLM  
16 maintains public records of when APD applications were  
17 receive. Are you aware of that?

18 MR. MACHA: Yes.

19 MR. SAVAGE: And this is under  
20 [reports.blm.gov/reports/AFMSS](https://reports.blm.gov/reports/AFMSS).

21 Mr. Hearing Examiner, I'd like to  
22 provide another document that shows when Mr. Macha's  
23 APDs were submitted.

24 THE HEARING EXAMINER: So evidence that  
25 comes in needs to be relevant and reliable, so let's

1 talk about the relevance of this line of questioning.  
2 What are you basically trying to show the Division?

3 MR. SAVAGE: I'm trying to show that  
4 the representations that the APDs were submitted is a  
5 misrepresentation. I'm trying to show that the C-102s  
6 were not filed prior to -- with the APDs prior to the  
7 January 28th hearing.

8 And based on the record of submission,  
9 it looks like the APDs were not filed until after the  
10 January 28th hearing. And, in fact, they were filed  
11 in February, so that would be --

12 MR. MACHA: I have a --

13 THE HEARING EXAMINER: Mr. Macha, this  
14 is not an opportunity for you to speak right now.

15 Go ahead, please.

16 MR. SAVAGE: Yeah. So it would be a  
17 rebut of the representations that Permian has made to  
18 all the owners, and it would be a rebut to the  
19 representation that Mr. Macha has made to the Division  
20 regarding -- and regarding when the C-102s were  
21 submitted and when the applications were submitted.

22 THE HEARING EXAMINER: So -- okay. I  
23 understand. That much, I understand. Thank you for  
24 the clarification, Mr. Savage. How is that relevant  
25 to this competing compulsory pooling contested

1 hearing? Why is that relevant?

2 MR. SAVAGE: Because in the original  
3 hearing on January 28th, Permian made a huge issue  
4 during cross-examination about the status of the APDs,  
5 that Permian had an advantage in receiving the APDs,  
6 which we are showing is not the case.

7 THE HEARING EXAMINER: Okay. All  
8 right. So then you're saying that this goes to show  
9 that the representation made by Permian regarding  
10 their APDs was not factual?

11 MR. SAVAGE: That's correct. Thank  
12 you.

13 THE HEARING EXAMINER: Okay. All  
14 right. Okay. So what are you asking me now?

15 MR. SAVAGE: I'm asking if I could  
16 present a document from the BLM that shows when the  
17 applications were submitted and received.

18 THE HEARING EXAMINER: Okay.  
19 Ms. Vance?

20 MS. VANCE: I'm going to object to  
21 this. You know, this is -- the Division doesn't have  
22 jurisdiction over filings with the BLM, so the  
23 relevance that we're getting into, the amount of  
24 detail Mr. Savage is trying to go into, does not seem  
25 pertinent or relevant for this hearing.

1 THE HEARING EXAMINER: Okay.

2 So, Mr. Savage, we have an objection  
3 based on relevance. So what's the -- are you trying  
4 to impeach the credibility of the witness?

5 MR. SAVAGE: In part. Rebut and  
6 impeach.

7 THE HEARING EXAMINER: Okay. Well, you  
8 can definitely do that, and you've done that. I don't  
9 know that you need to -- I don't know that I'm going  
10 to allow a document in you've -- the witness has  
11 testified according to what you've asked him.

12 And he has explained -- although, this  
13 is the first time the witness is testifying, so I'm  
14 not sure which -- what testimony in January are you  
15 impeaching? Is there an exhibit, or is there a  
16 witness's testimony that --

17 MR. SAVAGE: Yes.

18 THE HEARING EXAMINER: Okay. Just tell  
19 me what your --

20 MR. SAVAGE: Let me find the --

21 THE HEARING EXAMINER: Perfect. Okay.

22 MR. SAVAGE: So specifically in the  
23 testimony, Ms. Vance made a statement on January 28th,  
24 stating that the C-102s were filed with the original  
25 hearing packet for the preliminary ones, and the

1 actual ones were signed off by a surveyor and  
2 submitted with the APDs.

3 That statement implies that the  
4 APD -- that the C-102s and the APDs had already been  
5 filed prior to the January 28th hearing. We are going  
6 to show that based on the BLM records, that is not the  
7 case, and they were actually filed after the hearing.

8 THE HEARING EXAMINER: Okay. So,  
9 Mr. Savage, you know that Ms. Vance is not a witness.

10 MR. SAVAGE: I understand.

11 THE HEARING EXAMINER: So you're not  
12 impeaching Ms. Vance. You're just clarifying when the  
13 APDs were actually filed. I think you've done that  
14 with this witness here. Do you have any other  
15 questions about this?

16 MR. SAVAGE: Yes, I do. So --

17 THE HEARING EXAMINER: Okay. So hold  
18 on. Let me make a ruling on the objection. I sustain  
19 the objection. I don't believe that you need to admit  
20 a document to show what you are doing through this  
21 witness.

22 MR. SAVAGE: Okay. May I proceed?

23 THE HEARING EXAMINER: Yes. Please.

24 MR. SAVAGE: Okay.

25 So, Mr. Macha, would you -- I'm looking

1 at the BLM report. Would you agree that the slim jim  
2 wells for 113 and 122 were submitted and received on  
3 February 20, 2025?

4 MS. VANCE: Objection.

5 THE HEARING EXAMINER: What's the  
6 objection?

7 MS. VANCE: Mr. Macha has already made  
8 it clear that he is not the regulatory person for  
9 Permian that does the permitting, and he is not the  
10 person to ask the dates for filing.

11 THE HEARING EXAMINER: Okay. Thank  
12 you.

13 Mr. Savage, your response?

14 MR. SAVAGE: Mr. Macha specifically  
15 stated to the owners that he had submitted the APDs.  
16 Now, that is a very important representation to the  
17 owners, and it is not -- it is a misrepresentation.  
18 And we are just confirming when those APDs were  
19 actually submitted.

20 THE HEARING EXAMINER: So Ms. Vance  
21 alleges that Mr. Macha testified that he is not in the  
22 regulatory division, and he didn't know when the APDs  
23 were submitted; but you're saying that you have  
24 testimony from Mr. Macha that he -- that that's not  
25 the case. Are you saying that he has said two

1 different things here?

2 MR. SAVAGE: He has claimed to  
3 know -- in his representation, he has claimed to have  
4 known when those APDs were submitted.

5 THE HEARING EXAMINER: I'm going  
6 to -- let's take a break for a moment.

7 Mr. Cogswell, do you have any testimony  
8 from Mr. Macha that backs up what Mr. Savage is  
9 asserting?

10 THE REPORTER: Can you just give me  
11 something specific to search for?

12 THE HEARING EXAMINER: Yes.

13 Mr. Savage, something specific?

14 MR. SAVAGE: When I asked him if he  
15 stated in his letters that the APDs had already been  
16 submitted, he acknowledged that that's what he stated.

17 THE HEARING EXAMINER: Okay. Hold on a  
18 second. So thank you, Mr. Savage.

19 Mr. Cogswell, you don't have to look  
20 any further.

21 Okay. From my recollection, the  
22 witness has stated that he didn't know exactly when  
23 they were filed. I understand, Mr. Savage, what  
24 you're asking now. I'll allow you to clarify that  
25 knowledge with a follow-up question.

1                   So I'm going to overrule the objection,  
2       Ms. Vance.

3                   Mr. Savage, go ahead and clarify.

4                   MR. SAVAGE:   Okay.   Mr. Hearing  
5       Examiner, did the Division take judicial notice of the  
6       BLM report that specifies that the APDs were received  
7       by the BLM on February 20th for two of them and for  
8       February 1st for the remaining?

9                   THE HEARING EXAMINER:   No.   We're not  
10      taking judicial notice of a report that I don't have  
11      in front of me that has been objected to based on  
12      relevance.   So no.   I didn't do that.   But you're more  
13      than welcome to have the witness here to ask him  
14      questions based on the report, so go ahead.

15                  MR. SAVAGE:   Mr. Macha, would your  
16      regulatory department have filed with the BLM APDs  
17      based on those dates I just described instead of the  
18      third week in January or prior as represented by the  
19      letter?

20                  MR. MACHA:   I don't know how the BLM  
21      system works, but I have an e-mail with a spreadsheet  
22      attached to it that I'm staring at that says that we  
23      submitted APDs on January 25th.   And I understand if a  
24      BLM report is conflicting with that -- but I -- I'm  
25      not going to say that I understand how the BLM system



1 flows or how that works.

2 MR. SAVAGE: Mr. Hearing Examiner, I  
3 think that's fair enough. I think we should move on  
4 from this.

5 THE HEARING EXAMINER: I agree, so go  
6 ahead.

7 MR. SAVAGE: Mr. Macha, I'd like to  
8 direct your attention to Exhibit C-2 in your revised  
9 hearing packet. Do you see the C-102 for the 112-H  
10 well?

11 MR. MACHA: C-2?

12 MR. SAVAGE: C-2. I believe those are  
13 your C-102s.

14 MR. MACHA: Yeah -- yep.

15 MR. SAVAGE: I'm moving up to those as  
16 well. I assume you're familiar with a standard  
17 completed C-102. Would that be a fair assumption?

18 MR. MACHA: That's a fair assumption.

19 MR. SAVAGE: Would a completed  
20 certified C-102 survey show, for example, the distance  
21 from the surface hole location to the first take  
22 point?

23 MR. MACHA: Are you saying the distance  
24 between the -- the -- so the -- on the -- on a surface  
25 acreage basis? How far a surface hole is away from a

1 first take point?

2 MR. SAVAGE: Yeah. So --

3 MR. MACHA: I -- I'm not -- I know that  
4 you have to say what your first take point is and  
5 where your surface hole is. I'm not sure if  
6 you -- again, I'm not in the regulatory department, so  
7 I'm not sure exactly what you put on for footages  
8 there, no.

9 MR. SAVAGE: And in your experience  
10 with C-102s, in your experience, they are a  
11 comprehensive survey of the distances of all the  
12 various subject points and tracts; is that correct?

13 MR. MACHA: I -- I view C-102s through  
14 a mineral land lens. I care about the first take  
15 point, last take point, what the standard proration  
16 unit is, the dedicated acreage. As far as exact  
17 footages on the C-102 that don't pertain to the actual  
18 spacing unit subsurface, I am not that familiar with,  
19 no.

20 MR. SAVAGE: But when you receive a  
21 certified C-102, in your experience, it has all that  
22 information on it, does it not?

23 MR. MACHA: Like I say, I'm not  
24 reviewing the surface portion of a C-102  
25 unfortunately.

1 MR. SAVAGE: Well, looking at the  
2 survey diagram of the C-102 for the 112-H, are you  
3 able to tell the difference from the surface hole  
4 location to the first take point on this survey?

5 MR. MACHA: Not that I'm aware of.

6 MR. SAVAGE: Does the C-102 show where  
7 the lease tracts have been accurately surveyed?

8 MR. MACHA: It appears that way, yes

9 MR. SAVAGE: It does? In what way?

10 MR. MACHA: You're saying the actual  
11 leases, the federal leases that are listed on the  
12 C-102s? Is that what you're saying?

13 MR. SAVAGE: It does list the leases.  
14 I agree with that. But does it list -- does it  
15 quantify the location of the leases in terms of  
16 coordinates or distances of the tracts?

17 MR. MACHA: I'm -- I guess I'm not sure  
18 what you're asking. I'm -- like I say, I'm -- I am  
19 familiar with C-102s with the extent as they relate to  
20 the subsurface portion of my job. What the spacing  
21 unit is, the first take, last take point, dedicated  
22 acreage. I'm not familiar with all the surface  
23 aspects of everything.

24 MR. SAVAGE: Okay. Are you familiar  
25 with Mr. Shaw's landman testimony on the January 28th

1 hearing?

2 MR. MACHA: For the most part.

3 MR. SAVAGE: Do you recall that he  
4 referred to the C-102, that the lack of surveying as a  
5 cartoon diagram?

6 MR. MACHA: No. I'm not aware of him  
7 saying that.

8 MR. SAVAGE: Would that be -- do you  
9 think that would be justified based on the lack of  
10 survey information that this C-102 provides?

11 MR. MACHA: No. I don't think this is  
12 a cartoon.

13 MR. SAVAGE: Thank you, Mr. Macha. I  
14 direct your attention to Permian Resources  
15 Exhibit C-4. And is this your well proposal for the  
16 third Bone Spring?

17 MR. MACHA: That is correct.

18 MR. SAVAGE: Is it fair to say that  
19 your proposal for developing the third Bone Spring was  
20 a very recent development?

21 MR. MACHA: Yes. Those were sent on  
22 January 9th.

23 MR. SAVAGE: So it was not part of your  
24 original plan. Is that fair to say?

25 MR. MACHA: The third Bone Spring, I'm

1 going to direct that question to our geologists,  
2 reservoir engineers. But our -- the third -- third  
3 Bone Spring, that's something that we're very  
4 interested in. The second Bone Spring, however, is  
5 the primary target in this area.

6 MR. SAVAGE: But doesn't your well  
7 proposal say that you're proposing the wells in the  
8 third Bone -- or the well in the third Bone Spring in  
9 a direct response to V-F's plan to develop the third  
10 Bone Spring; is that correct?

11 MR. MACHA: Yes. V-F filed for  
12 applications to pool the -- from the base of the  
13 second Bone Spring to the base of the Bone Spring in  
14 several cases; whereas since there was a depth  
15 severance in 14, we were going to keep them all  
16 analogous and just pool from the -- the top of the  
17 Bone Spring to the base of the second Bone Spring.

18 So part of -- part of this is, yes, we  
19 have to have competing proposals.

20 MR. SAVAGE: So you would never have  
21 developed the third Bone Spring except for V-F's  
22 plan --

23 MR. MACHA: That's not -- that's not an  
24 accurate statement.

25 MR. SAVAGE: But it was in direct

1 response; is that correct?

2 MR. MACHA: As I referenced, the -- the  
3 second Bone Spring is the primary target in this area.  
4 The third Bone Spring is something that our guys are  
5 very interested in. I would direct that question to  
6 our reservoir engineers or our geologists.

7 MR. SAVAGE: And in this letter, you're  
8 informing the owners that Permian Resources will be  
9 targeting the entire third Bone Spring as a targeted  
10 interval; is that correct?

11 MR. MACHA: Can you direct me to that  
12 verbiage? This -- so if you're at -- if the question  
13 is are these the location -- these four wells the  
14 locations that we would use to develop the third Bone  
15 Spring as to what we've targeted, that we -- this is  
16 where we would land the wells in the third Bone  
17 Spring.

18 MR. SAVAGE: Okay. And is it correct  
19 that in your pooling applications, in cases 25145  
20 through 25148, for the third Bone Spring, you state  
21 that you are pooling the entire third Bone Spring from  
22 the top of the third Bone Spring to the base of the  
23 Bone Spring?

24 MR. MACHA: That would be correct in  
25 all categories except where there's active depth

1 severances. We would be pooling from the -- the base  
2 of the depth severance to the base of the -- the Bone  
3 Spring.

4 MR. SAVAGE: But doesn't your  
5 application represent otherwise? Does it not say from  
6 the top of the third Bone Spring to the bottom of the  
7 third Bone Spring?

8 MR. MACHA: I would direct that  
9 question to Paula.

10 MR. SAVAGE: Can I direct your  
11 attention to the application for 25145 in the hearing  
12 packet?

13 MR. MACHA: Do you know what page  
14 that's on?

15 MR. SAVAGE: Yeah. It's page 33.

16 MR. MACHA: Okay.

17 MR. SAVAGE: In the first paragraph,  
18 does it not state that you are seeking to pool a  
19 portion of the Bone Spring formation from the top of  
20 the third Bone Spring formation to the base of the  
21 Bone Spring? Does that not include the entire third  
22 Bone Spring?

23 MR. MACHA: Yes. That would be  
24 correct. I think later in paragraph 5 is where  
25 we -- I believe we clarified the depth severance at

1 some point somewhere. But, again, I would direct that  
2 to Paula.

3 MR. SAVAGE: Okay. Going down to the  
4 abstract that your counsel provided for public -- to  
5 the OCD for public notice, does it not also state that  
6 it's seeking to be pooling the third Bone Spring from  
7 the top of the third Bone Spring to the base of the  
8 Bone Spring?

9 MR. MACHA: I don't -- do you know what  
10 page that's -- that one's on?

11 MR. SAVAGE: Yes. That is on page 36.

12 MR. MACHA: Okay. Yes. That's what it  
13 says.

14 MR. SAVAGE: But then in your landman  
15 statement, paragraph 7, you clearly show that you're  
16 only -- you're not targeting developing the entire  
17 third Bone Spring, but only the lower third of the  
18 third Bone Spring Is that accurate to say?

19 MR. MACHA: We are seeking to pool  
20 the -- the ownership in which we're landing the wells,  
21 so that would be correct. I -- I -- yes. That would  
22 be -- probably be correct.

23 MR. SAVAGE: And consequently, do you  
24 agree, then, that your pooling applications contradict  
25 what you're actually seeking?



1 MR. MACHA: I would -- I would direct  
2 that question to Paula. I'm pretty sure we've  
3 clarified that, but I'm not fully sure.

4 MR. SAVAGE: And based -- well, based  
5 on the plain language of the application and the plain  
6 language of the notice the OCD provided, wouldn't you  
7 say that they contradict what you're actually seeking  
8 to pool?

9 MR. MACHA: If these are the only two  
10 documents in front of me, I would say those indeed  
11 contradict, but I would have to review everything  
12 again.

13 MR. SAVAGE: Yes. Thank you,  
14 Mr. Macha. In your landman statement, just to clarify  
15 the exact portion of the third Bone Spring that you  
16 seek to pool, you state that you seek to pool only a  
17 portion of the Bone Spring formation from 9,397 feet  
18 where an ownership severance exists to the base of the  
19 Bone Spring; is that correct?

20 MR. MACHA: That -- that -- I think  
21 that that would be correct.

22 MR. SAVAGE: Mr. Macha, is that the  
23 only depth severance in the third Bone Spring?

24 MR. MACHA: That I'm aware of, yes.

25 MR. SAVAGE: And you are familiar with

1 the titles -- the title in these units?

2 MR. MACHA: I'm -- yes. As far as what  
3 our title attorneys and brokers have worked and I've  
4 reviewed, yes.

5 MR. SAVAGE: Okay. So I have an  
6 assignment of operating rights in section 14 from Read  
7 & Stevens to Ms. Beall and other assignees. But 113,  
8 page 709, that assigns interest from 3,900 feet to  
9 9,293 feet. Are you aware of this assignment?

10 MR. MACHA: Off the top of my head, I'm  
11 not fully -- like, I can't picture it. But yes.  
12 I'm -- I'm aware that there are multiple assignments  
13 that have different depth severances. But, again, I'm  
14 familiar with what my title attorneys and brokers have  
15 rendered for my -- my review.

16 MR. SAVAGE: Okay. So you would agree  
17 that 9,293 feet would represent another depth  
18 severance?

19 MR. MACHA: That would be theoretically  
20 correct if the assignment was valid.

21 MR. SAVAGE: And then in another  
22 assignment, section 14 of operating rights from Read &  
23 Stevens to assignees, covers the depths from 3,900  
24 feet to 9,290 feet. Are you aware of this assignment?  
25 And I'm sorry. I didn't have the page number on that

1 one, but let me pull that up.

2 MR. MACHA: What's the legal  
3 description on that assignment?

4 MR. SAVAGE: Yeah. Let me pull that up  
5 here. So this one's in Book 71, page 386. The legal  
6 description, section 14, northeast quarter, northwest  
7 quarter.

8 MR. MACHA: Okay. Yeah, no.  
9 I -- I'm -- yes. I've reviewed the -- a couple of  
10 assignments that V-F has -- has provided on the debt  
11 severances. But yes. Our title -- I've also sent  
12 them to our title attorneys; they've reviewed. So  
13 the -- what we are seeking to pool is, in my opinion,  
14 accurate.

15 MR. SAVAGE: But would you agree that  
16 these depth severances -- these are depth severances  
17 that your applications and your statements -- landman  
18 statements have failed to take into account?

19 MR. MACHA: So not necessarily. So  
20 what the -- what we're seeking to pool I think was,  
21 like, 9,300 some odd feet to the base of the Bone  
22 Spring; is that correct? Or --

23 MR. SAVAGE: Yes. Your statement is  
24 9,397 feet.

25 MR. MACHA: Yeah. So the 9,200-foot

1 marker that you're talking about is above that, so  
2 that is not a depth that we're -- a relevant depth  
3 that we'd be seeking to pool with. So I don't think  
4 that that would be mentioned in my application.

