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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:
Case Nos. 25166, 24963.

DATE: Tuesday, March 4, 2025
TIME: 8:58 a.m.
BEFORE: Hearing Examiner Gregory A. Chakalian
LOCATION: Pecos Hall, Wendell Chino Building
1220 South Saint Francis Drive
Santa Fe, NM 87505
REPORTED BY: James Cogswell
JOB NO.: 7086589

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A P P E A R A N C E S

ON BEHALF OF APPLICANT ALPHA ENERGY PARTNERS 2 LLC AND
PALOMA PERMIAN ASSET COMPANY:

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

ON BEHALF OF CHIEF CAPITAL OG 2 LLC, COVENANT HERCULES
LLC, CHRISTIAN CAPSTONE LLC, AND CRUSADER ROYALTIES
LLC:

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

1 A P P E A R A N C E S (Cont'd):
2 ON BEHALF OF PERMIAN RESOURCES OPERATING LLC, SARVIS
3 PERMIAN LAND FUND 1 LLC, US ENERGY DEVELOPMENT
4 CORPORATION, AND SARVIS ROCKMONT PERMIAN LAND FUND
5 LLC:

6 PAULA M. VANCE, ESQUIRE
7 Holland & Hart LLP
8 110 North Guadalupe Street, Suite 1
9 Santa Fe, NM 87501
10 pmvance@hollandhart.com
11 (505) 988-4421
12

13 ON BEHALF OF MAGNUM HUNTER, A SUBSIDIARY OF CIMAREX
14 ENERGY:

15 DEANA M. BENNETT, ESQUIRE (by videoconference)
16 Modrall Sperling
17 500 4th Street Northwest, Suite 1000
18 Albuquerque, NM 87102
19 deana.bennett@modrall.com
20 (505) 848-1800
21
22
23
24
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A P P E A R A N C E S (Cont'd):
ON BEHALF OF AMERICAN ENERGY RESOURCES LLC:
PAUL J. KENNEDY, ESQUIRE (by videoconference)
Kennedy Hernandez & Harrison PC
201 12th Street Northwest
Albuquerque, NM 87102
pkennedy@kennedyhernandez.com
(505) 842-8662

Also Present:
Dean McClure, Technical Examiner (by
videoconference)
Warren Anderson (by videoconference)

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P R O C E E D I N G S

THE HEARING EXAMINER: Good morning.
My name is Gregory Chakalian. I'm the hearing
examiner for the Oil Conservation Division. This is a
special docket in which we are hearing some contested
cases. Those case numbers are 25166 -- let's
see -- 24963, and I believe those are the two cases
we're hearing this morning.

Entries of appearance, please?

MR. SAVAGE: Good morning, Mr. Hearing
Examiner.

Good morning, Technical Examiner.

Darin Savage with the Santa Fe Office
of Abadie & Schill, appearing on behalf of Alpha
Energy Partners 2 LLC, the applicant; and also on
behalf of Paloma Permian Asset Company -- or Co. LLC.
And that is Alpha's designated operator, and we have
one witness from that entity.

THE HEARING EXAMINER: Thank you.

MS. LUCK: And good morning. Kaitlyn
Luck, here on behalf of Chief Capital OG 2 LLC,
Covenant Hercules LLC, Christian Capstone LLC, and
Crusader Royalties LLC. And that's in Case 25166.

THE HEARING EXAMINER: Do you have any
witnesses?

1 MS. LUCK: I'm not calling any
2 witnesses today, no.

3 THE HEARING EXAMINER: Are you
4 monitoring, or are you -- have you objected?

5 MS. LUCK: Yes, I've objected. We have
6 filed a motion to dismiss. I would like to argue that
7 motion at the beginning of this hearing, and proceed
8 with cross-examinations -- questions if the hearing
9 proceeds at that point.

10 THE HEARING EXAMINER: Sounds good.
11 Thank you.

12 MS. VANCE: Good morning, Mr. Hearing
13 Examiner. Paula Vance with the Santa Fe office of
14 Holland & Hart, on behalf of Permian Resources
15 Operating LLC, as well as Sarvis Permian Land Fund 1
16 LLC, US Energy Development Corporation, Sarvis -- and
17 Sarvis Rockmont Permian Land Fund LLC.

18 In Permian, we are just observing. And
19 then for the other -- Permian Resources, we're just
20 observing, and then for the other parties, we are
21 supporting the applicant in this case, Alpha, and
22 their operator, Paloma.

23 THE HEARING EXAMINER: Thank you.
24 Let's deal with some preliminary matters first.

25 MS. BENNETT: Oh. Good morning,

1 Mr. Examiner. I'm Deana Bennett here, and -- at
2 Modrall Sperling on behalf of Magnum Hunter, a
3 subsidiary of Cimarex Energy.

4 THE HEARING EXAMINER: And your
5 position?

6 MS. BENNETT: We're monitoring the
7 cases.

8 THE HEARING EXAMINER: Thank you. Are
9 there any other entries of appearance?

10 MR. SAMANIEGO: Jonathan Samaniego,
11 here on behalf of American Energy. Has -- Mr. Paul
12 Kennedy, is he here today?

13 THE HEARING EXAMINER: No one has
14 spoken up yet.

15 MR. SAMANIEGO: Okay. Then yes,
16 Samaniego, representative of American Energy.

17 THE HEARING EXAMINER: Did you hire
18 counsel?

19 MR. SAMANIEGO: I did hire counsel.

20 THE HEARING EXAMINER: Okay.

21 And, Freya, was there an entry of
22 appearance for Mr. Kennedy?

23 MS. TSCHANTZ: There was, and he's on
24 the line.

25 THE HEARING EXAMINER: Okay.

1 MS. TSCHANTZ: He's just muted.

2 THE HEARING EXAMINER: Mr. Kennedy, are
3 you going to enter an appearance?

4 Okay. We'll proceed without him until
5 he enters an appearance. So Mr. Samaniego, your
6 attorney has not entered an appearance this morning.

7 MR. SAMANIEGO: Can I request for a
8 continuance?

9 THE HEARING EXAMINER: No.

10 MR. SAMANIEGO: I think that isn't
11 fair, that Counsel should be here.

12 THE HEARING EXAMINER: No, sir.

13 MR. SAMANIEGO: So as far as the
14 statute -- the statute state that a party is entitled
15 to counsel. And if there -- there must be a
16 continuance due to a -- for counsel having trouble
17 either getting to the hearing, or being able to attend
18 the hearing, for -- for whatever reason. It must be
19 continued.

20 UNKNOWN SPEAKER: There is two
21 attachments to the email I just forwarded to you.

22 THE HEARING EXAMINER: Who's speaking?

23 MR. SAMANIEGO: He needs to wait his
24 turn. He must be muted.

25 THE HEARING EXAMINER: Okay.

1 Mr. Samaniego, I understand your motion to continue.
2 It's been denied, so we're going to continue. And
3 we're going to deal with preliminary motions first.

4 And we're going to start by looking at
5 your motion to strike, Mr. Kennedy.

6 MR. KENNEDY: Mr. Hearing Officer, this
7 is Paul Kennedy. I was having some technical
8 problems. I enter for American Energy Resources LLC.

9 THE HEARING EXAMINER: Okay. Thank
10 you. Good morning, sir. So Mr. Kennedy, I have a
11 document filed by your client on February 19. Are you
12 familiar with this document?

13 MR. KENNEDY: Barely, but I -- yes, I
14 have it here.

15 THE HEARING EXAMINER: Oh. You have it
16 there? Okay.

17 MR. KENNEDY: Which one are you
18 referring to?

19 THE HEARING EXAMINER: I only have one
20 from your client, sir. And don't know that it's
21 proper -- I -- when did you enter an appearance?

22 MR. KENNEDY: February 24.

23 THE HEARING EXAMINER: Okay. Fine.
24 Okay. Do you want to adopt this motion to strike, or
25 do you want to --

1 MR. KENNEDY: Yes, I would adopt
2 anything that he's filed.

3 THE HEARING EXAMINER: Okay. Perfect.
4 We're going to deal with this today, along with other
5 motions, before we begin our hearing to receive
6 evidence on this contested matter. So do you want to
7 argue this motion to strike?

8 MR. KENNEDY: Sure. I can -- yeah, I
9 can argue it. It's pretty much, self-explanatory.
10 We'd ask that you accept it on the face of the
11 pleading, and grant the motion.

12 THE HEARING EXAMINER: Okay. All
13 right. Thank you.

14 Okay. So which party wants to oppose
15 this motion? Who's opposed to this motion to strike?

16 MR. SAVAGE: Mr. Examiner, Alpha Energy
17 Partners 2 LLC is opposing, and objecting to --

18 THE HEARING EXAMINER: All right. I
19 read your consolidated response.

20 MR. SAVAGE: So Mr. Hearing Examiner,
21 that was -- the consolidated response was for Chief
22 and Covenant, and our response was a response --

23 THE HEARING EXAMINER: I have it.

24 MR. SAVAGE: -- and an amended motion.

25 THE HEARING EXAMINER: I have all of

1 your responses. And this one is not a consolidated
2 response. It's filed on 2/26.

3 Mr. Kennedy, did you receive Alpha
4 Energy's response to your client's motion to strike?

5 MR. KENNEDY: I believe -- yes, I
6 believe I did.

7 THE HEARING EXAMINER: Okay. Very
8 good. Okay.

9 So Mr. Kennedy, how familiar are you
10 with these Oil Conservation Division matters?

11 MR. KENNEDY: I'm not familiar. I'm
12 trying to --

13 THE HEARING EXAMINER: I know.

14 MR. KENNEDY: -- preserve -- I'm trying
15 to preserve my client's position until he can get
16 other counsel.

17 THE HEARING EXAMINER: Okay. I
18 understand. And I gathered that from your filing,
19 which is why I asked that question.

20 So basically, Mr. Savage, for
21 Mr. Kennedy's benefit, since he's representing his
22 client, would you basically, briefly review what the
23 motion to strike was based on, and then what your
24 response is to those legal points?

25 MR. SAVAGE: Yes, sir.

1 So Mr. Kennedy, Alpha has proposed
2 a -- has submitted an application to pool subject
3 lands in a particular unit, and proposed the Hollywood
4 Star Wells. Now, this unit covers two sections. And
5 one of the sections -- first of all, Alpha informed
6 me, when I was doing the application, that there were
7 no overlapping units in this proposed unit.

8 And they based that on the fact that
9 there is a unit in Section 17 involving the SAIK well.
10 But when you look at the records of that, that looks
11 like it's a fully defunct and inert unit that has not
12 produced for 17 years. And so we did not view that as
13 a viable unit that required notification.

14 But this unit, apparently, it was owned
15 by Wildcat, the former operator. Your client,
16 American Energy Resources, apparently has filed for a
17 change of operator, and assumed responsibility and
18 obligation for this particular SAIK unit.

19 And with the claim that they have
20 wellbore and leasehold ownership, and part of that
21 motion to strike provides select title documents which
22 shows the -- which they proposed to claim some
23 ownership.

24 Now, looking at those documents, those
25 are all leases from around 1960s and 1970s. And since

1 the well has not produced for 17 years, those leases
2 would be expired as a matter of law. My client has
3 fully leased and identified owners throughout
4 the -- their proposed unit, and they show that all the
5 new leases do not include American Resources, and all
6 the new leases do not provide for wellbore interest in
7 that unit.

8 So in response -- so American Energy
9 Resources makes the claim, and that motion to strike,
10 that under the rules that somehow Alpha owns notice or
11 notification for -- to American Energy Resources
12 because they claim it's an overlapping unit. But
13 since -- and under the rules, because a party does
14 give notification to a viable spacing unit that
15 happens to be overlapping.

16 But in this instance, since Alpha
17 viewed it as defunct and inert, and American Energy
18 resources -- I'm not -- we're not sure what its
19 intentions are, but it looks like recent -- some
20 recent expression of intention has been to reenter and
21 recomplete the well.

22 That means that they would have to get
23 permits to or reenter and recomplete, and American
24 Energy Resources, under the rules, would owe
25 notification and notice to Alpha for that reentry and

1 recompletion, which they have not given.

2 So therefore, in our response, we point
3 that out. We also point out that this well is
4 inactive; it's listed -- it's on the inactive list.
5 And American Energy Resources has three wells out of
6 nine that are inactive.

7 And therefore, they're in
8 non-compliance. They have a non-producing unit and
9 well, and they had a notice of violation in 2017 that
10 said -- that suggested the well needed to be plugged.
11 So in our response, we also did a motion requesting
12 that the OCD confirm that the well be plugged, at this
13 point, and that the motion to strike is not valid
14 because there is no need to notify regarding this
15 particular spacing unit which is defunct.

16 THE HEARING EXAMINER: Mr. Kennedy?

17 MR. KENNEDY: I appreciate that
18 explanation from Counsel. I -- all I can do,
19 Mr. Hearing Officer, is reiterate that I'd have to
20 stand on the motion, and what's alleged in the motion.

21 THE HEARING EXAMINER: Okay. Also,
22 Mr. Kennedy, your client doesn't follow the rules
23 specifically here. It's 1-007.1, which requires that
24 when someone file an opposed motion, that they gain
25 the positions of the other parties in the case.

1 I'm overlooking that for now, and we're
2 dealing with this on the merits, but in the future,
3 your party does need to comply with the rules.

4 MR. KENNEDY: I appreciate that. Thank
5 you.

6 THE HEARING EXAMINER: Of course, sir.

7 Okay. So based on the argument made
8 by -- and the evidence presented by Alpha Energy in
9 their response to the motion to strike, that motion is
10 denied.

11 Is there anything further from you,
12 Mr. Kennedy, on that motion?

13 MR. KENNEDY: No, sir.

14 THE HEARING EXAMINER: Okay. Thank
15 you.

16 Okay. Now we have dealt with that,
17 let's now talk about another motion to dismiss.

18 Mr. Samaniego, you have counsel, so
19 please don't speak.

20 We have another motion to dismiss, and
21 this is based on a motion filed by Ms. Luck on behalf
22 of Covenant, Christian Capstone, and Crusader
23 Royalties.

24 Ms. Luck, since you are here, would you
25 just summarize this motion for the record?

1 MS. LUCK: Yes. In this case, my
2 clients -- and I'll refer to both Covenant and Chief
3 in this argument, because they're making similar
4 arguments in the motions to dismiss. They have
5 different mineral and royalty interests in the unit,
6 and that's why I filed separate motions.

7 But in summary, my argument here is
8 that these parties, both Chief and Covenant,
9 collectively, they had undisputed working interests in
10 these units that should have been provided well
11 proposal letters before a pooling application was sent
12 out. That didn't happen.

13 So there's Division precedents that
14 provides -- Division Order R13165, and that order
15 specifically interprets the notice rules in the Oil
16 and Gas Act to provide more context on what is
17 required before a pooling application is filed.

18 And, as The Division is aware, and as
19 I'm sure the Hearing Examiner is aware, pooling should
20 be a last resort. First, parties should reach out to
21 each of the owners within the unit, and try to reach
22 voluntary agreement with those owners.

23 So there's this past Division order
24 that explains what's required to be a good-faith
25 effort to reach a voluntary agreement before a pooling

1 application is filed.

2 THE HEARING EXAMINER: Ms. Luck?

3 MS. LUCK: Yes.

4 THE HEARING EXAMINER: Excuse me. I'm
5 going to interrupt you, because I don't want to lose
6 your train of thought, but I want to follow along with
7 you.

8 MS. LUCK: Okay.

9 THE HEARING EXAMINER: On Page
10 Number -- well, there's no numbers on your motion, so
11 let me just count them. That's Page 6 of your motion,
12 you cite Order Number R13165. Is this what you're
13 talking about, right now?

14 MS. LUCK: Yes, sir.

15 THE HEARING EXAMINER: Okay. So in
16 your citation to that order, I think you pull out
17 Paragraph 5, and then Subparagraph A. And it
18 says -- and I've highlighted this, "At least 30 days
19 prior to filing a compulsory pooling application, in
20 the absence of extenuating circumstance, an applicant
21 should send to locatable parties it intends to ask The
22 Division to pool."

23 That's what you're talking about, isn't
24 it?

25 MS. LUCK: Yes.

1 THE HEARING EXAMINER: Okay. Now, I do
2 note the word "should." It doesn't say must; it says
3 "should." So that's the first thing I noted as I read
4 through this. But please continue.

5 MS. LUCK: And this order is just
6 providing further context on the requirement that if
7 an operator seeks to pool parties, an operator has an
8 obligation to go out and reach a voluntary agreement
9 prior to pooling.

10 And at that time, back in 2009, which
11 wasn't too, too long ago in terms of industry standard
12 and what's expected in terms of operating a unit,
13 making good-faith efforts to reach an agreement, this
14 is the precedent that we have from The Division
15 Examiners that provide what is required in terms of a
16 good-faith effort to reach a voluntary agreement
17 before pooling.

18 And so again, I mean, the basis of this
19 motion to dismiss is that pooling should be a last
20 resort. This is the police power of the State being
21 exercised because the parties were not able to reach a
22 voluntary agreement.

23 So the necessary prequel to a pooling
24 application should be proof that there was a voluntary
25 agreement that was attempted, at least, at that point

1 in time. And so here, both my clients, collectively,
2 Covenant and Chief, they were not appropriately
3 provided well proposal letters before the pooling
4 application was filed.

5 And although we did enter in the
6 original matter that was filed, that doesn't excuse
7 the applicant's duties to follow the rules. The
8 applicant is the one who has applied for a pooling
9 order, who needs to establish who the interest owners
10 are within the spacing unit, and to abide by -- with
11 their requirements to reach a voluntary agreement.

12 It's not my client's obligation to try
13 to reach a voluntary agreement. They're an owner in
14 the unit.

15 THE HEARING EXAMINER: And, Ms. Luck,
16 the previous case number you were talking about, for
17 the record, is 24944; is that correct?

18 MS. LUCK: That's correct.

19 THE HEARING EXAMINER: Okay. All
20 right. And you entered an appearance in that case
21 when?

22 MS. LUCK: I would have to verify, but
23 I believe it was in November.

24 THE HEARING EXAMINER: Would you
25 verify, please?

1 MS. LUCK: Yes.

2 THE HEARING EXAMINER: Mr. Savage,
3 while Ms. Luck is verifying when they entered an
4 appearance in the previous case, what was the reason
5 that you dismissed that case and filed an amended case
6 which we're dealing with today?

7 MR. SAVAGE: That was because the
8 previous case did not reference Paloma as the
9 designated operator. And so we wanted to make sure
10 that was included in the application.

11 THE HEARING EXAMINER: And as a point
12 of clarification, Ms. Tschantz has brought up, and I
13 do want to clarify for Ms. Vance and everyone else,
14 this is a trailing docket today. So we actually have
15 two cases, and while they're, in essence, contested,
16 they're not competing cases. So I called out the
17 second case. We're not really hearing the second
18 case.

19 I know, Ms. Vance, it's your case. So
20 to avoid any confusion, we're really only dealing with
21 the first case I called this morning, which is 25166.
22 When we conclude that case, we will begin the next
23 case. So sorry for any confusion that I caused.

24 Ms. Luck, when did you enter an
25 appearance?

1 MS. LUCK: So for Chief, I entered on
2 October 30th of 2024. And for the Covenant entities,
3 I entered a little bit later, on November 18th of
4 2024.

5 THE HEARING EXAMINER: Okay. So your
6 position is that your clients were not provided
7 adequate notice, or is your position that your clients
8 were not negotiated in good faith to voluntarily come
9 to an agreement?

10 MS. LUCK: Well, it's a combination of
11 things, because --

12 THE HEARING EXAMINER: Okay. Well,
13 just help me out here. What are you saying?

14 MS. LUCK: Right. It's a -- a well
15 proposal letter and voluntary agreement is a necessary
16 prequel to filing a pooling application. And so when
17 the original pooling application was filed, my clients
18 had not yet received well proposal letters. It wasn't
19 until February that they received well proposal
20 letters.

21 So even though they did receive notice
22 of this hearing somehow, we don't believe that that
23 was appropriate or timely given the fact that Division
24 precedent provides that you should get 30 days in
25 advance of a pooling hearing to consider a voluntary

1 agreement.

2 THE HEARING EXAMINER: So I'm just
3 trying to follow your logic here. So let's take this
4 step-by-step.

5 MS. LUCK: Okay.

6 THE HEARING EXAMINER: We talked about
7 the original case, 24944. Are you saying that your
8 clients -- and when I say "your clients," I mean
9 everyone that you're representing today. Are you
10 saying that none of them received well proposal
11 letters?

12 MS. LUCK: Before 24944, correct.

13 THE HEARING EXAMINER: That's
14 the -- yes?

15 MS. LUCK: Yes.

16 THE HEARING EXAMINER: So you're saying
17 they did not receive well proposal letters? Okay.
18 That's Number 1. And so how did you learn of that
19 case, to enter an appearance?

20 MS. LUCK: I believe that my clients
21 learned of the case, and then they asked me to enter
22 an appearance on their behalf, because they own an
23 interest in the spacing unit. I'm not sure if they
24 got notice letters of the original hearing, but we did
25 get notice letters for this 25166 case that's

1 currently pending.

2 THE HEARING EXAMINER: Okay. But,
3 Ms. Luck, we're going step-by-step. So if you'll just
4 answer the question that I'm asking, it'll help me
5 understand your position and your clients' positions.
6 So once again, you're saying your clients did not
7 receive well -- none of your clients received a well
8 proposal letter, even though they own a mineral
9 interest in 24944?

10 MS. LUCK: Correct.

11 THE HEARING EXAMINER: Okay. And
12 you're saying that they should have?

13 MS. LUCK: Yes.

14 THE HEARING EXAMINER: Okay. Because
15 they're working interest owners?

16 MS. LUCK: Yes.

17 THE HEARING EXAMINER: Okay. That's
18 Number 1. Number 2, someone found out about the case
19 being -- the application being filed, and then
20 retained you?

21 MS. LUCK: That's correct.

22 THE HEARING EXAMINER: Okay. Now, when
23 you appeared in October or November, what was the
24 first -- did you appear at a --

25 MS. LUCK: There was a status

1 conference, I believe, that was set in November. And
2 so at that point in time, I entered an appearance for
3 both parties, and preserved their objection to the
4 cases proceeding by affidavit, at that point in time.

5 Because it was my clients' position
6 that they should have been approached to reach a
7 voluntary agreement before the pooling application was
8 filed, and they had to appear at that hearing to
9 preserve their objection, at that time. And so that's
10 why I entered before that November 21st status
11 conference.

12 THE HEARING EXAMINER: Okay. And after
13 that status conference -- and I want to look at this
14 for a moment.

15 And, Mr. Savage, I'm going to come to
16 you in just a moment and ask for your position on
17 this. I mean, I have your consolidated response to
18 the motion to dismiss. So I -- and I've read it, but
19 to sum it up would be helpful, when it's time.

20 So for example, in this original case,
21 24944, which is substantially the same as today's
22 25166 case; is that correct, Ms. Luck?

23 MS. LUCK: That's correct. It's just a
24 different operator.

25 THE HEARING EXAMINER: Right. Exactly.

1 Okay. So that case was filed on October 11. So
2 you're saying by The Division's own preference, we'll
3 say, or direction, or guidance -- we'll call it
4 guidance -- well proposal letters should have been
5 sent out a month before that, to your client?

6 MS. LUCK: Correct.

7 THE HEARING EXAMINER: And you're
8 saying that never happened?

9 MS. LUCK: That never happened. And
10 it's mine -- okay.

11 THE HEARING EXAMINER: Hold on. We're
12 going step-by-step, again. An entry of appearance,
13 here we have -- oh, this is Ms. Vance entered an
14 appearance and objection.

15 And, Ms. Vance, you're maintaining that
16 objection in 25166, or you're not?

17 MS. VANCE: No. And I believe we
18 already --

19 THE HEARING EXAMINER: Withdrew?

20 MS. VANCE: -- withdrew the objection.

21 THE HEARING EXAMINER: I'm just going
22 document-by-document, and I have one small screen to
23 deal with, so you'll have to bear with me here. So on
24 the 30th, I have an entry of appearance by
25 Mr. Samaniego, and now Mr. Kennedy is representing

1 him. So we have that document here.