5 MR. SAVAGE: But that interval does  
6 exist; correct?

7 MR. MACHA: Possibly.

8 MR. SAVAGE: And it would have  
9 non-uniform ownership in that interval --

10 MR. MACHA: Possibly. I  
11 don't -- possibly. Like I say, my title attorneys and  
12 brokers are the ones doing most of the legwork. I'm  
13 reviewing a lot of the title and the product of it.

14 MR. SAVAGE: And are you planning to  
15 land your well in the lower-third portion of the third  
16 Bone Spring below the depth severance of 9,397 feet?  
17 That is the plan?

18 MR. MACHA: That's the plan, but I  
19 would direct all those kind of questions to our  
20 geologist.

21 MR. SAVAGE: Okay. Are you familiar  
22 with the testimony of your reservoir engineer and  
23 geologist or of your geologist? Have you reviewed  
24 that?

25 MR. MACHA: Yes.

1 MR. SAVAGE: Okay. And didn't your  
2 geologist say that the entire third Bone Spring is  
3 sand and that there are no barriers or baffling  
4 between the severed portions?

5 MR. MACHA: I can't answer that  
6 question being land, but what -- from what I've seen,  
7 I can only reference what you are seeing as well.  
8 'cause I -- I'm not an expert in geology.

9 MR. SAVAGE: Well, I'm just asking if  
10 you were familiar with his testimony, the content of  
11 his testimony, not, you know, your opinion on the  
12 accuracy of the testimony.

13 MR. MACHA: Right.

14 MR. SAVAGE: So I'm looking at page 63  
15 of the transcript for January 28th where the geologist  
16 says it looks like there's no geological baffle that  
17 would prevent drainage. Do you agree that he said  
18 that?

19 MR. MACHA: Yes, I agree that he said  
20 that.

21 MR. SAVAGE: And page 64 --

22 MS. VANCE: Objection. That's not  
23 what's in the record.

24 THE HEARING EXAMINER: Okay.  
25 Ms. Vance, you have to be a little faster.

1 MR. MACHA: Sorry --

2 THE HEARING EXAMINER: That objection  
3 is not timely, so please make your objections timely  
4 before the witness answers the question.

5 Mr. Savage, go ahead.

6 MR. SAVAGE: Well, Mr. Hearing  
7 Examiner, I believe that the transcript is in the  
8 record.

9 THE HEARING EXAMINER: Okay. Well,  
10 what are you trying to say?

11 MR. SAVAGE: I'm just trying to point  
12 out that that was the testimony provided by the  
13 geologist.

14 THE HEARING EXAMINER: I'm not sure  
15 what -- okay. I have not -- I've already explained to  
16 Ms. Vance that when she makes an objection, it has to  
17 be timely. It wasn't a timely objection. So you're  
18 asking questions, so please continue. Although, I am  
19 a little concerned that you're asking this witness for  
20 his opinion about testimony from another witness.

21 MR. SAVAGE: Yes, sir. So the  
22 relevance is to lay foundation, because a landman  
23 determines the ownership between the different  
24 intervals and the different severances. And so  
25 ownership production -- distributing ownership based

1 on percentages is going to be dependent on what is  
2 actually being produced.

3 THE HEARING EXAMINER: Okay.

4 MR. SAVAGE: Okay. Do you want me to  
5 continue?

6 THE HEARING EXAMINER: Yes, I did -- so  
7 the objection was untimely, so I didn't even make a  
8 ruling on it. So why don't you continue?

9 MR. SAVAGE: Okay.

10 So Mr. Macha, are there different  
11 owners with different amounts of ownership in the  
12 third Bone Spring above the severance and below the  
13 severance?

14 MR. MACHA: That'd be correct.

15 MR. SAVAGE: And are you going to land  
16 a well in the interval from the top of the third Bone  
17 Spring to the severance to protect the correlative  
18 rights of the working interest owners and overriding  
19 royalty owners --

20 MS. VANCE: Objection -- objection.

21 THE HEARING EXAMINER: What's the  
22 objection, Ms. Vance?

23 MS. VANCE: Mr. Macha is a landman. He  
24 is not a geologist. These questions have been  
25 answered by our geologist, and our geologist will be

1 available later on for Mr. McClure's questions. And  
2 if Mr. Savage wants to revisit questioning, asking the  
3 same questions that he asked during the January 28th,  
4 then we can do that.

5 THE HEARING EXAMINER: So, Mr. Savage,  
6 I don't need to hear from you on this one. I'm  
7 sustaining this objection. Please confine your  
8 questions to this person's expertise of land.

9 MR. SAVAGE: Mr. Macha, does the  
10 landman have responsibility to protect the correlative  
11 rights of the owners that it identifies as owning in  
12 the unit?

13 MR. MACHA: Yes. And above that depth  
14 severance is not something we view as owning in the  
15 unit. Allocation is done off of surface acreage basis  
16 according to the Oil and Gas Act.

17 MR. SAVAGE: Isn't it true that in  
18 other development plans proposed by Permian that have  
19 a depth severance in a single reservoir that you  
20 proposed -- as a landman -- that you proposed to drill  
21 a well both above and below a severance in an effort  
22 to protect correlative rights?

23 MR. MACHA: There has been a vertical  
24 well producing above that severance, and that's the  
25 cause of that severance for 20 years. It was plugged



1 a couple years ago. It's -- it produced, I think, a  
2 hundred and something thousand barrels of oil.

3 So I would -- I would -- my  
4 interpretation would be the owners above that debt  
5 severance have already obtained the reserves.

6 MR. SAVAGE: That wasn't my question,  
7 Mr. Macha. I asked, isn't it true that in other  
8 development plans proposed by Permian that have --

9 MR. MACHA: Yes. The owners above and  
10 below a depth severance have the full ability to drill  
11 their own wells.

12 MR. SAVAGE: Has Permian proposed to  
13 drill a well both above and below the depth severance  
14 in an effort to protect correlative rights in your  
15 other plans?

16 MR. MACHA: What we have proposed  
17 on -- sorry.

18 MS. VANCE: Objection. What is  
19 the -- I'm objecting for relevance. It's not clear  
20 what Mr. Savage is asking, and it sounds like he's  
21 asking about cases outside of the scope of this  
22 hearing.

23 THE HEARING EXAMINER: Mr. Savage?

24 MR. SAVAGE: Yes. I'm asking about  
25 Mr. Macha's -- Permian's plan to account for

1 correlative rights. One option, it sounds like the  
2 plan is basically to drill in the lower third of the  
3 third Bone Spring and produce the well, which would  
4 produce the upper interval.

5 Or the other option seems to me would  
6 be to drill above and below the severance as they have  
7 done in other plans. And I can -- and, for example,  
8 the Joker and the Bane wells. Those are examples  
9 where Permian has decided that they think they need to  
10 protect correlative rights by drilling above and below  
11 a severance in a single reservoir.

12 But in this case, comparing it to this  
13 case, they've decided to drill only in the lower.

14 THE HEARING EXAMINER: So, Mr. Savage,  
15 the objection is to relevance, so if we could just  
16 stick to the objection here. How is the question  
17 about what Permian does in other cases relevant to  
18 this case?

19 MR. SAVAGE: Because Permian's plan in  
20 this case should protect correlative rights. That's  
21 the responsibility that the landman has and Permian  
22 has under the Oil and Gas Act. So we're laying  
23 foundation to show whether or not Permian is going to  
24 be able to satisfy protecting correlative rights.

25 THE HEARING EXAMINER: Mr. Savage, I'm

1 not arguing with you about what you just said, but you  
2 haven't answered my question. Now, twice I've asked  
3 this question to you. How is what Permian  
4 does -- okay. Let's do this. I'm going to leave you  
5 with this question, Mr. Savage, and then let's take a  
6 five-minute break.

7 How is Permian's actions in other  
8 cases, how is it relevant to how they're going to  
9 protect correlative rights in this case? I'm going to  
10 leave you with -- that's the question. If you can't  
11 answer it, then I'm going to sustain the objection;  
12 okay? So let's come back in five minutes. Thank you.

13 MR. SAVAGE: Yes, sir.

14 THE HEARING EXAMINER: Thank you.

15 (Off the record.)

16 THE HEARING EXAMINER: It's 12:28 a.m.  
17 We're back on the record.

18 Mr. Savage?

19 MR. SAVAGE: Yes. Mr. Hearing  
20 Examiner, Permian has the obligation to protect  
21 correlative rights. Now, there are a couple of  
22 options that the OCD recognizes to attempt to do this.  
23 One of the options would be to drill above and below  
24 if the conditions would allow for it.

25 The reference to the other case shows

1 that Permian has proposed and has provided the  
2 opportunity to do something like this to protect  
3 correlative rights. In this case, they're opting not  
4 to. The question is why are they opting to drill when  
5 in other instances involving a single reservoir, they  
6 are opting to drill above and below.

7 It's a comparison, and it's relevant to  
8 the ability and attempt to protect correlative rights  
9 in this case, to illustrate the context.

10 THE HEARING EXAMINER: Well,  
11 Mr. Savage, I understand where you're going with this,  
12 but I think you can ask your questions in a way that  
13 don't necessarily involve other cases. So I  
14 understand where you're going with it. We all  
15 understand where you're going with it. So just get  
16 there, but don't ask this witness about prior cases.

17 So I'm going to sustain the objection.  
18 Why don't you reformat your questions to get at the  
19 evidence you want without involving those other cases?

20 MR. SAVAGE: Mr. Macha, assuming that  
21 your geologist is correct and that a well in the lower  
22 third of the third Bone Spring will produce from the  
23 upper intervals as well as the lower interval, how do  
24 you plan to account for the correlative rights of the  
25 owners in the upper intervals?

1                   MR. MACHA: My view would be that the  
2 allocation method on a surface acreage basis is the  
3 most fair and equitable way to do things. The owners  
4 above the severance have the right to propose and  
5 drill their own well.

6                   MR. SAVAGE: Do you have an -- did you  
7 propose an allocation formula in your plan?

8                   MR. MACHA: No. We don't do that.

9                   MR. SAVAGE: You did not do an  
10 allocation formula. So would not drilling a well  
11 above the interval produce from your lower interval?

12                   MR. MACHA: I'm not a geologist. I  
13 don't know.

14                   MS. VANCE: Object --

15                   MR. SAVAGE: Yes. I withdraw the  
16 question.

17                   Mr. Macha, does the depth severance in  
18 the third Bone Spring complicate your ability to  
19 develop the third Bone Spring?

20                   MR. MACHA: Not -- not that I'm aware  
21 of.

22                   MR. SAVAGE: Were you able to locate  
23 and provide notice to all the owners above and below  
24 the severance?

25                   MR. MACHA: We have ownership for

1 everybody above and below the severance, yes.

2 MR. SAVAGE: And you provided notice to  
3 every --

4 MR. MACHA: That we -- that I'm aware  
5 of, yes. By notice being -- yes. That's -- that's  
6 what I'm -- that I'm aware of, yes.

7 MR. SAVAGE: Tell me, Mr. Macha, why  
8 didn't Permian go east and develop section 14 and 13  
9 instead of trying to infringe upon and compete with  
10 V-F's plan, which, if you prevail, would limit V-F  
11 just to the single section, section 16?

12 MR. MACHA: We are the majority  
13 interest owner of section 15, and we are the successor  
14 of the other previous operator of 15, which was  
15 Mewbourne. And V-F only owns 57 acres out of 640, so  
16 we would view that we would -- are the prudent choice  
17 in operator of 14 and 15 together.

18 MR. SAVAGE: But at the time of V-F's  
19 well proposal -- original well proposal -- and that's  
20 September 6, 2023 -- did Permian own any interest in  
21 section 15?

22 MR. MACHA: No. But we obtained it  
23 from Mewbourne who did not tell us about V-F's well  
24 proposals.

25 MR. SAVAGE: So at that time that

1 you -- at that date that those well proposals were  
2 sent out, could you not have evaluated the possibility  
3 of developing 14 and 15 -- I'm sorry -- 14 and 13?

4 MR. MACHA: That's something we chose  
5 not to do. We do things based on ownership. We saw  
6 15, we acquired in 15, and we are developing 15; so --

7 MR. SAVAGE: So but wouldn't developing  
8 14 and 13 harmonize with V-F's plan, and you would  
9 actually have four sections developed with 2-mile  
10 plans?

11 MR. MACHA: I -- I'm -- I don't think  
12 that we should be catering to V-F to any degree.  
13 We're not going to dictate our development plans  
14 around what V-F thinks they want to do.

15 MR. SAVAGE: Okay. So what date did  
16 Permian acquire the Mewbourne interest? Do you  
17 recall?

18 MR. MACHA: When?

19 MR. SAVAGE: What date. Yeah, when.

20 MR. MACHA: It's in the -- I think it's  
21 in my exhibits. I don't recall exactly. I think we  
22 closed maybe in -- it's sometime between April and  
23 May. Maybe June of 2024. That trade went on for  
24 about six months.

25 MR. SAVAGE: Okay. And that looks

1     like -- based on the assignment, it looks like  
2     June 4th. Will you agree with that?

3                     Did Permian hire anyone after  
4     September 6th who had recently worked and had  
5     knowledge of -- or hired anyone who had worked for V-F  
6     Petroleum while they were making their efforts to  
7     acquire lease interest in section 15?

8                     MR. MACHA: That had nothing to do with  
9     any of -- yes. There was a V-F employee that works  
10    for Permian Resources now, but that had nothing,  
11    absolutely zero, to do with our development  
12    strategy --

13                    MR. SAVAGE: Yeah. I didn't ask that.  
14    I just asked if you had hired somebody from V-F  
15    Petroleum who had experience working with V-F  
16    Petroleum during this period when they were developing  
17    section 15?

18                    MR. MACHA: I am unaware if that person  
19    had worked on any of these lands for V-F.

20                    MR. SAVAGE: I'm sorry. Can you  
21    restate that?

22                    MR. MACHA: I'm unaware if that person  
23    had worked on anything in this area for V-F. I don't  
24    know.

25                    MR. SAVAGE: Did you have -- did



1 Permian have actual notice or constructive notice at  
2 the time Permian acquired this interest in section 15  
3 that was subject to well proposals made by V-F?

4 MR. MACHA: No.

5 MR. SAVAGE: And when you were  
6 performing your due diligence, did Mewbourne include  
7 V-F's well proposals in the transaction file?

8 MR. MACHA: No -- no.

9 MR. SAVAGE: Or did Mewbourne ever  
10 mention the V-F well proposals?

11 MR. MACHA: No.

12 MR. SAVAGE: Mr. Macha, I'd like to  
13 direct your attention to Permian's Revised Rebuttal 1,  
14 and that's the last page of that exhibit. Let me pull  
15 that up here myself.

16 THE HEARING EXAMINER: Mr. Savage,  
17 while you're pulling up that exhibit, how many more  
18 questions do you have for this witness?

19 MR. SAVAGE: I'm almost -- I have  
20 maybe, like, six, seven more.

21 THE HEARING EXAMINER: Okay. All  
22 right. I'm trying to plan a lunch break here.

23 MR. SAVAGE: Yes. I understand.

24 THE HEARING EXAMINER: Ms. Luck --  
25 Excuse me, Mr. Savage. Hold on one

1 sec.

2 Ms. Luck, I see you -- there you are.  
3 Are you going to have questions for this landman?

4 MS. LUCK: Yes, Mr. Hearing Examiner.  
5 I do.

6 THE HEARING EXAMINER: Okay. And can  
7 you anticipate how long that's going to go?

8 MS. LUCK: I'm not exactly sure, but I  
9 would say ten to fifteen minutes.

10 THE HEARING EXAMINER: Okay. Let's try  
11 to get this witness -- because Mr. McClure also has  
12 questions after Ms. Luck, let's try to do all of that  
13 so that we can do this before lunch.

14 So go ahead, Mr. Savage.

15 MR. SAVAGE: Okay.

16 On the exhibits, you stated that the  
17 OXY signed JOAs; is that correct?

18 MR. MACHA: Yes, that's correct.

19 MR. SAVAGE: But isn't it true that  
20 they only signed the JOAs for sections 14 and 15?

21 MR. MACHA: That's correct.

22 MR. SAVAGE: And then you note on your  
23 diagram -- you have on -- this is page four. You note  
24 that XTO -- you state that XTO objects to V-F's  
25 proposal?

1 MR. MACHA: That's my understanding.

2 MR. SAVAGE: You're not aware that at  
3 the January 28th hearing that XTO withdrew its  
4 objections?

5 MR. MACHA: I -- yeah. I wasn't there,  
6 so I was not aware.

7 MR. SAVAGE: So also on the  
8 exhibit -- this is on the last page, 6 -- you see you  
9 state that to date, Premium has not received letter  
10 notice of pooling for case numbers 24994 or 24995;  
11 correct?

12 MR. MACHA: Not that I've seen come  
13 across my desk, no.

14 MR. SAVAGE: Yeah. And, actually,  
15 Mr. Macha, I reviewed the January 28th transcript and  
16 noted the discussion that addressed this oversight.  
17 And as I understand, V-F Petroleum sent letter of  
18 notice to Mewbourne from whom you acquired interest;  
19 is that correct?

20 MR. MACHA: I'm not sure.

21 MR. SAVAGE: Okay. And then there was  
22 a discussion about addressing this oversight, but it  
23 appears this oversight was not addressed. And it's  
24 unfortunate in this matter that it fell through the  
25 cracks, but I'd like to ask you a few questions about

1 this situation. Would you agree that Permian not  
2 receiving timely notice is a notice deficiency?

3 MR. MACHA: I think we'd be happy to  
4 waive, since we've been abundantly in the know of  
5 y'all's plans over the past couple months at this  
6 point.

7 MR. SAVAGE: Okay. So that would be  
8 one option. Permian in this situation could or would  
9 waive its right to notice and proceed with the  
10 hearing; correct?

11 MR. MACHA: That's correct.

12 MR. SAVAGE: Okay. However, if Permian  
13 were adamant about receiving proper notice, would you  
14 agree that another option would be to request to  
15 postpone the hearing on the basis that notice was not  
16 received so that notice --

17 THE HEARING EXAMINER: Mr. Savage?

18 MR. SAVAGE: Yes.

19 THE HEARING EXAMINER: You're asking  
20 this witness legal questions, and I'm going to object  
21 to that. Do you have anything else to ask this  
22 witness? He's a fact witness.

23 MR. SAVAGE: It's a fact that -- isn't  
24 it a fact that Permian did ask for continuance in  
25 these cases?

1 THE HEARING EXAMINER: Mr. Savage, I've  
2 already told you that this is a fact witness that I  
3 don't want you asking legal conclusions to. So do you  
4 have anything else that's relevant to this before I  
5 turn him over --

6 MR. SAVAGE: I think that concludes my  
7 questioning. Thank you.

8 THE HEARING EXAMINER: Thank you.  
9 Ms. Luck?

10 MS. LUCK: Thank you. I just have a  
11 few questions.

12 Thanks for being here, Mr. Macha. And  
13 maybe you already covered this with Mr. Savage, but  
14 what's the drill schedule for these wells? Do you  
15 know when they're going to be drilled?

16 MR. MACHA: They're currently on  
17 schedule for January 2026.

18 MS. LUCK: Okay. So we're scheduled 10  
19 months out at this point?

20 MR. MACHA: That's correct.

21 MS. LUCK: Okay. And I think that  
22 Mr. Savage has clarified this, but the only reason  
23 that Permian applied to pool a portion of the Bone  
24 Spring here is because of the depth severance; is that  
25 correct?

1                   MR. MACHA: That's the only reason we  
2                   limited that, the north half, north half, the 131-H.  
3                   That -- why we excluded some at the third Bone. That  
4                   is correct.

5                   MS. LUCK: Okay. So is it your  
6                   testimony that y'all are only seeking to pool a  
7                   portion of the Bone Spring in the north half, north  
8                   half spacing unit and not also the south half, north  
9                   half spacing unit?

10                  MR. MACHA: The south half, north half,  
11                  I believe, is analogous. So I think we're  
12                  pooling -- we -- there's not a depth severance issue.  
13                  The -- it's the north half, north half; so --

14                  MS. LUCK: Okay. But so who made that  
15                  decision about pooling only a portion of the Bone  
16                  Spring?

17                  MR. MACHA: That was something that I  
18                  had consulted with our attorneys on.

19                  MS. LUCK: So you would agree that this  
20                  is a legal decision, not a geologic decision?