2 I have an entry of appearance by
3 Ms. Luck for Chief Capital on the 5th of November,
4 Ms. Luck?

5 MS. LUCK: That's correct.

6 THE HEARING EXAMINER: Okay. It looks
7 like we had -- what is this document here? Well, it
8 looks like we have a Mr. Anderson. Are they here?
9 Have they withdrawn their objection?

10 Mr. Savage, you're saying no?

11 Do we have Mr. Anderson with us today?
12 Mr. Warren Anderson, a party who entered an appearance
13 and objected?

14 Okay. Just for the record, no one
15 is -- then on the 18th, it looks like, Ms. Luck, you
16 entered an appearance for your other clients,
17 Crusader, Covenant, et cetera?

18 MS. LUCK: Correct. The Covenant
19 entities.

20 THE HEARING EXAMINER: Sorry?

21 MS. LUCK: Yes, the Covenant entities.

22 THE HEARING EXAMINER: Covenant
23 entities. Thank you. Okay. Now, let's see. I'm
24 looking for a -- we have --

25 Ms. Vance, it looks like Adam Rankin

1 entered an appearance on behalf of Sarvis Premium Land
2 Fund?

3 MS. VANCE: Yes. And just to correct
4 my previous statement, I -- in this original case, I
5 don't think we -- I don't think we ended up
6 withdrawing the objection on behalf of Permian,
7 because we understood that they were going to be
8 dismissing the case.

9 THE HEARING EXAMINER: So you didn't
10 renew your objection?

11 MS. VANCE: No.

12 THE HEARING EXAMINER: What about for
13 Sarvis Permian?

14 MS. VANCE: As I stated previously,
15 during the opening, Sarvis and its entities support
16 Alpha --

17 THE HEARING EXAMINER: Oh. Thank you.

18 MS. VANCE: -- and its designated
19 operator, Paloma.

20 THE HEARING EXAMINER: I don't remember
21 you saying that, so thank you.

22 MS. VANCE: Uh-huh.

23 THE HEARING EXAMINER: We have a
24 pre-hearing order saying that today will be the
25 hearing. It looks like we held a status conference on

1 November 21st. Let's get to that. Here we have it.
2 Let me look and see here, in the verbatim transcript,
3 what Ms. Luck had to say on that date, 24944. And
4 it's going to take me some time to --

5 Mr. Savage, at one time, Cases -- 24826
6 was combined with 24944?

7 MR. SAVAGE: I am not sure about that.
8 I'd have to check on that, but I'm not -- what is
9 24826?

10 THE HEARING EXAMINER: 24826, it was, I
11 think, someone asking you to combine them. I don't
12 know who's speaking, because it -- let me see if I can
13 figure this out. It's Mr. Rankin asked, thinking that
14 you should combine the cases. I'm not sure
15 that you've --

16 MR. SAVAGE: That is correct.

17 THE HEARING EXAMINER: -- agreed or
18 not.

19 MR. SAVAGE: There was -- they wanted
20 to -- we had these cases called The Dude, and then the
21 Hollywood Star. And he wanted to consolidate both
22 cases, under an objection, and then have them heard at
23 a --

24 THE HEARING EXAMINER: You objected. I
25 see it. So we didn't combine it. Okay.

1 MR. SAVAGE: -- did not.

2 THE HEARING EXAMINER: I'm not finding
3 Ms. Luck here, this way. Let me try this some other
4 way. Okay.

5 I now found you, Ms. Luck, with -- in
6 this case, at that time. Okay. I asked you if your
7 clients had a mineral ownership, and you said yes.
8 And Mr. Savage does agree that they have an interest
9 in the unit. Okay. So finally, I find Ms. Luck.

10 Ms. Luck, what you said on that day is
11 the following, and I'm looking at the transcript. I'm
12 on Page Number 139 of 269. There was a lot of other
13 discussion by parties before you said the following.
14 "And just to mention on behalf of my clients because
15 they would like for me to mention it, is that there's
16 dispute amongst the parties as to title in this area.

17 So I think that we'll get into the meat
18 of that if there's a contested hearing." So you say
19 that. Then we debated whether The Division handles
20 title disputes. You agreed that we don't, "but we
21 just dispute the statements that Mr. Savage made
22 regarding Alpha's ownership in this acreage." Okay.

23 Then we talked to other people here.
24 I'm looking for something else by you, Ms. Luck.

25 MS. LUCK: And, Mr. Hearing Examiner, I

1 don't believe that I made any further --

2 THE HEARING EXAMINER: You didn't.

3 MS. LUCK: -- statements regarding
4 whether or not they received a notice letter. But --

5 THE HEARING EXAMINER: You didn't.

6 MS. LUCK: -- it's my understanding
7 that they did not receive a notice letter before that
8 initial hearing.

9 THE HEARING EXAMINER: Well, you should
10 have brought that up then.

11 MS. LUCK: And I apologize. I did just
12 want to review the transcript to be sure that I didn't
13 make any statements differently --

14 THE HEARING EXAMINER: You didn't.

15 MS. LUCK: -- but they did not. And as
16 Mr. Savage mentions in the -- his statements that he
17 made back at that hearing, that there's 929 tracts and
18 about 725 owners in the spacing unit. So this is a
19 unique pooled unit --

20 THE HEARING EXAMINER: Agreed.

21 MS. LUCK: -- given the number of
22 owners.

23 THE HEARING EXAMINER: Agreed.

24 MS. LUCK: And there is some -- there's
25 a burden on the operator who's seeking to pool this

1 spacing unit to do due diligence before applying for a
2 pooling hearing.

3 THE HEARING EXAMINER: Okay. Thank
4 you. Let's hear from Mr. Savage.

5 Mr. Savage, I read your consolidated
6 response to the motion. Do you want to just sum it
7 up?

8 MR. SAVAGE: Yes, Mr. Hearing Examiner.
9 Thank you. And I'd like to just point out that, like,
10 it seemed like, that, in the motion to dismiss, there
11 was, kind of, conflation of notice and attempts at a
12 negotiation.

13 And I just want to confirm that notice
14 for the hearing -- all the rules of notice were
15 conformed to, and notice is satisfied. And the OCD
16 also did public notice, and that's satisfied. So I
17 think we can push all the -- turn notice aside on that
18 regard.

19 So then the remaining issue is this
20 question about negotiating, and which, the well
21 proposal is part of that, prior to filing an
22 application. So Alpha viewed -- at the time that they
23 sent out well proposals, they viewed Nickel River
24 Royalties as owning the working interest in that unit.

25 And so they sent the -- a well proposal

1 in good faith to Nickel River Royalties LLC. And that
2 was about -- that was August 21, 2024, so about six
3 months before the hearing today.

4 And so Chief and Covenant, those
5 entities are successors in interest to Nickel. They
6 have an obligation, a due diligence obligation when
7 they acquired interest, to find out -- look through
8 the files, find out what that interest would be
9 subject to. And there is a due diligence period when
10 you do an acquisition like that.

11 There's a due diligence period, where
12 you do go through the files to find out what
13 the -- obligations the interest is subject to. So I
14 would assume they would have done that. And then you
15 notice on Paragraph 5, --

16 THE HEARING EXAMINER: Of what?

17 MR. SAVAGE: -- of my consolidated
18 response, there's evidence that they had full
19 awareness, after Nickel received the well proposal,
20 that -- there's some email exchanges in which the
21 interest that Nickel owned is referenced and
22 described. And there's discussion about what to do
23 about Alpha's intent to pool the interest. And that's
24 all expressed in, or shown in Exhibit E.

25 THE HEARING EXAMINER: Okay. Hold on,

1 Mr. Savage.

2 So Ms. Luck, we have two grounds here
3 that we're dealing with. Number 1 is proper notice,
4 and Number 2 is good-faith negotiation or complying
5 with the guidance to send out well proposal letters 30
6 days before a party files an application with The
7 Division.

8 Okay. Now, let's deal with the notice,
9 first. You heard what Mr. Savage said about the
10 notice. Are you still contesting the notice?

11 MS. LUCK: Yes. Because Mr. --

12 THE HEARING EXAMINER: Why?

13 MS. LUCK: -- Savage is confused about
14 the timeline. Mr. Savage indicates that Alpha sent a
15 well proposal letter in August to our predecessors in
16 interest, but this was after our assignment was
17 recorded.

18 So the earliest covenant assignment was
19 recorded in July of 2024. And so when the well
20 proposal was sent to our predecessors in interest,
21 well before the original pooling application was
22 filed, that well proposal should have, in fact, come
23 to my clients.

24 And if Alpha had done updated title
25 before they filed their pooling application, they

1 would have known, pulling title to current, that it
2 was my clients who owned, as of August when they sent
3 out their well proposal letters, because my clients'
4 assignment was recorded in July.

5 THE HEARING EXAMINER: Okay. So you're
6 saying -- okay. All right. Okay. Well, it sounds to
7 me like Alpha made a good-faith attempt to do title
8 research. It may not have been as current as you
9 would have liked, but it doesn't sound like they
10 completely ignored this interest that Nickel owned.

11 They sent the well proposal letter to
12 Nickel, by the evidence that was provided to me. So I
13 don't see a bad faith here, based on what you've told
14 me so far. I understand that your clients didn't get
15 the well proposal letter, and that they, what, closed
16 on this deal a month before? So that's what you're
17 saying?

18 MS. LUCK: Yes. And I mean the rule is
19 a "shall." Even if that subsequent order is a
20 "should," the rule says "The applicant shall give
21 notice to each owner of an interest in the mineral
22 estate of any portion of the lands the applicant
23 proposes to be pooled or unitized whose interest is
24 evidenced by a written conveyance document either of
25 record or known to the applicant at the time the

1 applicant filed the application, and his interest has
2 not been voluntarily committed to the proposed to be
3 pooled or unitized area."

4 So I think that it's important to
5 reiterate that "the applicant shall give notice to
6 each interest owner," and they gave notice to our
7 predecessor a month after we purchased, and that's
8 insufficient.

9 THE HEARING EXAMINER: All right.
10 Okay. Well, I'm not going to dismiss these cases, or
11 this case. So that motion is overruled, denied,
12 however you want to look at it. Let's get on with the
13 hearing.

14 So my understanding, Mr. Savage, is you
15 have how many witnesses? One?

16 MR. SAVAGE: We have four witnesses.

17 THE HEARING EXAMINER: You have four
18 witnesses. What are their names?

19 MR. SAVAGE: We have John Coffman as a
20 landman. We have Mr. McClain as the geologist. That's
21 Jason McClain. Mark McCoy as a reservoir engineer.
22 And Jaron Simon as a drilling engineer.

23 THE HEARING EXAMINER: Who?

24 MR. SAVAGE: Jaron.

25 G-A -- G-A -- sorry. J-A-R-O-N.

1 THE HEARING EXAMINER: Okay. Is
2 that -- do you pronounce "Jaron"?

3 MR. SIMON: Jaron, like Aaron with a J.

4 THE HEARING EXAMINER: You say Jaron?

5 MR. SIMON: Yes, sir.

6 THE HEARING EXAMINER: Okay. All
7 right.

8 And what specialty, Mr. Savage?

9 MR. SAVAGE: He is the drilling
10 engineer.

11 THE HEARING EXAMINER: Drilling
12 engineer. All right. Now, Mr. Savage, are there any
13 other preliminary matters before we deal with your
14 exhibits? Are there any outstanding motions, or
15 anything else we need to deal with?

16 MR. SAVAGE: Do you mind my doing an
17 opening statement on this, or is that --

18 THE HEARING EXAMINER: Well, there
19 aren't competing applications here. You just have
20 your own.

21 MR. SAVAGE: Correct.

22 THE HEARING EXAMINER: I think the
23 testimony should be enough. You want to make a one or
24 two sentence opening statement?

25 MR. SAVAGE: So I just wanted to point

1 out, again, the context of how this development plan
2 was --

3 THE HEARING EXAMINER: Go ahead.

4 MR. SAVAGE: -- conceived. Okay.
5 Thank you. So Mr. Hearing Examiner, Alpha conceived
6 its plan to lease and develop the subject lands a long
7 seven years ago. It is an ambitious plan that
8 requires title be analyzed for approximately 1,270
9 acres covering about 935 separate tracts, and more
10 than 1,500 -- starting out with more than 1,500
11 working interest owners, which Alpha has been able to
12 narrow down to approximately 548 that required notice
13 for pooling.

14 This is a major undertaking, and a huge
15 investment of time, energy, and resources to arrive at
16 a feasible development plan of this size and
17 complexity that will allow for the harvesting and
18 beneficial use of New Mexico's oil and gas underlying
19 the subject lands.

20 Today's hearing represents the final
21 stages of Alpha's journey -- seven-year journey to see
22 through its development plan, and we have arrived at
23 this stage today because of the hard work that Alpha
24 has performed to bring this project to fruition.
25 Thank you.

1 THE HEARING EXAMINER: Okay. Thank
2 you. Where is this pool going to be located? Don't
3 give me a legal description, just tell me where it is?

4 MR. SAVAGE: It's right under Carlsbad.
5 It's on the outskirts of Carlsbad. It's -- and that's
6 the reason that they have all that fragmented
7 ownership is because of all the lots, and everything.

8 THE HEARING EXAMINER: That makes sense
9 now. Okay.

10 MR. SAVAGE: Residential lots.

11 THE HEARING EXAMINER: And then how is
12 it dealing with that special area around Carlsbad?
13 Isn't there a cavern there, or a sinkhole there?

14 MR. SAVAGE: Yes. Alpha actually has
15 worked very hard to deal with that situation. And we
16 had to delay some of its other applications quite a
17 bit, and we worked quite a bit -- Alpha worked quite a
18 bit, directly with the OCD, to try to get some relief
19 to go forward.

20 THE HEARING EXAMINER: Let's deal with
21 your exhibits. Let's see if we can get them admitted
22 over -- through stipulation. So do -- when did you
23 file your exhibit packet?

24 MR. SAVAGE: We would have filed that
25 by the deadline of the four business days before.

1 Yes. Let me see here. What would that be? That
2 would be Thursday. We filed it on Thursday; is that
3 correct?

4 THE HEARING EXAMINER: I'm just asking
5 for -- okay. I'll find it.

6 MR. SAVAGE: Okay. Received 1/14.

7 THE HEARING EXAMINER: Okay. 1/14?

8 MR. SAVAGE: No, that was -- oh. I'm
9 sorry. That was an amended application. Excuse me.
10 That's a stamp on the exhibits.

11 THE HEARING EXAMINER: Okay. I'm
12 looking for your exhibits. Hold on a minute. I'm
13 looking at each document in here. So did you file a
14 self-affirmed statement of John Coffman?

15 MR. SAVAGE: We did.

16 THE HEARING EXAMINER: Separately?

17 MR. SAVAGE: So Mr. Hearing Examiner,
18 no. We included that in the hearing packet. But then
19 after we filed the hearing packet, Warren Anderson did
20 that objection based on bad-faith negotiations. So we
21 filed a supplement that was separate, to address that.

22 THE HEARING EXAMINER: All right. So
23 just so you know, everything will need to be combined
24 in one hearing packet after this is over, depending on
25 what Mr. McClure wants, and depending on what other

1 corrections we find that the witnesses need to make to
2 their pre-filed exhibits.

3 MR. SAVAGE: So it looks like the
4 hearing packet was posted February 26th.

5 THE HEARING EXAMINER: And I'm looking
6 at a document filed on the 3rd, yesterday, I think, by
7 you. A response to American Energy Resources Motion
8 to Strike and Alpha Amended Motion to Compel, the P&A
9 of SAIK 001 well. Have we dealt with that?

10 MR. SAVAGE: We have.

11 THE HEARING EXAMINER: Okay. I'm still
12 looking for your documents, so hold on. I'm going to
13 go here. I have an amended application?

14 MR. SAVAGE: That's the beginning.
15 It's February 26th, it looks like, it was posted. So
16 that was right before -- you know, see that document
17 that has the stamp across it, "Motion denied by
18 Hearing Examiner"?

19 THE HEARING EXAMINER: Yes.

20 MR. SAVAGE: So it's right before that.

21 THE HEARING EXAMINER: Oh.
22 That -- well, that's the document I'm looking at now.
23 Yes. We're -- it's 537 pages long. That's the
24 document. It says "Amended Application of Alpha."
25 Yeah. Okay. I'm looking at it here. So all right.

1 Let me get to the table of contents. And this does
2 not include the document we just talked about, that
3 self-affirmed statement. That's separate,
4 supplemental.

5 We have Tab 1; we have Tab 2, Exhibits
6 A through -- A1 through A4.

7 (Exhibit A1 through Exhibit A4 were
8 marked for identification.)

9 Tab 3, the B Exhibits. I see. So
10 first, we have John Coffman and his exhibits. Then we
11 have Jason McClain and his exhibits as a geologist.
12 We have Exhibit 3, Mr. McCoy, the engineer. I guess,
13 he's a reservoir engineer, by what you just told me.

14 (Exhibit B1 through Exhibit B3 were
15 marked for identification.)

16 Then we have Exhibits D, Tab 5, there,
17 your notice, affidavits.

18 (Exhibit D was marked for
19 identification.)

20 Then we have Tab E, Mr. Simon, a
21 drilling engineer, by my notes, and that's Tab 6.

22 (Exhibit E was marked for
23 identification.)

24 Let's see if there's any objections to
25 these exhibits.

1 MS. LUCK: No objections.
2 THE HEARING EXAMINER: Thank you.
3 Ms. Bennett?
4 Maybe you're not with us anymore. I
5 don't know.
6 MS. BENNETT: I'm still in. I'm on,
7 and no objections.
8 THE HEARING EXAMINER: Thank you,
9 Ms. Bennett.
10 Ms. Vance?
11 MS. VANCE: No objection.
12 Ms. Vance, no objection.
13 All right. Mr. Savage, I don't hear --
14 Oh. Mr. Kennedy, I don't see your --
15 MR. KENNEDY: No objection.
16 THE HEARING EXAMINER: Okay. You're
17 not. You know, Mr. Kennedy, if your screen's off, I'm
18 not going to think about you. So you have to speak up
19 rather quickly. Okay. But I heard you, "no
20 objection." I heard you.
21 Okay. So Mr. Savage, your exhibits are
22 admitted to evidence.
23 //
24 //
25 //

1 (Exhibit A1 through Exhibit A4,
2 Exhibit B1 through Exhibit B3,
3 Exhibit D, and Exhibit E were received
4 into evidence.)

5 And then is there an objection to the
6 self-affirmed statement of John Coffman, that was
7 supplemental, filed on the 3rd of March?

8 I don't hear an objection. So
9 Mr. Savage, your exhibit -- your supplemental exhibit
10 is also admitted.

11 Let's get the four witnesses to come up
12 to the witness stand, turn on that microphone, and
13 let's get you sworn in. All four of you, please.

14 Would you turn on the microphone,
15 please? It's the -- this -- the button on -- that's
16 it. Thank you. Okay.

17 Would you all raise your right hands
18 please?

19 Do you swear or affirm under penalty of
20 perjury that the testimony you're about to give is the
21 truth, the whole truth, and nothing but the truth?

22 MULTIPLE VOICES: I do.

23 THE HEARING EXAMINER: Okay. I heard
24 four affirmations. Would you state and spell your
25 name, one at a time, before you go and sit down, into

1 that microphone there?

2 MR. COFFMAN: John Coffman,
3 J-O-H-N C-O-F-F-M-A-N.

4 THE HEARING EXAMINER: Thank you.

5 MR. MCCLAIN: Jason McClain. J-A-S-O-N
6 M-C-C-L-A-I-N.

7 THE HEARING EXAMINER: Thank you.

8 MR. MCCOY: Mark McCoy. M-A-R-K
9 M-C-C-O-Y.

10 THE HEARING EXAMINER: Thank you.

11 MR. SIMON: Jaron Simon. J-A-R-O-N
12 S-I-M-O-N.

13 THE HEARING EXAMINER: Thank you, sir.
14 Okay. Mr. Savage, who do you want to
15 call first?

16 MR. SAVAGE: I would like call Mr. John
17 Coffman.

18 THE HEARING EXAMINER: Mr. Coffman,
19 please sit at the witness stand. Please remember to
20 speak up, so that the microphone picks up your voice.
21 And keep it somewhere near you, the microphone.
22 Mr. Coffman, you're under oath. Have you been
23 admitted as an expert as a landman before this
24 Division, previously?

25 MR. COFFMAN: I have.

1 THE HEARING EXAMINER: Okay. Thank
2 you.

3 Mr. Savage, please proceed.

4 WHEREUPON,

5 JOHN COFFMAN,
6 called as a witness and having been first duly sworn
7 to tell the truth, the whole truth, and nothing but
8 the truth, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SAVAGE:

11 MR. SAVAGE: Mr. Coffman, with whom are
12 you employed, and what is your position?

13 MR. COFFMAN: I'm a landman at Alpha
14 Energy Partners 2 LLC.

15 MR. SAVAGE: Are you familiar with the
16 subject lands and the application in this case?

17 MR. COFFMAN: Yes, I am.

18 MR. SAVAGE: And have you prepared and
19 reviewed the exhibits you have submitted in this case,
20 including your landman statement?

21 MR. COFFMAN: Yes, I have.

22 MR. SAVAGE: Do you have any
23 corrections to these exhibits that you would like to
24 address?

25 MR. COFFMAN: I do, on my Unit

1 Recapitulation. I'd like to point out the -- there's
2 a typo on the R.C. Bennett interest, and we're
3 planning on fixing that.

4 MR. SAVAGE: And this is Exhibit A2?

5 MR. COFFMAN: Yes.

6 MR. SAVAGE: Do you -- with the
7 correction taken into account, are your exhibits
8 accurate and complete to the best of your knowledge?

9 MR. COFFMAN: Yes.

10 MR. SAVAGE: Mr. Hearing Examiner,
11 Mr. Coffman is available for questions.

12 THE HEARING EXAMINER: Thank you, sir.
13 Okay. Ms. Luck?

14 MS. LUCK: Thank you. I have
15 questions.

16 THE HEARING EXAMINER: Wait, you do?

17 MS. LUCK: Yes.

18 THE HEARING EXAMINER: Please.

19 MS. LUCK: Okay.

20 CROSS-EXAMINATION

21 BY MS. LUCK:

22 MS. LUCK: Thanks for being here today.
23 I want to start off by just going over some of your
24 history in pooling. How many pooling hearings have
25 you been involved in, in the past?

1 MR. COFFMAN: Two, I believe.

2 MS. LUCK: Okay. And how many parties
3 were there to be pooled in the other case that you
4 were involved in?

5 MR. COFFMAN: Off the top of my head, I
6 don't know.

7 MS. LUCK: Okay. But you would agree
8 that this is a much more complicated case?

9 MR. COFFMAN: Than my other two, a
10 different scenario, but still very complicated.

11 MS. LUCK: Okay. But the land aspect
12 of this case, involving who the mineral interest, and
13 working interest, and unleased mineral interest owners
14 is complicated in this case because it's below the
15 city of Carlsbad; is that correct?

16 MR. COFFMAN: Yes.

17 MS. LUCK: Okay. So are you familiar
18 with what's required prior to filing a pooling
19 application?

20 MR. COFFMAN: Yes.

21 MS. LUCK: Okay. Were you the person
22 who prepared the well proposal letters for Alpha?

23 MR. COFFMAN: I was.

24 MS. LUCK: Okay. And so who did your
25 title work for this unit?

1 MR. COFFMAN: We had brokers and title
2 attorneys working on this. So we had Legacy Onshore
3 for our brokers, and Mazurek for our title.

4 MS. LUCK: Okay. When did that process
5 start?

6 MR. COFFMAN: Quite a while ago.

7 MS. LUCK: Okay. Well, can you tell me
8 some more details about how the process started? When
9 did y'all begin the title work?

10 MR. COFFMAN: It was before I was
11 employed there. Like Darin said, seven years ago was
12 when our entity started taking leases in this unit.