21                  MR. MACHA: I would say that we land  
22                  wells where the -- where oil is; and, yes, that's  
23                  geological and land collaborative decision.

24                  MS. LUCK: Okay. So what other cases  
25                  are you aware of where the Division has only pooled a

1 portion of the third Bone Spring to the exclusion of  
2 the remainder of the third Bone Spring?

3 MR. MACHA: I would -- I would -- I'm  
4 not --

5 MS. VANCE: Objection. These are legal  
6 questions. Mr. Macha, he is, as you pointed out,  
7 Mr. Hearing Examiner, is a fact witness. Ms. Luck is  
8 asking about cases before the Division, and Mr. Macha  
9 is not the person to ask these questions of.

10 THE HEARING EXAMINER: Ms. Luck?

11 MS. LUCK: Well, Mr. Hearing Examiner,  
12 Mr. Macha is their land representative, and he's  
13 apparently the only person who's appearing from  
14 Permian who can answer these questions about the  
15 reasons the spacing units were established this way.

16 I think that Mr. Savage and I have both  
17 tried to get down to the reason that they've  
18 established their spacing units this way, both from  
19 the reservoir engineer perspective, from the geologic  
20 perspective, and now we're to the landman.

21 So it's -- we're trying to get someone  
22 at Permian to provide to us the justification for  
23 developing the spacing unit in this manner, whether  
24 it's from the land perspective that they developed it  
25 that way or the geologic perspective that they

1 developed it that way.

2 THE HEARING EXAMINER: Okay. I  
3 understand where you're going with this, Ms. Luck,  
4 and, and I appreciate the explanation. I sustain the  
5 objection. I don't want to know about other cases.

6 This case is its own universe, and what  
7 the Division has done in other cases is not relevant  
8 to this case here, so you can ask your questions and  
9 get to what you want in a different way. So please  
10 proceed.

11 MS. LUCK: Well, Mr. Macha, are you  
12 aware of Ms. Beall's interest in the north half, north  
13 half of section 14?

14 MR. MACHA: Yes.

15 MS. LUCK: Okay. I'm going to read to  
16 you from your affidavit. So your affidavit  
17 says -- and this is your Exhibit C attached with your  
18 exhibit packet that was provided to the Division

19 Your paragraph 8 says: "Permian has  
20 provided notice of this hearing to the vertical offset  
21 parties within the pool who are not subject to this  
22 pooling application. Permian acknowledges the  
23 Division's direction of leaving the record open to  
24 perfect notice as to Case Numbers 25145 through 25148.

25 "There are no owners solely owning



1 above or below the notated severance. The same owners  
2 own above and below the depth severance; however, own  
3 in different percentages."

4 MR. MACHA: I believe that applies to  
5 the south -- southern depth severance, not the north  
6 half, north half depth severance.

7 MS. LUCK: Okay. And so that, again,  
8 brings up similar concerns that I'm trying to get at.

9 Okay. So why were the same procedures  
10 not followed with respect to the north half, north  
11 half depth severance to first provide them notice,  
12 allow additional time to perfect notice, and to  
13 recognize their interest both above and below the  
14 depth severance?

15 MR. MACHA: I don't think I understand  
16 your question. On -- so on the north half, north  
17 half, so -- sorry. Can you repeat?

18 MS. LUCK: Okay. Well, I guess, why  
19 was the same procedure not followed for the north  
20 half, north half spacing unit as the south half, north  
21 half spacing unit to recognize the interest both above  
22 and below the depth severance?

23 MR. MACHA: So the south depth  
24 severance in the -- in the south half unit, the -- the  
25 south half of the north half does not have depth

1 severance. The south unit, the same owners owned  
2 above and a below. They receive notice by virtue of  
3 the well proposals.

4 The north half, north half unit  
5 obviously is just a little bit different, given there  
6 are various owners that own independently in  
7 the -- from the -- like you -- like Darin had  
8 mentioned earlier -- the 3,900 foot marker to the  
9 9,300 some odd foot marker. So the -- it's just  
10 different -- different types of ownership involved.

11 MS. LUCK: Okay. And that's what I'm  
12 getting at. It seems like these cases are being  
13 treated a little bit differently. Like, there's  
14 recognitions that there's depth severances in some of  
15 the units, but not all of the units; and all of the  
16 interest owners within the third Bone Spring are not  
17 being allocated the same; is that correct?

18 MR. MACHA: Yeah. In the north half,  
19 north half, we are not allocating the ownership where  
20 we're landing wells, because it -- we allocate based  
21 off the Oil and Gas Act on a surface acreage basis.

22 MS. LUCK: Okay. But I just want to  
23 clarify. So if it weren't for the depth severance in  
24 the north half, north half unit, would Permian have  
25 pooled this as a single spacing unit encompassing the

1 entire third Bone Spring formation?

2 MR. MACHA: In accordance to the OCD  
3 statutes, that's likely what we would be doing just to  
4 be comprehensive just as we pool the entire Bone  
5 Spring in -- in other cases, which I don't want to  
6 reference other cases at this point.

7 MS. LUCK: Right. But so has Permian  
8 offered an allocation to any of the owners who own  
9 above the depth severance?

10 MR. MACHA: No.

11 MS. LUCK: Okay. Well, I think that's  
12 all the questions I have. Thank you.

13 THE HEARING EXAMINER: Okay. Thank  
14 you, Ms. Luck.

15 Mr. McClure?

16 MR. MCCLURE: Thank you, Mr. Hearing  
17 Examiner.

18 Mr. Macha, based off your previous  
19 answers and what's in your landman statement, is it  
20 accurate to say that you never actually -- that  
21 Ms. Beall's interests are not referenced anywhere in  
22 this exhibit, the original exhibit?

23 MR. MACHA: That's correct.

24 MR. MCCLURE: Okay. But you are aware  
25 of Ms. Beall's interest at this point at least; is

1     that also correct?

2                   MR. MACHA:   Yes, that's -- yes, sir.  
3     We are not seeking to pool Ms. Beall in this case, no

4                   MR. MCCLURE:   Thank you, sir.   Having  
5     said that, though, I will -- after we're done here,  
6     I'll provide you the list of things I want submitted,  
7     and one of them will be to provide a description of  
8     Ms. Beall's depth severance within your -- within an  
9     amended statement or a supplemental exhibit, something  
10    along those lines.   But we'll talk about that later.

11                   MR. MACHA:   Yes, sir.

12                   MR. MCCLURE:   Now, if I can direct your  
13    attention to page -- or paragraph 7 of your testimony  
14    found on page 52 of 227.   Are you with me, sir --

15                   MR. MACHA:   Paragraph 7?

16                   MR. MCCLURE:   Yes, sir.

17                   MR. MACHA:   Yep.

18                   MR. MCCLURE:   There's reference to as  
19    seen at 8,913 feet measured depth beneath the surface.  
20    You see where I'm referring to?

21                   MR. MACHA:   Yep.

22                   MR. MCCLURE:   Is this simply a typo  
23    or -- because it seems like this is what was  
24    referenced with your Bone Spring 2 cases.

25                   MR. MACHA:   Yeah.   So let me -- yeah.

1 That looks like that would've been a copy and paste  
2 type error from our second Bone Spring cases, from the  
3 top of the second Bone Spring down to the  
4 stratigraphic equivalent of the base of the second  
5 Bone Spring at that 8,913 foot marker.

6 We would be seeking to pool from that  
7 9,397 feet to the base of the Bone Spring.

8 MR. MCCLURE: Okay. And the base of  
9 the -- let me think about my question. I'm sorry.  
10 Let me say it -- even though I never said it, let me  
11 say it the first time, I guess, differently than I was  
12 going to. Are you aware of where the base of the Bone  
13 Spring is approximately in this area?

14 MR. MACHA: In terms of a footage, I  
15 would have to reference back to my geologist who is  
16 now available.

17 MR. MCCLURE: Okay. Thank you, sir.  
18 That's kind of, I guess, why I rephrased it, but I  
19 assumed that would be your response. Do you know  
20 where Ms. Beall's interests are located?

21 MR. MACHA: The northeast of the  
22 northwest quarter of Section 14, I believe.

23 MR. MCCLURE: Do you also believe that  
24 she owns an interest in other quarter -- quarters in  
25 the north half of Section 14?

1 MR. MACHA: No -- no. I've -- I've  
2 asked our title attorney to revisit that a couple  
3 times since this issue's been raised, and they -- they  
4 found no evidence of Ms. Beall owning outside of the  
5 northeast of the northwest quarter.

6 MR. MCCLURE: Okay. And did you have  
7 an opportunity to review Ms. Beall's exhibits?

8 MR. MACHA: Yeah. The -- the various  
9 assignments, yes, our -- which I had sent to our title  
10 attorneys. They have not found any valid assignment  
11 that would spread her interest outside of that  
12 northeast northwest quarter.

13 MR. MCCLURE: Okay. Thank you, sir.  
14 Now, in your paragraph 7, this 9,397 feet that's  
15 referenced here, what is that in reference -- or where  
16 did that footage come from?

17 MR. MACHA: I believe it came from  
18 a -- I believe it came from a well that was drilled in  
19 the '90s down to about 100 feet above that marker. I  
20 think it produced for about 20 years up until the past  
21 couple years where it -- when it was PNA.

22 MR. MCCLURE: Okay. Do you have  
23 available to -- go ahead, sir.

24 MR. MACHA: Sorry. Go ahead. Yeah,  
25 no. So that's -- so that's where the depth severance

1 is coming from. It's coming from existing wells that  
2 have already been producing.

3 MR. MCCLURE: Do you have available  
4 that documentation that could be provided to the  
5 Division?

6 MR. MACHA: On the existing well  
7 boards, yes.

8 MR. MCCLURE: Okay. Thank you. So  
9 that'll also be something else that we'll request  
10 later. If I can direct your attention to your amended  
11 exhibits, Amended Exhibit C-8 found on page 148 of  
12 227.

13 MR. MACHA: Yes.

14 MR. MCCLURE: You have five of the six  
15 Permian/Read cases listed here. The one that seems to  
16 be missing is case 25145. Is there a reason for that?

17 MR. MACHA: Okay. 25145. Do  
18 you -- off the top of your head, do you know which  
19 well slash swimlane -- swimlane that would -- that  
20 would be?

21 THE HEARING EXAMINER: Mr. Macha, we  
22 already discussed that you don't ask questions, you  
23 just answer questions. So if you're unclear about  
24 something, just say what you're unclear about.

25 MR. MACHA: Yeah. I'm sorry.

1           The -- that case number, I need to look  
2       at which well slash spacing unit that would apply to.

3           MR. MCCLURE: It is -- it's the north  
4       half of the north half in the Bone Spring 3.

5           MR. MACHA: Okay. Cool. Yeah. So  
6       that -- so yes. So that one is not included, because  
7       Marathon did not own an interest in that north half,  
8       north half, so there was no adjustment to the interest  
9       control.

10          And the OXY JOA, they -- we have -- we  
11       have negotiated that one since November of 2024 prior  
12       to us sending out the third Bone proposals, so we did  
13       not include the third Bone as part of the OXY JOA so  
14       that there was no adjustment to the -- the interests  
15       in that case.

16          MR. MCCLURE: Yeah. I'm just looking  
17       through your -- Mr. Macha, are you aware of where the  
18       interest for that case is in this application packet?

19          MR. MACHA: Let me -- I'm not sure.

20          MR. MCCLURE: Do you believe it was  
21       part of the original application packet and may have  
22       got left off the amended application packet --

23          MR. MACHA: That's correct. Yeah.  
24       Since -- you're probably right. This -- since this is  
25       a quote revised exhibit packet, it's probably -- since



1 it was not revised, it's probably not in this one.  
2 It's probably in the original one.

3 THE HEARING EXAMINER: Okay. Let's  
4 hold on for a second.

5 So, Ms. Vance, it sounds to me like the  
6 exhibits in the revised package don't include  
7 something from the original packet. Is that what your  
8 witness is saying?

9 MS. VANCE: I'm not sure. I was trying  
10 to understand what Mr. McClure was -- which exhibit  
11 exactly he was looking for, because I was trying to  
12 find it and identify it. It would be -- if he could  
13 clarify, I might be able to find it and direct  
14 Mr. McClure to the exhibit.

15 THE HEARING EXAMINER: Okay.  
16 Mr. McClure?

17 MR. MCCLURE: Thank you, Mr. Hearing  
18 Examiner.

19 Ms. Vance, essentially what I'm looking  
20 for is if you see kind of the breakout of ownership in  
21 Exhibits C-3, it appears that the interest for  
22 case 25145 might have been left off of them, unless  
23 I'm just blind, and I'm missing it.

24 MS. VANCE: Yeah, no. I see that now.  
25 I don't know how I missed that, but it is not there.

1 I can include that with a revised hearing packet along  
2 with any of the other supplementals the Division  
3 requests.

4 THE HEARING EXAMINER: Perfect. Thank  
5 you, Ms. Vance.

6 So, Mr. McClure, is there something for  
7 this witness to look at from the original packet? Do  
8 you want to share your screen? Or are you just  
9 pointing out that something's missing?

10 MR. MCCLURE: Mr. Hearing Examiner,  
11 originally, I was just wanting him to confirm what the  
12 working interest was or committed interest was going  
13 to be.

14 But since we don't have it, like, very  
15 readily in front of us, Mr. Macha, my understanding is  
16 that your current committed working interest is  
17 whatever was in this exhibit in the original  
18 application packet; is that correct?

19 MR. MACHA: That would be correct, yep.

20 MR. MCCLURE: In regards to the OXY  
21 interests in the Bone Spring 3 for the sections 14 and  
22 15, what is the status of their intent there for the  
23 JOA?

24 MR. MACHA: So yeah. Since we have  
25 negotiated it since November, we just didn't want to

1     complicate the matter a little bit, and we asked them  
2     if -- if -- we wanted to go ahead and expand the  
3     third -- the -- to the third Bone Spring.

4                     But in the, in the spirit of -- they  
5     said they would like to expedite it, because of this  
6     hearing, so they went ahead and signed the second  
7     Bone, and we would revisit the third Bone. And we've  
8     just not prioritized it, 'cause we've been focusing on  
9     this hearing, so --

10                    MR. MCCLURE: Is it correct that --

11                    MR. MACHA: We anticipate on getting  
12     it -- sorry. Go ahead.

13                    MR. MCCLURE: Okay. So it is correct  
14     that at this point, Permian does not intend to force  
15     pool OXY in the Bone Spring 3 cases; is that correct?

16                    MR. MACHA: That is correct. We work  
17     very well with OXY, so we're not worried about not  
18     getting a JOA with them in place there; so --

19                    MR. MCCLURE: And you believe -- okay.  
20     So then to confirm, you believe that you will end up  
21     with a JOA with OXY, at least that's what your belief  
22     is at this point?

23                    MR. MACHA: That is correct.

24                    MR. MCCLURE: But nothing as of this  
25     point is negotiated or even discussed; is that also

1 correct?

2 MR. MACHA: That's correct. We would  
3 likely use the same form of JOA, so it -- it's  
4 probably not going to be something that would take too  
5 long. But that's correct.

6 MR. MCCLURE: Okay. Now, looking again  
7 at your page 148 of 227, Exhibit C-8, I believe it is,  
8 this is where you have all your interests -- where you  
9 have your interests wrote out after the OXY JOA.

10 MR. MACHA: Sorry. Can you repeat the  
11 page number again?

12 MR. MCCLURE: Oh, page 148 of 227.

13 MR. MACHA: Yes, sir.

14 MR. MCCLURE: Now, you have a  
15 comparison between the V-F cases and the Permian cases  
16 kind of on the right two thirds of this slide. Do you  
17 see where I'm referring to?

18 MR. MACHA: Yes, sir.

19 MR. MCCLURE: The interest that you  
20 have listed for V-F claimed working interest. Is that  
21 equal to what V-F had put in their cases, and they're  
22 in agreement, to your understanding, with that working  
23 interest?

24 MR. MACHA: Yes. That's -- I got  
25 the -- where I put V-F claimed working interest,

1     that's where I -- I got that working interest from  
2     their exhibit packets. The only reason I put  
3     "claimed" was 'cause we have not done title research  
4     on section 16 in depth.

5                 So we did not in -- in addition to  
6     their -- them claiming the Moore & Shelton interest,  
7     we went ahead and lumped that into this as well.

8                 MR. MCCLURE: Okay. Which brings in  
9     one of my later questions, but I'll ask it right now.  
10    In regards to that Moore & Shelton Co. interest, does  
11    the committed interest that Permian has here take that  
12    into account?

13                MR. MACHA: No. So we -- we did not  
14    get -- we have not gotten a JOA or a term assignment  
15    for Moore & Shelton, so that was never part of our  
16    committed interest quantification.

17                MR. MCCLURE: Okay. Now, where you  
18    have total interest averse to V-F, you see where I'm  
19    referring to there at, like, the right-end side of  
20    the -- your double arrow?

21                MR. MACHA: Yep.

22                MR. MCCLURE: How was that number  
23    computed?

24                MR. MACHA: That was computed straight  
25    from V-F's numbers as well based on, like I say, the

1 PR, XTO, Ard, and Marathon joinders. OXY, we did  
2 not -- we went ahead and lumped them in there as well  
3 since they signed our JOA.

4 Obviously, Darin pointed out that XTO  
5 is now neutral, I -- I assume. So what we should  
6 probably do is file a revised exhibit removing XTO  
7 from this if that -- if that indeed is the case.

8 MR. MCCLURE: How did you account for  
9 the different interests between the Bone Spring 2 and  
10 the Bone Spring 3 in Permian's cases when you compared  
11 it to the V-F cases that took into account the entire  
12 formation?

13 MR. MACHA: Yeah. So V-F's cases don't  
14 contain a depth severance, so I'm -- I'm -- I can do  
15 this here on ours. We -- like I say, the Marathon and  
16 OXY interest is not depth severed; and then the third  
17 Bone Spring cases, like I say, we're only seeking to  
18 pool the -- the -- we're not seeking to pool over a  
19 depth severance.

20 So the -- the cases where I quantify  
21 the total PR control, that is -- that is the total  
22 control of what we are seeking to pool, if that makes  
23 sense.

24 MR. MCCLURE: Yes. But you have a  
25 different interest in the Bone Spring 2 than you do in

1 the Bone Spring 3 that's committed; is that correct?

2 MR. MACHA: That is correct. And these  
3 cases are split by Bone Spring 2 and Bone Spring 3  
4 where there is a depth severance, so that -- that is  
5 taken into -- into account here, I believe.

6 MR. MCCLURE: Well, let's look at the  
7 one for case 24994. How was that  
8 61.8 -- approximately 61.84 percent computed?

9 MR. MACHA: Yeah. So that was -- that  
10 was adding XTO, PR, Ard, and -- Ard in Marathon's  
11 interest as represented on V-F's exhibits, and  
12 that's -- that's just a simple addition into that  
13 68 percent -- or 61 percent.

14 MR. MCCLURE: I guess what I'm trying  
15 to drive at is case 24994 is for the entire Bone  
16 Spring.

17 MR. MACHA: Okay.

18 MR. MCCLURE: Permian's interest is  
19 different between its case 25148 and its case 24942.

20 MR. MACHA: Right.

21 MR. MCCLURE: You have both of those  
22 cases listed here to the left, and neither one has  
23 61.84 percent.

24 MR. MACHA: Yeah.

25 MR. MCCLURE: So how did 61.84 percent

1 get computed?

2 MR. MACHA: Right. So the -- so the PR  
3 cases on the left where I have 88 and 82, the 24941  
4 and then the 24942, so that is -- that is PR's units;  
5 that is, sections 14 and 15. And then the right two  
6 thirds of the slides were the V-F cases.

7 I'm just showing the V-F interest in  
8 their sections 16 and 15 together. I'm not showing  
9 our interest in section 14 blended over into V-F's  
10 cases, if that makes sense. So in -- in terms of V-F  
11 case 24994, they control that 32.8 number.

12 And in that same exact swimlane, that  
13 same exact spacing unit from section 16 into 15, the  
14 adverse ownership computation is just added from the  
15 ownership in their sections 16 and 15. It's  
16 not -- it's not contemplating sections 14 and 15 that  
17 PR is -- is developing.

18 MR. MCCLURE: Okay. So then there is  
19 no relation between this 61.84 percent and Permian's  
20 committed interest; is that correct?

21 MR. MACHA: That is correct, yep.

22 MR. MCCLURE: Okay. I was originally  
23 misunderstanding the exhibit, then. Okay. And in  
24 regards to XTO's interest, would that then affect the  
25 61.84 percent? Is that what you said earlier?



1 MR. MACHA: Yes. If -- if XTO is no  
2 longer objecting, what I would do is subtract XTO's  
3 interest from the total and -- and give you a new  
4 adverse interest.

5 MR. MCCLURE: Okay. So it would be  
6 61.83 or eight four minus 25 percent, then; is that  
7 correct?

8 MR. MACHA: Correct, yes.

9 MR. MCCLURE: Okay. But as far as the  
10 Permian interest that you have listed on the left of  
11 this slide and the V-F claimed working interest, none  
12 of those numbers would change regardless of XTO; is  
13 that correct?

14 MR. MACHA: That is correct.

15 MR. MCCLURE: Thank you, Mr. Macha.

16 Mr. Hearing Examiner, I have no further  
17 questions for this witness.

18 THE HEARING EXAMINER: Okay.

19 Ms. Vance, this is your opportunity to  
20 re-direct if necessary.

21 MS. VANCE: I do have a couple of  
22 questions and hopefully --

23 THE HEARING EXAMINER: Okay. And then  
24 we'll take lunch after this.

25 MS. VANCE: Okay.

1                   Mr. Macha, can you -- sorry. Just one  
2 second here. Mr. Maka, Mr. Savage asked you about  
3 some of the interest owners that Permian is pooling,  
4 specifically Javelina. Do you know how much interest  
5 they own?

6                   MR. MACHA: In terms of working  
7 interests, they no longer own a working interest given  
8 the term assignment other than in the north half,  
9 north half of section 15 where V-F did not seek a term  
10 assignment where the second Bone was already  
11 developed.

12                   So they -- they still do own a working  
13 interest in the north half, north half as to the third  
14 Bone Spring cases.

15                   MS. VANCE: Okay. And then  
16 mister -- or I'm sorry -- ARD, how much -- okay. You  
17 already described the -- the extent of that interest.  
18 And then also ARD and Moore Shelton, what does that  
19 interest look like? How much is it? Specifically in  
20 the -- well, wherever you calculated it in the  
21 exhibits.

22                   MR. MACHA: So yeah. So ARD is looking  
23 like it's got about -- so as to our cases, ARD has  
24 2.22 -- 2.25 percent of the unit, and Moore & Shelton  
25 has 0.937 percent.

1 MS. VANCE: Okay. So and then with  
2 Moore Shelton, Mr. Savage -- through an assignment.  
3 And I just want to confirm, you were unaware of that  
4 assignment at the time that Permian filed these  
5 applications; correct?

6 MR. MACHA: That is correct.

7 MS. VANCE: All right. Now, I just  
8 want to talk about the applications themselves,  
9 specifically the third Bone Spring applications, and  
10 I'm going to go ahead and just bring up and share very  
11 quickly. Can you see my screen?

12 MR. MACHA: Yes, ma'am.

13 MS. VANCE: Okay. All right. I'll  
14 just use this one. Actually, I'll go -- all right.  
15 Mr. Macha, we've talked about the fact that these  
16 cases, case numbers 1415 -- I'm sorry -- 15145 through  
17 15148, those are related to a depth severance in the  
18 third Bone Spring; correct?

19 MR. MACHA: Yes, ma'am.

20 MS. VANCE: Okay. And I'm going to  
21 highlight some language right here that you talked  
22 about with Mr. Savage. Would you describe this as a  
23 general description of the depth severance that you're  
24 familiar with?

25 MR. MACHA: Let me -- from the top

1 of -- of third Bone Spring -- yes. But I would  
2 say -- so it says -- is -- what -- is this the 131-H?

3 Sorry. I'm asking a question.

4 MS. VANCE: Yes. This is the 131-H.  
5 So the question is, is this a general description?

6 MR. MACHA: That's a -- that's a very  
7 general description, yes.

8 MS. VANCE: Okay. Thank you. And then  
9 I just want to go to the exhibit packet. Make sure  
10 I'm on the right one. Okay. And then in the  
11 compulsory pooling checklist, you agree that this  
12 says -- ask for whether or not there's a depth  
13 severance; correct?

14 MR. MACHA: Yes, ma'am.

15 MS. VANCE: And this is the more exact  
16 description of that depth severance; correct?

17 MR. MACHA: Yes, ma'am.

18 MS. VANCE: So I know you talked with  
19 Mr. Savage, and you said that there might be a  
20 contradiction. But would you say that this is a more  
21 specific description of the general description that  
22 is in the applications?

23 MR. SAVAGE: Objection to that.

24 THE HEARING EXAMINER: What is the  
25 objection, Mr. Savage?

1                   MR. SAVAGE: The objection is that the  
2 application was filed with the OCD with the general  
3 description, and it was -- abstract was published with  
4 the general description, and the publication notice  
5 had the general description.

6                   That was all public notice. That was  
7 all filed as an application to the OCD, and this  
8 statement here in the checklist has no relevance to  
9 notice, and it has no relevance to the validity of the  
10 application.

11                  THE HEARING EXAMINER: Okay. But  
12 what's -- I understand. But what's the objection to  
13 the question?

14                  MR. SAVAGE: The objection is relevance  
15 to pointing this out.

16                  THE HEARING EXAMINER: Ms. Vance, the  
17 objection is relevance.

18                  MS. VANCE: Right. So Mr. Savage wants  
19 to make an issue of what was provided in the  
20 application versus what was included in Mr. Macha's  
21 statement in the compulsory pooling checklist.

22                  And under the Division rules, which I  
23 have up here, it requires under initiating an  
24 application, a description -- if I -- a general  
25 description of the common source being sought to pool.

1 And so I just want to clarify that what we provided in  
2 the application is a general description versus the  
3 more exact description of what is being pooled.

4 THE HEARING EXAMINER: Okay. All  
5 right. I understand. All right.

6 So, Mr. Savage, it's relevant, because  
7 you brought up the subject. So had you not brought up  
8 the subject, I'd wonder what the relevance is myself.  
9 But you went out of your way and spent a lot of time  
10 pointing out the distinctions between the two, and I  
11 think it's the right of the applicant to clean that up  
12 with their witness.

13 Now, if you have further  
14 cross-examination based on the re-direct questions,  
15 you can ask it after lunch, but I do believe it's  
16 relevant because of your cross-examination. So it's  
17 overruled.

18 Please proceed.

19 MS. VANCE: I think Mr. Macha answered.  
20 I just want to make sure he answered it.

21 But, again, so what we have in the  
22 application is a general description, and that -- so  
23 it's not a contradiction. What we have in your  
24 statement and in the compulsory pooling checklist is a  
25 more specific description of what is in the

1 application; correct?

2 MR. MACHA: Yes -- yes, ma'am.

3 MS. VANCE: Okay. Mr. Savage also  
4 brought up some cases that are not related to what we  
5 are discussing today, but I just want to ask one  
6 question -- actually two to be clear that we are in  
7 different universes, as the hearing examiner put it.  
8 What county are we in for these particular cases?

9 MR. MACHA: Eddy County.

10 MS. VANCE: Okay. And then the Joker  
11 and Bane, what county are those in?

12 MR. MACHA: Those are in Lea County.

13 MS. VANCE: Okay. How far away are  
14 they? Do you know?

15 MR. MACHA: Oh, no. Not off the top of  
16 my head. But it would be a two-handle on the miles,  
17 so it would be a considerable distance.

18 MS. VANCE: Okay. Thank you. And  
19 Mr. Savage talked about the proposals that V-F had  
20 made, and when you closed with Mewbourne, when did  
21 Permian become aware of those proposals?

22 MR. MACHA: After we sent the slim jim  
23 well proposals, and they noticed -- I think you  
24 first -- that they were going to be objecting. We did  
25 not receive any well proposals from them until, like,

1 I think a month or more later where they sent us via  
2 e-mail the -- the proposals they sent to Mewbourne.

3 And I think we got one to Permian  
4 resources in the mail, but the rest were just via  
5 e-mail.

6 MS. VANCE: Okay. I want to clean that  
7 up just a little bit. So at what point did Permian  
8 become aware of the proposals? What's maybe a  
9 timeframe? Those --

10 MR. MACHA: That'd be around October.

11 MS. VANCE: Of what year?

12 MR. MACHA: October 2024.

13 MS. VANCE: Okay. And then as a  
14 result, what did Permian do to try -- did Permian  
15 request those from V-F?

16 MR. MACHA: Yes, we did.

17 MS. VANCE: Okay. And how long did it  
18 take V-F to provide those to Permian?

19 MR. MACHA: It's in the timeline on my  
20 exhibits, but I think it was about three weeks.

21 MS. VANCE: Okay.

22 That's all I have.

23 THE HEARING EXAMINER: Thank you. All  
24 right. It is now 12:18 p.m. Are the parties, do they  
25 agree that a 45-minute lunch is acceptable?



1 MS. VANCE: That works.

2 MS. LUCK: That works for me.

3 THE HEARING EXAMINER: Okay.

4 Mr. McClure, does that work for you?

5 MR. MCCLURE: That's fine, Mr. Hearing  
6 Examiner.

7 THE HEARING EXAMINER: All right. Very  
8 good. Okay.

9 And, Mr. Cogswell, is that a problem?

10 THE REPORTER: That's fine. Thank you.

11 THE HEARING EXAMINER: Okay. Very  
12 good. We're going to come back on the record  
13 at -- let's see -- one o'clock. It's slightly less  
14 than 45 minutes, but close. We'll come back on the  
15 record at one o'clock, and we'll continue this  
16 hearing. Thank you.

17 (Off the record.)

18 THE HEARING EXAMINER: We are ready.  
19 Okay. Very good.

20 Mr. McClure?

21 MR. MCCLURE: Mr. Hearing Examiner,  
22 I'm here. I'll just leave my camera off for a few  
23 minutes, but I'll --

24 THE HEARING EXAMINER: Oh, that's fine,  
25 Mr. McClure. I just wanted to make sure you were here

1 and that you're ready to proceed.

2 MR. MCCLURE: I am, sir.

3 MR. SAVAGE: Mr. Hearing Examiner, I  
4 have to admit -- I'm looking at this -- I don't think  
5 that I received or noted the other party's positions,  
6 so I would like the opportunity to correct that.

7 THE HEARING EXAMINER: Okay. Hold on.  
8 Is this for your response to the motions?

9 MR. SAVAGE: Consolidated response  
10 to -- that's right. So that's -- yeah.

11 THE HEARING EXAMINER: You don't need  
12 to worry about the other party's position.

13 MR. SAVAGE: Yes. That is correct.  
14 Yeah. You got me on edge with the --

15 THE HEARING EXAMINER: Well, it's not  
16 my intent to get you on --

17 MR. SAVAGE: That's good's.

18 THE HEARING EXAMINER: Okay. It's  
19 one o'clock now on the 27th of February. We are  
20 continuing the hearing in these 11 consolidated cases.  
21 And let's see. Ms. Vance had asked some re-direct  
22 questions.

23 And, Mr. Savage, do you have any  
24 cross-examination specifically related to and confined  
25 to the re-cross -- or sorry -- the re-direct?

1 MR. SAVAGE: I do.

2 THE HEARING EXAMINER: Go right ahead.

3 MR. SAVAGE: Okay. Is Mr. Macha  
4 available?

5 THE HEARING EXAMINER: Ms. Vance?

6 MS. VANCE: I was looking --

7 MR. MACHA: Yeah, I'm available. I'm  
8 on -- I'm on Ira's computer now.

9 THE HEARING EXAMINER: Okay. We can  
10 see you. And I remind you you're still under oath,  
11 sir.

12 MR. MACHA: Yes, sir.

13 MR. SAVAGE: Mr. Macha, I'd like to go  
14 through some of the questions and comments that  
15 Ms. Vance asked starting with the application. Now,  
16 you're familiar with a variety of applications that  
17 are filed with the OCD; is that correct?

18 MR. MACHA: Yes.

19 MR. SAVAGE: Okay. So the specific  
20 language in the application that was filed says that  
21 Permian seeks to pool. Now, if you saw an application  
22 that said "Seeks to pool the Bone Spring" as we did in  
23 our applications -- competing applications, that would  
24 denote to you that we're pooling the entire Bone  
25 Spring. Would that be correct -- or a fair statement?

1                   MR. MACHA: I would -- it would be a  
2 trigger for me to go look at it, yes. But if  
3 there -- I mean, if there's depth severs and nuances,  
4 it is what it is; right? I -- I -- we usually defer  
5 to our counsel with Holland & Hart in Santa Fe on that  
6 sort of stuff.

7                   MR. SAVAGE: Has Holland & Hart -- they  
8 file a lot of applications for you. Have they filed  
9 applications in the past that dealt with severances?

10                  MR. MACHA: Yep. Yes, they have.

11                  MR. SAVAGE: Have you seen where they  
12 specify the interval instead of describing the entire  
13 formation?

14                  MR. MACHA: The only debt severance  
15 cases that I can think of off the top of my head that  
16 they've filed for us are severances between  
17 formations, not severances between -- on, like, a  
18 footage basis.

19                  MR. SAVAGE: Okay. Would you agree  
20 that seeking to pool the entire formation  
21 specifying -- so, for example, the application did not  
22 request to seek a general formation. It sought  
23 to -- such as the Bone Spring, it sought to pool an  
24 interval of that Bone Spring; correct?

25                  MR. MACHA: Yes. That is correct.

1 MR. SAVAGE: And that interval is from  
2 the top of the third Bone Spring to the bottom. Would  
3 you agree that this is more specific than a general  
4 source of supply?

5 MR. MACHA: What do you mean by that?

6 MS. VANCE: I object. This is --

7 THE HEARING EXAMINER: What's the  
8 objection?

9 MS. VANCE: So Mr. Savage is asking a  
10 legal question regarding language in the rules, and  
11 Mr. Macha is not an attorney. He is a fact witness.

12 MR. SAVAGE: Well, I thought --

13 THE HEARING EXAMINER: Mr. Savage?

14 MR. SAVAGE: Yes. I would just like to  
15 point out that the whole basis of Ms. Vance's inquiry  
16 and questioning -- pulled up the rules, addressed the  
17 rules, and addressed those to Mr. Macha. So I believe  
18 that Mr. Macha is a sophisticated enough landman to  
19 address general questions of procedures that he is  
20 familiar with.

21 MS. VANCE: Mr. Hearing Examiner, I  
22 would like to point out, and I think it's clear on the  
23 record, that I asked Mr. Macha whether or not it was a  
24 general description. I did not ask him specifically  
25 to discuss the rule itself. The only point at which I

1 brought up the rule was to respond to Mr. Savage's  
2 line of questioning. I did not ask legal questions of  
3 Mr. Macha.

4 THE HEARING EXAMINER: Okay. I  
5 understand, Ms. Vance.

6 And I understand, Mr. Savage, where  
7 you're going. And I do want to notify the parties  
8 that I have a hard stop today at 3:00 p.m. I want  
9 this, I want the parties to have a full and fair  
10 opportunity to elicit all of the evidence that the  
11 Division needs to make an educated choice in this  
12 matter.

13 And if we have to continue on another  
14 day next week, then that's what we'll do. But I will  
15 let everyone know that at three o'clock, we have to  
16 stop for the day. So use your time wisely, is the  
17 first thing I'm saying. Number two, I'm ruling on the  
18 objection.

19 Mr. Savage, you are the one who brought  
20 up this idea that the notice given by the application  
21 was somehow insufficient based on this depth severance  
22 and other issues with the C-102s and the descriptions  
23 down the line, so I gave Ms. Vance the latitude to ask  
24 these questions to try to clean up that issue.

25 To go further into this, though, I

1 don't see how it's helpful, because it is what it is.  
2 You have your -- you can make a legal argument if you  
3 want based on the application. You can make a legal  
4 argument based on the facts that we have.

5 But to just sort of go through this  
6 with this witness and try to get him to say something  
7 you want him to say, I don't think that's going to be  
8 helpful at this point. So I'm going to sustain the  
9 objection, and I hope that you have some other  
10 questions that might be a little bit more fact-based.

11 MR. SAVAGE: Okay. I do. And I think  
12 that both positions have been represented in the  
13 record on this --

14 THE HEARING EXAMINER: Yes. I agree.

15 MR. SAVAGE: Okay. So I'll move to the  
16 next matter, and that is Ms. Vance describing the  
17 distance between the Bane and Joker location and  
18 location of this case.

19 So, Mr. Macha, both of those cases have  
20 a single reservoir that has no baffling in the sands.  
21 Would you agree with that?

22 MS. VANCE: I object. Again, we're  
23 bringing up questions about -- Mr. Savage is trying to  
24 bring up geological distinctions between these two  
25 cases. My questions were clearly to demonstrate to

1 the examiner's point that we're talking about two  
2 different developments, and they do not need to  
3 be -- this other case does not need to be discussed  
4 here.

5 THE HEARING EXAMINER: So is your  
6 objection -- what is your objection based on? What's  
7 the legal premise it's based on?

8 MS. VANCE: That we are -- the scope of  
9 this hearing is for the applications filed, and those  
10 applications that Mr. Savage is referring to are not  
11 at issue here. And the --

12 THE HEARING EXAMINER: So, Ms. Vance,  
13 are you saying that his question was outside the scope  
14 of your re-direct? Or are you saying it's irrelevant  
15 because it's outside the scope of the hearing?

16 MS. VANCE: It's outside of the scope  
17 of the re-direct. My questions were just focused on  
18 the distance between the two cases and that they are  
19 in two different development areas. I did not bring  
20 up the geology at all.

21 Mr. Savage is bringing up  
22 additional -- getting into further detail about that  
23 case when all I did was ask the question to  
24 demonstrate that these are in two different areas, and  
25 they don't need to be discussed together.



1 THE HEARING EXAMINER: Okay.

2 Mr. Savage, your response?

3 MR. SAVAGE: Okay. So she brought up  
4 the distance to show that they were unrelated -- that  
5 they were completely unrelated, and that is not the  
6 case. They are related. Mr. Macha is aware in both  
7 cases the testimony of the geology. He understands  
8 what the spacing unit is. That is a spacing unit  
9 that's decided by the -- as I said before -- a  
10 combination of land and geology.

11 THE HEARING EXAMINER: Okay. So,  
12 Mr. Savage, question for you. When you say "the  
13 cases," what cases are you referring to?

14 MR. SAVAGE: I'm referring to  
15 these -- the present cases and then the other cases  
16 that were in Lea County that involved the Joker and  
17 the Bane wells.

18 THE HEARING EXAMINER: But Lea County?  
19 This is Eddy County, isn't it?

20 MR. SAVAGE: That's correct. But the  
21 development plan for both is the same.

22 THE HEARING EXAMINER: Yeah. I don't  
23 find that relevant, Mr. Savage. So I sustain the  
24 objection. Find another way to ask your question or  
25 move on.

1 MR. SAVAGE: Mr. Macha, hypothetically,  
2 if you had two spacing units, and both spacing units  
3 did not have baffling and were completely sand, and  
4 one proposed to drill wells above and below a depth  
5 severance, and one proposed to drill a well below the  
6 depth severance, and that's it --

7 MS. VANCE: I object to this. I mean,  
8 I'm going to object to this. He's asking questions  
9 that are outside of the scope of what I asked on  
10 re-direct, and Mr. Macha is not a geologist.

11 THE HEARING EXAMINER: Okay.  
12 Ms. Vance, let's keep it short, because we do have a  
13 time limit for today if the parties want to stick to  
14 today.

15 Mr. Savage, once again, this is that  
16 it's outside the scope of the re-direct. What do you  
17 say to that?

18 MR. SAVAGE: I say that Ms. Vance is  
19 implicitly comparing two sets of cases and claiming  
20 that they're different because of the distance between  
21 the two, and I am claiming that, hypothetically, if  
22 you had those two cases and you looked at the facts,  
23 hypothetically, of the cases, that they would be the  
24 same.

25 THE HEARING EXAMINER: So, Mr. Savage,

1 well, you haven't really answered the question that I  
2 asked, which was, why should I overrule Ms. Vance's  
3 objection based on outside the scope of re-direct? So  
4 could you just answer that?

5 MR. SAVAGE: Because it is within the  
6 scope. Mr. Hearing Examiner, so the Division has  
7 ruled that we are not going to have closing  
8 arguments -- written closing arguments in this case,  
9 so we don't have much opportunity to really provide  
10 analysis of the specifics of these cases to the  
11 Division.

12 As a result, I am trying to provide the  
13 Division with an understanding of how these two cases  
14 are related. So, you know, if that's outside the  
15 scope, you know, so be it. I'll move on. But, I  
16 mean, would it be possible to provide closing written  
17 arguments?