13 MS. LUCK: Okay. So what process did
14 Alpha utilize to identify all mineral and leasehold
15 interests in the unit?

16 MR. COFFMAN: We had our brokers run
17 title of every lot in the subdivisions, into every
18 tract.

19 MS. LUCK: Okay. Did Alpha prepare
20 mineral ownership reports or limited certificates of
21 title for each interest?

22 MR. COFFMAN: Mineral ownership
23 reports, yes.

24 MS. LUCK: Okay. So it's my
25 understanding there's some plugged wells that are

1 existing in this unit, that Alpha may be paying
2 shut-in royalties; is that correct?

3 MR. COFFMAN: They're not plugged.

4 MS. LUCK: Okay. Did Alpha consider
5 some type of non-commercial production in determining
6 the current mineral and leasehold ownership?

7 MR. COFFMAN: No. We were paying
8 shut-ins. They're just not plugged.

9 MS. LUCK: Have Plugging and
10 Abandonment forms been filed on these wells?

11 MR. COFFMAN: The intent to P&A has
12 been filed, but we have not -- these wells have not
13 been plugged.

14 MS. LUCK: Okay. And can you just
15 clarify which wells you're talking about?

16 MR. COFFMAN: I believe you're
17 mentioning the TRACY B COM Number 1, and the Colonia A
18 COM wells in Section 18.

19 MS. LUCK: Okay. And so just to talk
20 about those wells a little bit, it's my understanding
21 that Tap Rock notified owners in those wells of their
22 intention to plug those wells; is that correct?

23 MR. COFFMAN: I'm not sure on that one.

24 MS. LUCK: Okay. Do you know why they
25 sit in this inactive status, currently?

1 MR. COFFMAN: Yes.

2 MS. LUCK: And why is that?

3 MR. COFFMAN: It's because the gas
4 takeaway lines were removed by the third-party gas
5 company.

6 MS. LUCK: Okay. So is it Alpha's
7 intention to attempt to bring those wells back into
8 current production?

9 MR. COFFMAN: We could. I mean,
10 we -- we're -- we're planning on developing the
11 laterals at this point.

12 MS. LUCK: Okay. So just circling back
13 to those wells, though. So is Alpha holding leases
14 through shut-in royalties on those wells, at this
15 point?

16 MR. SAVAGE: Mr. Hearing Examiner, I'm
17 going to object to this, and the reason is I don't
18 understand the relevance --

19 THE HEARING EXAMINER: Okay.

20 MR. SAVAGE: -- in which the direction
21 of these questions are going.

22 THE HEARING EXAMINER: All right,
23 Mr. Savage.

24 The objection is relevance, Ms. Luck.

25 MS. LUCK: Well, I think that it's

1 important to understand what the basis for Alpha's
2 title is out there, because it's my clients' position
3 that some of these leases have been canceled due to
4 lack of -- non-production.

5 And so if there haven't been shut-in
6 payments made on these wells, or Alpha's intent to
7 return them to commercial production, then those
8 leases are no longer valid. And so it's an important
9 issue here, because Alpha's disputing who the interest
10 owners are and how much their interest is. And so I'm
11 trying to get to the issue here, about how Alpha is
12 determining title.

13 THE HEARING EXAMINER: How Alpha is
14 determining title? And how is that relevant?

15 MS. LUCK: Because it's my
16 understanding that Alpha is using these two wells that
17 are inactive, and they're paying shut-in royalties to
18 hold leases, in their opinion, under their title
19 reading.

20 But it's our understanding that those
21 shut-in royalties have either been declined or
22 returned. And so if those payments haven't been made,
23 then those leases are no longer valid.

24 THE HEARING EXAMINER: And what would
25 that mean then, to this compulsory pooling

1 application?

2 MS. LUCK: Different interest owners
3 need to be pooled, or different percentages for those
4 interest owners, because if the leases are no longer
5 valid, then that should be considered an unleased
6 mineral interest owner rather than a working interest
7 owner.

8 So it's important to understand how
9 Alpha is looking at these wells; whether or not
10 they're still considering those leases valid, they're
11 paying shut-in royalties on those leases.

12 THE HEARING EXAMINER: Do you have
13 evidence to show that the leases are not valid?

14 MS. LUCK: Yes. I have some
15 correspondence, like, affidavits of non-production
16 have been filed on those leases. And so it's our
17 position that the leases are no longer valid because
18 those affidavits of non-production have been filed.

19 THE HEARING EXAMINER: Well, if you
20 have evidence, why are you not submitting that today?

21 MS. LUCK: And again, it's not my
22 clients' position here to operate the unit. And so
23 this is a different circumstance than a competing
24 pooling application, because my clients aren't seeking
25 to pool this unit.

1 They are working interests within the
2 unit of significant interest, and we're trying to
3 ensure appropriate protection of the interest that
4 they do own, and appropriate recognition of the full
5 value of their interest.

6 Because what's happened here is it
7 seems like only a portion of their interest is
8 undisputed, and a portion of it is disputed. And so
9 we're just trying to understand exactly how Alpha is
10 determining my clients' interest within the unit,
11 because that's unclear at this point.

12 THE HEARING EXAMINER: Mr. Savage?

13 MR. SAVAGE: So Mr. Hearing Examiner,
14 this whole line of questioning is an attempt to go
15 into this disagreement in title, and Alpha
16 acknowledges that there's a disagreement. There's no
17 argument about this.

18 There's certainly a disagreement with
19 title. And our position is that, you know, if, as
20 Mr. Coffman points out, if they're paying shut-in
21 royalties and this plays a role in the holding of
22 certain interests, you know, our position is that is
23 valid.

24 If Chief and Covenant have a title
25 dispute, that is outside the scope of the jurisdiction

1 of the OCD, and Chief and Covenant, they need to go to
2 District Court. They need to do a quiet title action,
3 and determine legally, what the title is.

4 Now, if the OCD goes forward with this
5 hearing and they issue an order, whatever that title
6 might turn out to be will be subject to that order.
7 So there's no issue of correlative rights here. So I
8 don't really. I --

9 THE HEARING EXAMINER: Okay. Thank
10 you, --

11 MR. SAVAGE: -- continue to object to
12 this.

13 THE HEARING EXAMINER: -- Mr. Savage.

14 THE HEARING EXAMINER: So Ms. Luck, I'm
15 inclined to agree with Mr. Savage unless you provide
16 me some legal basis upon which The Division -- if you
17 provide me some jurisdictional issue that we are
18 dealing with here today, that's one thing. But if
19 this really goes down to title dispute, then I'm
20 inclined to agree with Mr. Savage.

21 MS. LUCK: And I'm not asking The
22 Division to make any kind of title determination here.
23 This goes to the correlative rights of my clients,
24 who --

25 THE HEARING EXAMINER: How?

1 MS. LUCK: -- are interest owners in
2 the unit, and their interests are not being
3 appropriately recognized because it doesn't appear
4 that Alpha has the appropriate leg work done on this
5 unit to determine who the interest owners are, and
6 what their interests are.

7 And that is relevant to a pooling
8 proceeding, the amount that's being pooled and what
9 the interests are. And so that's a correlative rights
10 issue that's before The Division. It doesn't -- it's
11 not a determination about who owns what.

12 I mean, this is not a title dispute.
13 I'm just trying to determine exactly how Alpha
14 developed the spacing unit. They have a duty, under
15 the Oil and Gas Act, to determine title in this unit,
16 and we can ask them questions about how they did so,
17 who they determined who was a working interest owner
18 in the unit.

19 And if you think about this just like a
20 normal spacing unit example, where there's four
21 working interest owners, in that case, it would be
22 very clear; they would have gone out and they would
23 have proposed to, like, Working Interest Owner A,
24 Working Interest Owner B, Working Interest Owner C.

25 And then they might have reached an

1 agreement with three of them, and then they came to
2 the pooling hearing to pool only one of them. And in
3 this case, it's the same thing, where I'm trying to
4 figure out exactly how much my clients' interests
5 Alpha is recognizing, and how they got to that
6 determination.

7 And I can ask those questions within
8 the context of this proceeding because this has to do
9 with their mineral rights in the unit. It doesn't
10 have to do with the title dispute.

11 THE HEARING EXAMINER: All right. Let
12 me take a five minute break. I'm going to talk to the
13 technical examiner. We'll be back on the record at
14 10 o'clock a.m. Thank you.

15 (Off the record.)

16 THE HEARING EXAMINER: It is 10:03 on
17 Tuesday, March 4th. We're back on the record.

18 Ms. Luck, I need to ask some questions
19 to make a ruling on the objection. So I'll start with
20 you, and then I'm going to go to Mr. Savage. I don't
21 know that I need to talk to the witness, at this
22 point. And Mr. McClure may have some questions too,
23 to understand what's going on here.

24 Ms. Luck, your clients -- you said your
25 clients have a working interest in this -- a working

1 mineral interest in this pool; is that correct?

2 MS. LUCK: Well, it's complicated,
3 because they're -- they have a combination of
4 interests. They -- some of the interests are leased
5 interests, like, a working interest. But some of them
6 are unleased. And then we also have royalty
7 interests. It's a combination.

8 And so I'm not sure if that answers
9 Mr. McClure's questions, but I'm not asking The
10 Division to make any kind of determination about what
11 my clients own --

12 THE HEARING EXAMINER: Hold on.

13 MS. LUCK: -- or how much. Okay.

14 THE HEARING EXAMINER: Ms. Luck, you're
15 confusing the issue. I'm asking you a very
16 straightforward question. Thanking you, you gave me
17 an answer.

18 Mr. Savage, do you know the status of
19 Ms. Luck's clients' interests?

20 MR. SAVAGE: I believe the witness can
21 answer that better, but as I understand it, there is a
22 certain amount of working interest that is confirmed
23 under Alpha's title analysis in this unit.

24 THE HEARING EXAMINER: Is it committed,
25 or uncommitted?

1 MR. SAVAGE: Well, it would be
2 uncommitted, because we're pooling that interest.

3 THE HEARING EXAMINER: So you're saying
4 that you acknowledge -- and if we need to go to the
5 landman, we will. But you're saying that it's your
6 understanding that Ms. Luck's clients own a -- some of
7 their interests are committed in a lease. Some of
8 their interests are not committed in a lease. That's
9 not what you're saying? What are you saying?

10 MR. SAVAGE: So I don't think any of
11 their interests is committed to the unit. I
12 don't -- they have not signed a JOA. So whatever
13 interests they have is going to be uncommitted. We
14 say they have a certain amount of uncommitted
15 interests. Ms. Luck says they have a different amount
16 of uncommitted interests.

17 THE HEARING EXAMINER: Oh. Is that --
18 Ms. Luck, is that correct? Are you
19 disagreeing about the amount of uncommitted interest?

20 MS. LUCK: I think that there is a
21 dispute about how much our interest is, yes. Uh-huh.
22 And I am not asking The Division to make a
23 determination about exactly what that percentage is,
24 but I do think that I have the ability to ask Alpha's
25 landman witness who's here today, exactly what they

1 think that amount is that my clients own.

2 So that -- those are some of the
3 questions that I would like to get into, is Alpha, how
4 much does Chief own as a working interest in this
5 unit, according to their --

6 THE HEARING EXAMINER: Ms. Luck, you're
7 going way past what I asked. When I ask you a
8 question, would you please try and cap in your answer
9 to what I'm asking you, and not go beyond that,
10 because it just gets confusing. And I'm not able to
11 make a ruling on an objection, and there's all this
12 additional verbiage that is just not helpful for the
13 record.

14 Mr. Coffman, I heard questions earlier,
15 from Ms. Luck, about two wells. Okay. What does that
16 have to do with the uncommitted interests?

17 MR. COFFMAN: I think the angle that
18 Ms. Luck was getting at was that the interest that
19 they acquire that are -- that is disputed, are in the
20 proration units of those wells. So I -- I think she
21 was talking about shut-in payments on those wells in
22 regard to the quantum of interest that they own in our
23 unit.

24 And I do agree that Chief and Covenant
25 both own interest in our unit. I think Chief owns

1 nine acres, maybe a little bit more. And then
2 Covenant owns three acres. And so we do agree that
3 they own an interest in this unit. What is in dispute
4 is the amount of interest that they own in our unit.

5 THE HEARING EXAMINER: And, Mr. Savage,
6 we're still dealing with your objection. Why, after
7 all this discussion, do you think that Ms. Luck's
8 questions are not relevant?

9 MR. SAVAGE: Because both parties
10 acknowledge that there's ownership, uncommitted
11 ownership that needs to be pooled. So now, we're
12 getting into an area where we're spending time
13 quibbling over how much, and there's no -- because the
14 OCD doesn't have jurisdiction, there's no end to this
15 line of questioning.

16 So whatever -- the OCD goes forward,
17 whatever pooling order they submit -- issue, whatever
18 it turns out to be that these parties own,
19 are -- they're going to be subject to that pooling
20 order. So why spend all this time, you know, trying
21 to decide where the needle points to?

22 THE HEARING EXAMINER: Okay. I
23 understand. All right.

24 Ms. Luck, I'm going to give you the
25 leeway to ask this witness, and I think he just

1 basically, answered it; nine acres for one, and three
2 acres for another. But I'll give you a little bit of
3 leeway to finish this line of questioning into how
4 much uncommitted interest your clients have.

5 But as Mr. Savage has said, whatever
6 that interest is, it will be -- it'll be covered in
7 the order. And so I agree that, at some point, it's
8 going to be irrelevant, these questions. But I'm
9 giving you the leeway to ask enough questions so that
10 you have an understanding of your clients' interests.

11 Although I'm not sure why you don't
12 know from your clients what that interest is.

13 MS. LUCK: Well, I do know from my
14 clients what my clients believe their interest is.
15 But there's a disagreement, I believe, between my
16 clients and Alpha, as to what the interest is. And so
17 I do think that it's important for The Division to
18 consider what Alpha has done to develop the spacing
19 unit, and how they determine the interest ownership in
20 this unit.

21 Because my clients don't only own a
22 working interest in this unit; they also own some
23 unleased mineral interests, as well as overriding
24 royalty interest. So that's why I say it's a wide
25 range of interests that are owned by my clients.

1 And so I'd like to just confirm what
2 types of title work were done on the unit before they
3 came to the pooling hearing, and how they determined
4 what my clients' interests were to be pooled into this
5 unit, because it doesn't seem like they had done the
6 appropriate work that was necessary before coming to
7 pooling.

8 THE HEARING EXAMINER: But that should
9 have been dealt with by a motion before this hearing
10 began, a motion that either provides evidence to make
11 your argument -- as it is you have no evidence that
12 supports what you're saying, and you're just asking
13 questions to find out what sort of work Alpha did in
14 preparation of this hearing.

15 They have filed 537 pages-worth of
16 exhibits to show what they've done, and you don't have
17 any evidence to show that any of that is inaccurate,
18 at this point. So again, I'm going to be very
19 sensitive to Mr. Savage's objections on relevance
20 here.

21 So I'm not going to go -- I'm not -- I
22 do find it irrelevant for you to ask questions
23 about -- that go into detail about how they did their
24 title research, because it's here in the exhibits.
25 You have it here to refer to. If something's

1 inaccurate, then point it out with your questions, or
2 provide evidence in rebuttal to their evidence.

3 So I'm sustaining the objection in
4 theory, but I'm going to give you some leeway to ask
5 some more questions to find out what the interest that
6 they determined your clients own. So go ahead.

7 MS. LUCK: Okay. And I think that's
8 important, because I was trying to lay some foundation
9 before we just hopped right into the exhibits, but we
10 can turn straight to Mr. Coffman's exhibit.

11 THE HEARING EXAMINER: Yes, please.
12 That would be helpful.

13 MS. LUCK: Because my argument here is
14 that, even if there are 530-something pages, the work
15 that they have done is -- it's not -- it doesn't meet
16 the burden that the OCD has --

17 THE HEARING EXAMINER: Okay.

18 MS. LUCK: -- set for pooling. So for
19 example, specific to my clients, in your chronology,
20 Exhibit A4, --

21 THE HEARING EXAMINER: Do you want to
22 pull up A4?

23 MS. LUCK: I've got it pulled up here
24 on my screen.

25 THE HEARING EXAMINER: Well, do you

1 want to share your screen?

2 MS. LUCK: We can do that.

3 Sorry. I got disconnected from the
4 hearing on my --

5 THE HEARING EXAMINER: Mr. Savage, are
6 you connected? Can you pull up the exhibit?

7 MR. SAVAGE: I'm trying to find A4
8 here.

9 THE HEARING EXAMINER: Do you have a
10 page number, Ms. Luck, on the PDF?

11 MS. LUCK: No. I'm sorry. I extracted
12 those pages.

13 MR. SAVAGE: Exhibit A2 is our
14 ownership exhibit.

15 MS. LUCK: I believe that Exhibit A4 is
16 Page 120 of 537.

17 MR. SAVAGE: So that's the Chronology
18 of Contacts?

19 MS. LUCK: Yes.

20 MR. SAVAGE: Okay.

21 MS. LUCK: You got it? Okay.

22 THE HEARING EXAMINER: Would you share
23 your screen, Mr. Savage?

24 MR. SAVAGE: Yeah. Let me find my
25 interface, here.

1 MS. LUCK: So with each pooling
2 application, are you aware that The Division requires
3 you to submit what efforts you made to reach a
4 voluntary agreement with a pool party?

5 MR. COFFMAN: Yes.

6 MS. LUCK: Okay. And so this is the
7 information that my clients are saying is
8 insufficient. So if we turn to your Exhibit A4, where
9 you list my client's names, Chief and Covenant -- so
10 scroll down to the C's, a little bit.

11 THE HEARING EXAMINER: Can you rotate
12 the page, please?

13 MR. SAVAGE: Okay.

14 Which --

15 MS. LUCK: Down, sorry.

16 MR. SAVAGE: Is it the second page?

17 MS. LUCK: Yes. We're there. Up
18 towards the top. Yeah.

19 MR. SAVAGE: That's the top.

20 MS. LUCK: Yeah, there you are.

21 So right towards the top, you can see,
22 about a third from -- or a quarter from the top,
23 "Chief Capital O&G 2 LLC." And it looks like you
24 indicate, next to their name, that they have a ULMI.
25 Does that mean unleased mineral interest?

1 MR. COFFMAN: Yes, it does.

2 MS. LUCK: Okay. And next to the
3 comments that you made about what you did to reach an
4 agreement with him, you say "September, 2024 to
5 present, working to confirm purported ownership." So
6 is it your testimony today that, as of September 2024,
7 you were aware of Chief's interest in the unit?

8 MR. COFFMAN: Or Chief's predecessor
9 interest.

10 MS. LUCK: Okay. And then looking down
11 at Covenant, you say, I think, the same thing. "ULMI,
12 20 -- September, 2024 to present. Working to confirm
13 purported ownership." So what does that mean?

14 MR. COFFMAN: That we've had
15 discussions with both Chief and Covenant on their
16 purported ownership within this unit. We agree that
17 Chief and Covenant own in this unit, but we just
18 disagree on how much.

19 MS. LUCK: But did you obtain title
20 opinions to confirm accurate ownership of their
21 interests?

22 MR. COFFMAN: Yes, but the title is in
23 dispute for --

24 MS. LUCK: And --

25 MR. COFFMAN: -- some of their

1 interests.

2 MS. LUCK: -- what date was your title
3 through?

4 MR. COFFMAN: For -- for which specific
5 tract? We have MORs that come in on a daily basis,
6 and it's pretty small interests, and a lot of MORs
7 come in. So which -- which specific tract?

8 MS. LUCK: So I would be asking
9 specific to Chief and Covenant, when your title is
10 current through, on their interests that you're
11 recognizing?

12 MR. COFFMAN: They -- they own a
13 different tract in this unit. So it would have to be
14 on a tract-by-tract basis before I could answer. But
15 I don't think I could, off the top of my head, give
16 you a date that those MORs are dated through.

17 MS. LUCK: Okay. Is that something
18 that you could supplement us with, with The Division,
19 and provide when you ran your title last?

20 MR. COFFMAN: Yes.

21 MS. LUCK: Okay. But so when did you
22 become aware that Chief was a leasehold owner in the
23 prospective unit?

24 MR. COFFMAN: I think, when it was -- I
25 think it would -- when it was filed on Courthouse 3.0,

1 which is historically, about a month behind. So when
2 we proposed Nickel River in August, that assignment
3 had not shown up online yet.

4 MS. LUCK: Okay. So same question for
5 Covenant. When did you become aware that Covenant was
6 an interest owner in the unit?

7 MR. COFFMAN: Same time.

8 MS. LUCK: Did you provide notice of
9 your intention to pool either one of their interests,
10 and offer alternatives to forced pooling prior to that
11 original pooling hearing in 24944?

12 MR. COFFMAN: To their predecessor in
13 interest, yes.

14 MS. LUCK: But can you clarify when the
15 assignment went through from Nickel River to Chief and
16 Covenant?

17 MR. COFFMAN: The effective date?

18 MS. LUCK: Yes.

19 MR. COFFMAN: Or when it was filed?

20 MS. LUCK: When you became aware of it,
21 because that's what the rule requires.

22 MR. COFFMAN: Yeah.

23 MR. SAVAGE: I'll to object to this,
24 Mr. Hearing Examiner, and the reason is we've gone
25 from amounts of title, to -- back to this notice, or

1 this attempt to negotiate issue, which seems, kind of,
2 outside the scope of the original relief of doing some
3 questions along these lines.

4 THE HEARING EXAMINER: Ms. Luck?

5 MS. LUCK: My clients are interest
6 owners in this unit, and they have every right to ask
7 questions about what efforts were made to pool their
8 interest before coming to this pooling hearing. This
9 is a completely different line of questioning from
10 what we were talking about previously with regards to
11 potential leasable expirations.

12 So at this point in time, I'm just
13 trying to determine what Alpha did to try to pool my
14 clients' interest before coming to a pooling -- or
15 reach an agreement before coming to a pooling hearing.

16 THE HEARING EXAMINER: It's my
17 understanding that Alpha has already admitted that it
18 sent a -- Mr. Savage, in his response, said that Alpha
19 sent proposals to the predecessor interest and they've
20 already admitted that they haven't contacted,
21 directly, your client. So what are you asking?

22 MS. LUCK: Well, I mean, I just wanted
23 to clarify with the witness rather than just accepting
24 the arguments of Counsel. But if that's what we're
25 standing with, then, I mean, I can move on to the next

1 questions.

2 THE HEARING EXAMINER: Yes. The
3 objection is sustained.

4 MS. LUCK: Okay.

5 So did you voluntarily seek to reach
6 agreement with every unleased mineral interest owner
7 in the unit before coming to a pooling hearing?

8 MR. COFFMAN: Yes.

9 MS. LUCK: Was it just you, or did you
10 work on a team of people, or how did you go about
11 that?

12 MR. COFFMAN: We had multiple brokers
13 working, negotiating leases and voluntary joiner.

14 MS. LUCK: Okay. How many people were
15 working on this project?

16 MR. COFFMAN: I couldn't say, off the
17 top of my head, but a good amount.

18 MS. LUCK: Were you supervising them,
19 or what was your role in this situation?

20 MR. COFFMAN: I sent all the well
21 proposals myself.

22 MS. LUCK: Okay. So you signed every
23 single well proposal letter?

24 MR. COFFMAN: Yes.

25 MS. LUCK: Did you send out 1,500 of

1 them, or how many of them went out?

2 MR. COFFMAN: Close.

3 MS. LUCK: Okay.

4 MR. COFFMAN: We have -- we have some
5 under lease already, that we've done preliminary
6 before we sent out proposals, because we had to have
7 interest in the surface oil and downhole of the unit
8 before we proposed.

9 So we leased those mineral interest
10 owners prior, and then sent well proposals to,
11 probably, 900 people or entities.

12 MS. LUCK: Okay. And do you understand
13 that that's part of your responsibility as the
14 operator of the unit, to reach voluntary agreement?