18 THE HEARING EXAMINER: Let me ask  
19 Mr. McClure, because the closing argument wouldn't be  
20 for my benefit. The closing arguments would be for  
21 Mr. McClure's benefit, and I don't know if he feels it  
22 would be helpful at this point to have closing  
23 arguments.

24 But why don't we deal with that at the  
25 end of the hearing after he's heard all the evidence

1 and --

2 MR. SAVAGE: Okay. And I --

3 THE HEARING EXAMINER: Hold on,  
4 Mr. Savage. I'm not finished.

5 MR. SAVAGE: Yes.

6 THE HEARING EXAMINER: And so these  
7 cases that you're talking about, you're trying to  
8 compare cases in Eddy County with other cases in Lea  
9 County where you feel like the applicant here has done  
10 something different, and you don't know why. Is that  
11 why you're asking?

12 MR. SAVAGE: That's part of it, yes.

13 THE HEARING EXAMINER: That's part of  
14 it. Okay.

15 MR. SAVAGE: That's part of it. And in  
16 one case, they're drilling two wells to protect  
17 correlative rights; in the other case, they're  
18 drilling one well. And, you know, you have the same  
19 geology, and you have the same scope of production.

20 THE HEARING EXAMINER: Well, I don't  
21 know. You know, Mr. Savage, I understand if you say  
22 you have the same this and you have the same that.  
23 But, for me, you know, I'm not a scientist, so I don't  
24 know what facts of the case are similar and what would  
25 make the difference. So that's why we really need to

1 stick with this case.

2 MR. SAVAGE: Yes. Okay.

3 THE HEARING EXAMINER: And not try to  
4 compare it with what they did elsewhere, because even  
5 a small change elsewhere could affect how they did it  
6 there and why the Division would've approved it, and I  
7 don't understand that. That's beyond me.

8 MR. SAVAGE: If I may --

9 MS. VANCE: Mr. Hearing Examiner, I  
10 would also like to point out that if Mr. Savage wanted  
11 to make this a part of the case, then he should have  
12 done it in his case in chief. He did not. And right  
13 now, he is outside of the scope of the re-direct.

14 THE HEARING EXAMINER: I mean,  
15 Mr. Savage, that is why we have these rules.

16 MR. SAVAGE: Well, Mr. Hearing  
17 Examiner, if I can add. So these are very -- this is  
18 a very complicated case, because it deals with these  
19 severances, it deals with questions of taking from  
20 owners in upper intervals, it deals with allocation  
21 formulas, it deals with whether you should drill  
22 additional wells, or if you could.

23 I don't know if Mr. McClure would  
24 benefit from analysis in these areas, but it seems  
25 like there would be a benefit to the Division for

1       that.

2                   THE HEARING EXAMINER:   Well, I'm a  
3       little confused, Mr. Savage, that you're asking  
4       questions that go to what seems like it would be  
5       Ms. Luck's case.   I mean, I would expect these  
6       questions from Ms. Luck.   I mean, are you trying to  
7       show that your competing plan is better in some way  
8       based on the question you're asking?

9                   MR. SAVAGE:   Yes.   Because we --

10                  THE HEARING EXAMINER:   What is that?

11                  MR. SAVAGE:   Our plan does not  
12       have -- does not deal with any severances, so it's a  
13       cleaner plan; and Permian's plan deals with these  
14       severances, and, in our view, it violates correlative  
15       rights.   And so that would be -- should be a major  
16       factor in consideration between the two plans.

17                  THE HEARING EXAMINER:   Okay.   I think  
18       you've made that clear.   Ms. Luck is here to represent  
19       her clients as well, and she's also able to ask  
20       re-cross on the re-direct if she so chooses.   But I  
21       just don't feel it's helpful, and I agree it's outside  
22       the scope of the re-direct.

23                  So can you just stick -- because you  
24       had a long opportunity to cross-examine this witness.  
25       You took over an hour to do so, and Ms. Vance just

1 cleaned up a few issues based on your  
2 cross-examination. So this really is a very limited  
3 opportunity now to just ask anything that came up  
4 during re-direct.

5 So if you would just confine yourself,  
6 please. So I'm sustaining the objection.

7 MR. SAVAGE: Yes. Those were the two  
8 main areas. Those were the two main issues  
9 and -- yes. Thanks.

10 THE HEARING EXAMINER: Okay. Thank  
11 you, sir. And, Mr. Savage, you may make the argument  
12 to Mr. McClure that closing arguments may be  
13 beneficial, and he may agree with you. I'm going to  
14 leave that between Mr. McClure and the parties.

15 Ms. Luck, do you have any re-cross on  
16 the re-direct?

17 MS. LUCK: Well, I just want to  
18 clarify, I'm not sure if Mr. Macha can answer this  
19 question or not.

20 Do you know how many feet there are  
21 from the top of the third Bone Spring to where you're  
22 pooling?

23 MR. MACHA: No, I don't.

24 THE HEARING EXAMINER: Would the  
25 geologist know?

1                   MR. MACHA: They would probably have a  
2 pretty good idea.

3                   THE HEARING EXAMINER: Okay.

4                   Well, Ms. Luck, you can ask the  
5 geologist.

6                   MS. LUCK: Okay. But I just want to  
7 ask a follow-up question to that.

8                   THE HEARING EXAMINER: Sure. Go ahead.

9                   MS. LUCK: The geologist will tell us  
10 how many feet there are, but it's Permian's position  
11 at this point in time that Ms. Beall should be able to  
12 drill her own well within that portion of the third  
13 Bone Spring. Is that your position?

14                  MR. MACHA: Yeah.

15                  MS. LUCK: And there's enough space up  
16 there to drill a whole other well in the third Bone  
17 Spring within that interval?

18                  MR. MACHA: If that -- I mean, they are  
19 allowed to put a well wherever they want to, yeah.

20                  MS. LUCK: Okay. And we'll circle back  
21 with the geologist if possible just to clarify how  
22 many feet there are. Thank you.

23                  THE HEARING EXAMINER: Okay. Thank  
24 you.

25                  Mr. McClure, was there anything that



1 you wanted to bring up that you heard on the  
2 re-direct?

3 MR. MCCLURE: Nothing here, Mr. Hearing  
4 Examiner.

5 THE HEARING EXAMINER: All right.  
6 Thank you.

7 And, Ms. Vance, may this witness be  
8 excused?

9 MS. VANCE: Yes.

10 THE HEARING EXAMINER: Okay. Very  
11 good. Do you want to call your second witness?

12 MS. VANCE: Sure. I'm going to call  
13 Ira Bradford.

14 THE HEARING EXAMINER: Mr. Bradford,  
15 please raise your right hand.

16 WHEREUPON,

17 IRA BRADFORD,  
18 called as a witness and having been first duly sworn  
19 to tell the truth, the whole truth, and nothing but  
20 the truth, was examined and testified as follows:

21 THE HEARING EXAMINER: Would you state  
22 and spell your name?

23 MR. BRADFORD: Ira Bradford, I-R-A  
24 B-R-A-D-F-O-R-D.

25 THE HEARING EXAMINER: Okay. Thank

1     you.   You can lower your hand, sir.

2                     Ms. Vance, would you like to take over?

3                     MS. VANCE:   Yes.   Give me one second  
4     here.   Excuse me.

5                     Mr. Bradford, by whom are you employed  
6     and in what capacity?

7                     MR. BRADFORD:   I am the -- I am the  
8     New Mexico asset geoscience manager for Permian  
9     Resources.

10                    MS. VANCE:   Okay.   And you previously  
11     testified before the Division, and your credentials  
12     have been accepted as a matter of record?

13                    MR. BRADFORD:   Yes, they have.

14                    MS. VANCE:   Okay.   And you're familiar  
15     with the applications filed in these competing cases?

16                    MR. BRADFORD:   I am.

17                    MS. VANCE:   And you're familiar with  
18     the lands and the proposed spacing units?

19                    MR. BRADFORD:   Yes.

20                    MS. VANCE:   And as far as the testimony  
21     and exhibits, did you assist Mr. Cantin with preparing  
22     his statement and with the exhibits that are included  
23     in the hearing packet?

24                    MR. BRADFORD:   I did.

25                    MS. VANCE:   Okay.   And those are

1 Exhibits D through D-6; correct?

2 MR. BRADFORD: Yes.

3 MS. VANCE: Do you have any corrections  
4 or modifications or changes to the testimony that was  
5 provided by Mr. Cantin or any of the exhibits?

6 MR. BRADFORD: I do not.

7 MS. VANCE: Okay.

8 And at that, Mr. Hearing Examiner, I  
9 would ask that Mr. Bradford be able to stand in for  
10 Mr. Cantin at this point and answer questions for  
11 opposing counsel and the Division.

12 THE HEARING EXAMINER: Any objection?

13 MR. SAVAGE: No objection.

14 MS. LUCK: No objection.

15 THE HEARING EXAMINER: Thank you.

16 Granted. Would you offer your witness  
17 for cross-examination?

18 MS. VANCE: Yes. I -- well, I guess my  
19 question is both parties cross-examined Mr. Cantin,  
20 and we do have him available. I think Ms. Luck had  
21 some questions -- follow-up questions. But primarily,  
22 I think he was here to answer questions for  
23 Mr. McClure.

24 THE HEARING EXAMINER: Okay. Well,  
25 let's go to Ms. Luck first.

1                   Ms. Luck questions for Mr. Bradford?

2                   MS. LUCK: Thank you. I just want to  
3 circle back to the question that I just asked  
4 Mr. Macha.

5                   Can you tell us how many feet thickness  
6 Permian estimates there are from the top of the third  
7 Bone Spring to where Permian is pooling here in this  
8 case?

9                   MR. BRADFORD: The top of the third  
10 Bone Spring to the -- it's about 9,300 feet based off  
11 of the logs that we have.

12                  MS. LUCK: From the top of the third  
13 Bone Spring to where the depth severance is, where the  
14 pooling application applies?

15                  MR. BRADFORD: To -- from -- from the  
16 top of the third Bone Spring to where we are currently  
17 spotting the depth severance, it -- it is a little bit  
18 over 100 feet. Maybe 120 feet.

19                  MS. LUCK: Okay. 100 feet?

20                  MR. BRADFORD: Yeah -- yeah.  
21 The -- the number I had before was where we're  
22 spotting the depth severance on TVD based off the type  
23 logs.

24                  MS. LUCK: Okay. Sorry. I'm not sure  
25 that I have other questions. That was really my

1 primary question is how many feet thickness there are  
2 there in the top of the third Bone Spring, because  
3 it's my understanding that that's Permian's position  
4 that Ms. Beall should be able to place the well there  
5 in the top of the third Bone Spring.

6 THE HEARING EXAMINER: Okay, Ms. Luck.  
7 Thank you.

8 Mr. Savage, questions for Mr. Bradford?

9 MR. SAVAGE: Mr. Hearing Examiner, I'm  
10 satisfied with the testimony of the previous  
11 geologist.

12 THE HEARING EXAMINER: Okay.  
13 Mr. McClure?

14 MR. MCCLURE: Thank you, Mr. Hearing  
15 Examiner.

16 Mr. Bradford, if I can direct your  
17 attention to the original cross section. Let's see if  
18 I can find the page number for that. Oh, actually,  
19 it's right in front of where I was. Page 172 of 227.  
20 It should be exhibit D-8 -- or excuse me -- D-6.

21 MR. BRADFORD: Yes, sir. I'm on that.

22 MR. MCCLURE: On this cross section,  
23 there's, like, a dashed box for the titled horizontal  
24 target for the for the third Bone Spring --

25 MR. BRADFORD: Yes, sir.

1 MR. MCCLURE: Does that represent the  
2 pay that Permian intends to go after?

3 MR. BRADFORD: That is correct, sir.  
4 That -- that box and -- and that interval is where we  
5 believe the primary hydrocarbon resource is located in  
6 the third Bone Spring.

7 MR. MCCLURE: Okay. So when I'm  
8 looking at Exhibit D-7, which is the next page, page  
9 173, where we're a little bit more zoomed in on  
10 that -- well, the western well, Tamano 15 Federal C  
11 Number 2. Do you see where I'm referring to?

12 MR. BRADFORD: Yes, sir.

13 MR. MCCLURE: So would it be accurate,  
14 then, to say that the -- well, the primary  
15 hydrocarbons that Permian is going after, would it be  
16 accurate to say that the top of that is approximately  
17 9,440 on that measured depth tract?

18 MR. BRADFORD: Yeah. That's the top of  
19 the sand lobe that we are targeting.

20 MR. MCCLURE: Okay. And then the base  
21 of it is the top of the Wolfcamp there at around about  
22 9,520; is that correct?

23 MR. BRADFORD: Yes, sir.

24 MR. MCCLURE: Okay. Looking at the  
25 same cross section here, is it accurate to say that

1 your formations are approximately 20 foot shallower in  
2 the western well versus the eastern well?

3 MR. BRADFORD: Yeah. It's -- yeah.  
4 You're -- you're going updip as you go to the west, so  
5 these two wells are pretty close to being on strike --

6 MR. MCCLURE: Yeah. But there is  
7 that --

8 MR. BRADFORD: Yeah, yeah. Just  
9 a -- yeah. Just a little bit of -- of structural  
10 updip to the west.

11 MR. MCCLURE: And is that approximately  
12 20 feet, to your understanding?

13 MR. BRADFORD: Yes.

14 MR. MCCLURE: Okay. How much depth  
15 difference is there between the upper vertical limit  
16 that Permian is asking to force pool? To my  
17 understanding, that being 9,397 feet in the  
18 southwest -- or southeast quarter of the southwest  
19 quarter; is that correct? Top of the vertical limit?

20 MR. BRADFORD: Southeast quarter of the  
21 southwest quarter of -- of section 14?

22 MR. MCCLURE: Correct. And that's  
23 9,397. Is that a correct upper vertical limit?

24 MR. BRADFORD: Southeast -- southeast.  
25 Sorry. I'm doing some quick math in my head trying to

1 figure out the answer to that question, Examiner.

2 MR. MCCLURE: Yeah. I only took it  
3 from the landman's statements, and that's essentially  
4 what he has in his testimony. I'm just making sure  
5 you're familiar with it, I guess, might be a better  
6 question.

7 MR. BRADFORD: Yeah. I think  
8 that's -- yeah. That -- that's about correct.  
9 The -- the southeast southwest of that section  
10 is -- is downdip a bit to these type wells.

11 MR. MCCLURE: How does that depth  
12 compare to the 9,290 feet that's in Ms. Beall's depth  
13 severance that's located in the northeast quarter of  
14 the northwest quarter?

15 MR. BRADFORD: It would be  
16 stratigraphically equivalent based off the dip of the  
17 formation in the region.

18 MR. MCCLURE: Okay. And that's taking  
19 into account that it's approximately three quarters of  
20 a mile in the north-south direction difference?

21 MR. BRADFORD: Yes.

22 MR. MCCLURE: Okay. So then on this  
23 same cross section -- well, on the page 173, if the  
24 vertical limit were to be placed here, then would it  
25 also occur at approximately 9,400 feet on that eastern



1 well?

2 MR. BRADFORD: Are you talking about  
3 the Jamie Federal 01? I'm sorry. I asked a question.  
4 I'm -- I'm not sure which eastern well you're talking  
5 about, sir.

6 MR. MCCLURE: Oh, actually, I -- I  
7 apologize. Let me ask this question again, because  
8 the Jamie Federal Number 1 is actually in the  
9 north -- oh, no. Excuse me. Actually, I was asking  
10 the question right.

11 Okay. If you take the depth severance  
12 that's about 9,400 feet that is occurring in the  
13 southeast quarter of the southwest quarter and you  
14 bring it to the Jamie Federal Number 1, where would it  
15 occur on this cross section?

16 MR. BRADFORD: At -- at the same spot.  
17 Based on the structural map, right above that,  
18 there's -- there's a little bit over 100 feet of -- of  
19 updip from the southeast southwest of section 14 to  
20 where the Jamie Federal 001 is located.

21 MR. MCCLURE: So with that in mind,  
22 would the three quarters of a mile to a mile further  
23 north from that depth severance make a difference? It  
24 would still be 9,400 at the Jamie Federal Number 1; is  
25 that correct?

1 MR. BRADFORD: Well, because of the  
2 structural dip, it would be at the -- the 9,290-ish  
3 level that we have it flagged on that cross section,  
4 taking into account the stratigraphic interval that  
5 was outlined, I believe.

6 MR. MCCLURE: So the depth severance  
7 that is identified by Permian, the 9,397 feet, or  
8 approximately 9,400 feet, you believe it to be  
9 stratigraphically equivalent to Ms. Beall's depth  
10 severance; is that correct?

11 MR. BRADFORD: That is -- that is  
12 correct, sir.

13 MR. MCCLURE: Okay. Let's see. Thank  
14 you, Mr. Bradford.

15 Thank you, Ms. Hearing Examiner.  
16 That's all the questions I had for this witness.

17 THE HEARING EXAMINER: Okay.

18 Ms. Vance, any re-direct on those  
19 questions?

20 MS. VANCE: No.

21 THE HEARING EXAMINER: Okay. May we  
22 excuse this witness?

23 MS. VANCE: Yes.

24 THE HEARING EXAMINER: Okay.

25 Thank you, Mr. Bradford.

1 MR. BRADFORD: Thank you.

2 THE HEARING EXAMINER: All right.

3 Ms. Vance does that complete your case in chief?

4 MS. VANCE: It does.

5 THE HEARING EXAMINER: Okay. Very  
6 good.

7 Mr. Savage, where do you stand?

8 MR. SAVAGE: We've concluded our case.

9 THE HEARING EXAMINER: Okay.

10 And Ms. Luck?

11 MS. LUCK: Well, I would simply like to  
12 call Mr. Shaw, a title representative, to speak on  
13 behalf of Ms. Beall with respect to her interest  
14 that's disputed. I think Mr. Macha made statements  
15 that Permian doesn't recognize Ms. Beall's interest in  
16 the south half, north half acreage.

17 And I would like to just establish  
18 through our title expert that she does have an  
19 interest, and then also just speak to the allocation  
20 piece if possible since --

21 THE HEARING EXAMINER: Okay. So --

22 MS. LUCK: I'm in the same boat as  
23 Mr. Savage, sir. I would like a closing statement to  
24 be filed if possible, but I defer to the Division.

25 THE HEARING EXAMINER: So, Ms. Luck,

1 whose witness is Mr. Shaw?

2 MS. LUCK: Mr. Shaw is employed by V-F  
3 Petroleum full-time, but Ms. Beall has also hired him  
4 to speak on her behalf, because he has conducted a  
5 title examination for her.

6 THE HEARING EXAMINER: Oh, so then are  
7 you presenting Mr. Shaw as your witness?

8 MS. LUCK: In this instance, yes. And  
9 he's prepared to speak in rebuttal to that testimony  
10 that Mr. Macha just spoke to with respect to her  
11 interest that's disputed in case 25146.

12 THE HEARING EXAMINER: Okay. Well,  
13 Ms. Luck, I believe that the rules require a  
14 pre-hearing statement before you present evidence.

15 MS. LUCK: Yes, Mr. Examiner. I did  
16 file a pre-hearing statement with the Division. I --

17 THE HEARING EXAMINER: Oh, you did? I  
18 didn't see it. In which case?

19 MS. LUCK: On the two cases where the  
20 Division allowed the intervention, which are cases  
21 25145, 25146 --

22 THE HEARING EXAMINER: Okay. Let me go  
23 there. Hold on. I must have missed it. Okay. May I  
24 have the case number?

25 MS. LUCK: Case Number 25145 and 25146.

1 THE HEARING EXAMINER: One of them is  
2 fine. When did you file the pre-hearing statement?

3 MS. LUCK: On February 20th.

4 THE HEARING EXAMINER: Let me look.  
5 Carolyn Beall's pre-hearing statement. Here it is.  
6 Okay. Let's see. Jordan Shaw, here he is. Okay.

7 Mr. Shaw?

8 MR. SHAW: Yes, sir.

9 THE HEARING EXAMINER: I don't see you.  
10 There you are. Okay. Very good. Please raise your  
11 right hand.

12 WHEREUPON,

13 JORDAN SHAW,  
14 called as a witness and having been first duly sworn  
15 to tell the truth, the whole truth, and nothing but  
16 the truth, was examined and testified as follows:

17 THE HEARING EXAMINER: Okay. Very  
18 good. You can put your hand down. Please state and  
19 spell your name.

20 MR. SHAW: Jordan Shaw, spelled  
21 J-O-R-D-A-N, last name S-H-A-W.

22 THE HEARING EXAMINER: Okay. Sounds  
23 good. Did you appear in the V-F case?

24 MR. SHAW: Yes, sir. I'm not employed  
25 for V-F. I am a contractor for --

1 THE HEARING EXAMINER: I see. Okay.  
2 All right. So you filed your opinion -- your expert  
3 opinion. Have you been -- so you filed.