15 MR. COFFMAN: Yes.

16 MS. LUCK: Are you continuing to try to
17 reach voluntary agreements with these parties?

18 MR. COFFMAN: Yes.

19 UNKNOWN SPEAKER: No.

20 MS. LUCK: Okay. And so if an order is
21 granted in this case, when does Alpha plan to spud
22 these wells?

23 MR. COFFMAN: We have permits in hand,
24 or Paloma, our operator -- designated operator has
25 permits in hand. So as soon as our pooling orders are

1 granted, we begin.

2 MS. LUCK: Okay. And I mean, that
3 doesn't really answer my question. So do you have a
4 drill schedule? Do you have a drilling contract?

5 MR. COFFMAN: Yes, but it's dependent
6 on when our pooling order's in place.

7 MS. LUCK: Does Alpha have a drilling
8 rig?

9 MR. COFFMAN: To the south, yes.

10 MS. LUCK: Just --

11 MR. COFFMAN: Paloma does.

12 MS. LUCK: Just one, or is there more
13 than one?

14 MR. COFFMAN: I believe there will be
15 more than one.

16 MS. LUCK: Okay. Is there a drill
17 schedule for that drill rig, related to this project?

18 MR. COFFMAN: Yes.

19 MS. LUCK: Okay. But there's not,
20 like, an anticipated, like, "We're planning to do this
21 in Q4"? You're just planning to do it immediately
22 upon issuance of a pooling order?

23 MR. COFFMAN: Correct. When we finish
24 our wells in the unit to the south, The Dude unit,
25 then we'll move north into this Hollywood Star unit.

1 MS. LUCK: Okay. And so how long have
2 you been working for this company, working on this
3 project?

4 MR. COFFMAN: Since I started in
5 October of 23.

6 MS. LUCK: Okay. And so I think
7 that I'm just trying to get clarification, at this
8 point. Has there been voluntary agreements sent out
9 to both my clients, Chief and Covenant, collectively,
10 for all of the interests that Alpha is recognizing in
11 the unit?

12 MR. COFFMAN: I believe Chief is the
13 only one that has requested a JOA, which was provided
14 to them this week.

15 MS. LUCK: Okay. And so can you let me
16 know why a JOA or some other type of voluntary unit
17 operating agreement has not been provided to Covenant?

18 MR. COFFMAN: They have not requested
19 it. But if they would like to request it, I would be
20 more than happy to send it.

21 MS. LUCK: So at this point in time --

22 MR. ANDERSON: Mr. Examiner?

23 MS. LUCK: -- you're only sending a JOA
24 to parties who request them?

25 THE HEARING EXAMINER: Is there an

1 objection?

2 Hold on, Ms. Luck.

3 Is there an objection?

4 MR. ANDERSON: Yes. Mr. Examiner, this
5 is Warren Anderson --

6 MR. SAVAGE: Mr. Anderson, you --

7 MR. ANDERSON: -- California.

8 THE HEARING EXAMINER: Okay.

9 Mr. Anderson, good to hear that you're with us. Are
10 you objecting to a question?

11 MR. ANDERSON: Yes, I'm -- I'm
12 objecting to the person representing Alpha about
13 leasing agreements, because they don't have a leasing
14 agreement in the South, where we are.

15 THE HEARING EXAMINER: Okay.

16 Mr. Anderson, this is not the appropriate time to
17 speak up. Okay?

18 So Ms. Luck is asking questions to this
19 witness. You'll have an opportunity, now that you've
20 joined us, at -- what time is it? 10:23? I'm not
21 sure -- what happened?

22 MR. ANDERSON: It would -- I came at
23 nine, 'cause it's nine here. I didn't -- I didn't
24 understand the time difference, sir.

25 THE HEARING EXAMINER: Okay.

1 Mr. Anderson, even so, you're still -- it's 10:24 a.m.
2 here, Mountain Time, in New Mexico. You'll have your
3 opportunity to ask this witness questions, as long as
4 it's based -- as long as they're appropriate
5 questions.

6 And so please just wait your turn to
7 ask questions. Ms. Luck is cross-examining this
8 witness now.

9 MR. ANDERSON: Okay. Thank you, sir.

10 THE HEARING EXAMINER: Yes. Well, I'll
11 call on you, now that I know you're with us.

12 Ms. Luck, you were saying?

13 MS. LUCK: Yeah.

14 So I mean, it's my understanding
15 though, that my clients do also own unleased interest
16 in the unit. Does Alpha recognize any of those
17 unleased interests?

18 MR. COFFMAN: You'd have to be more
19 specific on where they are, the interests, but I tend
20 to agree with that.

21 MS. LUCK: Okay. I guess, is it
22 Alpha's position that Alpha has to make an offer to
23 lease any unleased interest in the unit before coming
24 to pooling?

25 MR. COFFMAN: Yeah. We -- we provide

1 that in our well proposals.

2 MS. LUCK: But are you offering a lease
3 with the well proposal, or what's with the well
4 proposal letter?

5 MR. COFFMAN: Yeah, a lease, and a
6 bonus, and a royalty.

7 MS. LUCK: Okay. And that was sent to
8 all unleased mineral interests in the unit?

9 MR. COFFMAN: Yes, ma'am.

10 MS. LUCK: Okay. And when did your
11 company, I guess, collectively, Alpha, Paloma, acquire
12 this unit from Tap Rock, or Civitas, or whoever the
13 predecessor was?

14 MR. COFFMAN: I believe it was
15 January of 2024.

16 MS. LUCK: So that was after you came
17 on?

18 MR. COFFMAN: Correct.

19 MS. LUCK: Okay. And then, I guess,
20 just to wrap it up, is there -- is Alpha willing to
21 provide a JOA to Covenant, or a voluntary agreement,
22 at this point in time?

23 MR. COFFMAN: Absolutely.

24 MS. LUCK: Okay. So what efforts
25 are -- is Alpha making to reach a voluntary agreement,

1 at this time, with Covenant?

2 MR. COFFMAN: I can provide them a JOA.
3 It's just going to come down to what the interest we
4 agree is covered on a JOA -- JOA, or pooling order.

5 MS. LUCK: Okay. So can you tell me
6 what that interest is, and whether it's a override, or
7 a working interest, or an unleased interest?

8 MR. COFFMAN: I believe it's leased
9 interest, leasehold interest that's in dispute.

10 MS. LUCK: Okay. But can you tell me
11 what their undisputed interest is?

12 MR. COFFMAN: Their undisputed interest
13 is going to be what I provided in my Unit
14 Recapitulation. So I believe it's nine -- a little
15 bit above nine for Chief, and then a little bit above
16 three for Covenant.

17 MS. LUCK: Sorry. I just wanted to see
18 if I could find which tracts you're saying that
19 they're located in. But --

20 THE HEARING EXAMINER: Ms. Luck, there
21 are a lot of people waiting to ask questions.

22 MS. LUCK: I apologize. I'll -- sorry.
23 No more questions. Thank you.

24 THE HEARING EXAMINER: Ms. Vance?

25 MS. VANCE: I don't have any questions.

1 THE HEARING EXAMINER: Mr. Kennedy?

2 MR. KENNEDY: No questions.

3 THE HEARING EXAMINER: Thank you.

4 Mr. Anderson?

5 MR. ANDERSON: Yes. I -- I do have
6 some questions. Thank you.

7 CROSS-EXAMINATION

8 BY MR. ANDERSON:

9 MR. ANDERSON: First -- first off,
10 I'm -- I'm just listening, and I never heard of a JOA.
11 And we -- we don't have no voluntary agreement, and we
12 just -- I -- I -- first of all, I -- I would like to
13 know from Alpha, what is a JOA and -- why -- yeah.
14 First, what is a JOA?

15 THE HEARING EXAMINER: Mr. Anderson,
16 you've elected not to have an attorney represent you,
17 and that's just fine. You're more than welcome to
18 represent yourself. But we're going to waste a lot of
19 time today defining legal terms, and we can't do that.

20 So if you have a specific question to
21 ask this witness, please do it. But he's not here to
22 educate you as to terms.

23 MR. ANDERSON: I -- I understand.
24 I -- I want -- I -- I just want -- I just wanted to
25 say -- okay. No, I'll wait for my -- for -- for the

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1 next -- next one. No, I don't have no questions, or
2 anything.

3 THE HEARING EXAMINER: All right.

4 Mr. Coffman, I think I heard
5 Mr. Anderson at least attempt to ask you was there a
6 well proposal? And in the same way that Ms. Luck
7 asked, did you make the same overtures to
8 Mr. Anderson?

9 MR. COFFMAN: Yes.

10 THE HEARING EXAMINER: You did. Okay.

11 Mr. Anderson, did you not receive
12 the -- what Mr. Coffman said he sent you?

13 MR. ANDERSON: Mr. -- Mr. Coffman
14 really never sent -- he sent it to my deceased father,
15 and we replied to him that I don't know how we going
16 to answer what the lease and what they're sending in
17 my deceased father's name.

18 THE HEARING EXAMINER: I'll let you
19 work that out directly --

20 MR. ANDERSON: And we --

21 THE HEARING EXAMINER: -- with Alpha
22 Energy. But it sounds like you are aware that they
23 sent you a well proposal letter, and the JOA; is that
24 right, Mr. Coffman?

25 MR. COFFMAN: We -- we've sent a

1 lease --

2 THE HEARING EXAMINER: A lease.

3 MR. COFFMAN: -- to Mr. Anderson, yes.

4 THE HEARING EXAMINER: Thank you. If
5 he needs to work with --

6 MR. ANDERSON: And you --

7 THE HEARING EXAMINER: Hold on,
8 Mr. Anderson.

9 If he needs to work with him because of
10 this deceased father issue, he can work directly with
11 you?

12 MR. COFFMAN: Absolutely.

13 THE HEARING EXAMINER: Mr. Anderson. I
14 think you've heard that answer; right?

15 MR. ANDERSON: Yeah. But if this is
16 Mr. Coffman, I spoke with Mr. Coffman, and tried to
17 work out something with Mr. Coffman. And they sent a
18 compulsory pooling application for their answer.

19 THE HEARING EXAMINER: I -- you know,
20 Mr. Anderson, I can't help you with legal issues.
21 That's -- you need to hire an attorney to help you
22 with that. But it sound -- you know who to contact at
23 Alpha, or to have your attorney contact at Alpha.

24 And so it sounds like you don't -- I
25 was just trying to clarify that question for you.

1 MR. ANDERSON: Okay. I -- I appreciate
2 it.

3 THE HEARING EXAMINER: You're welcome.

4 MR. ANDERSON: And I will hire -- I
5 will hire a lawyer for that --

6 THE HEARING EXAMINER: Okay. Mr. --

7 MR. ANDERSON: -- 'cause I object
8 that -- everything they're doing.

9 THE HEARING EXAMINER: I understand.
10 Thank you.

11 Okay. Mr. McClure, do you have
12 questions for Mr. Coffman?

13 MR. MCCLURE: Thank you, Mr. Hearing
14 Examiner. I do.

15 THE HEARING EXAMINER: Please?

16 CROSS-EXAMINATION

17 BY MR. MCCLURE:

18 MR. MCCLURE: Mr. Coffman,
19 approximately how many persons are being pooled in
20 this case?

21 MR. COFFMAN: I -- I'd have to go
22 through and count my Unit Recapitulation.

23 MR. MCCLURE: Yeah, I was not asking
24 for an exact number. But is it in the realm of a few
25 hundred, is it over 500, is it less than 500?

1 MR. COFFMAN: I think it's around 500.

2 MR. MCCLURE: Okay. What steps was
3 taken to conduct notice for all these persons?

4 MR. COFFMAN: We -- through our
5 brokers, we provided notice via well proposal. And
6 that was fairly successful in reaching lease
7 agreements with a lot of the unleased mineral owners.
8 And so through well proposals. But did that answer
9 your question?

10 MR. MCCLURE: So then it'd be accurate
11 to say, essentially, written well proposals. And did
12 you reference any sort of public notice or anything
13 done from public standpoint?

14 MR. COFFMAN: Yeah, I believe we posted
15 notice. I -- I'll let Darin answer that question.

16 MR. MCCLURE: Yeah, I'll ask him later.
17 Now, you referenced around 500 persons. Do you mean
18 there's 500 persons owning interest that's being
19 pooled, or 500 persons that you're asking The Division
20 to force pool?

21 MR. COFFMAN: Could you repeat that?

22 MR. MCCLURE: Okay. Earlier, when you
23 said around 500 persons, were you referring to 500
24 persons owning an interest that Alpha intends to pool?

25 MR. COFFMAN: When we sent out

1 proposals initially, there were more interest owners
2 than that. I think it was closer to 900. We've come
3 to an agreement with, by that math, about 400 people,
4 to lease, or to sign a JOA. And so the 500 people
5 remaining are the ones we are seeking to pool.

6 MR. MCCLURE: Now, is the 900 persons
7 listed in this Summary of Contacts, or only the 500
8 persons?

9 MR. COFFMAN: Only the 500 persons.

10 MR. MCCLURE: Now, in the Summary of
11 Contacts, is it accurate to say that the vast, vast
12 majority of what you have included here is simply
13 August 23, 2024, well proposals sent?

14 MR. COFFMAN: Yes, that's correct.

15 MR. MCCLURE: Is it accurate to say
16 that, for the persons which you have listed, that
17 you've never received communication back from them?

18 MR. COFFMAN: For the people that I
19 have listed?

20 MR. MCCLURE: For the people for which
21 you have listed only "well proposal sent," was
22 communication ever received back from them?

23 MR. COFFMAN: It would -- it would
24 depend on which exact persons. Some -- some folks
25 have called, and/or sent -- sent elections back in.

1 And I mean, it's been hard to locate a lot of these
2 folks, but we do have receipt of the well proposal for
3 the folks listed.

4 MR. MCCLURE: Okay. If a person did
5 communicate back to you, did you indicate it in the
6 Summary of Contacts?

7 MR. COFFMAN: Yes. To the best of my
8 knowledge, yes.

9 MR. ANDERSON: Oh. Can I ask a -- oh.
10 Can I ask a question, Mr. Examiner?

11 THE HEARING EXAMINER: No. This is not
12 your opportunity to ask a question, sir.

13 MR. ANDERSON: Okay, sir.

14 MR. MCCLURE: For Mr. Anderson's
15 interest, was it originally sent to a Bobby W.
16 Anderson; is that correct?

17 MR. COFFMAN: That's correct.

18 MR. MCCLURE: Now, on your Summary of
19 Contacts, it seems to reference "been able to come to
20 an agreement"; is that accurate?

21 MR. COFFMAN: No, not -- no, it is not.
22 We were working towards an agreement with
23 Mr. Anderson.

24 MR. ANDERSON: No way.

25 MR. MCCLURE: Oh, now -- okay. Now I'm

1 looking at it, it looks like it might be
2 "interesting" -- I don't know if it's a typo or
3 what's going on here.

4 Mr. Savage, can you bring up Page 120
5 of 537? And then once you're there, if you can zoom
6 in on, kind of, towards the bottom of the page.

7 MR. SAVAGE: Okay. 120.

8 MR. MCCLURE: 120, that's correct. And
9 then towards the bottom of the page, you see that
10 "Bobby"? Yeah, yeah.

11 MR. SAVAGE: Okay. Let me zoom in.

12 MR. MCCLURE: So Mr. Coffman, is it
13 your intent that where it starts saying
14 "September 2024 to present," that's the communication
15 for Bobby Anderson, and not Bobby Campos; is that
16 correct?

17 MR. COFFMAN: That's correct. I
18 believe the Bobby Anderson line should start on the
19 September 30, 2024, when we discussed his interest in
20 potentially leasing.

21 MR. MCCLURE: Oh. Actually, now that
22 I'm continuing to look at it, is that correct, or
23 should it actually start on the October 21, 2024,
24 then?

25 MR. COFFMAN: Yeah, you're correct.

1 We -- we sent the well proposal on August 21, 2024.
2 That's -- that's where that interest should start.

3 MR. MCCLURE: Okay. So all four of
4 those lines are supposed to be a part of the Bobby
5 Anderson communication then; is that correct?

6 MR. COFFMAN: Yes, sir.

7 MR. MCCLURE: In regards to the
8 proposal sent to Nickel, it appears that there's two
9 persons listed in which Nickel is referenced in the
10 Summary of Contacts?

11 MR. COFFMAN: That's correct.

12 MR. MCCLURE: Sophie Charles Morrison,
13 and Cosme and Ofelia; and is that correct?

14 MR. COFFMAN: No, that should be -- I
15 think it's the same thing as Bobby Anderson. It
16 should be Chief Capital and Covenant Hercules.

17 MR. MCCLURE: Well, let me see why I
18 have this in my notes, then. Well, see, I have one
19 listed as being on Page 121. Actually, it looks like
20 the bulk list on Page 121. Oh, okay. I see what
21 you're saying, Mr. Coffman. Okay. So then at the top
22 of Page 121 -- oh, Mr. Savage got it up for us. The
23 Chief Capital actually begins on the next line up.

24 MR. COFFMAN: Correct. I think there's
25 some -- there's obviously some issues with this,

1 visually, but on August 21st -- let me -- let me get
2 my bearings here. Yeah, it should start on the line
3 prior.

4 MR. MCCLURE: Okay. So September 2024
5 to the present is also Chief Capital in addition to
6 that August 21st line, then?

7 MR. COFFMAN: The Charles Morrison
8 should start on -- that's the September 2024 to
9 December 2024, along with the October 24, 2024, for
10 Charles Morrison. And then the "August 21, 2024, well
11 proposal sent to predecessor in title," being Nickel
12 River Royalties, should be Chief Capital.

13 MR. MCCLURE: Okay. Yep. Okay. I'm
14 making a lot more better understanding, I guess, of
15 your Summary of Contacts now. It appears that, in
16 your Excel, you had your names at the bottom -- lined
17 up at the bottom of that cell, instead of the top of
18 the cell, and you probably had them all merged, then;
19 does that sound likely accurate for this entire table,
20 then?

21 MR. COFFMAN: Yes, sir.

22 MR. MCCLURE: Are you familiar with the
23 interests of the Christian Capstone and Crusader
24 Royalties?

25 MR. COFFMAN: Yes, I believe that's

1 tied with the Chief Capital and Covenant Hercules
2 interest.

3 MR. MCCLURE: Okay. So then, you
4 reached out solely to Chief and Covenant, and these
5 interests are a part of those, in your understanding;
6 is that correct?

7 MR. COFFMAN: I believe the other two
8 entities own a royalty interest or an override, only.
9 And so they would not be entitled to a well proposal.

10 MR. MCCLURE: And by those entities
11 you're referring to this Christian Capstone and
12 Crusader Royalties?

13 MR. COFFMAN: Yes, sir.

14 MR. MCCLURE: Okay. So is Christian
15 Capstone and Crusader Royalties being requested for
16 The Division to force pool in this case?

17 MR. COFFMAN: No, sir.

18 MR. MCCLURE: Are you familiar with the
19 interest that Mr. Samaniego is purported to own in?

20 MR. COFFMAN: Yes, I'm familiar.

21 MR. MCCLURE: Are those interests tied
22 solely to that SAIK Number 1 well?

23 MR. COFFMAN: We don't believe he owns
24 wellbore or leaseholder rights.

25 MR. MCCLURE: Is it your understanding

1 that the reason he believes he does is because of
2 that -- and I might be pronouncing the well name
3 wrong, SAIK Number 1, or SAIK Number 1. Are you
4 familiar with the well I'm referring to?

5 MR. COFFMAN: Yes, sir.

6 MR. MCCLURE: And addition to that, is
7 that the reason that Mr. Samaniego believes he has a
8 right in the unit -- proposed unit?

9 MR. COFFMAN: Yes, I think that's he
10 believes such.

11 MR. MCCLURE: Are you -- is Alpha
12 requesting The Division to force pool Mr. Samaniego in
13 this case?

14 MR. COFFMAN: No, because he's not an
15 interest owner.

16 MR. MCCLURE: Earlier, when you adopted
17 your written testimony, you referenced that there's a
18 typo on R.C. Bennett Co. interest; is that correct?

19 MR. COFFMAN: Yes, sir.

20 MR. MCCLURE: What is the nature of
21 that typo?

22 MR. COFFMAN: I believe I added a five
23 in front of their original net acreage.

24 MR. MCCLURE: I think I have listed it
25 being on Page 86; does that look right, Mr. Savage?

1 If you want to go there, it's towards the top of
2 Page 86, sort of, if I'm looking at the right page, at
3 least.

4 Does this look like the right page,
5 Mr. Coffman, or?

6 MR. COFFMAN: No, sir. It should be on
7 my Unit Recapitulation. It's correct in this -- on
8 this page.

9 MR. MCCLURE: Okay. I see. So is it
10 Page 90, then? Oh. Okay. Yeah, I can see your -- I
11 see what I assume is your typo, then. Okay. So
12 what -- do you see where it says "52.098,"
13 Mr. Coffman?

14 MR. COFFMAN: Yes, sir.

15 MR. MCCLURE: What should that actually
16 say, I guess?

17 MR. COFFMAN: It should say 2.09.

18 MR. MCCLURE: Okay. Thank you, sir.

19 And, Mr. Savage, I apologize for going
20 all over the place, but actually, I did miss some my
21 questions for the Summary of Contacts. Page 121, if
22 you could please, sir.

23 Mr. Coffman, talking again about Chief
24 Capital's Summary of Contacts here, you referenced
25 that you're working to confirm purported ownership?

1 MR. COFFMAN: Yes, sir.

2 MR. MCCLURE: What do you mean by that?

3 MR. COFFMAN: Chief Capital, and
4 Covenant Hercules, and Alpha have a disagreement on
5 the quantum of interest that each of those entities
6 own.

7 MR. MCCLURE: Has this went to District
8 Court, or is it just a communication between the
9 persons, at this point?

10 MR. COFFMAN: Just communication
11 between the persons, at this point.

12 MR. MCCLURE: Can you provide a little
13 bit more information regarding those communications,
14 and negotiation that's taken effect to this point?

15 MR. COFFMAN: We've communicated about
16 what Chief Capital and Covenant claim to own, and have
17 confirmed with them their undisputed acreage, as shown
18 in the -- the Unit Recapitulation. But as for the
19 contested acreage, the dispute of acreage, we're still
20 working to confirm that number.

21 MR. MCCLURE: Okay. So would it be
22 more accurate -- or would it be accurate to say that
23 your current discussion with them is mostly centered
24 around how much acreage each entity owns?

25 MR. COFFMAN: Correct.

1 MR. MCCLURE: In regards to your
2 negotiations regarding the pooling agreements, what is
3 the state of that negotiation?

4 MR. COFFMAN: Chief requested the JOA
5 earlier this week. Maybe it was last -- it was last
6 week, and I provided that to them. Covenant has not
7 requested JOA, but we had sent well proposals to Chief
8 and to Covenant as supplements, in February.

9 MR. MCCLURE: So did that occur after
10 this exhibit was produced, then?

11 MR. COFFMAN: No. It was -- it was
12 as -- as a courtesy. So we -- we proposed Nickel
13 River, their predecessor in title, and then as a
14 courtesy, sent proposals to Chief and Covenant.

15 MR. MCCLURE: I guess, let me ask you
16 the question again. Unless I'm missing it, I don't
17 see where you say that you sent JOA to Chief, in this
18 Summary of Contacts?

19 MR. COFFMAN: You are correct.

20 MR. MCCLURE: Is it correct that it's
21 not there? Okay.

22 MR. COFFMAN: Correct. That --

23 MR. MCCLURE: Why is it not there?

24 MR. COFFMAN: That -- that happened
25 after this was rendered.

1 MR. MCCLURE: Okay. Thank you. That
2 was what my question was. In regards to Covenant, it
3 sounded like you already responded that they have not
4 requested a JOA; is that accurate?

5 MR. COFFMAN: That's correct.

6 MR. MCCLURE: And is your discussions
7 with them also centered on the disputed acreage?

8 MR. COFFMAN: Yes. Chief and
9 Covenant's interest derive from the same acreage in
10 dispute.

11 MR. MCCLURE: But your discussions with
12 Covenant, are they separate in your discussions from
13 Chief?

14 MR. COFFMAN: With regards to the JOA
15 request, yes.

16 MR. MCCLURE: Okay. But in regards to
17 the disputed acreage, the dispute is derived from the
18 same source, it sounds like; is that correct?