4 Mr. Savage, did you rely on Mr. Shaw's  
5 testimony in your case in chief?

6 MR. SAVAGE: He was the landman who  
7 filed the self-affirmed statement.

8 THE HEARING EXAMINER: Okay. Very  
9 good. So you've already filed it.

10 And, Mr. Shaw, you've already been  
11 recognized as an expert in land before this division?

12 MR. SHAW: Yes, sir.

13 THE HEARING EXAMINER: Okay. Perfect.  
14 Okay. Ms. Luck, please proceed.

15 MS. LUCK: Thank you for confirming his  
16 qualifications.

17 And thank you for being here, Mr. Shaw.  
18 And, Mr. Shaw, have you been retained by Ms. Beall to  
19 conduct a title examination related to her interest in  
20 these two cases?

21 MR. SHAW: Yes, ma'am.

22 MS. LUCK: And I don't think it's  
23 disputed in case 25145, so we're not going to review  
24 those details. But in case 25146, can you explain to  
25 us your title examination and what you determined?

1                   MR. SHAW: Yes, ma'am. So let me  
2     preface my statement here. Due to the -- the lack of  
3     time here, my review was strictly limited to the  
4     serial register page and county records. We were  
5     unable to obtain a federal abstract, so there's  
6     several documents that are in the -- the chain of  
7     title that there are gaps.

8                   But if you were to look at  
9     assignment -- let's see here. It's entitled deed of  
10    distribution and assignment book 143, page 1091,  
11    Charles B. Read under the -- as personal  
12    representative of the estate of Jean [ph] Read,  
13    appears to convey to himself in his individual  
14    capacity an interest in the northeast quarter and the  
15    southeast quarter of the northwest quarter.

16                  That would be basically the majority of  
17    lease LC-047633. That -- that interest there was not  
18    depth restricted. And then there's a subsequent  
19    assignment here -- or no. Not a subsequent  
20    assignment. Charles B. Read dies, and Carolyn Read  
21    Beall is a vested remainderman pursuant to the estate,  
22    which is currently pending.

23                  So there's -- at least there's a  
24    inkling as to ownership into that -- into those tracts  
25    elsewhere; so --

1 MS. LUCK: Okay. And so what is your  
2 estimation of her ownership interest in that south  
3 half, north half unit in the third Bone Spring?

4 MR. SHAW: Well, in -- in those tracts  
5 it would be an undivided 2 percent to the -- to the  
6 full conveyance; but having an -- an undivided one  
7 third of that, it would be a 0.67 percent interest.

8 MS. LUCK: Okay. Thank you. And we  
9 just wanted to preserve that statement for purposes of  
10 this record, that Ms. Beall asserts that she does own  
11 an interest in the third Bone Spring and would like  
12 that interest to be recognized. And the second issue  
13 that I was wanting to call Mr. Shaw for is to speak to  
14 allocation.

15 Mr. Shaw, can you explain to us what  
16 would be typical of an allocation agreement for the  
17 third Bone Spring in this area?

18 MR. SHAW: So typically when you  
19 encounter issues of depth severances through the  
20 middle of a formation, what I've seen done in other  
21 instances is creating an allocation formula that takes  
22 into account the entirety of that Bone Spring sand.

23 And so what that would look like is  
24 that as a numerator, you would have your -- your depth  
25 severance tract working interest times your severance



1 tract thickness being from the top of the formation to  
2 the -- to where the actual severance occurs. Or if  
3 your severance happens to be -- your interest happens  
4 to be below the severance, it would be from the top of  
5 the severance to the face of the formation.

6 And then your denominator would be the  
7 total formation thickness. And that would give you at  
8 least an allocated tract working interest that if you  
9 were to apply that across both above and below  
10 the -- the severance that then you would be able to  
11 come up with an eight, eight whole interest that then  
12 you would be able to apply to the -- to the pooling  
13 unit by taking that allocated tract working interest  
14 times the tract gross acreage and then using as the  
15 denominator the pooled unit acreage.

16 So in this case, you'd be using as your  
17 denominator a 320-acre unit, and then your tract gross  
18 acreage in the case of the northeast quarter of the  
19 northwest quarter would be a 40-acre tract. And then  
20 you would apply this tract by tract by tract until  
21 you -- you come up with 320 acres divided by 320  
22 acres.

23 MS. LUCK: Okay. Thanks. And  
24 so -- but basically right now, Ms. Beall's interest is  
25 being excluded from the third Bone Spring; is that

1 correct?

2 MR. SHAW: Yes. It appears so.

3 MS. LUCK: Okay. I think that that's  
4 all the questions that I have for Mr. Shaw. Thank  
5 you.

6 THE HEARING EXAMINER: Okay. Thank you  
7 Mr. Savage, is there any  
8 cross-examination based on the direct examination?

9 MR. SAVAGE: None. Thank you.

10 THE HEARING EXAMINER: Yes.

11 Ms. Vance?

12 MS. VANCE: Yes. I do have a couple of  
13 follow-up questions.

14 THE HEARING EXAMINER: Please go ahead.

15 MS. VANCE: Hi. Good to see you,  
16 Mr. Shaw. Thank you for joining us again. So the  
17 assignment that you spoke of, I believe it was -- and  
18 I'm not a landman, so I may butcher the way that you  
19 describe. It's book 143 and then page 1091; is that  
20 correct?

21 MR. SHAW: Yes, ma'am.

22 MS. VANCE: Okay. Was that provided in  
23 the -- do you know -- or did you provide that to  
24 Ms. Luck for filing in these cases?

25 MR. SHAW: I thought I had, yes.

1 MS. LUCK: And I apologize. That  
2 wasn't filed with our notice of intervention, so I'd  
3 asked to file that as a rebuttal exhibit for purposes  
4 of this hearing.

5 THE HEARING EXAMINER: How is it a  
6 rebuttal exhibit?

7 MS. LUCK: Well, he mentioned it during  
8 his testimony just now. I'm not sure if it would be  
9 considered a rebuttal exhibit or if we should  
10 just -- and sorry.

11 It's a rebuttal exhibit because  
12 Mr. Macha -- the primary applicant Permian is  
13 contesting Ms. Beall's ownership interest in  
14 case 25146, so we're rebutting that with this document  
15 that Ms. Vance just brought up in book 143, page 1091,  
16 that she does own an interest in that spacing unit.

17 THE HEARING EXAMINER: Well, hold on,  
18 Ms. Luck. What I'm confused about is you knew that  
19 this was something that you were going to bring up on  
20 direct. Why didn't you file that exhibit -- that  
21 document as an exhibit with your pre-hearing  
22 statement?

23 MS. LUCK: Well, I guess that was an  
24 oversight on my part in terms of the correct procedure  
25 for this.

1 I thought it would be considered a  
2 rebuttal exhibit, because Ms. Vance's response to our  
3 notice of intervention in which I've asked to file a  
4 reply, she said that they would offer more evidence at  
5 hearing regarding Ms. Beall's ownership interest in  
6 that 25146. And so I thought I would be offering it  
7 as rebuttal, but that's my error in procedure.

8 THE HEARING EXAMINER: Yes. Okay.

9 Is there an objection, Ms. Vance?

10 MS. VANCE: Yes. I mean, we haven't  
11 had a chance --

12 THE HEARING EXAMINER: What is the  
13 objection?

14 MS. VANCE: Well, objection to the fact  
15 that we haven't had a chance to review this document  
16 and appropriately respond as we indicated we would  
17 like to. So we just -- we haven't had an opportunity,  
18 and now they're bringing in new evidence and new  
19 arguments.

20 THE HEARING EXAMINER: All right. Let  
21 me make sure I understand what's going on here.

22 So, Ms. Luck, what document are you  
23 seeking to admit as an exhibit?

24 MS. LUCK: It's called a deed of  
25 distribution. I could share my screen if you want me

1 to. It's not --

2 THE HEARING EXAMINER: I just want you  
3 to tell me what it is.

4 MS. LUCK: Sorry. It's called a deed  
5 of distribution assignment filed in Eddy County,  
6 New Mexico at book 143, page 1091. And --

7 THE HEARING EXAMINER: What are you  
8 relying on it for?

9 MS. LUCK: To prove Ms. Beall's  
10 ownership interest through Charles B. Read, because  
11 the original assignments only list Charles B. Read.  
12 But Ms. Beall is a descendant of Charles B. Read, and  
13 so the deed of distribution would need to be a  
14 subsequent title document that proves up her ownership  
15 interest rather than a direct assignment to her.

16 THE HEARING EXAMINER: Okay. So is  
17 this -- I want to be clear about ownership in what?  
18 What is this an ownership in? Is this within the pool  
19 that Permian seeks to form, or is this an area above  
20 the pool that you're saying will be affected?

21 MS. LUCK: It is the second. It's in  
22 an area of the pool that will be affected, but we're  
23 arguing that Permian should be required to pool the  
24 entire third Bone Spring to avoid the exclusion of  
25 Ms. Beall's interest here.

1 THE HEARING EXAMINER: Okay. All  
2 right. And when did you learn of this document?

3 MS. LUCK: Well, after Ms. Vance filed  
4 her response to my notice of intervention, I had  
5 Mr. Shaw perform a thorough title investigation. And  
6 then he determined this title document was relevant to  
7 prove up her ownership interest, and he sent it over  
8 to me.

9 I'm not sure exactly when, but then it  
10 was part of the preparation for hearing since the  
11 20th.

12 THE HEARING EXAMINER: Okay.

13 Mr. Shaw, when did you send this  
14 document to Ms. Luck?

15 MR. SHAW: I'd have to look at my  
16 e-mail.

17 THE HEARING EXAMINER: Yes. I'd like  
18 to know.

19 MR. SHAW: Okay. So I'm here on my  
20 laptop, and it's not pulling up anything past the last  
21 15 days.

22 THE HEARING EXAMINER: I'm not sure I  
23 understand that answer. Are you saying you can't tell  
24 me when you sent it to her?

25 MR. SHAW: I would have to get on my

1 main computer.

2 THE HEARING EXAMINER: Ms. Luck, when  
3 did you receive the document?

4 MS. LUCK: I think that that was part  
5 of our hearing preparation that I just received this  
6 morning and with a summary of the ownership interest,  
7 and this was another document that was pulled out.  
8 But I could be incorrect that I received it before  
9 this morning, but it was my understanding that I just  
10 got it this morning.

11 THE HEARING EXAMINER: Well, that's not  
12 much of an answer, Ms. Luck.

13 MR. SAVAGE: Mr. Hearing Examiner, may  
14 I add to the discussion?

15 THE HEARING EXAMINER: Mr. Savage, I'm  
16 not sure -- I didn't call on you --

17 MR. SAVAGE: Yes, sir.

18 THE HEARING EXAMINER: And I'm not sure  
19 why you are interjecting at this point.

20 I'm trying to find a reasonable basis  
21 to evaluate this objection. Now, in the rule itself,  
22 it actually doesn't talk about a deadline for  
23 documents that I can see.

24 And, Ms. Vance, correct me if I'm  
25 wrong, but I don't see -- I'm here at 19.15.4.17,

1 Rules of Evidence and Exhibits for Adjudicatory  
2 Hearings, and it looks like it's open to me to make  
3 sure that I afford a full opportunity to the parties.  
4 That's number one, a full opportunity to present  
5 evidence and cross examine.

6 I can use rules of evidence if need be.  
7 I may admit relevant evidence only, unless it's  
8 immaterial, repetitious, or otherwise unreliable.  
9 Parties introducing exhibits at a hearing before the  
10 Division shall provide a complete set of exhibits for  
11 the court reporter, et cetera, et cetera, and other  
12 parties of record.

13 But it doesn't say how far in advance  
14 or even if it's during the hearing, so the rule is  
15 very unclear here about that.

16 MS. LUCK: May I --

17 THE HEARING EXAMINER: I'm not  
18 sure -- I'm not finished yet.

19 MS. LUCK: Sorry.

20 THE HEARING EXAMINER: Now, of course  
21 there is my pre-hearing order. The pre-hearing order  
22 did lay out a deadline to file exhibits, but Ms. Luck  
23 wasn't an intervener at that point. Plus, I gave you,  
24 Ms. Vance, a lot of leeway in the notice, of which  
25 Ms. Luck and Mr. Savage are extremely upset with me



1 and are appealing that decision if they can do so.

2           However, I'm still going to remain  
3 objective during this evaluation and not let that  
4 cloud my judgment. Now, there was another deadline  
5 that Ms. Tschantz sent out to the parties instructing  
6 them that they had until -- I don't remember when, but  
7 I think it was last week sometime. I think it was  
8 last Thursday, but don't quote me. But there was a  
9 date.

10           So, Ms. Luck, when you saw that e-mail,  
11 because I know you were on that e-mail, why didn't  
12 this document fit into that e-mail?

13           MS. LUCK: And apologies. I think that  
14 I just misunderstood the process, and I thought that I  
15 could offer this as a rebuttal exhibit here at  
16 hearing.

17           THE HEARING EXAMINER: A rebuttal to  
18 what?

19           MS. LUCK: Mr. Macha testimony in  
20 further support of Permian's response to the notice of  
21 intervention that they dispute Ms. Beall's ownership  
22 interest in the third Bone Spring formation.

23           THE HEARING EXAMINER: Okay. And when  
24 was this -- hold on --

25           MS. LUCK: I can read -- sorry. I can

1 read Permian's response to you.

2           It says Permian is prepared to discuss  
3 this at the February 27th continuation contested  
4 hearing, because this says: "However, Permian is not  
5 aware of any instrument of records showing that  
6 Ms. Beall owns an interest in what is the south half,  
7 north half spacing unit in case 25146. Permian's  
8 prepared to discuss this at the hearing."

9           And so I thought I would be offering  
10 that as a rebuttal exhibit. I've been in  
11 correspondence with Mr. Shaw to prepare for the  
12 hearing, but then we didn't catch up until yesterday.

13           I think he sent me over the documents  
14 early this morning. I looked at them. I came to  
15 hearing this morning with the document that proves up  
16 how she owns in that south half, north half, because I  
17 want to be sure that we make a record of that.

18           THE HEARING EXAMINER: Okay. Now,  
19 Ms. Luck, I mean, whether or not you have violated a  
20 rule or the pre-hearing order, wouldn't it make sense  
21 to provide any evidence you have of ownership to  
22 Ms. Vance as early as you can? I mean, why wait till  
23 the last minute?

24           MS. LUCK: And, again, I'll say I  
25 believe that I just received this in an e-mail from

1 Mr. Shaw this morning before the hearing began. And  
2 so I would like to file it with the Division. Now  
3 that we have discussed what the document is with  
4 Mr. Shaw, who is the landman, I would like to ask  
5 permission to file it as a rebuttal exhibit.

6 Parties regularly file rebuttal  
7 exhibits at hearing, and that's just one of these  
8 documents. And I'm not sure if there's any excuse for  
9 that, but I see plenty of other parties at hearing  
10 appear and file rebuttal exhibits.

11 THE HEARING EXAMINER: Okay, Ms. Luck.  
12 Thank you.

13 Ms. Vance?

14 MS. VANCE: Yes. So I would just -- I  
15 was going to make the point that the pre-hearing order  
16 lays out when a pre-hearing statement and evidence is  
17 required to be filed. And of course, yes, we do  
18 amended stuff, and I agree with Ms. Luck regarding  
19 rebuttals.

20 However, my response to Ms. Luck was  
21 filed regarding the notice of intervention on  
22 February 13, 2025. And I would also point out that  
23 Ms. Luck, Ms. Beall was present at the January 28th  
24 hearing and entered her appearance, made arguments  
25 regarding her various interests, and has had 30 days

1 to provide something to Permian to review.

2 And at this point, it's -- you know,  
3 we're just finding out about this at the hearing, and  
4 it just -- we haven't had a time to review or evaluate  
5 and have our own response to this.

6 THE HEARING EXAMINER: I understand,  
7 Ms. Vance.

8 And, Ms. Luck, not only did you -- not  
9 only did Permian file its response, but I sent  
10 out -- I had Ms. Tschantz send out an e-mail to  
11 everyone saying that I was permitting your  
12 intervention based on a part of the rule that allowed  
13 you to help the Division protect correlative rights.

14 So I think you've known that you are a  
15 party for quite some time now. I think it behooves  
16 you to, you know, read the pre-hearing order and find  
17 out what deadlines there are.

18 However, Ms. Vance, I don't see a way  
19 to keep it out, so I'm going to let it in.

20 So, Ms. Luck, file it immediately as  
21 your exhibit. I'm not going to call it a rebuttal  
22 exhibit, because it's not really a rebuttal exhibit.  
23 It's your exhibit, so file it as an exhibit and serve  
24 it on the parties. And let's see. How are we going  
25 to deal with this?

1                   So, Ms. Vance, what are you asking? In  
2       regards to this document that Mr. Shaw has testified  
3       shows an interest in a formation just above the  
4       formation you are seeking to pool, how do you  
5       anticipate dealing with that, if at all?

6                   MS. VANCE: Well, one, we would like  
7       the opportunity to review it; but two, the Division  
8       doesn't have jurisdiction over title. And Permian has  
9       conducted title, filed its applications based off of  
10      its own title. So at this point, you know, if there's  
11      a title dispute, Ms. Beall is welcome to file  
12      something in a district court.

13                  THE HEARING EXAMINER: All right.

14                  So basically, Ms. Luck, it is what it  
15      is, and you can file it, so go ahead and file it. Are  
16      you finished with Mr. Shaw, Ms. Luck?

17                  MS. VANCE: Oh, I was doing --

18                  THE HEARING EXAMINER: You were. Thank  
19      you.

20                  MS. VANCE: Yes.

21                  THE HEARING EXAMINER: Please.

22                  MS. VANCE: Mr. Shaw, you stated that  
23      you have seen allocation formulas before?

24                  MR. SHAW: Yes, ma'am.

25                  MS. VANCE: Have you participated in

1 other division hearings that include a depth  
2 severance?

3 MR. SHAW: In the middle of a  
4 formation, no, ma'am.

5 MS. VANCE: Okay. And so have you ever  
6 seen a division order that includes an allocation  
7 formula?

8 MR. SHAW: None come to mind off the  
9 top of my head.

10 MS. VANCE: Okay.

11 Those are all the questions I have.

12 THE HEARING EXAMINER: Thank you.

13 Mr. McClure?

14 MR. MCCLURE: Thank you, Mr. Hearing  
15 Examiner.

16 THE HEARING EXAMINER: Bless you.

17 MR. MCCLURE: Thank you.

18 Mr. Shaw, now, I'm not a landman  
19 either, so please bear with me. If I can direct your  
20 attention to -- I mean, I guess it's the exhibit  
21 packet. It's the document that's titled Notice of  
22 Ownership Interest and Objection to Case Numbers 25145  
23 and 25146. Do you by chance have that document in  
24 front of you, or are you familiar with it?

25 MR. SHAW: Yes, sir, I do.

1 MR. MCCLURE: Okay. If I can direct  
2 your attention down to where it first says Exhibit A.  
3 That's page 7 of 24. It says book 71, page 382, on  
4 that.

5 MR. SHAW: Yes, sir.

6 MR. MCCLURE: And I apologize. If I  
7 can direct just a couple -- just two pages into that,  
8 which is going to occur on page 9 of 24. This is  
9 where it starts listing out percentages.

10 MR. SHAW: Yes, sir.

11 MR. MCCLURE: I see there Carolyn Beall  
12 is the fifth person down listed. Do you see who I'm  
13 referring to?

14 MR. SHAW: Yes, sir.

15 MR. MCCLURE: Now, is my understanding  
16 correct that this is saying that she has a  
17 0.75 percent working interest in the northeast quarter  
18 of the northwest quarter?

19 MR. SHAW: From the depths of 3,900  
20 feet down to 9,290 feet on a after-payout interest,  
21 meaning after the well has reached 100 percent,  
22 returned 100 percent of the money, then that would be  
23 her interest thereafter.