19 MR. COFFMAN: That's correct. Chief
20 Capital owns 75 percent of the interest, and Covenant
21 Hercules owns 25 percent of the interest.

22 MR. MCCLURE: And you're discussing the
23 dispute of whether this lease is -- the current
24 status, you're discussing the current status of this
25 lease separately with these persons, or is it a joint

1 discussion on their side?

2 MR. COFFMAN: I believe it's separate.

3 MR. MCCLURE: Okay. So then, is it
4 accurate to say that most of your discussions with
5 Covenant are centered around this disputed acreage?

6 MR. COFFMAN: That's correct.

7 MR. MCCLURE: So Mr. Savage, if I can
8 redirect us to Page 114, is what I have listed. And
9 you may end up having to scroll up.

10 But Mr. Coffman, are you familiar with
11 this table?

12 MR. COFFMAN: Yes, sir.

13 MR. MCCLURE: I guess, the top of the
14 table is Page 103. Is this the list of persons that
15 Alpha is requesting The Division to force pool?

16 MR. COFFMAN: Yes, sir.

17 MR. MCCLURE: If we now scroll back
18 down to 114, please, Mr. Savage.

19 Listed about two thirds of the way
20 down, it's only on this page, that's a working
21 interest instead of a unleased mineral interest owner.
22 Is Alpha asking The Division to force pool Sarvis
23 Creek Energy LLC?

24 MR. COFFMAN: Yes, sir.

25 MR. MCCLURE: Is this the same entity

1 that is referenced as being committed in the Summary
2 of Ownership?

3 MR. COFFMAN: Yes, sir.

4 MR. MCCLURE: So if they're committed,
5 why is Alpha asking The Division to force pool them?

6 MR. COFFMAN: We've been in
7 negotiations with an operating agreement with Sarvis,
8 and we -- we hope that that'll be signed. But as of
9 this date, it has not been signed.

10 MR. MCCLURE: Okay. So then would it
11 be accurate to say that Sarvis will likely be
12 committed, but at the point of the hearing, they are
13 not?

14 MR. COFFMAN: Correct.

15 MR. MCCLURE: Thank you Mr. Coffman.

16 Thank you Mr. Hearing Examiner. I
17 don't have any further questioning -- or questions for
18 this witness.

19 THE HEARING EXAMINER: Thank you.

20 MR. MCCLURE: But I would like to ask
21 Mr. Savage a question at the end, or whenever you'd
22 like me to.

23 THE HEARING EXAMINER: This would be a
24 good time.

25 MR. MCCLURE: Okay.

1 Mr. Savage, if I can direct your
2 attention to Page 144. It should be your
3 self-affirmed statement.

4 MR. SAVAGE: Okay.

5 MR. MCCLURE: Here's what I'm looking
6 at. It's Paragraph 1. Is it accurate to say that you
7 have, like -- or is it -- is there, like -- was there
8 three notices that were conducted for this case?

9 MR. SAVAGE: There were -- there was
10 one bulk notice, and that was the set of letters
11 mailed on January 23rd. Then we had our publication
12 notice, and that was January 25th. But then we
13 had -- so we had -- in the bulk mailing, we had sent
14 the notice letter to Nickel.

15 And so to account for that, on
16 January 29th, which was well within the notice period
17 prior to the hearing, we sent notice letters to
18 Covenant and Chief to make sure that notice is
19 provided for them. And that's noted in the statement.

20 MR. MCCLURE: Yeah. In your statement,
21 it looks like you have three different dates listed,
22 but it looks like there is written letters before
23 different dates. But I guess, I'm not sure if there's
24 a typo, or it was four different. Because it looks
25 like, in addition to your three dates you have listed

1 here, there's a letter listed for February 18th, which
2 is nearly at the bottom, Page 532.

3 MR. SAVAGE: Oh, yes.

4 MR. MCCLURE: Do you know what the
5 story is with that notice?

6 MR. SAVAGE: Yes. Yes. So I
7 believe -- February 18th, I believe -- there was a
8 notice issue with Magnum Hunter, and their counsel is
9 available -- is here today. So we sent a
10 late -- actually late notice letter to Magnum, but we
11 followed up with an email. And did we include that
12 email? Let's see.

13 MR. MCCLURE: There is an email here,
14 on Page 529, if that's the one you're referring to?

15 MR. SAVAGE: Yes. We had an email and
16 they -- Magnum waived the notice. So it's, you know,
17 their right to do so. That is my understanding of the
18 meaning of the email. You said 520 --

19 MR. MCCLURE: 529, there's an email
20 listed here, and it says, "See below from
21 Coterra/Magnum Hunter." Well, it looks like an email
22 from Mr. Coffman to yourself, and some other
23 individuals at your law firm.

24 MR. SAVAGE: Right.

25 MR. MCCLURE: Yeah. This is the email

1 you're referring to?

2 MR. SAVAGE: That's correct. And that
3 was -- Mr. Coffman sent that email to personnel in
4 Coterra, to address that oversight of notice, and they
5 responded favorably. So we believe that that has been
6 waived.

7 Here's the -- and we did, you know,
8 effort to send them an actual letter, but that letter,
9 you know, is -- did not meet the deadline. But
10 the -- but we believe that the waiver accounts for
11 that.

12 MR. MCCLURE: Okay. So then the letter
13 that's dated for February 18th was sent only to Magnum
14 Hunter?

15 MR. SAVAGE: That's --

16 MR. MCCLURE: That's your
17 understanding; right?

18 MR. SAVAGE: That correct. And
19 so -- and to add some more color to this, so we did
20 attempt to send a letter to Magnum. It wasn't like we
21 completely missed their ownership and their need for
22 notice.

23 So on the January 23rd, that's why that
24 letter dated January 23rd is above the February 18th.
25 So we did send it. It was bumped back. It was

1 returned. And then we checked the address, and
2 the -- we updated the address, and that's -- but we
3 didn't realize -- we didn't receive it back until
4 after the notice period had crossed the deadline.

5 So we did prior -- January 23rd, prior
6 to the hearing, we tried, we made an effort, but, you
7 know, we had a invalid address. And so then we made
8 up for that with the February 18th letter, the best we
9 could. And then Alpha notified Coterra on that
10 matter, and got a favorable response.

11 MR. MCCLURE: Okay. Now, the notice
12 that was sent out on January 29th, that letter is on
13 Page 148. Well, your screen doesn't have the --

14 MR. SAVAGE: No.

15 MR. MCCLURE: Just type in the page
16 number. Is it -- it's -- you're way too high. It's
17 Page 148.

18 MR. SAVAGE: Okay.

19 MR. MCCLURE: It looks like we're
20 missing the second half of this page, but you
21 agree -- you in agreement with my assessment here?

22 MR. SAVAGE: Yes.

23 MR. MCCLURE: Okay. But the second
24 half of that page, it should be the same as the rest
25 of the pages; right? It's --

1 MR. SAVAGE: That's correct. It
2 would --

3 MR. MCCLURE: -- that was sent out?

4 MR. SAVAGE: That's correct. It would
5 look like this page.

6 MR. MCCLURE: Okay. And where is the
7 tracking information for this notice, the January 29th
8 notice?

9 MR. SAVAGE: Okay. It's in there
10 somewhere. Let me see if I can --

11 MR. MCCLURE: In the 300 pages?

12 MR. SAVAGE: Yes. I -- Mr. McClure, I
13 can certainly provide that for you, but I might sit
14 here and --

15 MR. MCCLURE: Okay. I -- well, I
16 guess, so that we don't sit here looking for it, can
17 you please look on the back on -- after this hearing,
18 I guess, --

19 MR. SAVAGE: Yes.

20 MR. MCCLURE: -- and see if you can
21 locate the January 29th tracking, as well as the
22 February 18th tracking.

23 MR. SAVAGE: Yes.

24 MR. MCCLURE: And perhaps it's here,
25 and I'm missing it. But I didn't happen to see it, I

1 guess. But there's a number of pages, so who knows.

2 MR. SAVAGE: It should --

3 MR. MCCLURE: In addition to -- oh. Go
4 ahead, Mr. Savage?

5 MR. SAVAGE: No, I was just saying, it
6 should be accounted for, but we'll confirm that.

7 MR. MCCLURE: Very good. And in
8 addition to that, if we could also amend that
9 January 29th letter to include the entirety of that
10 letter?

11 MR. SAVAGE: Yes, sir.

12 MR. MCCLURE: And in addition to that,
13 I'll --

14 Mr. Hearing Examiner, you may want me
15 to continue at the end, but can I ask Mr. Savage for
16 one additional thing to submit in an amended exhibit
17 packet?

18 THE HEARING EXAMINER: Sure.

19 MR. MCCLURE: Mr. Savage, in addition
20 to this tracking, and this January 29th letter, can we
21 correct that -- can we amend the Summary of Contacts
22 to make it easier to see which descriptions go with
23 each person? I assume that could probably easily
24 would be done by simply aligning it at the top of the
25 cell, so we can see where the start of the

1 communication is for each person.

2 MR. SAVAGE: Yes, Mr. McClure. That
3 was the matters you and John -- Mr. Coffman discussed
4 as we were looking through that, the misalignment.

5 MR. MCCLURE: Yes, sir. So
6 you -- okay. Sounds very good..

7 MR. SAVAGE: Yeah.

8 MR. MCCLURE: Mr. Hearing Examiner,
9 that was the -- I mean, I assume they were planning on
10 correcting the typo in their summary of interest as
11 well.

12 Is that correct, Mr. Savage?

13 MR. SAVAGE: Yes, sir.

14 MR. MCCLURE: Okay. Thank you,
15 Mr. Examiner. I don't have anything else at this
16 point.

17 THE HEARING EXAMINER: Thank you,
18 Mr. McClure.

19 Mr. Savage, is there any redirect based
20 on the cross-examination?

21 MR. SAVAGE: So Mr. Examiner, regarding
22 Ms. Luck's questions, I think a lot of information was
23 provided for the OCD on that. And I don't think I
24 want to continue to redirect on that. I think I'd be
25 redundant.

1 In terms of Mr. McClure's there's only
2 one area that I'd like to do some redirect and that
3 regards, Mr. Anderson, regarding the lease that was
4 offered, and in that matter. So if I can -- there is
5 a supplemental exhibit that addresses this. If -- I
6 won't pull it up here, but I'll look at it.

7 THE HEARING EXAMINER: Mr. Savage, the
8 exhibit stands on its own.

9 MR. SAVAGE: Yes.

10 THE HEARING EXAMINER: Any redirect
11 that you offer will be now subject to recross. And I
12 wonder whether or not you think it's necessary to
13 redirect on an exhibit that's been admitted into
14 evidence?

15 MR. SAVAGE: Well, I would like to
16 redirect some questions in that regard.

17 REDIRECT EXAMINATION

18 BY MR. SAVAGE:

19 MR. SAVAGE: Okay. So Mr. Coffman,
20 what did you do to reach out to Mr. Anderson, Warren
21 Anderson, and Lily Anderson?

22 MR. COFFMAN: We sent them well
23 proposals, and they communicated back that they would
24 like to lease.

25 MR. SAVAGE: And so you --

1 MR. ANDERSON: No way.

2 MR. SAVAGE: You sent them a lease --

3 THE HEARING EXAMINER: Ms. Tschantz,
4 can you mute Mr. Anderson?

5 And, Mr. Anderson, if you continue to
6 speak out of turn, I'm going to have to permanently
7 mute your mic, and you won't be able to participate in
8 today's hearing the way I would like you to be able
9 to. So please refrain from interrupting,
10 Mr. Anderson. Thank you.

11 MR. SAVAGE: Mr. -- you sent them a
12 lease?

13 MR. COFFMAN: That's correct.

14 MR. SAVAGE: How much interest do they
15 own?

16 MR. COFFMAN: I believe they own 0.27
17 net acres.

18 MR. SAVAGE: And you consider that a
19 very, very small interest; is that correct?

20 MR. COFFMAN: Correct.

21 MR. SAVAGE: Okay. What is the fair
22 market value for royalty for acreage this unit?

23 MR. COFFMAN: Anywhere from
24 three-sixteenths to a quarter of royalty.

25 MR. SAVAGE: Three-sixteenths to a

1 quarter of royalty. And did the lease that you
2 send -- sent Mr. Anderson, was that in the range of
3 fair market value?

4 MR. COFFMAN: Yes.

5 MR. SAVAGE: Okay. What did
6 Mr. Anderson counter with, in the amount of royalty
7 that he demanded?

8 MR. COFFMAN: I -- I believe he
9 countered with 50 percent.

10 MR. SAVAGE: 50 percent. So there's
11 quite a bit of difference, would you -- what is fair
12 market value for, let's say, a lease bonus for this
13 amount of acreage, 0.27 net acres?

14 MR. COFFMAN: It depends on the
15 negotiations with the mineral owner, but we're around
16 \$3,500 an acre.

17 MR. SAVAGE: \$3,500. So it would be
18 less than \$3,500 in this regard?

19 MR. COFFMAN: About a quarter of that,
20 yes, sir.

21 MR. SAVAGE: And did you offer a lease
22 bonus in that -- in the fair market range?

23 MS. COFFMAN: Yes, sir.

24 MS. SAVAGE: And what did Mr. Anderson
25 come back with as a counter?

1 MR. COFFMAN: I believe he wanted
2 \$50,000.

3 MR. SAVAGE: Was it just \$50,000, or
4 did -- was there, like, other stipulations in the
5 lease?

6 MR. COFFMAN: Yeah, it was \$50,000, I
7 believe, to sign; \$50,000 to file the memo of oil and
8 gas lease; and \$50,000 to add the addendum to the oil
9 and gas lease.

10 MR. SAVAGE: And in your professional
11 opinion, in your experience as a landman doing
12 negotiations in this area, how did you view those
13 requirements or demands from Mr. Anderson?

14 MR. COFFMAN: Extremely high.

15 MR. SAVAGE: Did you view them as
16 reasonable or unreasonable?

17 MR. COFFMAN: Unreasonable.
18 Unreasonable.

19 MR. SAVAGE: Mr. Hearing Examiner, I
20 have no further questions.

21 THE HEARING EXAMINER: Are there
22 cross-examination questions based on this redirect
23 line of questions?

24 MS. LUCK: And, Mr. Hearing Examiner,
25 sorry. I was just looking for that page earlier and

1 I'd like to just quickly just ask two more questions
2 of this witness. I'm sorry. If you don't mind?

3 THE HEARING EXAMINER: I'm sorry. What
4 are you --

5 MS. LUCK: I'm sorry. When I
6 was -- before I turned over my time -- I'm sorry -- I
7 was looking for the total amount of my client's
8 interest. And I just wanted to confirm those with
9 this witness on the record before he leaves the stand.

10 THE HEARING EXAMINER: He already
11 testified on the record to your clients -- what he
12 believes your clients' interest are.

13 MS. LUCK: Okay. And I think that it's
14 important for me to just confirm that the amount shown
15 on the total Unit Recapitulation is all, and that he
16 doesn't recognize any royalty interests, or any other
17 interests in the unit, whether that's unleased -- I'm
18 not sure if this is --

19 MR. SAVAGE: I'll object to that.

20 MS. LUCK: -- reflective of working
21 interest only. And I'm sorry. I was looking for this
22 page earlier. But I mean, we don't have to return to
23 this question, but I would like to just confirm.

24 THE HEARING EXAMINER: Right. So
25 what's the nature of the objection?

1 MR. SAVAGE: Nature of objection is
2 it's irrelevant because it's -- she admitted that it
3 was a royalty interest, and royalty interests don't
4 get pooled. So I don't understand what the concern is
5 here.

6 THE HEARING EXAMINER: Ms. Luck?

7 MS. LUCK: And again, I'd just like to
8 confirm on the record exactly what he's claiming the
9 nature of my clients' interests are in this unit, just
10 so we have a clear record as to what the 3.12 for
11 Covenant means, and what the 9.38 for Chief Capital
12 means.

13 THE HEARING EXAMINER: Do you mean that
14 the answers he gave before were not clarifying enough?

15 MS. LUCK: Yes. And I'm sorry. I was
16 trying to find this page earlier, but then I turned
17 over my time because I didn't want everyone to keep
18 waiting for me to find this page that gives this total
19 unit amount that they -- that he claims that they own
20 within the unit.

21 And I just want to confirm whether he's
22 claiming that includes any unleased mineral interest
23 ownership, whether that includes any royalty
24 interests, or if that's only a working interest in
25 this unit.

1 THE HEARING EXAMINER: Mr. Savage are
2 those questions answered in the exhibits?

3 MR. SAVAGE: I believe so. Mr. Coffman
4 can confirm that, but I believe that they
5 are -- the -- all the working interests, all the
6 working -- uncommitted working interests that Alpha
7 believes Chief and Covenant own are listed, and
8 royalty interest is not pooled. So we do would list
9 royalty interest as uncommitted working interests.

10 THE HEARING EXAMINER: So I mean,
11 procedurally, I would sustain the objection. Okay?

12 But what I'm confused about, Ms. Luck,
13 is that it seems as though the information you're
14 asking about has already been laid out in the
15 exhibits. Because, as Mr. Savage just said, if it's a
16 working interest, then the acreage was in the
17 exhibits. And if it's a royalty interest, then it
18 wouldn't be. So I don't understand what you -- what
19 question you might have?

20 MS. LUCK: Well, I just want to clarify
21 with this witness, because I understand that if it was
22 a royalty interest, it might not have been pooled, but
23 there's other -- there's a working interest that could
24 be pooled, or it could be an unleased mineral
25 interest.

1 And so that's why I just want to be
2 clear what they mean by "uncommitted" in their
3 exhibits, whether they're meaning that this total unit
4 recap is including both unleased and working interest.

5 THE HEARING EXAMINER: Okay. I will
6 allow you to ask that one question. So I'm going to
7 overrule the objection. Ask that one question,
8 Ms. Luck.

9 RE CROSS-EXAMINATION

10 BY MS. LUCK:

11 MS. LUCK: Okay. So turning to Page 91
12 of your exhibits --

13 THE HEARING EXAMINER: Mr. Savage,
14 please?

15 MS. SAVAGE: Oh.

16 THE HEARING EXAMINER: Ms. Luck, is
17 this -- where on this are you looking?

18 MS. LUCK: Sorry. At the top of
19 Page 91, it gives the -- or might just be about, like,
20 a third --

21 THE HEARING EXAMINER: I see it.

22 MS. LUCK: -- half way down.

23 THE HEARING EXAMINER: "Covenant,
24 Chief"?

25 MS. LUCK: Covenant and Chief, yes.

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1 And so I just want to confirm,
2 Mr. Coffman what these numbers stand for. Could you
3 explain to me what these interests are comprised of?

4 MR. COFFMAN: That would include
5 Covenant and Chief's leasehold and unleased mineral
6 interest ownership within this unit.

7 MS. LUCK: Okay. And just one --

8 THE HEARING EXAMINER: No, no. That
9 was the one question.

10 MS. LUCK: No follow up questions?
11 Okay.

12 THE HEARING EXAMINER: So he answered
13 your question.

14 MS. LUCK: Okay.

15 THE HEARING EXAMINER: Okay. All
16 right.

17 Okay. So are there any recross on the
18 line of questions that Mr. Savage redirected?

19 MS. LUCK: Well, I'd like to know
20 whether or not Alpha has an interest in every tract
21 that's included in this pooled spacing unit, whether
22 they believe they start these wells without the
23 pooling order?

24 THE HEARING EXAMINER: Was that part of
25 your redirect?

1 MR. SAVAGE: I don't believe so. I
2 think I focused on Warren Anderson.

3 THE HEARING EXAMINER: Exactly.
4 He's -- this -- he asked this witness specifically
5 about an a supplemental exhibit. Do you have any
6 recross on that?

7 MS. LUCK: Nothing further on
8 Mr. Anderson.

9 THE HEARING EXAMINER: Thank you,
10 Ms. Luck.

11 Ms. Vance?

12 MS. VANCE: No questions, but I did
13 want to state on the record, regarding the question of
14 the nature of the negotiations between Sarvis and
15 Alpha. I just want to confirm that Sarvis agrees with
16 the characterization; it doesn't have any issue with
17 the testimony provided by Mr. Coffman.

18 THE HEARING EXAMINER: Okay. Thank
19 you.

20 Mr. Kennedy, is there any recross on
21 the redirect?

22 MR. KENNEDY: There's not.

23 THE HEARING EXAMINER: Thank you, sir.

24 Mr. Anderson, this is your opportunity
25 to cross examine this witness based on the

1 redirect -- based on the supplemental exhibit. Have
2 you seen the supplemental exhibit, Mr. Anderson?

3 MR. ANDERSON: Yes, I believe -- I
4 believe I have it, right here, Memorandum Of Oil, Gas
5 And Mineral Lease"?

6 THE HEARING EXAMINER: Let me look so I
7 can confirm, because I'm not going to ask. Hold on
8 one minute. And you can find these documents, if you
9 don't know where to look -- no, sir. This is a
10 document that was filed on the 3rd of March. It is a
11 14-page document.

12 It says "Supplement to Self-Affirmed
13 Statement of John Coffman." That's what Mr. Savage
14 asked questions to this witness about. Have you seen
15 this?

16 MR. ANDERSON: I don't -- I don't think
17 so.

18 THE HEARING EXAMINER: All right. Do
19 you know how to get onto our imaging system?

20 MR. ANDERSON: Right now?

21 THE HEARING EXAMINER: Okay. Let's
22 forget I asked that question, sir. Do you have any
23 questions based on the answers this witness just gave?

24 MR. SAVAGE: Mr. Hearing Examiner. I'm
25 sorry --

1 MR. ANDERSON: I do --

2 MR. SAVAGE: I don't mean to interrupt,
3 but if I could clarify. He said the "Memorandum Of
4 Oil And Gas Mineral Lease," and that is actually an
5 exhibit --

6 THE HEARING EXAMINER: Oh.

7 MR. SAVAGE: -- to the supplement.

8 THE HEARING EXAMINER: Okay.

9 MR. SAVAGE: So I think he's -- I think
10 he has something there.

11 THE HEARING EXAMINER: Okay.

12 MR. SAVAGE: So if he -- if -- but he
13 needs to scroll up. So that's in Exhibit 1. If he
14 would -- Mr. Anderson would scroll up.

15 RECROSS-EXAMINATION

16 BY MR. ANDERSON:

17 MR. ANDERSON: I -- I have -- I have
18 just what you said. I didn't -- I didn't ask for
19 50,000, 50,000, 50,000.

20 THE HEARING EXAMINER: Mr. Anderson --

21 MR. ANDERSON: You guys sent me --

22 THE HEARING EXAMINER: Mr. Anderson,
23 let me interrupt you. And please, please understand
24 that we have a -- we have a procedure that we go
25 through to collect evidence at a hearing. And you're

1 not under oath right now, so anything you say is not
2 evidence.

3 So the only way for you to get evidence
4 in, at this point, with this witness, is to ask him
5 questions, because he is under oath. Do you
6 understand what I mean?

7 MR. ANDERSON: Okay. Yes.

8 THE HEARING EXAMINER: So if you heard
9 something that this witness said that you think is not
10 true, then ask him a question to show that to The
11 Division. Or if you need more information from this
12 witness, based on what he said a few minutes ago, then
13 ask him a question.

14 MR. ANDERSON: Okay. On -- on the
15 document, sir, on the document that you are referring
16 to, where did you -- where did you get those numbers?

17 MR. COFFMAN: Those numbers are the
18 ones that were written on the lease that we had
19 provided, and sent back to us as changes.

20 MR. ANDERSON: I don't -- I
21 don't -- if -- if that's so, I don't think you read it
22 right, because I did not write anything like that.

23 THE HEARING EXAMINER: Mr. Anderson,
24 again, what you say is not evidence. So you just ask
25 questions. Okay? Just ask questions. Can you see

1 what's pulled up on the screen, right now?

2 MR. ANDERSON: I can.

3 THE HEARING EXAMINER: Okay. Now, do
4 you have any other questions for this witness?

5 MR. ANDERSON: I would -- I would just
6 like to know where -- where he got that from, and how
7 he came to that. And I don't get that from what's on
8 the screen.

9 THE HEARING EXAMINER: Okay.

10 Mr. Coffman, the question is, how did
11 you receive this exhibit?

12 Is this Exhibit 1, Mr. Savage?

13 MR. SAVAGE: Yes, sir.

14 THE HEARING EXAMINER: Exhibit 1. This
15 is marked as Exhibit 1, we're talking about. How did
16 you receive this?

17 MR. COFFMAN: Either as a PDF through
18 email, or in the mail. I can't -- I can't remember
19 which.

20 THE HEARING EXAMINER: Okay. That
21 answered the question that you just asked,
22 Mr. Anderson. Do you have any other questions?

23 MR. ANDERSON: Yes.

24 How -- how do you come up with
25 those -- I -- I don't -- how do you come up with those

1 numbers from the form that you have that you are
2 showing?

3 MR. COFFMAN: On the right-hand side,
4 it says "The lessee will pay the lessor \$50,000
5 upfront before any of this Memorandum Of Oil And Gas
6 Lease And Mineral Lease can take effect or be put in
7 place."

8 THE HEARING EXAMINER: And then didn't
9 you say, Mr. Coffman, that there was another 50,000
10 somewhere else in this document?

11 MR. COFFMAN: Yes, sir.

12 THE HEARING EXAMINER: Where is that?
13 What happened? Who's changing the
14 screen?

15 MR. SAVAGE: Excuse me.

16 THE HEARING EXAMINER: Was there
17 another 50,000 you were referencing, Mr. Coffman?

18 MR. COFFMAN: There should be.
19 I'm -- I'm not sure if it's in this exhibit.

20 THE HEARING EXAMINER: Is this the
21 entire document, Mr. Savage?

22 MR. SAVAGE: Another -- the -- this is
23 just a Memorandum of Oil and Gas Lease, as I
24 understand, was -- that Mr. Anderson marked up. But
25 it does not reflect the full negotiations that

1 Mr. Coffman and Mr. Anderson entered into. So it just
2 references certain items of that full discussion.

3 THE HEARING EXAMINER: Okay. Well,
4 Mr. Anderson is asking Mr. Coffman -- he said before,
5 \$100,000. I think you referenced it in your
6 questions. So Mr. Anderson is asking Mr. Coffman,
7 "Okay. So you're saying \$100,000. I want \$100,000 as
8 a signing bonus. Here's 50,000 of it. Where was the
9 other 50,000?

10 MR. COFFMAN: It was lower in the
11 agreement.

12 THE HEARING EXAMINER: Okay. All
13 right.

14 So Mr. Anderson, that answers that
15 question that you asked. Do you have any other
16 questions?

17 MR. ANDERSON: Okay. If you -- if you
18 have this paperwork, do you have the Order for Payment
19 Application?

20 MR. COFFMAN: Yes.

21 MR. ANDERSON: Could you put that on
22 the screen?

23 MR. COFFMAN: I don't believe that was
24 filed in the exhibit.

25 MR. ANDERSON: Oh, it -- how come it

1 wasn't filed, and this was filed, because -- well, how
2 come it wasn't filed?

3 MR. COFFMAN: There it is. It is
4 filed.

5 THE HEARING EXAMINER: What exhibit is
6 this, Mr. Savage?

7 MR. SAVAGE: This is part of Exhibit 1.

8 THE HEARING EXAMINER: All part of
9 Exhibit 1. We're on Page 4 of Exhibit 1?

10 MR. SAVAGE: Page 8 of the supplement.

11 THE HEARING EXAMINER: This is Page 8.
12 Okay. Thank you.

13 Is this what you're looking for,
14 Mr. Anderson?

15 MR. ANDERSON: This is -- this is not
16 it. I'm looking for the Order for Payment.

17 THE HEARING EXAMINER: Okay. There it
18 is.

19 MR. ANDERSON: Oh.

20 THE HEARING EXAMINER: Is there a
21 question based on this, sir?

22 MR. ANDERSON: Yes. The -- the
23 question is how could -- how could you derive that I
24 asked for \$150,000 from this?

25 MR. COFFMAN: This is not where that

1 reference comes from. It's up higher in Exhibit 1.

2 THE HEARING EXAMINER: Can you just
3 answer the question fully? Where do you get the
4 100,000 from?

5 MR. COFFMAN: I get the 100,000 from
6 the lease that was marked up and sent back to us.

7 THE HEARING EXAMINER: Well, we saw
8 where the 50,000 was. Where is the other 50?

9 MR. COFFMAN: Can you scroll up a
10 little bit? It should be there. There we go.
11 There -- there it's. So there's 50,000 on the memo,
12 Memo of Oil and Gas Lease, and that this lease shows
13 there, that -- the 50 percent royalty request. And if
14 you continue to scroll down. Some more. There's the
15 addendum. "For the addendum to be valid, lessor would
16 like \$50,000 upfront."

17 THE HEARING EXAMINER: Mr. Anderson,
18 any other questions?

19 MR. ANDERSON: Sir, could that be the
20 same 50? Could you be -- could you be making a
21 mistake saying 150,000, where -- where there
22 is -- where the -- where I'm -- I'm saying 50,000 one
23 time, because, and make it -- and -- I -- could you be
24 making a mistake on the 150,000, where -- and could
25 you have read it wrong?

1 MR. COFFMAN: That -- that could be the
2 case? I -- I think it's still 100,000.

3 MR. ANDERSON: Thank you.

4 THE HEARING EXAMINER: Okay. Are you
5 finished, Mr. Anderson?

6 MR. ANDERSON: Yes, sir.

7 THE HEARING EXAMINER: Thank you, sir.

8 Okay. Mr. Savage, can he be excused?

9 MR. SAVAGE: Yes.

10 THE HEARING EXAMINER: Good.

11 Okay. We're going to break for lunch.
12 It's 11:30. It's a little early, but it's a good time
13 as any. Before we break for lunch, --

14 Let me start with you, Ms. Luck. Are
15 you going to have any questions for any of the other
16 three witnesses?

17 MS. LUCK: I'd like to confirm with my
18 clients over lunch, since we're taking a break, but I
19 don't have questions anticipated at this time. I
20 would like to confirm though, whether or not Alpha has
21 an interest in every tract of the unit to be pooled,
22 and whether or not they intend to spud these wells
23 before a pooling order.

24 THE HEARING EXAMINER: Which witness do
25 you want a question?

1 MS. LUCK: I think that Mr. Coffman's
2 the appropriate witness to answer this question,
3 whether or not they have an interest in every tract of
4 the units be pooled.

5 THE HEARING EXAMINER: Mr. Coffman's
6 been excused.

7 MS. LUCK: And I'm sorry. I just
8 wasn't sure. I -- that -- I think that that might be
9 the only question that I have left, is just whether or
10 not Alpha intends to spud these wells before issuance
11 of a pooling order.

12 THE HEARING EXAMINER: Okay. But this
13 witness has been excused. If you have a question for
14 the other three witnesses, that's what I'm asking you?

15 MS. LUCK: Okay. I don't have any
16 questions for those witnesses, at this time.

17 THE HEARING EXAMINER: But you may,
18 after you consult with your clients; is that what
19 you're saying?

20 MS. LUCK: Yes. I would like to
21 confirm with them, if we're rejoining after lunch.

22 THE HEARING EXAMINER: Ms. Vance, will
23 you have any questions for the next three witnesses?

24 MS. VANCE: No.

25 THE HEARING EXAMINER: Ms. Bennett,

1 will you have any questions?

2 MR. BENNET: No, I will not.

3 THE HEARING EXAMINER: Okay. Very
4 good.

5 Mr. McClure, do you have any questions
6 for the next three witnesses?

7 MR. MCCLURE: I do not.

8 THE HEARING EXAMINER: Okay.

9 Mr. Kennedy, do you have any questions
10 for the next three witnesses?

11 Sorry, Mr. Kennedy. I can't hear you,
12 because you're muted.

13 MR. KENNEDY: I'm sorry. I may well,
14 but it won't be anything lengthy. I also want to
15 confer with my clients.

16 THE HEARING EXAMINER: Okay. Thank
17 you, sir. Appreciate it.

18 Okay. So it looks like, Mr. Savage,
19 that we're going to wrap up rather quickly after
20 lunch. So would you like to take a short lunch?

21 MR. SAVAGE: Yes. Whatever --

22 THE HEARING EXAMINER: I mean, that way
23 everyone, all -- everyone can go, and have a real
24 lunch in, maybe, half an hour or so. Does that work
25 for you? Does that work for your witnesses? I'm

1 trying to be accommodating to your witnesses because
2 they've been here all morning.

3 Okay. All right. Let's take a
4 half-hour break. That way, anyone who wants to grab
5 something can, but we'll be back on the record at
6 noon. Thank you.

7 (Off the record.)

8 THE HEARING EXAMINER: And, Mr. Savage,
9 would you call your next witness?

10 MR. SAVAGE: Yes. Thank you,
11 Mr. Hearing Examiner. I call Jason McClain.
12 Mr. Jason McClain. If you would please --

13 THE HEARING EXAMINER: Mr. McClain,
14 you're still under oath. Would you turn on your
15 microphone, please, and pull it close to you so we can
16 hear you.

17 MR. SAVAGE: Yes.

18 WHEREUPON,

19 JASON MCCLAIN,
20 called as a witness and having been first duly sworn
21 to tell the truth, the whole truth, and nothing but
22 the truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SAVAGE:

25 MR. SAVAGE: Mr. McClain, are you

1 already a -- are the geologist with Alpha Energy
2 Partners?

3 MR. MCCLAIN: Yes, I'm a
4 contract -- under contract with Alpha.

5 MR. SAVAGE: And are you familiar with
6 the subject lands in this application, and the
7 underlying geology?

8 MR. MCCLAIN: Yes.

9 MR. SAVAGE: And have you prepared and
10 reviewed the geology exhibits, including your geology
11 statement?

12 MR. MCCLAIN: Yes.

13 MR. SAVAGE: Do you have any
14 corrections to these items?

15 MR. MCCLAIN: No.

16 MR. SAVAGE: Are your exhibits accurate
17 and complete to the best of your knowledge?

18 MR. MCCLAIN: Yes, they are.

19 MR. SAVAGE: Mr. Hearing Examiner,
20 Mr. McClain is available for questions.

21 THE HEARING EXAMINER: Mr. McClain,
22 have you been accepted as an expert in geology by this
23 Division before?

24 MR. MCCLAIN: Yes, I have.

25 THE HEARING EXAMINER: Thank you.

1 Ms. Luck, any questions for this
2 witness?

3 MS. LUCK: No questions for this
4 witness. Thank you.

5 THE HEARING EXAMINER: Mr. McClure, any
6 questions for this witness?

7 MR. MCCLURE: Mr. Hearing Examiner,
8 the -- just now became live on the stream. This is
9 the first I heard. Which witness are we --

10 THE HEARING EXAMINER: I think --

11 MR. MCCLURE: -- on the stand?

12 THE HEARING EXAMINER: This is
13 Mr. McClean.

14 MR. MCCLAIN: McClain, yes.

15 THE HEARING EXAMINER: McClain. This
16 is Mr. McClain, the geologist. He was offered as an
17 expert, and Mr. Savage has already asked him if he
18 adopted his exhibits under oath. He said he did, and
19 he stands for cross -- and there's no corrections, and
20 he stands for cross-examination.

21 MR. MCCLURE: All right. Thank you,
22 Mr. Hearing Examiner. Yeah, I have no questions for
23 this witness, Mr. Hearing Examiner.

24 THE HEARING EXAMINER: All right. Does
25 anyone? If anyone has any questions, would they turn

1 on their microphone and ask the question, please?

2 MR. ANDERSON: Yes. Mr. Examiner?

3 I -- I have a -- a question.

4 THE HEARING EXAMINER: For this -- for
5 the geologist?

6 CROSS-EXAMINATION

7 BY MR. ANDERSON:

8 MR. ANDERSON: Did he -- did he survey
9 our land?

10 THE HEARING EXAMINER: He's a
11 geologist, sir.

12 MR. ANDERSON: Okay. Okay. I -- I
13 guess, I didn't understand, 'cause the screen just
14 came on, so I -- I guess, I didn't understand.

15 THE HEARING EXAMINER: I understand.
16 That's okay. This is the geologist. Do you have any
17 cross exam for the geologist?

18 MR. ANDERSON: I -- I would like to
19 know if -- if they could tell us any about the
20 backlash of -- about the environmental backlash of the
21 drilling, and production, and operations that they
22 intend to do?

23 THE HEARING EXAMINER: Mr. Savage, is
24 that an appropriate question for the geologist?

25 MR. SAVAGE: Objection to that.

1 THE HEARING EXAMINER: On what basis?

2 MR. SAVAGE: On the basis outside the
3 scope of his expertise,

4 THE HEARING EXAMINER: Mr. Anderson,
5 the -- each witness has a field of expertise, and the
6 geologist has an expertise in underground geology.
7 And that doesn't include the subject matter that
8 you're asking.

9 MR. ANDERSON: Thank you.

10 THE HEARING EXAMINER: Thank you, sir.
11 Okay. This witness may be excused.
12 Thank you, sir.

13 Would you call your next witness,
14 Mr. Savage?

15 MR. SAVAGE: Yes. I call Mr. Mark
16 McCoy.

17 THE HEARING EXAMINER: Mr. McCoy, I
18 remind you you're under oath. Please pull the
19 microphone close to you, and speak loudly.

20 Mr. Savage?

21 MR. SAVAGE: Yes.

22 //

23 //

24 //

25 //

1 WHEREUPON,

2 MARK MCCOY,

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 DIRECT EXAMINATION

7 BY MR. SAVAGE:

8 MR. SAVAGE: Mr. McCoy, are you the
9 reservoir engineer for Alpha Energy partners?

10 MR. MCCOY: Yes.

11 MR. SAVAGE: Are you familiar with the
12 reservoir engineering matters in this application and
13 case?

14 MR. MCCOY: Yes.

15 MR. SAVAGE: Is your statement accurate
16 and complete to the best of your knowledge?

17 MR. MCCOY: Yes.

18 MR. SAVAGE: You adopt it under oath?

19 MR. MCCOY: Yes.

20 MR. SAVAGE: And have you testified
21 before as an expert witness?

22 MR. MCCOY: Yes, I have.

23 MR. SAVAGE: Mr. McCoy's available for
24 questions.

25 THE HEARING EXAMINER: Okay. Does

1 he --

2 Mr. McCoy, do you have any corrections
3 that you want to make to any of your exhibits?

4 MR. MCCOY: No, I do not.

5 THE HEARING EXAMINER: Okay. Thank
6 you.

7 Ms. Luck?

8 MS. LUCK: I don't have any further
9 questions. Thank you.

10 THE HEARING EXAMINER:
11 Mr. McClain -- McClure?

12 MR. MCCLURE: No. No questions,
13 Mr. Hearing Examiner.

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

16 Does anyone have any questions for the
17 reservoir engineer?

18 CROSS-EXAMINATION

19 BY MR. ANDERSON:

20 MR. ANDERSON: Same. I have the same
21 question that I asked the geologist.

22 MR. SAVAGE: Objection.

23 MR. ANDERSON: What is the --

24 THE HEARING EXAMINER: So Mr. Anderson,
25 there's been an objection based on the scope of the

1 reservoir engineer's exhibits and testimony. And I'm
2 going to sustain the objection. I don't know that
3 there is a witness here today to testify to what you
4 asked a little while ago, but if there is, then
5 they'll answer your question.

6 MR. ANDERSON: Thank you, sir.

7 THE HEARING EXAMINER: All right. You
8 may be excused. Thank you, Mr. McCoy.

9 MR. MCCOY: Thank you.

10 THE HEARING EXAMINER: And your last
11 witness, Mr. Savage?

12 MR. SAVAGE: Mr. Jaron Simon.

13 THE HEARING EXAMINER: Thank you.

14 Mr. Simon, I remind you you're under
15 oath.

16 WHEREUPON,

17 JARON SIMON,
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 DIRECT EXAMINATION

22 BY MR. SAVAGE:

23 MR. SAVAGE: Mr. Simon, with whom are
24 you employed, and what is your position?

25 MR. SIMON: I'm the drilling engineer

1 for Paloma Permian Asset Co.

2 MR. SAVAGE: And what role does Paloma
3 play in this matter?

4 MR. SIMON: They have been dedicated
5 the operator by Alpha.

6 MR. SAVAGE: Are you familiar with the
7 drilling engineering matters in this case?

8 MR. SIMON: I am.

9 MR. SAVAGE: Is your statement accurate
10 and complete to the best of your knowledge?

11 MR. SIMON: It is.

12 MR. SAVAGE: And do you adopt it under
13 oath?

14 MR. SIMON: I do.

15 MR. SAVAGE: And have you testified
16 before, as an expert witness in this matter -- in this
17 area?

18 MR. SIMON: I have.

19 MR. SAVAGE: Mr. Simon's available for
20 questions.

21 THE HEARING EXAMINER: Thank you. Do
22 you have any corrections you want to make to any of
23 your exhibits?

24 MR. SIMON: No, sir.

25 THE HEARING EXAMINER: And I want to

1 refine the question that Mr. Savage asked you about an
2 expert. Have you been qualified as a drilling
3 engineer expertise before this Division?

4 MR. SIMON: No, sir. My last hearing
5 was in 2008, in Lovington.

6 THE HEARING EXAMINER: Okay. So let's
7 get you qualified as an expert before this Division,
8 because that's what's at issue here today.

9 MR. SAVAGE: And I apologize for that,
10 Mr. Hearing examiner. I read this statement; I
11 assumed it was the --

12 THE HEARING EXAMINER: That's okay.
13 That's my job to investigate a little further,
14 Mr. Savage.

15 MR. SAVAGE: Yes.

16 THE HEARING EXAMINER: Would you -- so
17 let's -- let me -- in your own words, what field of
18 expertise do you seek to be qualified today, before
19 this Division?

20 MR. SIMON: A drilling engineer.

21 THE HEARING EXAMINER: Drilling
22 engineer. Okay. What education do you have that goes
23 toward that expertise?

24 MR. SIMON: I have a Bachelor of
25 Science in Petroleum Engineering from Texas Tech

1 University.

2 THE HEARING EXAMINER: And when did you
3 earn it?

4 MR. SIMON: 2005.

5 THE HEARING EXAMINER: 2005. Okay.
6 And what work have you done in this field since then?

7 MR. SIMON: All facets.

8 THE HEARING EXAMINER: Give me more
9 than "all facets"?

10 MR. SIMON: So phase work from
11 engineering design, all the way through operations, to
12 completions.

13 THE HEARING EXAMINER: For who?

14 MR. SIMON: For Paloma.

15 THE HEARING EXAMINER: For Paloma?

16 MR. SIMON: Yes.

17 THE HEARING EXAMINER: What time
18 period?

19 MR. SIMON: Starting in October is when
20 we started the operational planning for the existing
21 program we have in place.

22 THE HEARING EXAMINER: What I meant
23 was, after you graduated in '05, what work had you
24 done as a drilling engineer?

25 MR. SIMON: Okay. As a drilling

1 engineer, that started in 2006. I worked for Mariner
2 Energy. That was purchased by Apache. Post that, I
3 worked for BC Operating. After leaving BC, I worked
4 contractual work for OXY for four years.

5 After leaving OXY, I went to work for
6 Total Energy Services in Midland, Texas in a
7 office-based engineering role, doing project
8 management for drilling and completions.

9 THE HEARING EXAMINER: Okay. Do you
10 have a CV?

11 MR. SIMON: Pardon?

12 THE HEARING EXAMINER: Do you have a
13 CV?

14 MR. SIMON: I do.

15 THE HEARING EXAMINER: Oh, you do have
16 a CV. Okay. And does it list the responsibilities
17 you had with each of these different organizations?

18 MR. SIMON: I do.

19 THE HEARING EXAMINER: Okay.

20 Mr. Savage, please file that with The
21 Division. I'm going to conditionally qualify him.

22 I'm sure you are qualified, but yeah,
23 The Division wants to see that, to support my
24 qualification.

25 MR. SAVAGE: We'll file that with the

1 amended application.

2 THE HEARING EXAMINER: All right.

3 So thank you, Mr. Simon. You are
4 conditionally admitted as a drilling engineer before
5 this Division, based on your CV that's forthcoming.
6 And will you mark it as an exhibit; why don't you
7 put -- I don't think it's a rebuttal exhibit. How do
8 you want to mark it, Mr. Savage?

9 MR. SAVAGE: How about supplemental?

10 THE HEARING EXAMINER: Okay. But it's
11 all going to be part of one packet that you're going
12 to submit. So do you know what number you're going to
13 give it?

14 MR. SAVAGE: So looks like he is
15 Exhibit E.

16 THE HEARING EXAMINER: Yes.

17 MR. SAVAGE: And so --

18 THE HEARING EXAMINER: E1?

19 MR. SAVAGE: Yeah. So it would be the
20 last --

21 THE HEARING EXAMINER: Okay. E1.

22 MR. SAVAGE: -- sequential number of E.

23 THE HEARING EXAMINER: Okay. Will be a
24 E1 Exhibit. Perfect. Okay. All right.

25 So we've admitted you as an expert, as

1 a drilling engineer, and you're available for
2 cross-examination.

3 Ms. Luck?

4 MS. LUCK: I would just like to ask a
5 few questions about Paloma's drilling experience in
6 Eddy County.

7 THE HEARING EXAMINER: As long as it's
8 within the scope of his self-affirmed statement,
9 because that's the only exhibit that he has submitted.

10 MS. LUCK: Okay. And based on -- can I
11 ask him questions about his experience in drilling in
12 Eddy County, New Mexico, before this unit?

13 THE HEARING EXAMINER: Well, you can
14 ask whatever you want to ask. It'll be up to
15 Mr. Savage if he objects to it. I'll make rulings
16 based on the objection. So go right ahead.

17 MS. LUCK: Thank you.

18 CROSS-EXAMINATION

19 BY MS. LUCK:

20 MS. LUCK: Thanks for being here.
21 Could you let me know what your experience was in
22 drilling in Eddy County, before this unit?

23 MR. SIMON: Off the top of my head,
24 maybe an accumulation of 120 wells.

25 MS. LUCK: Okay. And that was all in

1 the Wolfcamp formation, or where were you drilling?

2 MR. SIMON: Yes, ma'am. So all of
3 those formations -- or excuse me -- all of those 120
4 wells experience either drilled through vertically or
5 horizontally through the Wolfcamp.

6 MS. LUCK: And was all of that
7 experience you're talking about with Paloma, or with
8 other companies?

9 MR. SIMON: No, ma'am. That was
10 through my career of 20 years.

11 MS. LUCK: Okay. And so then, how many
12 wells has Paloma drilled in Eddy County?

13 MR. SIMON: Currently, we are on the
14 seventh well of the active program.

15 MS. LUCK: And have they drilled new
16 wells before those seven?

17 MR. SIMON: Paloma?

18 MS. LUCK: Yes.

19 MR. SIMON: Not to my knowledge.

20 MS. LUCK: Okay. Thank you. That's
21 all the questions I have.

22 THE HEARING EXAMINER: Mr. McClure?

23 MR. MCCLURE: No questions for this
24 witness, Mr. Hearing Examiner.

25 THE HEARING EXAMINER: Thank you.

1 Are there any other parties that have a
2 question for this drilling engineer expert?

3 MR. ANDERSON: I -- I do.

4 THE HEARING EXAMINER: Go ahead,
5 Mr. Anderson.

6 CROSS-EXAMINATION

7 BY MR. ANDERSON:

8 MR. ANDERSON: I -- I would like to
9 know how many -- if -- if you -- how many barrels of
10 oil will be coming out of the -- out of our --

11 MR. SAVAGE: Objection.

12 THE HEARING EXAMINER: Let him finish
13 the question before you object, Mr. Savage.

14 MR. SAVAGE: Yes. Thank you.

15 THE HEARING EXAMINER: I don't even
16 know what the question is.

17 Go ahead, Mr. Anderson. Please ask
18 your question.

19 MR. ANDERSON: I would -- I was just
20 asking how would -- how -- how many barrels of oil
21 would be coming out of our property, and how
22 many -- and that -- that would be Township 22 South,
23 Range 27. Just how many barrels, and how would we
24 monitor what's going on, and --

25 THE HEARING EXAMINER: What's the

1 objection, Mr. --

2 MR. ANDERSON: And -- and --

3 THE HEARING EXAMINER: Okay. Hold on,
4 Mr. Anderson, because you're asking a compound
5 question, and technically you have to ask one question
6 at a time. If you don't use the word "and" in the
7 question; that that gives you an idea that you're
8 asking a multiple-part question.