24 MR. MCCLURE: And that's a working  
25 interest; correct?

1 MR. SHAW: That is a working interest,  
2 yes, sir.

3 MR. MCCLURE: Okay. And is it your  
4 understanding that the well has reached its payout at  
5 this point?

6 MR. SHAW: Are you referring to the  
7 Jamie Federal Number 1 well? The vertical well?

8 MR. MCCLURE: Yeah. Is it your  
9 understanding that the Jamie Federal Number 1 well has  
10 reached its payout?

11 MR. SHAW: I would have to go back and  
12 look at the production data from that well to -- to  
13 ascertain that, only because that well was extremely  
14 marginal, and -- and I believe the date of last  
15 production on that well was, like, February of 2020,  
16 and I know that well had been limping along for  
17 the -- for the last 20 years of his life.

18 So I -- to be honest, I can't answer  
19 that. I wouldn't be able to answer that.

20 MR. MCCLURE: In your earlier  
21 testimony, I believe you referenced a number of  
22 0.067 percent across --

23 MR. SHAW: Yes, sir.

24 MR. MCCLURE: I wasn't sure what -- if  
25 that was across both units or one of the units or not.



1 But in deriving that figure, were you assuming  
2 0.75 percent working interest?

3 MR. SHAW: Can you rephrase the  
4 question? Sorry.

5 MR. MCCLURE: Okay. Your earlier  
6 testimony implied that you had computed an overall  
7 interest that Ms. Beall owns. In doing that -- go  
8 ahead, sir.

9 MR. SHAW: Sorry. Go ahead.

10 MR. MCCLURE: In doing that  
11 calculation, did you use 0.75 here?

12 MR. SHAW: No, sir. So that -- that  
13 interest comes through a separate conveyance, an  
14 entirely separate document, entirely separate lands.  
15 So if we're just talking about -- we're just talking  
16 about the northeast quarter of the northwest quarter,  
17 Carolyn Beall's interest is made up two separate  
18 assignments in there.

19 So the -- the first assignment of  
20 operating rights is 71 -- book 71, 382. I have  
21 assumed that there is no -- that well had not paid  
22 out. I -- I have no way of knowing. I'm not privy to  
23 any of that information.

24 So I have assumed in that -- through  
25 that conveyance, that she has obtained a BPO -- I'm

1     sorry -- before payout working interest of 1 percent  
2     and an -- and an APO interest of 0.75 percent.

3             Then there's a separate assignment  
4     covering essentially the -- the same depths, but  
5     the -- the difference is instead of it being from  
6     3,900 feet down to 9,290 feet, assignment of operating  
7     rights recorded at book one 13, page 701, assigns  
8     from, again, 3,900 feet down to 9,293 feet.

9             That's probably a scrivener's error.  
10    You know, if I was looking at this as a -- as a title  
11    attorney in Texas, I would -- I would bring to the  
12    attention and say, I'm sure these parties intended to  
13    assign the same depths. But there are 36 interest  
14    owners -- or sorry -- close to three dozen interest  
15    owners, a lot of which have been consolidated back  
16    into Read & Steven, some of which have not.

17            And for the sum of which have not, you  
18    have literally a depth severance at 9,290 feet and  
19    then another 3-foot depth severance with separate  
20    ownership at 9,293 feet. An assignment of operating  
21    rights recorded at book 113, 701, it purports to  
22    convey an additional 1 percent before payout working  
23    interest, and a 0.75 percent after-payout working  
24    interest.

25            So, essentially, in that tract being

1 the northeast quarter of the northwest quarter, I come  
2 up with Carolyn owning a 2 percent before payout  
3 working interest and a 1.5 percent after payout  
4 working interest in those two interests.

5 And it -- you -- the way that -- this  
6 can be argued both ways. I want to be fair on how  
7 I -- how I characterize this, because this is part of  
8 the same drilling program. So you could look at both  
9 these instruments and say, Oh, they are just reciting  
10 the exact same interests that were being conveyed, but  
11 they're two separate conveyances at two separate  
12 times -- you know, two separate periods of time.

13 So it's -- it can swing -- swing one  
14 way or another in -- in fairness. So you could just  
15 be saying it's 1 percent before payout and  
16 0.75 percent after payout, or it could be as large as  
17 2 percent before payout and -- and 1.5 percent after  
18 payout.

19 MR. MCCLURE: And in your  
20 original -- go ahead, sir, if you want to finish.

21 MR. SHAW: Sorry. No. Go ahead.

22 MR. MCCLURE: And then in the original  
23 calculation of numbers, your original computation, you  
24 assume the latter, that these are referring to two  
25 separate interests; is that correct?

1                   MR. SHAW: I could see it that way,  
2                   yes, sir. Yes.

3                   MR. MCCLURE: Okay. And so I guess to  
4                   make sure I'm understanding, on page 20 of 24 where it  
5                   has Carolyn Beall listed at the bottom of that page,  
6                   do you see where I'm referring to?

7                   MR. SHAW: Sorry. I didn't -- I didn't  
8                   print that far out. I'm sorry.

9                   MR. MCCLURE: That's book 113,  
10                  page 705.

11                  MR. SHAW: Oh, perfect. Yes, sir.

12                  MR. MCCLURE: And on there, it's this,  
13                  like, subject item number on page 1. I guess the  
14                  second column, if you want to say it that way, or else  
15                  the first column that has numbers. See where I'm --

16                  MR. SHAW: So you're saying -- yes.  
17                  I'm seeing what you're saying. Yes.

18                  MR. MCCLURE: The one that's relevant  
19                  to this case is the Item Number 4; is that correct?

20                  MR. SHAW: Are you referring to the  
21                  Farmout Agreement dated March 1, 1989, between Amoco  
22                  Production Co. and Read & Stevens?

23                  MR. MCCLURE: Let me scroll. Well, is  
24                  this all a part of that assignment of operator rights  
25                  for Jamie Federal Number 1 --

1 MR. SHAW: Yes, sir.

2 MR. MCCLURE: Okay.

3 MR. SHAW: Yes, sir. What -- what  
4 those -- what those recitations are saying is  
5 essentially: "Here's how we came up and derived the  
6 chain of title. Here's all the instruments that are  
7 in your chain, and this is" -- "you know, you're  
8 taking this interest subject to the provisions." So  
9 they're incorporating therein by reference.

10 MR. MCCLURE: Oh, I see. So the number  
11 4 is just referring to what's on page 17 where it says  
12 the -- okay. I see what you're saying. Where it says  
13 the Farmout Agreement dated March 1, 1989,  
14 between -- okay. I see what you're saying. And  
15 that's essentially what the 4 represents is this  
16 paragraph 4; is that correct?

17 MR. SHAW: Yes, sir. That's how I read  
18 it.

19 MR. MCCLURE: Now, I see on page 23 of  
20 24 -- this is book 225, page 981.

21 MR. SHAW: Yes, sir.

22 MR. MCCLURE: And it has a reference  
23 there to, well, essentially the federal lease  
24 LC-047633-A. It's the one of the top of the page.

25 MR. SHAW: Yes, sir.

1                   MR. MCCLURE: Is this the lease that  
2                   Ms. Beall owned a working interest in then?

3                   MR. SHAW: So that -- this is  
4                   the -- this is an assignment, yes, where we're looking  
5                   at this saying, okay, we don't have the federal  
6                   abstract.

7                   There's a -- there's probably 40  
8                   instruments in that federal abstract that I can see  
9                   on -- on in part on the serial register page, but it  
10                  looks like Charles B. Read Trust A is conveying to  
11                  Carolyn, Betty, and James Read an interest in all  
12                  depths covering those tract being the south half of  
13                  the northeast quarter, the northeast quarter of the  
14                  northeast quarter, the northwest quarter of the  
15                  northeast quarter, and the southeast quarter of the  
16                  northwest quarter, which comprises the entirety of the  
17                  lands covered by lease LC-047633-A .

18                 There -- there are title gaps in there  
19                 that -- that still need to be cured. Keep in mind,  
20                 I've known about this interest since January 27th, and  
21                 I've been trying to fill those gaps. But without that  
22                 federal abstract, I'm unable to do so.

23                 So it purports to convey an interest.  
24                 What interest it's conveying, we don't know. But  
25                 it -- it is -- sure is a cloud on the title to

1     substantiate that there is, in fact, an interest owned  
2     potentially in that -- in those tract.

3                   MR. MCCLURE:   Now, you said  
4     "potentially," but you believe that she does own a  
5     working interest in this lease, then; is that correct?

6                   MR. SHAW:   Yes, sir.   That's -- that's  
7     what I'm thinking is why would they go to the trouble  
8     of making this assignment without there being some  
9     sort of documentation to substantiate that  
10    there -- that an interest was, in fact, conveyed?

11                  MR. MCCLURE:   Now, was my understanding  
12    correct that earlier -- or let me rephrase my  
13    question.

14                  Does Ms. Beall own a interest outside  
15    of that depth severance, that being above that 9,290  
16    feet or 9,293?

17                  MR. SHAW:   Possibly.   But her title is  
18    vested when -- we can say 100 percent from depths  
19    3,900 feet down to 9,290 feet.   There is a cloud as it  
20    pertains to other tract and other depths.

21                  MR. MCCLURE:   Okay.   Now, you said it's  
22    possible, but do you have any reason to believe that  
23    she does?

24                  MR. SHAW:   Yes.   The existence of this  
25    document assigning an interest to her.

1 MR. MCCLURE: And that document you're  
2 referring to is this book 113, page 701?

3 MR. SHAW: Well, that -- well, yes.  
4 Book 113, 701, and book 71, 382, are assigning  
5 interests in the same tract. And that -- that  
6 is -- and that -- Travis has recognized that she does  
7 have an ownership in the depths of 3,900 feet down to  
8 9,290 feet.

9 And the issue at hand there is that  
10 Permian's pooling from the depth of 9,397 feet down to  
11 the base of the Bone -- third Bone Spring formation  
12 and that this interest -- and I believe the geologists  
13 have stated this -- that this depth severance at 9,290  
14 feet or 9,293 feet is squarely within the third Bone  
15 Spring sand in that having production in the third  
16 Bone Spring sand and carving out this interest would  
17 not be a protection of the correlative rights of the  
18 interest that's vested and recognized by both parties.

19 MR. MCCLURE: Now, in both those books  
20 that you cited -- I believe that was book 71, page  
21 382; and book 71, page 386 -- does this only reference  
22 the northeast quarter of the northwest quarter?

23 MR. SHAW: Yes, sir. In those  
24 two -- in those two documents, book 71, 382, and book  
25 113, 701.



1 MR. MCCLURE: But you believe that  
2 Ms. Beall may own interest in the rest of that federal  
3 lease that I referenced earlier, that being  
4 LC-047633-A?

5 MR. SHAW: Okay. So the northeast  
6 quarter of the northwest quarter is lease NM-NM-28096.  
7 Lease LC-047633 covers essentially the northeast  
8 quarter, the -- the south half -- or southeast quarter  
9 of the northwest quarter and the north half of the  
10 southeast quarter.

11 Those would be pursuant to books 225,  
12 980 where we're talking about the -- the assignment  
13 from Charles B. Read Trust A to Carolyn and her  
14 siblings. And then the deed of distribution recorded  
15 at book 143, page 1091. Two -- two separate -- two  
16 separate chains. Just think of them as two separate  
17 tract of interest.

18 MR. MCCLURE: And this book 143,  
19 page 1091, is the one that Ms. Luck plans to submit to  
20 us later today; is that correct?

21 MR. SHAW: Yes, sir.

22 MR. MCCLURE: Okay. And that document,  
23 does it demonstrate that Ms. Beall does have a working  
24 interest in this federal lease?

25 MR. SHAW: Yes. If you just read

1 it -- if you read it on its face, it does. Now,  
2 chaining the title, which is the other part of this  
3 equation, there are gaps that I have not been able to  
4 fill. There are -- there are gaps into Jean [ph] Read  
5 there, and then Charles B. Read then to Carolyn is  
6 good.

7 But there is a -- there is a title gap.  
8 "Gap" meaning I cannot -- the interest is here  
9 and -- and I'm saying, well, this instrument purports  
10 to convey an interest here, but I can't connect the  
11 two and say 100 percent this vests title.

12 But why would they go to the trouble of  
13 assigning an interest in that tract unless they were  
14 of the belief that they had an interest in that tract?  
15 Charles B. Read was the owner of Read & Stevens. It  
16 was not uncustomary for him to hold interest in his  
17 individual and personal capacity.

18 Jean [ph] Read was his wife. This was  
19 probably an attempt to clear up community property  
20 interest and that this was then moving into him, which  
21 then would go into his estate -- I believe he deceased  
22 back in 2016, 2017, 2018 -- and then vis-a-vis the  
23 estate to Carolyn B. Read as an heir under that  
24 estate, which is still open.

25 MR. MCCLURE: Okay. Do you have an

1 actual -- do you have calculated values for the  
2 percentage of ownership that you believe Ms. Beall  
3 owns in both the north half of the north half unit and  
4 the south half of the north half unit?

5 MR. SHAW: I have tract values, but  
6 not -- not computed working interest values as to the  
7 comms that Permian has filed.

8 MR. MCCLURE: If I were to ask you for  
9 those, do you understand what I'm asking for?

10 MR. SHAW: Yes, sir, I sure do.

11 MR. MCCLURE: Okay. Is it your  
12 intent -- to your understanding, is it Ms. Beall's  
13 intent to propose an allocation method?

14 MR. SHAW: Yes. Because if the  
15 parties -- or if Permian does not -- if Permian does  
16 not have an allocation method, her interest would  
17 essentially be drained by the well that Permian is  
18 proposing to drill in the -- sorry.

19 MS. VANCE: Objection.

20 THE HEARING EXAMINER: What's the  
21 objection?

22 MS. VANCE: Mr. Shaw is not a  
23 geologist, neither -- he has not presented any  
24 evidence that there is drainage. There is --

25 THE HEARING EXAMINER: I understand,

1 Ms. Vance. Thank you.

2 Yes. Sustained. I agree.

3 MR. SHAW: My apologies.

4 THE HEARING EXAMINER: Mr. Shaw, please  
5 confine your answers to the field of expertise that  
6 you've been qualified to.

7 And, Mr. Cogswell, please note, I know  
8 it's not very helpful to say this, but that answer  
9 should be stricken from the record along with the  
10 question.

11 THE REPORTER: Got it.

12 MR. SHAW: Yes. It -- to answer your  
13 question --

14 THE HEARING EXAMINER: Sorry,  
15 Mr. McClure. Please continue.

16 MR. MCCLURE: Thank you, Mr. Hearing  
17 Examiner. Can I rephrase my question to try to have  
18 my --

19 THE HEARING EXAMINER: Yes.

20 MR. MCCLURE: Okay.

21 Mr. Shaw, not going into details about  
22 the allocation method, is it your understanding that  
23 Ms. Beall wanted to propose one to the Division to  
24 enforce?

25 MR. SHAW: Yes.

1 MR. MCCLURE: Okay. Is it your  
2 understanding that it has been submitted to us in  
3 writing in any exhibit?

4 MR. SHAW: No. I don't believe it has.

5 MR. MCCLURE: Okay. Thank you,  
6 Mr. Shaw.

7 Mr. Hearing Examiner, I have no further  
8 questions.

9 THE HEARING EXAMINER: Sounds good,  
10 Mr. McClure.

11 Ms. Luck, this is your witness. Is  
12 there any re-direct based on the cross-exam?

13 MS. LUCK: Well, I just would like to  
14 offer that if the Division would entertain an  
15 allocation formula, we would, again, like to file that  
16 with a closing statement as a part of our argument.

17 If we need to present it in the form of  
18 an affidavit through Mr. Shaw as a landman, we can do  
19 that. But I think at this point in time, the Division  
20 has all the information that's needed in front of it.  
21 Without going further into offering exhibits, I'd just  
22 like to offer the closing statement.

23 THE HEARING EXAMINER: Sounds good.  
24 Thank you, Ms. Luck. I'm going to reserve ruling on  
25 that until we find out more from Mr. McClure. So,

1 Ms. Luck, does this conclude your case in chief?

2 MS. LUCK: Yes. Thank you.

3 THE HEARING EXAMINER: Okay. Thank  
4 you. Okay. We are here, and we're at the end of the  
5 hearing process. The record will remain open for as  
6 long as necessary to gather the evidence that  
7 Mr. McClure is going to request from each party and  
8 for the parties to clean up their exhibits.

9 And I'm specifically talking to you,  
10 Mr. Savage, and you, Ms. Luck, because we still need  
11 your exhibit to be filed properly.

12 Please include a cover letter,  
13 Ms. Luck, on why this is being filed at this point and  
14 that I overruled an objection to let this in.

15 MS. LUCK: Okay. I'll add further  
16 clarification. Sorry. I e-mailed it in, and I will  
17 add some additional color in that. Thank you.

18 THE HEARING EXAMINER: Wait, you say  
19 you e-mailed it in. Are you saying you don't file it  
20 the way everything else is normally filed?

21 MS. LUCK: Apologies, Mr. Hearing  
22 Examiner. I'm not a registered ONGARD operator.  
23 Ms. Beall is simply an interest owner in the unit, so  
24 we're not able to file through the portal.

25 THE HEARING EXAMINER: Okay. I didn't

1 know that.

2 So, Ms. Tschantz, please delete the  
3 document that Ms. Luck has sent you through e-mail.  
4 She's going to file a cover letter with the document  
5 as I just directed.

6 THE CLERK: Okay -- okay.

7 THE HEARING EXAMINER: Okay. Thank  
8 you.

9 So, Mr. McClure, do you have a list for  
10 the parties?

11 MR. MCCLURE: Yes, I do, Mr. Hearing  
12 Examiner.

13 THE HEARING EXAMINER: Okay. Who do  
14 you want to start with?

15 MR. MCCLURE: Well, I was just thinking  
16 about the closing argument, but we'll discuss that  
17 here shortly after. Is that your intent?

18 THE HEARING EXAMINER: Sure -- it is.

19 MR. MCCLURE: Okay.

20 THE HEARING EXAMINER: Let's find out  
21 what exhibits you need either to be corrected or  
22 added.

23 MR. MCCLURE: Sounds good. My primary  
24 list is for Permian.

25 Ms. Vance, are you prepared?

1 THE HEARING EXAMINER: She said yes.

2 MR. MCCLURE: Oh, okay.

3 MS. VANCE: Good to go.

4 MR. MCCLURE: Sounds good. I'm going  
5 to request that we have amended CPAC pooling  
6 administrative checklist. Actually, I think I just  
7 miss said what the CPAC stands for, but new CPACs  
8 submitted with all the depth severances referenced.

9 If you don't have enough room, please  
10 feel free to list them out, the depths; and then if  
11 you need additional reference, go ahead and cite a  
12 landman statement.

13 MS. VANCE: Okay. I'm confused,  
14 because we did include a depth severance in our  
15 checklist.

16 MR. MCCLURE: You did include a depth  
17 severance. But based upon testimony today, there  
18 appears to be at least two different depth severances,  
19 one for Ms. Beall and one in the southeast quarter of  
20 the southwest quarter, I believe, which is the one  
21 listed in the CPAC.

22 MS. VANCE: Okay. Got you.

23 MR. MCCLURE: Okay. In addition to  
24 that --

25 MS. VANCE: And I'm only going to file



1       that in the cases that it's relevant for, obviously.

2                   MR. MCCLURE:   Well, your application  
3       packet is combined.   That's for all the cases; right?  
4       So then you have to amend that packet in all cases --

5                   MS. VANCE:    Yes.

6                   MR. MCCLURE:   Okay.   Yes.   But only the  
7       CPACs that it's relevant to, but I think you have the  
8       depth severance listed on all of them, I believe.  
9       Regardless, you should have the depth severance for  
10      the entirety of the Bone Spring listed in each of the  
11      Bone Spring cases, that being all of them.

12                  MS. VANCE:    Got it.   We're on the same  
13      page.   I understand.

14                  MR. MCCLURE:   Okay.   Very good.  
15      Exhibit C-3 -- virtual connectivity interruption --

16                  MS. VANCE:    Okay.   Oh, you froze.

17                  MR. MCCLURE:   Can you still hear me,  
18      Ms. Vance?

19                  MS. VANCE:    You cut out.   I didn't hear  
20      anything you were saying.   Just "Exhibit C-3," and  
21      that was it.

22                  MR. MCCLURE:   Okay.   I don't think I  
23      said much more.   Exhibit C-3, which is the summary of  
24      interest.   If we can add back in that missing case,  
25      that being case 25145.

1 MS. VANCE: Got it.

2 MR. MCCLURE: That's the north half of  
3 the north half for the Bone Spring 3. In addition to  
4 that, any corrections that need made in that summary  
5 of interest, let's bring it up to date.