9 But anyway, Mr. Savage?

10 MR. SAVAGE: Objection. So this is a
11 drilling engineer, and that's outside the scope of his
12 expertise.

13 THE HEARING EXAMINER: And for
14 Mr. Anderson's knowledge, why is that outside the
15 scope of this -- because to the layman, how would he
16 know that's outside the scope?

17 MR. SAVAGE: So a drilling engineer
18 deals with technical matters of actually drilling the
19 well. If you want to get into, like, BUR, potential
20 production under the ground, that's a combination, and
21 mostly it focuses on the reservoir engineer, and
22 a -- and then the geologist.

23 THE HEARING EXAMINER: So Mr. Anderson,
24 did you understand the objection?

25 MR. ANDERSON: I -- I did. I'll have

1 another question.

2 THE HEARING EXAMINER: Okay. Go ahead
3 please. So I'm sustaining the objection. Go ahead.

4 MR. ANDERSON: Since -- since there's
5 been previous companies that have drilled on our
6 property before, and so the wells should be plugged.
7 Now, is that going to be a -- is that going to be a
8 problem? Is there going to be any liquid, or fluids,
9 or anything to that nature that would disturb the
10 different units that are -- that we are planning on
11 putting there, on that property?

12 MR. SIMON: No, I don't foresee any
13 problems.

14 MR. ANDERSON: How -- how can you be
15 sure? What's the guarantee?

16 MR. SIMON: I'll follow that up with in
17 a horizontal well, going amongst other vertical,
18 historical wells, the guarantees that we have in
19 place, technologically-wise, is survey data management
20 and deviation control.

21 So every horizontal well is designed
22 around an anti-collision framework that takes into
23 account those historical wells, and the data that we
24 have in place, that their inclination-only surveys
25 compared to inclination and azimuth, to create a

1 elliptical uncertainty, is the actual term.

2 Once we have those inputted into the
3 software, we design the wellbores to make sure to
4 avoid those. Hence the terminology of
5 "anti-collision."

6 MR. ANDERSON: What about the migration
7 of fluids?

8 MR. SIMON: That's a reservoir
9 question.

10 MR. SAVAGE: Objection to
11 the -- outside the scope of the expertise.

12 THE HEARING EXAMINER: Your witness
13 answered the question that it was outside his scope.

14 MR. SAVAGE: Yes.

15 THE HEARING EXAMINER: Mr. Anderson,
16 that's outside this witness's scope of expertise.

17 MR. ANDERSON: Okay. Okay. How did
18 you come up with the -- how did you -- I mean, how did
19 you just come up with -- no, scratch that.

20 What about the saltwater disposal of
21 the wells?

22 MR. SIMON: I'm not responsible for the
23 protection. That's outside of my scope.

24 THE HEARING EXAMINER: Anything else,
25 Mr. Anderson?

1 MR. ANDERSON: No, sir. Thank you.

2 THE HEARING EXAMINER: Okay. Thank
3 you, Mr. Anderson.

4 Are there any other parties with
5 questions for this witness before I excuse him?

6 I'm not hearing anything from
7 Mr. Kennedy, Ms. Vance, so you may be excused. Thank
8 you.

9 MR. SIMON: Thank you.

10 THE HEARING EXAMINER: Thank you,
11 Mr. Simon.

12 Mr. Savage, anything further?

13 MR. SAVAGE: That concludes our case in
14 chief.

15 THE HEARING EXAMINER: Okay. Very
16 good.

17 Mr. McClure, do you have a list
18 of -- do you want to review the list of information
19 that you need from Mr. Savage so we can find out when
20 he will be able to provide it?

21 MR. MCCLURE: Yes, I definitely can.
22 Mr. Savage, you have your -- a bullet point list to
23 compare with me?

24 MR. SAVAGE: I have -- what list is
25 that, Mr. McClure?

1 THE HEARING EXAMINER: Your bullet
2 point list.

3 MR. SAVAGE: Bullet point? The table?

4 MR. MCCLURE: Yeah. I'll go over on
5 mine, or did you want to go -- do you want me to go
6 over real fast?

7 MR. SAVAGE: You can go over it. Let
8 me go to the table of contents on this, so I have that
9 line.

10 MR. MCCLURE: Yeah. I guess, in my
11 list, on my notes here, I guess, I don't have the
12 actual exhibit wrote down next to notes. So that part
13 may --

14 MR. SAVAGE: Okay.

15 MR. MCCLURE: The first one on my list
16 is the typo for the interests owned by R.C. Bennett
17 Co. The second one I have on my list is a amendment
18 to the Summary of Contacts to make it more easily
19 understandable.

20 MR. SAVAGE: Okay.

21 MR. MCCLURE: We are needing the second
22 page for the January 29th notice letter.

23 MR. SAVAGE: Got it.

24 MR. MCCLURE: We are needing the
25 tracking for -- the mail tracking information for the

1 January 29th and February 18 notices.

2 MR. SAVAGE: Okay. Got that.

3 MR. MCCLURE: Then, I believe our
4 Hearing Examiner had asked for, at least, a CV. And
5 there might have been one other thing that he asked
6 for; I don't recall now.

7 MR. SAVAGE: Correct. For the drilling
8 engineer.

9 THE HEARING EXAMINER: Mr. Simon.

10 MR. MCCLURE: Yes.

11 THE HEARING EXAMINER: You're right,
12 Mr. McClure. I asked Mr. Simon's CV.

13 Are you done, Mr. McClure?

14 MR. MCCLURE: Yes. I am, Hearing
15 Examiner. Sorry.

16 THE HEARING EXAMINER: All right. It's
17 okay, Mr. McClure. I wasn't sure if you were frozen.
18 All right. Mr. McClure, do you have --

19 I mean, Mr. Savage, do you have that?

20 MR. SAVAGE: I do.

21 THE HEARING EXAMINER: All right. How
22 long will it take for you to submit one exhibit packet
23 with everything?

24 MR. SAVAGE: So I have that deadline
25 for March 10th from other -- previous.

1 THE HEARING EXAMINER: Fine.

2 MR. SAVAGE: So -- and then the closing
3 statement was March 21st. So let's say March 15th.

4 THE HEARING EXAMINER: March 15th.
5 That's fine. So March 15th.

6 So Freya, will you do a calendar
7 reminder for March 15th for this case, to close the
8 record on that day at 5:00 p.m.

9 MS. TSCHANTZ: Yes.

10 THE HEARING EXAMINER: Mr. Savage, if
11 you need more time, let us know before then.

12 MR. SAVAGE: Okay. Thank you.

13 THE HEARING EXAMINER: Is there
14 anything further?

15 MR. SAVAGE: None.

16 THE HEARING EXAMINER: Okay.

17 MR. MCCLURE: Mr. Hearing Examiner?

18 THE HEARING EXAMINER: Yes?

19 MR. MCCLURE: I do remember the other
20 thing that you mentioned earlier, and I'm assuming
21 Mr. Savage plans on, but it was to include that
22 supplemental exhibit from Mr. Coffman with the rest of
23 the exhibit packet.

24 THE HEARING EXAMINER: Mr. Savage?

25 MR. SAVAGE: Yes. It would be included

1 in the final one.

2 THE HEARING EXAMINER: Perfect.

3 MR. SAVAGE: Yes.

4 THE HEARING EXAMINER: Okay. All
5 right. Is there anything else from any party in this
6 case before we move on to our next case?

7 MS. LUCK: I just want to make a brief
8 closing statement, again.

9 THE HEARING EXAMINER: Okay. Go ahead.

10 MS. LUCK: Just on behalf of my
11 clients, again, we don't feel that Alpha has made
12 appropriate efforts to reach a voluntary agreement
13 before pooling their interests. So we would ask that
14 the pooling order be denied in this case.

15 THE HEARING EXAMINER: Okay. Thank
16 you.

17 MS. LUCK: Thank you.

18 THE HEARING EXAMINER: Anything else?

19 MR. ANDERSON: Yeah. Mr. Examiner?

20 THE HEARING EXAMINER: Yes?

21 MR. ANDERSON: I agree with the -- I
22 agree with the lawyer who just -- who just spoke.

23 THE HEARING EXAMINER: Okay.

24 MR. ANDERSON: I don't think that Alpha
25 has been forthcoming. I may not understand all the

1 rules and terminology that I should have here in this
2 hearing, but I do understand a lie and the truth, and
3 I do understand right from wrong.

4 And they haven't been forthright in
5 anything, and for them to keep sending correspondence
6 to Bobby Anderson when they know he's deceased, and it
7 it's all already been established it, and -- and then
8 for them to say that I asked them for \$150,000,
9 knowing that I didn't ask them for that, I -- I think
10 I just agree with the attorney statement before.

11 THE HEARING EXAMINER: Okay. Thank you
12 Mr. Anderson. Thanks for your participation today.

13 Ms. Vance, any --

14 MR. ANDERSON: Thank you, sir.

15 THE HEARING EXAMINER: -- closing?

16 MS. VANCE: No.

17 THE HEARING EXAMINER: Thank you.

18 All right. Mr. Kennedy, I saw your
19 face?

20 MR. KENNEDY: Yeah, here it is.

21 THE HEARING EXAMINER: There it is.

22 MR. KENNEDY: I don't suppose there's
23 any chance I could put a witness up?

24 THE HEARING EXAMINER: Well,
25 Mr. Kennedy, what witness would you be putting up?

1 MR. KENNEDY: Mr. Samaniego for
2 American Energy Resources.

3 THE HEARING EXAMINER: All right,
4 Mr. Kennedy. The rules state that a pre-hearing
5 statement is required before you put on evidence.
6 However, I know the circumstances of your representing
7 Mr. Samaniego, and I'm trying to give Mr. Samaniego
8 every opportunity to help this Division protect
9 correlative rights and prevent waste.

10 What is the subject matter of
11 your -- of the evidence that Mr. Samaniego is going to
12 pro provide today?

13 MR. KENNEDY: Briefly stated, I believe
14 that he would testify that the -- his well, this SAIK
15 well is producing from the Wolfcamp formation now.
16 The argument -- recompilation plan is to recomplete
17 the same Wolfcamp formation with updated technology.
18 He will testify that Alpha's pooling plan is to drill
19 right through the American site, police operations in
20 the Wolfcamp formation, creating waste of the site
21 well, and not protecting American's correlative
22 rights.

23 Any interest Alpha may own is bound to
24 the American site, lease, and well. Alpha only owns
25 wellbores in TRACY B, Kodiak, and Colonial wells.

1 That basically, would be his testimony, I believe.

2 THE HEARING EXAMINER: Okay. All
3 right. Now, let's go to Mr. Savage.

4 Mr. Savage?

5 MR. SAVAGE: So first of all, for the
6 record, I'd lodge an objection.

7 THE HEARING EXAMINER: Well, what is
8 the objection? I need to rule on it.

9 MR. SAVAGE: Because that the witness
10 should be excluded because it was -- because of
11 procedural matters, and because it was after the fact
12 of the hearing. There was no written statement
13 supplied that we could review or examine, and these
14 questions are very technical in nature.

15 And they presume certain things that
16 Mr. Samaniego has not provided any evidence for, such
17 as a permit to recomplete, a record of -- production
18 reports, which we -- our review of the OCD records
19 show that there has been no submission of any
20 production reports that show any current production.

21 All the production -- up to 2021 is
22 absolutely zero. And then there's no production
23 reports submitted after that. There has been some
24 expression of intent to recomplete and reenter, but
25 there has been no permit issued for that. And

1 we -- Alpha has formally objected to the engineering
2 department for any application to enter.

3 So I -- there is no way to evaluate
4 these statements under these conditions.

5 THE HEARING EXAMINER: So I understand
6 your objection. Now, Mr. Kennedy is basically wanting
7 to put on a case in chief using Mr. Samaniego, who
8 is -- I think you have -- when this case first came to
9 a status conference, I remember asking you,
10 Mr. Savage, if you agreed that Mr. Samaniego owned an
11 ownership interest, and I think you agreed that he has
12 a working interest in this pool?

13 MR. SAVAGE: So of our understanding
14 and review, at that time, we thought he may have a
15 wellbore interest. But after Mr. Samaniego submitted
16 the documents that we were able to review, on which he
17 bases it, it's clear that, as a matter of law, all
18 those leases have expired.

19 And we don't see any leases that -- any
20 current leases that cover the unit that Alpha has
21 acquired, or has other parties have shown, that show
22 any kind of wellbore interest that was assigned to the
23 SAIK well.

24 THE HEARING EXAMINER: So let me
25 understand this, because I remember I asked you

1 specifically. I could pull it up in the transcript.
2 And you said he did have a working interest. Now,
3 you're saying that, upon a further investigation, he
4 doesn't have a working interest.

5 So are you saying that he would not
6 be -- did you provide him notice as of right?

7 MR. SAVAGE: No.

8 THE HEARING EXAMINER: You did not.
9 Because he doesn't have a working interest?

10 MR. SAVAGE: Because he's not entitled
11 notice, as far as we could tell.

12 THE HEARING EXAMINER: Now, you also
13 know, Mr. Savage, that Mr. Samaniego could intervene
14 if he can show that -- if he can show me that -- he
15 may not be a party due notice. However, he may -- his
16 intervention may help The Division avoid a violation,
17 let's say, of correlative rights, or a violation of
18 waste. Do you agree with that statement, or do you
19 not?

20 MR. SAVAGE: So here's how I would view
21 this. So Mr. Samaniego, he basically, proactively
22 availed himself under the jurisdiction of the OCD. So
23 the obligations that he has under the SAIK well are
24 now before the OCD.

25 THE HEARING EXAMINER: Okay.

1 MR. SAVAGE: Okay? So -- you know, we
2 reviewed the title and the wellbore. He has no
3 interest, whatsoever. And therefore we -- our
4 position is he has no right to recomplete or produce
5 the SAIK well. If he did produce the SAIK well, that
6 would result in him producing the current leases,
7 which he does not own. And that would be viewed as a
8 trespass and conversion.

9 So we've -- in our motion that we
10 filed -- a response that we filed, we had a sub
11 motion, and that was a request to compel the plugging
12 of this. So because Mr. Samaniego has availed himself
13 the benefits of The Division, we feel that that motion
14 should be taken seriously by the OCD.

15 And we ask that Mr. McClure and the
16 engineering department look at this seriously, and
17 confirm that this well should be plugged.

18 THE HEARING EXAMINER: All right.

19 MS. VANCE: Mr. --

20 THE HEARING EXAMINER: Mr. Kennedy --

21 MS. VANCE: Mr. Chakalian, Sarvis is
22 also going to object. And you mentioned an
23 intervention. Mr. Kennedy filed a notice of -- an
24 entry of appearance on, I believe it was
25 February 24th.

1 And under the rules, a notice of
2 intervention is required to be filed by -- in writing,
3 at least one business day before a pre-hearing
4 statement is filed. And at this point, no notice of
5 intervention is in the record.

6 So I don't believe he has the ability.
7 Obviously, it's at the discretion, but there has been
8 plenty of time to file that notice of intervention.

9 THE HEARING EXAMINER: Just a note on
10 clarifying the rules. And so -- and for Mr. Kennedy's
11 benefit, it's 19.15.4.13 is intervention? Or is it
12 11?

13 MS. VANCE: Eleven.

14 THE HEARING EXAMINER: It's 11.

15 Mr. Kennedy, it's disputed that your
16 client owned a working interest, and that's why
17 Mr. Samaniego was not provided notice. However, there
18 is discretion on my part to allow intervention under
19 that rule I just gave you, 19.15.4.11.

20 Do you want to look at that rule, and
21 make an argument why I should allow intervention in
22 this case?

23 MR. KENNEDY: Sure. Could you repeat
24 the rule?

25 THE HEARING EXAMINER: Sure.

1 19.15.4.11, and I think the subsection I'm referring
2 to is C like Charlie.

3 Is that right, Ms. Vance, C?

4 MS. VANCE: No, it's B for the
5 discretion of the Hearing Examiner.

6 THE HEARING EXAMINER: What is C about
7 then? What am I remembering?

8 MS. VANCE: Whether or not you strike a
9 notice of intervention.

10 THE HEARING EXAMINER: So it's C?

11 MS. VANCE: Yeah, well --

12 THE HEARING EXAMINER: It is C. Okay.

13 MS. VANCE: A little combination.

14 THE HEARING EXAMINER: Little B and C?

15 MS. VANCE: A little B and C.

16 THE HEARING EXAMINER: Mr. Kennedy,
17 take a look at B and C in that rule and make an
18 argument on why I should allow your client to
19 intervene at this late date?

20 MR. KENNEDY: Okay. Are you going to
21 take a break, or?

22 THE HEARING EXAMINER: No, you're on
23 the spot. I mean, this is --

24 MR. KENNEDY: Okay.

25 THE HEARING EXAMINER: I'm giving you

1 an opportunity. So think and read fast.

2 MR. KENNEDY: Okay.

3 THE HEARING EXAMINER: And while
4 Mr. Kennedy is looking up the rule, I want to go back
5 and understand something you said, Mr. Savage. You
6 basically were saying that -- and I wish that the echo
7 could go away.

8 Mr. Kennedy, we might mute you for a
9 moment, while I'm clarifying this point with
10 Mr. Savage, and we'll unmute you in a moment, because
11 the echo is a bit difficult.

12 MR. KENNEDY: Yes.

13 THE HEARING EXAMINER: Mr. Savage, I
14 think you were saying before that Mr. Samaniego has
15 some wellbores, some vertical wellbores in the area,
16 but that they have not produced for some period of
17 time. He has not filed a proper C1-something
18 forms -- 115s or something?

19 MR. SAVAGE: 115.

20 THE HEARING EXAMINER: 115, for
21 production, and that he's in violation of The
22 Division's rules. How does that affect his -- what
23 I'm not putting together is how does that affect his
24 correlative rights, even if he can't produce in that
25 area? How does that -- so go ahead and answer that?

1 MR. SAVAGE: So it's the SAIK well
2 that's in the unit.

3 THE HEARING EXAMINER: Which well?

4 MR. SAVAGE: The SAIK.

5 THE HEARING EXAMINER: SAIK?

6 MR. SAVAGE: SAIK Number 1.

7 THE HEARING EXAMINER: SAIK.

8 MR. SAVAGE: S-A-I-K.

9 THE HEARING EXAMINER: Thank you.

10 MR. SAVAGE: SAIK. That's the one. So
11 Alpha's position is that because all of
12 Mr. Samaniego's leases have expired, and he has no
13 wellbore interest, he has no correlative rights, zero.
14 Zero correlative rights. So what he would be doing,
15 if he actually produced that well, he'd be violating
16 other folks correlative rights, because he would be
17 producing.

18 THE HEARING EXAMINER: Okay. I got
19 that. Thank you. But what about -- so you're saying
20 he doesn't have an ownership interest; he just
21 has -- he had a lease that is now, at this point --

22 MR. SAVAGE: Yes. Okay. So Wildcat
23 was the previous operator. So Wildcat had leases, and
24 those were those 1969, early 1970, late 90 -- so they
25 had a right. So those -- all those leases expired.

1 So what happened then is that American Energy
2 Resources thought that they could come in and be
3 involved in the unit by changing operator of those
4 wells.

5 But those wells now, are completely
6 salvage materials. They're only personal property.
7 There's no real property associated with those wells,
8 whatsoever. So what they picked up with -- what he
9 acquired was the personal property, the material, and
10 the obligation to plug that well.

11 THE HEARING EXAMINER: So the
12 mineral -- so the working interest that was leased has
13 reverted back to whoever leased it?

14 MR. SAVAGE: So that -- those leases
15 expire, as a matter of law, because of lack of
16 production, because there's a held back production
17 clause in the lease. And after a certain amount of
18 time of non-production, which is rather short, not 17
19 years. So they're clearly expired. So that
20 become -- they reverse back to the lessor.

21 THE HEARING EXAMINER: That's what I
22 thought.

23 MR. SAVAGE: So it becomes unleased,
24 and then you come along and you lease that interest,
25 yes.

1 THE HEARING EXAMINER: Okay. So
2 Mr. Kennedy, I don't know if you heard that. Did you
3 hear that?

4 Oh, you're muted, sir. Let's unmute
5 you. Hold on.

6 MR. KENNEDY: Yeah. Yes, I'm sorry. I
7 heard that.

8 THE HEARING EXAMINER: You heard that.
9 Okay. So make an argument on what basis you could
10 intervene at this point?

11 MR. KENNEDY: So the rules makes it
12 real clear that you have discretion to allow
13 intervention by oral appearance on the record at the
14 hearing.

15 THE HEARING EXAMINER: I know that.
16 That's why I'm asking you to make an argument.

17 MR. KENNEDY: And so I think, you know,
18 Mr. Samaniego's of a different opinion than Mr. Savage
19 in terms of the validity of that leasehold, that has
20 not expired. I think he's prepared to testify to
21 that.

22 THE HEARING EXAMINER: So basically,
23 Mr. Savage, the only way that I would allow
24 Mr. Samaniego to intervene is if he could convince me
25 that that lease has not expired. Do you dispute that?

1 MR. SAVAGE: That would be with
2 evidence?

3 THE HEARING EXAMINER: Well, obviously.

4 MR. SAVAGE: So let me just point out
5 that --

6 THE HEARING EXAMINER: But I just had a
7 question, and that was the question. So do you
8 dispute that if he could convince me that, through
9 evidence, that the lease has not expired, then he
10 would be protecting his correlative rights by
11 intervening?

12 MR. SAVAGE: Let me think about that
13 just a minute.

14 THE HEARING EXAMINER: Sure.

15 And, Ms. Vance, I want you to think
16 about that too, because I'm going to come to you in
17 just a moment.

18 MR. SAVAGE: Okay. So here's how I'm
19 going to address this. Okay. So the OCD doesn't have
20 jurisdiction to adjudicate title.

21 THE HEARING EXAMINER: Of course not.

22 MR. SAVAGE: But -- okay. That means
23 that it cannot make a decision that you own 50
24 percent, or you own 30 percent. But what I think that
25 the OCD does have jurisdiction to do is to make a

1 threshold determination on ownership itself.

2 So the -- Mr. Samaniego presented some
3 title documents that show leases from the
4 early -- late 1960s, early 1970s. Under the law,
5 under oil and gas law, those leases are expired as a
6 matter of law.

7 Now, Alpha has provided its ownership,
8 and it has shown, and has named the leases that are
9 currently in play, and the amounts that are involved.
10 So I think that The Division could make a threshold
11 decision based on those two pieces of evidence.

12 One, antiquated leases; two, current
13 leases presented. Based on that, the OCD could make a
14 threshold decision whether or not Mr. Samaniego owns
15 any interests that can be protected under the issue of
16 correlative rights.

17 And we would say that that threshold
18 answer would be he does not.

19 THE HEARING EXAMINER: Right. I
20 understand your position.

21 Mr. Kennedy, I'll come to you in just a
22 moment.

23 Ms. Vance, did you have anything to
24 say?

25 MS. VANCE: Yes, I want to just say

1 that I agree with what Mr. Savage said. But also
2 would point out that Mr. Samaniego filed an entry of
3 appearance, or entry of appearance and notice of
4 objection on January 31st.

5 THE HEARING EXAMINER: Yes.

6 MS. VANCE: Again, Mr. Kennedy filed
7 his entry of appearance on behalf of Mr. Samaniego in
8 AER on February 24th. And the amended pre-hearing
9 order was filed and made available to the parties on
10 February 6th.