6 I'm not sure what those corrections may  
7 be, but I know there was discussion about some  
8 additional transfer interest that took place in the  
9 last month, it sounded like. Are you on the same --

10 MS. VANCE: Got it.

11 MR. MCCLURE: Okay. Very good.

12 MS. VANCE: Yes.

13 MR. MCCLURE: Okay. Then in the  
14 landman statement, there's that typo or there's the  
15 additional copy and paste it reference in there when  
16 it comes to the vertical limit. Can we go ahead and  
17 correct that paragraph to take that out of there?

18 MS. VANCE: Yes -- yes.

19 MR. MCCLURE: And then to correctly  
20 reference -- I think it already might reference the  
21 base of the Bone Spring 3, but just make -- or the  
22 base of the Bone Spring, but just make sure that it  
23 does include the accurate vertical limit for the Bone  
24 Spring 3 cases.

25 MS. VANCE: Got it.

1                   MR. MCCLURE: Paragraph 4 has, like, a  
2 bullet-pointed-out list of the vertical limits that  
3 Permian is asking for in each of the cases. Several  
4 of the cases include what you were referencing as a  
5 general description, I believe you were?

6                   MS. VANCE: That's correct.

7                   MR. MCCLURE: Can we correct that to be  
8 more specific to the actual cases, I guess?

9                   MS. VANCE: Sure.

10                  MR. MCCLURE: In addition to that, can  
11 we add in an additional paragraph, additional  
12 testimony -- or written testimony, excuse me, from the  
13 landman that describes the all the depth severances  
14 including Ms. Beall's?

15                  MS. VANCE: Yes.

16                  MR. MCCLURE: And one last thing on  
17 that front, which is probably a supplemental exhibit  
18 or however you wish to bring it in, I guess, between  
19 you and the hearing examiner, but a document showing  
20 that 9,397 depth severance that's in the southeast  
21 quarter of the southwest quarter. I believe Mr. Macha  
22 had referenced that there might be some wells that  
23 that's associated with.

24                  MS. VANCE: And you said you want a  
25 document or a description of that?

1 MR. MCCLURE: Well, Mr. Macha had  
2 mentioned that he should have a document, I believe,  
3 unless I misunderstood him. So if we have a document  
4 I'd like to see that, assuming, you know, it's just a  
5 couple pages that we're looking at. But yes. A  
6 description at the bare minimum.

7 MS. VANCE: We can provide a  
8 description.

9 MR. MCCLURE: And if they do -- and if  
10 Permian does have a document available, you'll be able  
11 to provide that as well; is that correct?

12 MS. VANCE: Are you looking for  
13 something related to title?

14 MR. MCCLURE: Yeah. I'm assuming it  
15 looks something like that, yeah. It should be  
16 something referenced to some wells. And there's some  
17 sort of depth severance. They have some sort of  
18 ownership that ends at that ninety -- or approximately  
19 9,400 feet. The wells were 100 foot shallower, I  
20 believe Mr. Marcus said.

21 MS. VANCE: Yes, we can. I just have  
22 some concerns about providing all this title  
23 information when the Division doesn't have  
24 jurisdiction over time title. So I'm not sure, you  
25 know, if -- we can provide a description, and

1 Mr. Macha provided it in his testimony, but I'm not  
2 sure what further would -- why the Division would need  
3 to review title documents.

4 MR. MCCLURE: The Division's not going  
5 to use the title for purposes of reviewing it. The  
6 purpose is to have an understanding of where the depth  
7 severance is, especially where it relates to the  
8 vertical limit that the Division is force pooling the  
9 interests of.

10 MS. VANCE: Okay. And a statement in  
11 Mr. Macha's testimony doesn't suffice for that?

12 MR. MCCLURE: If the document's not  
13 available, then we will assign as much credence, I  
14 guess, to the landman's testimony as we feel is  
15 appropriate. But of course, having the document  
16 would, you know, add to it, I guess.

17 MS. VANCE: Okay. Thank you.

18 MR. MCCLURE: Okay. Exhibit C-8.  
19 That's the page 148 of 227.

20 MS. VANCE: Let me get there. Okay.  
21 Yes. That was the one that you and Mr. Macha talked  
22 about, Revised Exhibit C-9?

23 MR. MCCLURE: Is it C-9 or C-8?

24 MS. VANCE: I'm on page 148.

25 MR. MCCLURE: Let me actually open it,

1 so I'll make sure we're talking about the same one.

2 MS. VANCE: This is the one that I'm  
3 looking at. Is that right?

4 MR. MCCLURE: Yeah, that's right. I'm  
5 looking at page -- that one right there.

6 MS. VANCE: Okay.

7 MR. MCCLURE: Okay. Well, I guess  
8 whichever exhibit that is. I just thought it was  
9 Exhibit -- a part of the above exhibit, because I  
10 didn't see a new exhibit number on it.

11 MS. VANCE: Okay.

12 MR. MCCLURE: But if it is Exhibit C-9,  
13 then I guess let's go ahead and identify it as such.  
14 What I ask there is, understanding there were no  
15 changes made, but if we could add case 25145 in there  
16 on that left hand side so we have a full summary of  
17 all of Permian's committed interests there?

18 MS. VANCE: Yes.

19 MR. MCCLURE: And in addition to that,  
20 Mr. Macha referenced that he may need to amend or he  
21 may need to recalculate the opposing percentages there  
22 due to XTO no longer opposing?

23 MS. VANCE: That's correct.

24 MR. MCCLURE: Okay. If we could  
25 just -- oh, excuse me, Ms. Vance. You're right. It

1 does say C-9 on there. I didn't see it down at the  
2 bottom right.

3 MS. VANCE: Yeah.

4 MR. MCCLURE: So I was looking in the  
5 upper right hand corner, and I -- yeah. Exhibit C-9.  
6 Okay. We're on the same page.

7 MS. VANCE: Very good.

8 MR. MCCLURE: Then exhibit D-7, this is  
9 the geologist cross-section on page 173. Yeah. That  
10 one there. If we could also add in the vertical limit  
11 to these Bone Spring 3 cases and depict it also on  
12 there. It sounds like it may be at that exact same  
13 line, 9290 TVD. But if we could just put that in  
14 writing on this cross section, that should be good.

15 MS. VANCE: Okay.

16 MR. MCCLURE: Thank you, Ms. Vance.  
17 That's all I'm needing from Permian.

18 I'm not needing anything from V-F.

19 Ms. Luck, for Ms. Beall, it sounds like  
20 you already plan on resubmitting and having this  
21 book 143, page 1091?

22 MS. LUCK: Yes.

23 MR. MCCLURE: When you submit that, you  
24 plan on submitting it as an exhibit packet rather than  
25 as a part of notice of ownership of interest; is that

1 correct?

2 MS. LUCK: Yes.

3 MR. MCCLURE: Okay. In addition to  
4 that, if Ms. Beall does want to propose an allocation  
5 method, can you provide us one in writing and include  
6 it in that exhibit packet as a supplemental exhibit or  
7 however you wish to do it?

8 MS. LUCK: Yes. I've got that, and I  
9 can submit it as an exhibit.

10 MR. MCCLURE: Okay. In addition to  
11 that, some sort of table or something to identify for  
12 us what you -- what Ms. Beall believes to be her  
13 interest in the units at hand, that being the north  
14 half, north half 14 and 15 and the south half of the  
15 north half of 14 and 15.

16 I'm interested in knowing the total  
17 percent interest across those entire units, the  
18 percentage of it.

19 MS. LUCK: Yes. I can provide that.

20 MR. MCCLURE: Okay. Thank you,  
21 Ms. Luck.

22 Mr. Hearing Examiner, I believe that is  
23 an accounting of everything I had listed out, at  
24 least.

25 THE HEARING EXAMINER: That's a



1 comprehensive list, Mr. McClure. Okay.

2 Ms. Vance, do you understand what's  
3 needed?

4 MS. VANCE: I do.

5 THE HEARING EXAMINER: Okay. Do you  
6 feel like closing arguments would be beneficial?

7 MS. VANCE: I mean, I feel like the  
8 Division has everything it needs. I would be happy to  
9 be available tomorrow to make a quick closing  
10 statement. I know time is of the essence, but  
11 I -- you know, I'd prefer not to provide -- you know,  
12 have to draft more stuff in this case or in these  
13 cases.

14 THE HEARING EXAMINER: Okay.

15 So, Mr. Savage and Ms. Luck, I believe  
16 you both think that written closing arguments would be  
17 beneficial; am I correct?

18 MR. MCCLURE: Yes. And, Mr. Hearing  
19 Examiner, can we explain why that would be the case?

20 THE HEARING EXAMINER: No. Thank you.  
21 No. This case has gone way longer than it needs to  
22 go.

23 Ms. Luck, do you agree?

24 MS. LUCK: I'm agreeing with Mr. Savage  
25 that we would request a closing argument, yes.

1 THE HEARING EXAMINER: I thought so.  
2 Written closing argument; right?

3 MS. LUCK: Yes.

4 THE HEARING EXAMINER: That's right.

5 Now, it's all up to you, Mr. McClure.  
6 Do you want written closing arguments or not?

7 MR. MCCLURE: If all of the parties  
8 feel that they're going to provide me -- provide us  
9 with something that's relevant to our decision making,  
10 then as long as we provide them a page limit and a  
11 very excellent expedited timeframe, then perhaps.

12 THE HEARING EXAMINER: Excellent.  
13 Okay.

14 MR. MCCLURE: Yes. I -- yeah. I'm  
15 fine with it if they want to.

16 THE HEARING EXAMINER: Okay.

17 So, Ms. Vance, I know that you're not  
18 in favor of it, but two of the three are in favor of  
19 it, and I'm going to set a very tight page limit so it  
20 won't strain your drafting abilities. How long do you  
21 think it'll take for you to file this exhibit packet  
22 with all of these changes?

23 MS. VANCE: I would like until the end  
24 of next week.

25 THE HEARING EXAMINER: Okay. Sure.

1 MS. VANCE: I have a very robust  
2 schedule at the moment.

3 THE HEARING EXAMINER: Okay. Well, I'm  
4 not pressuring you into March 7. It's  
5 your -- it's -- you know, you're an applicant. You're  
6 trying to move this along. So I leave it up to you  
7 and Mr. Savage to decide when, you know, how quickly  
8 you want to move this along for consideration. So do  
9 you feel like the close of business 7th of March would  
10 be sufficient?

11 MS. VANCE: Can we have until the  
12 Monday? Would that be okay?

13 THE HEARING EXAMINER: Sure. Of  
14 course.

15 MS. VANCE: The 10th?

16 THE HEARING EXAMINER: Definitely. So  
17 then we're talking about the 10th --

18 MS. VANCE: I think we'll get it done  
19 before them, but -- sorry.

20 THE HEARING EXAMINER: So we're talking  
21 about the 10th of March, close of business.

22 Mr. Savage, are you able to provide  
23 what you need to during that time period?

24 MR. SAVAGE: Well, I believe  
25 Mr. McClure said I didn't need to provide -- well,

1       except for the consolidated revised --

2                   THE HEARING EXAMINER:   Right.

3                   MR. SAVAGE:    Yes.

4                   THE HEARING EXAMINER:   Yeah.   Well,  
5       that's something I ordered you to provide.

6                   MR. SAVAGE:    Yes.   Exactly.   Yes, sir.

7                   THE HEARING EXAMINER:   And, Ms. Luck,  
8       any problem with providing what you need to?

9                   MS. LUCK:    No.   That works.   Thanks.

10                  THE HEARING EXAMINER:   All right.  
11       Sounds good.

12                  So, Ms. Vance, will you set a calendar  
13       reminder for March 10, close of business, for the  
14       amended exhibit packets to be revised and complete,  
15       thereby you can take out all the redundancy?

16                  MS. VANCE:    Yes, I will.

17                  THE HEARING EXAMINER:   Well, thank you.  
18       I know that's a full-time job just in itself.   All  
19       right.   Now, when it comes to closing argument, I'm  
20       going to hear from Ms. Vance.   I know you don't  
21       necessarily want to file one, but if I do -- and I  
22       have already ordered that closing arguments be  
23       provided.

24                  I mean, obviously, you don't have to  
25       provide a closing argument.   You can let the case rest

1 on its merits. But when would you be able to draft, I  
2 don't know, something between -- what? Maybe let's  
3 have a limit. What limit do you think would be  
4 reasonable, Ms. Vance?

5 MS. VANCE: Five pages.

6 THE HEARING EXAMINER: Mr. Savage?

7 MR. SAVAGE: Mr. Hearing Examiner and  
8 Mr. McClure, these issues, especially regarding the  
9 severances, are complicated. So I would think, I  
10 mean, no more -- I mean, Mr. McClure, how -- I mean,  
11 you are the one that said you wanted brief. I would  
12 say at least ten pages to address these. And that's  
13 still short of a typical closing argument that we have  
14 done in the past.

15 THE HEARING EXAMINER: Mr. McClure?

16 MR. MCCLURE: Yeah. I mean, I was  
17 thinking somewhere between the ballpark of 10 to 20 as  
18 being the maximum. Your eyes went up. Maybe ten's  
19 the better page limit, then.

20 THE HEARING EXAMINER: Yeah. I mean,  
21 to me, ten is max. Ten would be max. So and that  
22 includes --

23 MR. MCCLURE: Ten is fine with me. I  
24 just know in the past, we've had 30- and 40- and  
25 50-page closing arguments submitted to us, and

1       that's -- I didn't want -- I don't want to see that.

2                   THE HEARING EXAMINER:   Okay.   Very  
3       good.   So there's a limit.

4                   And, Ms. Vance, you don't have to go to  
5       the limit.   You can make it as short as you want it to  
6       be, but the limit is ten pages.

7                   And, Mr. Savage, that includes  
8       everything.   So from your caption page to your  
9       signature page, ten pages is your limit.

10                  Ms. Luck?

11                  MS. LUCK:   Apologies.   No objection to  
12       any of that.   I'm in agreement.   Thank you.

13                  THE HEARING EXAMINER:   All right.  
14       Perfect.   And, Mr. Savage, are you in agreement with  
15       that?

16                  MR. SAVAGE:   Yes.   If I remember right,  
17       under the rules, the caption page doesn't count, and  
18       you can actually move the text to start on the second  
19       page and have it be ten pages.   Would that be  
20       allowable?   Or are you wanting us to start wherever  
21       the caption ends?

22                  THE HEARING EXAMINER:   Mr. Savage,   I  
23       was going to assign a limit of five pages if that  
24       gives you any indication of how I feel about this.

25                  MR. SAVAGE:   Okay.   Fair enough.

1 MR. MCCLURE: I think Mr. McClure was  
2 very generous in ten pages. So it's 10 pages total.  
3 And we do have another case to get to, so I'd like to  
4 put these to rest for now.

5 MS. VANCE, anything further?

6 MS. VANCE: Yeah. I just want -- are  
7 we -- so we're doing closing arguments, but are we  
8 doing findings of fact or --

9 THE HEARING EXAMINER: No.

10 MS. VANCE: Okay. Thank you. Just  
11 wanted to make --

12 THE HEARING EXAMINER: Simple closing  
13 legal argument based on the facts that were admitted  
14 into evidence, and we don't have a due date for that  
15 yet. So, Ms. Vance, I'm going to start with you.  
16 When can you have that submitted?

17 MS. VANCE: I'd like to have until at  
18 least the 21st if possible. I'm going to be out of  
19 town for a little while, and so -- and I've got some  
20 other contested cases coming up; so --

21 THE HEARING EXAMINER: You don't have  
22 to tell us -- you don't have to explain it. I  
23 understand. You'd like to have it until the 21st, and  
24 these are some of your cases that I know you'd like to  
25 expedite, so I'm sure you're taking that into

1 consideration.

2 Mr. Savage, how do you feel about the  
3 21st?

4 MR. SAVAGE: That sounds good to me.

5 THE HEARING EXAMINER: Oh, okay.

6 Ms. Luck?

7 MS. LUCK: That works. Thanks.

8 THE HEARING EXAMINER: Okay. Perfect.

9 So, Freya, would you set a calendar  
10 reminder for the 21st, Friday, March, close of  
11 business, written closing argument, ten page.  
12 Anything over 10 page will be excised mid-sentence if  
13 necessary, so I really strongly expect that you will  
14 stick to that limit.

15 And thank you to the parties. The  
16 record will remain open until the 10th of March when  
17 it will close at 5:00 p.m.

18 So I know, Ms. Luck, you'll have to  
19 e-mail anything that you filed to Ms. Tschantz, make  
20 sure you serve it on the other parties as well. And I  
21 don't believe there's anything else here.

22 We have one more case, Mr. Cogswell.  
23 Thanks for hanging in there. Let's go back on the  
24 record for OXY USA. This is case number 25054. I  
25 think it's Ms. Vance's case.



1 MS. VANCE: Yes. I still have not  
2 heard anything from my legal assistant, so she did  
3 reach out to the newspaper, and they have not followed  
4 up. So I'm still waiting on an affidavit.

5 THE HEARING EXAMINER: Okay.

6 Freya, when's the next --

7 MS. VANCE: But I would -- oh, I'm  
8 sorry.

9 THE HEARING EXAMINER: Go ahead.

10 MS. VANCE: I was going to propose as  
11 soon as I get it, I will file. And I can -- I'm  
12 assuming Mr. McClure is probably the technical  
13 examiner, and I think Mr. Gebremichael --

14 MR. GEBREMICHAEL: Yeah, it's me.

15 MS. VANCE: Yes. I can send a copy of  
16 that to the examiners once I get it filed, which I  
17 don't know when it will be, but would love to be on  
18 the next available docket at that point to finish that  
19 particular case out.

20 THE HEARING EXAMINER: Okay.

21 So, Mr. Gebremichael, do you see any  
22 reason why we need to come back on the record in this  
23 case? If we leave the record open for Ms. Vance to  
24 file the affidavit once she receives it and then close  
25 the record at that time, could there be any more

1 questions involved?

2 MR. GEBREMICHAEL: Depending, you know,  
3 the result of the notification, but as far as we're  
4 concerned, we don't have any questions. Depending on  
5 the result, yeah.

6 THE HEARING EXAMINER: Okay. So the  
7 answer is maybe?

8 MR. GEBREMICHAEL: Yes. I would say  
9 yes.

10 THE HEARING EXAMINER: Okay. All  
11 right.

12 Ms. Tschantz, when is the next time  
13 that we could put this case on a docket for a status  
14 conference?

15 THE CLERK: For a status conference, we  
16 could put it on March 27.

17 THE HEARING EXAMINER: Okay. Now, we  
18 have a special hearing March 4th; right?

19 THE CLERK: We do. We also have a  
20 special hearing on March 18th, so we could, yes, add  
21 it to either of those.

22 THE HEARING EXAMINER: Ms. Vance?

23 MS. VANCE: I'm going to be present at  
24 both of those and would be available, assuming that we  
25 are able to get this filed before then.

1 THE HEARING EXAMINER: Right. So what  
2 do you want?

3 MS. VANCE: Can we do a preliminary  
4 setting for the 4th?

5 THE HEARING EXAMINER: Well, it doesn't  
6 work that way. You have to continue the case to adopt  
7 it, so I wanted to know which case you want to  
8 continue it to.

9 MS. VANCE: Let's continue it to the  
10 March 18th, and I'll file a continuance.

11 THE HEARING EXAMINER: Okay. Perfect.  
12 That's what we'll do -- or that's what you'll do, and  
13 we'll come back on the record at that time. So we're  
14 in recess on that case, as we don't have the affidavit  
15 filed.

16 And, Mr. Gebremichael, was there  
17 anything else on this case?

18 MR. GEBREMICHAEL: No. Nothing. Thank  
19 you, sir.

20 THE HEARING EXAMINER: I know you hung  
21 in there through this entire hearing just to --

22 MR. GEBREMICHAEL: No. Don't worry. I  
23 was doing my work as well, but it was interesting.

24 THE HEARING EXAMINER: You mean you  
25 didn't have your feet up on the desk?

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MR. GEBREMICHAEL: We're good.

THE HEARING EXAMINER: Well, thank you very much, Ms. Vance and everyone else. I don't see anyone else. I think everyone else has given up on us. But thank you for your participation. Thank you to the witnesses, Mr. Shaw, and, and whoever else. Mr. Macha, I see you still might be there, and thank you very much. And we are in recess. Thank you.

(Whereupon, at 2:46 p.m., the proceeding was concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

March 13, 2025

JAMES COGSWELL  
Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, JACOB MYERS, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

March 13, 2025



JACOB MYERS

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[please - preliminary]

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