11 And the parties rely on that
12 pre-hearing statement to make their case in chief.
13 And right now, the -- to allow Mr. Samaniego to come
14 in here at the hearing and create a case in chief on
15 the fly is prejudicial to what Alpha is trying to do
16 here today.

17 So I don't believe that he should be
18 allowed. Even with what Mr. Kennedy just stated on
19 the record, it doesn't meet the requirement of the
20 rule -- under the rule, that allowing Mr. Samaniego to
21 make any statement as a fact witness would
22 substantially prevent waste, protect correlative
23 rights, or public health, or the environment.

24 THE HEARING EXAMINER: And, Ms. Vance,
25 I am trying to differentiate between being a party of

1 record and a party that intervenes to protect
2 correlative rights. Now, the rules are very specific.
3 As you say, for parties to present evidence, you have
4 to file pre-hearing statements, you have to follow the
5 pre-hearing order, which I filed, and then amended in
6 this case.

7 And obviously, Mr. Kennedy and
8 Mr. Samaniego are not doing that. And that's one
9 thing. So based on that, I would not allow this. But
10 there's also the rule of intervention. That's a
11 separate rule. You see, that's why I am considering
12 this.

13 MS. VANCE: I don't disagree. It seems
14 very circular though, that Mr. Samaniego would be
15 allowed to intervene by being able to then just come
16 up and make his case in chief on the fly. So again --

17 THE HEARING EXAMINER: And I understand
18 your point, but I think the intervention severely
19 limits a person who intervenes, their case. But I
20 still think it allows them to enter some evidence
21 saying that "I've got to protect correlative rights,
22 or prevent waste." So unless there's something you
23 can point to that says that that's wrong, I feel like
24 I agree with Mr. -- what Mr. Savage said, is I think
25 we have a threshold issue here.

1 And I think, you know, we have Alpha's
2 experts here, who have done all sorts of title
3 research, and they're saying, "no, no working interest
4 here. Nothing to protect -- no correlative rights to
5 protect."

6 Now, I think it's only fair for me to
7 allow Mr. Samaniego. So Mr. Kennedy, now you are
8 muted, sir. So you might want to --

9 MR. SAVAGE: Mr. Hearing Examiner,
10 can -- may I please just provide some additional
11 comment? And it concerns the consequences of
12 Mr. Kennedy intervening.

13 THE HEARING EXAMINER: Yes, go ahead.

14 MR. SAVAGE: Okay. So what's
15 interesting about the rules from -- is that the rules
16 do not find what the party of record is. That
17 is -- it is totally silent. It is -- there's parties
18 to the adjudication, and you can become a party to the
19 adjudication by entry of appearance that you're
20 entitled to, or you can become a party to the
21 adjudication by the intervention.

22 I think that either way, you will
23 become a party of record, and you'll be subject to the
24 jurisdiction for the full scope of the evaluation.
25 Now, we have a motion in play right now, and it is a

1 motion to compel Samaniego or American Energy
2 Resources to plug that well, because that is the only
3 remaining obligation that we see that American Energy
4 Resources has.

5 So once Mr. Kennedy makes the argument
6 and becomes -- and intervenes on this, they become
7 under the jurisdiction of the OCD. That motion should
8 be decided upon. And he may risk being forced to plug
9 that well under the criteria of that motion.

10 THE HEARING EXAMINER: Your motion to
11 compel The Division to take a legal action is outside
12 the scope of today's evidentiary hearing. You have
13 not filed any exhibits that go to that. You have
14 cited to The Division's records, which show
15 violations.

16 I'm well aware of that, but that is a
17 separate issue in my mind, right now, on whether or
18 not Mr. Kennedy can call his party and introduce
19 evidence that you can rebut, if necessary.

20 MR. SAVAGE: A fair assessment. I
21 think that's a fair assessment. We will be filing a
22 application for a hearing to address the --

23 THE HEARING EXAMINER: Fine.

24 MR. SAVAGE: -- plugging of the well.
25 Thank you.

1 THE HEARING EXAMINER: So Mr. Kennedy,
2 and you are muted again. We have to keep muting you
3 because -- do you have multiple microphones going on
4 in your room right now?

5 MR. KENNEDY: No, I have nothing else
6 going on.

7 THE HEARING EXAMINER: Okay. All
8 right. So Mr. Kennedy, are you are going to call your
9 witness and have him sworn in?

10 MR. KENNEDY: Yes, please.

11 THE HEARING EXAMINER: All right.

12 Mr. Samaniego, will you turn on your
13 camera so I can see you?

14 MR. SAMANIEGO: I don't have a camera.

15 THE HEARING EXAMINER: Well,
16 Mr. Samaniego, I generally don't swear in people who I
17 can't see. One of my jobs --

18 MR. KENNEDY: -- physically together,
19 obviously.

20 THE HEARING EXAMINER: I'm sorry, what,
21 Mr. Kennedy?

22 MR. KENNEDY: We're not physically
23 together, obviously.

24 THE HEARING EXAMINER: All right.

25 Well, Mr. Samaniego, the reason I don't

1 generally swear in people who I can't see is because
2 one of the jobs I have, and Mr. McClure has, is to
3 watch someone testify, and determine whether or not we
4 find them credible.

5 And that's a large part of our job here
6 in the hearing bureau, and the technical bureau is to
7 observe people's mannerisms, how they speak, what they
8 say. Because credibility goes a long way toward the
9 weight of the evidence that you're going to give.

10 So if I swear you in and I can't see
11 you, I'm going to tell you now, that what -- the
12 weight that I give your testimony is going to be lower
13 than if I can see you. Is that understood?

14 MR. SAMANIEGO: This is my first time.
15 Yes, I understand.

16 THE HEARING EXAMINER: Okay. Would you
17 raise your right hand please?

18 MR. SAMANIEGO: Yes, sir.

19 WHEREUPON,

20 JONATHAN SAMANIEGO,
21 called as a witness and having been first duly sworn
22 to tell the truth, the whole truth, and nothing but
23 the truth, was examined and testified as follows:

24 THE HEARING EXAMINER: Mr. Kennedy?

25 MR. KENNEDY: Yeah.

1 DIRECT EXAMINATION

2 BY MR. KENNEDY:

3 MR. KENNEDY: Tell us your name,
4 please?

5 MR. SAMANIEGO: Jonathan Samaniego.

6 MR. KENNEDY: And what's your
7 relationship to American Energy Resources LLC?

8 MR. SAMANIEGO: Representative of the
9 entity.

10 MR. KENNEDY: I'm sorry. I can't hear
11 you.

12 MR. SAMANIEGO: Representative
13 of -- representative of the entity.

14 MR. KENNEDY: Yeah. This isn't -- I'm
15 sorry. This isn't working. Is this a problem on my
16 end?

17 THE HEARING EXAMINER: No, I agree,
18 Mr. Kennedy. It's hard to hear what Mr. Samaniego is
19 saying. It's -- and I can't -- obviously, I can't
20 read his lips, so yeah. It's a problem.

21 MR. KENNEDY: All right. Well, I
22 guess, I'll just have to forego the offer of
23 testimony.

24 THE HEARING EXAMINER: All right.
25 Thank you, Mr. Kennedy.

1 All right. Mr. Savage, there is no
2 case in chief from Mr. Samaniego. So do you
3 understand what we need from you?

4 MR. SAVAGE: I do.

5 THE HEARING EXAMINER: We have a date
6 of the 15th, close of business.

7 MR. SAVAGE: Yes.

8 THE HEARING EXAMINER: Is there
9 anything further on this case?

10 MR. SAVAGE: No, sir.

11 THE HEARING EXAMINER: All right.

12 We thank you, Mr. Kennedy.

13 Thank you, Ms. Bennett. I know you're
14 there somewhere. You're hidden, but you're there.

15 We are off the record in this case.
16 We're in recess.

17 Okay. I'm now calling the second case
18 today, and that is Case Number 24963. Entries of
19 appearance, please?

20 MS. VANCE: Good afternoon, Mr. Hearing
21 Examiner. Paula Vance with the Santa Fe office of
22 Holland & Hart on behalf of Permian. And I did want
23 to ask, do you mind if we take a very short break?

24 THE HEARING EXAMINER: Five minutes?

25 MS. VANCE: Yes, please.

1 THE HEARING EXAMINER: Go right ahead.

2 MS. VANCE: Thank you.

3 (Off the record.)

4 THE HEARING EXAMINER: It is 12:51.

5 We're back on the record.

6 Mr. Kennedy, did you speak with your
7 client?

8 MR. KENNEDY: I did, and I'm not going
9 to appear in this one, and I don't think they are
10 either.

11 THE HEARING EXAMINER: Okay. Very
12 good. Thank you. Have a good day, sir.

13 MR. KENNEDY: Thank you.

14 THE HEARING EXAMINER: Thank you.

15 Okay. Mr. McClure. I see you're ready
16 to go.

17 All right. Ms. Vance?

18 MS. VANCE: Well, good afternoon. Just
19 based off of what Mr. Kennedy said, it sounds like
20 he's not appearing, but neither is Mr. Samaniego.

21 THE HEARING EXAMINER: That's what it
22 sounds like.

23 MS. VANCE: So if that's the case, I
24 will just briefly explain our revised hearing
25 exhibits. You know, we've had -- just revisiting

1 where we were the last time, there was this issue of
2 title. Permian does not believe that Mr. Samaniego
3 owns an interest.

4 But that being said, out of an
5 abundance of caution, we did include him on the
6 pooling exhibit. And so, you know, we would be happy
7 to move forward --

8 THE HEARING EXAMINER: By affidavit?

9 MS. VANCE: -- by affidavit today, if
10 we can.

11 THE HEARING EXAMINER: Now, if there
12 was an objection that has not been withdrawn, though,
13 we would have to have the party state that they're
14 withdrawn their objection. Do you know if there's a
15 written objection?

16 MS. VANCE: There was. He
17 did -- Mr. Samaniego did file an objection.

18 THE HEARING EXAMINER: So do you want
19 to ask him, if he's there, and if he's going to
20 withdraw his objection?

21 MS. VANCE: Sure.

22 Is Mr. Samaniego available, or on the
23 line, and if you are, do you plan to withdraw your
24 objection?

25 THE HEARING EXAMINER: I don't

1 know -- why don't you -- so you have two witnesses;
2 right?

3 MS. VANCE: Well, I mean I -- if we're
4 just going to go by self-affirmed statement or hearing
5 by affidavit, then I would just want to confirm that
6 our geologist is on the line, which I believe he is,
7 and -- you know, in case there are any questions for
8 Mr. Chesworth.

9 So it would just be those two
10 witnesses, Mr. Christian -- Collin Christian, and
11 Mr. Tyler Chesworth. The other witness that I
12 previously discussed with you did you --

13 THE HEARING EXAMINER: Dupuis?

14 MS. VANCE: -- is related to the
15 rebuttal exhibit we included.

16 THE HEARING EXAMINER: Oh, I see.

17 MS. VANCE: So he wouldn't -- if
18 Mr. Samaniego is not here, and we're allowed to move
19 forward by a self-affirmed statement, then we have no
20 witnesses to swear in.

21 THE HEARING EXAMINER: Well, we have an
22 objection. I mean, procedurally, I don't know how I
23 can get around the fact that we have an objection. I
24 mean, whether or not Mr. Samaniego is even
25 participating today, I don't know where it says in the

1 rules that just because a party doesn't participate,
2 that means you get to go by an affidavit.

3 I mean, I -- so I think you should just
4 put on your case the way you were going to; put on
5 your case in chief, and see what happens. That's what
6 I would suggest.

7 MS. VANCE: Well, I believe that you
8 allowed him to intervene. And if -- I may need to
9 look to double check that. But I believe what the
10 record shows is that you allowed him to intervene.
11 But under the intervention rules, it does allow you to
12 strike the intervention. And --

13 THE HEARING EXAMINER: Now, I allowed
14 him to intervene because you called two landmen as
15 witnesses, and they contradicted each other.

16 MS. VANCE: We only had one landman.

17 THE HEARING EXAMINER: If this is the
18 case I'm thinking of, when I allowed Mr. Samaniego to
19 intervene, you had objected to his intervention. You
20 have filed an affidavit that said he does not own an
21 interest.

22 And then he provided a document, and
23 you did some research, and you said, "You know what?"
24 Or your second witness, your land witness, who was not
25 the same as the first witness said, "You know, we

1 can't tell. There's gaps in the title, but we can't
2 definitively tell you he does own an interest."

3 And that's when I said, "I'm going to
4 deny your motion to strike this intervention." So
5 he's still here.

6 MS. VANCE: Okay. And you are correct.
7 It wasn't a landman. It --

8 THE HEARING EXAMINER: Oh. It wasn't?

9 MS. VANCE: It wasn't.

10 THE HEARING EXAMINER: I thought it
11 was.

12 MS. VANCE: I forget David's --

13 THE HEARING EXAMINER: It's okay.

14 MS. VANCE: -- title. Either way,
15 we -- yes, there was some back and forth. But now we
16 do have the rebuttal exhibit that
17 discusses -- disputes that interest. So if we do want
18 to go ahead and move forwards?

19 THE HEARING EXAMINER: I do.

20 MS. VANCE: Yes. Okay. So I would
21 just ask. I believe I discussed with you earlier this
22 morning that we filed at that rebuttal exhibit,
23 Rebuttal Exhibit 1. So that is in the record, and I'm
24 going to pull it up.

25 THE HEARING EXAMINER: Would you like

1 to -- first of all, would you like to make a one
2 minute opening statement?

3 MS. VANCE: Sure.

4 THE HEARING EXAMINER: You don't have
5 to. Do you want to?

6 MS. VANCE: I think that our exhibits
7 can -- we'll just rely on our exhibits.

8 THE HEARING EXAMINER: So the answer's
9 no. All right. Now, let me look at your exhibit
10 packet. Let's see if we can get it admitted through
11 lack of objection. Let me get to your case. Okay.
12 Ms. Vance, what is the case number?

13 MS. VANCE: It is 24963.

14 THE HEARING EXAMINER: Okay. Very
15 good. And when did you file your pre-hearing
16 statement and exhibit list?

17 MS. VANCE: I believe it was last
18 Tuesday.

19 THE HEARING EXAMINER: The 26th? I
20 think it's the 26th.

21 MS. VANCE: Yes, it was the 26th.

22 THE HEARING EXAMINER: Very good. So
23 let me look at Notice of Revised Exhibits. That's it?

24 MS. VANCE: Yes.

25 THE HEARING EXAMINER: Okay.

1 MS. VANCE: And then the rebuttal was
2 filed this morning.

3 THE HEARING EXAMINER: I'll look at
4 that in just a moment. So when you say "revised
5 exhibits," does this -- give me a little procedural
6 history on this? Did we start this hearing already?

7 MS. VANCE: No, we did not. We filed
8 our -- we filed the hearing packet and pre-hearing
9 statement for -- believing we were going to be able to
10 move forward by affidavit. And I believe it was
11 maybe, like, the day before the hearing that
12 Mr. Samaniego and AER filed their entry of appearance.

13 THE HEARING EXAMINER: So these revised
14 Exhibits, A, C and C2, are these all of your exhibits?
15 So you have literally three exhibits, plus the
16 rebuttal?

17 (Exhibit A and Exhibit C were marked
18 for identification.)

19 MS. VANCE: No. So it's a revised
20 Exhibit A. So we updated the Compulsory Pooling
21 Checklist to show that American Energy and Jonathan
22 Samaniego were either entries of appearance or
23 interveners.

24 And then I did update Mr. Christian's
25 self-affirmed statement, addressing the issue in

1 Paragraph 8, regarding the interest at issue. And
2 then also updated the pooling exhibit accordingly.

3 THE HEARING EXAMINER: So looking -- so
4 there's a table of contents here. Here we go. Okay.

5 MS. VANCE: And it has all of the other
6 exhibits.

7 THE HEARING EXAMINER: I didn't see
8 that until I went further much further down. I'm on
9 Page 5, now. I see your Revised Exhibit A, your
10 Exhibit B, your Revised Exhibit C with sub parts. I
11 see your Exhibit D with sub parts, and E and F. Are
12 you asking to have them into evidence?

13 (Exhibit B, Exhibit D, Exhibit E, and
14 Exhibit F were marked for
15 identification.)

16 MS. VANCE: Yes.

17 THE HEARING EXAMINER: Okay. Are there
18 any objections to these exhibits?

19 Not hearing any, these exhibits are
20 admitted to evidence.

21 (Exhibit A, Exhibit B, Exhibit C,
22 Exhibit D, Exhibit E, and Exhibit F
23 were received into evidence.)

24 Now, let me take a look at your
25 rebuttal exhibit that was filed, I guess, yesterday,

1 or just today, actually.

2 MS. VANCE: This morning.

3 THE HEARING EXAMINER: And it looks
4 like -- and it was sent to Mr. Samaniego?

5 MS. VANCE: Yes.

6 THE HEARING EXAMINER: By email?

7 MS. VANCE: Yes.

8 THE HEARING EXAMINER: Okay. By email.
9 And this is a -- oh, I see. And this is Mr. Dupuis
10 Jr., a title attorney not previously testified, as a
11 petroleum landman expert before this Division. And
12 what is he saying here on his self-affirmed statement?

13 MS. VANCE: Let me go back, because I
14 realize that's an oversight on my part. He needs to
15 be accepted as a title attorney.

16 THE HEARING EXAMINER: Exactly.

17 MS. VANCE: So that -- we can file a
18 revised statement for him. But essentially this does
19 a very quick overview of what he looked at to come to
20 his determination, which is described in Permian
21 Rebuttal Exhibit 1.

22 Essentially, you know, and I'm not a
23 title attorney, but a conveyance was made. It
24 required a -- both parties, a married couple, both
25 individuals to sign, and only one signed, making the

1 conveyance invalid.

2 THE HEARING EXAMINER: All right. So
3 let me ask you a question about how you want to
4 proceed here. You have in -- altogether, three
5 witnesses, it sounds like?

6 MS. VANCE: Yes.

7 THE HEARING EXAMINER: Okay. Two have
8 previously been qualified as experts --

9 MS. VANCE: Yes.

10 THE HEARING EXAMINER: -- before this
11 Division in the fields that you are offering them.
12 And then we have Mr. Dupuis. Is Mr. Dupuis with us
13 now?

14 MS. VANCE: I believe so, but
15 Mr. Christian may need to give him a quick call --

16 THE HEARING EXAMINER: Okay.

17 MS. VANCE: -- to get him on the line.

18 THE HEARING EXAMINER: Okay. While
19 you're doing that, --

20 Mr. McClure, I don't know if you've had
21 a chance to look over all of these exhibits, including
22 the late-filed rebuttal exhibit from earlier today, a
23 few hours ago. Will you have any questions for any of
24 the witnesses?

25 MR. MCCLURE: I will have questions for

1 the landman. I'm reading the rebuttal exhibit right
2 now.

3 THE HEARING EXAMINER: Okay. Perfect.
4 So Ms. Vance, can you -- is it
5 Mr. Collin Christian?

6 MS. VANCE: Collin Christian.

7 THE HEARING EXAMINER: Collin
8 Christian, can we get him on the screen?

9 MR. CHRISTIAN: I'm here.

10 THE HEARING EXAMINER: Mr. Christian,
11 we do want to hear from Mr. Dupuis, so if you're able
12 to send him a message, or whatever you're going to do
13 to make him available. How long would that take?

14 MR. MCCLURE: I just gave a call, and
15 this link, as well. I believe he can hop on.

16 THE HEARING EXAMINER: All right. Very
17 good. Now, I can't see you. Can you move your camera
18 down, or sit not in front of the bright -- yeah,
19 that's better. I -- or move away from the window a
20 bit. Maybe the brightness of the window is what's
21 making you so dark. Because I --

22 MR. MCCLURE: Yeah.

23 THE HEARING EXAMINER: A little better.
24 Can you go a little further? The other way, sir.
25 That's it. Keep going. It's a little better. Stay

1 there, please. Would you raise your right hand
2 please?

3 WHEREUPON,

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

8 THE HEARING EXAMINER: Would you state
9 and spell your name for the record?

10 MR. CHRISTIAN: Collin Christian,
11 C-O-L-L-I-N C-H-R-I-S-T-I-A-N.

12 THE HEARING EXAMINER: Okay. And you
13 have previously been qualified as a expert in what,
14 before this Division?

15 MR. CHRISTIAN: Petroleum land matter.

16 THE HEARING EXAMINER: Land matters.
17 Okay. You can put your hand down.

18 Ms. Vance, did you want to have him
19 adopt his exhibits and make any corrections before
20 Mr. McClure begins his cross-examination?

21 MS. VANCE: Yes. Give me just one
22 second. My standard batch of questions set up here.
23 Sorry.

24 //

25 //

DIRECT EXAMINATION

BY MS. VANCE:

MS. VANCE: Mr. Christian, you've already stated your name. By whom are you employed, and in what capacity?

MR. CHRISTIAN: Permian Resources, operating as a senior landman.

MS. VANCE: And, Mr. Christian, your volume is really, really low.

MR. CHRISTIAN: Sorry. Is that any better?

MS. VANCE: Yeah, that's a little bit better.

MR. CHRISTIAN: Sorry. I'll move my laptop a little bit.

MS. VANCE: Okay. And you've already confirmed you previously testified before The Division, and your credentials have been accepted as a matter of record as a landman; correct?

MR. CHRISTIAN: That is correct.

MS. VANCE: And you're familiar with the applications filed in these -- in this case?

MR. CHRISTIAN: That is correct.

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

1 MR. CHRISTIAN: That is correct.

2 MS. VANCE: And you prepared a written
3 testimony in advance of today's hearing?

4 MR. CHRISTIAN: That is correct.

5 MS. VANCE: And that's marked as
6 Permian Revised Exhibit C, and then Sub Exhibits C1,
7 Exhibit C2, and then Exhibit C3 and C four; is that
8 correct?

9 MR. CHRISTIAN: That is correct.

10 MS. VANCE: Okay. Do you have -- and
11 the -- you statement and your exhibits, they were
12 prepared in connection -- or your exhibits were
13 prepared in connection with your testimony; is that
14 correct?

15 MR. CHRISTIAN: That is correct.

16 MS. VANCE: Okay. And do you have any
17 corrections or modifications to either your testimony
18 or exhibits?

19 MR. CHRISTIAN: I do not.

20 MS. VANCE: Okay. And do you adopt
21 your written testimony and the exhibits under oath?

22 MR. CHRISTIAN: I do.

23 MS. VANCE: All right.

24 Mr. Hearing Examiner, I would request
25 that Mr. Christian's statement and exhibits be

1 accepted into the record.

2 THE HEARING EXAMINER: They are.
3 Everything's been admitted into evidence already.

4 MS. VANCE: Oh.

5 THE HEARING EXAMINER: So Mr. McClure,
6 your questions for Mr. Christian?

7 MR. MCCLURE: Oh. Thank you,
8 Mr. Hearing Examiner.

9 CROSS-EXAMINATION

10 BY MR. MCCLURE:

11 MR. MCCLURE: Mr. Christian, I'm
12 looking at Page 22 of 47 of your amended exhibit
13 packets, or I should say Perian's amended exhibit
14 packets.

15 MR. CHRISTIAN: 22 of 47?

16 MR. MCCLURE: That's correct, sir.
17 This should be, kind of, the end of your summary of
18 working interests and pooled person list?

19 MR. CHRISTIAN: Yes.

20 MR. MCCLURE: Yeah, it looks like that
21 Ms. Vance has it on the screen.

22 MR. CHRISTIAN: Yes. I have it pulled
23 up as well.

24 MR. MCCLURE: And you see the four
25 persons that's listed at the bottom of this, starting

1 with American Energy Resources LLC, and Jonathan
2 Samaniego?

3 MR. CHRISTIAN: Yes.

4 MR. MCCLURE: The other three persons
5 on this list, how are they related to this case?

6 MR. CHRISTIAN: So these three people
7 tied back to the tracts that Mr. Samaniego was
8 originally claiming an interest, in the prior hearing
9 we had over this. When we conducted further title on
10 that tracts, it became aware to us that these three
11 other people also owned in that tract.

12 And so we are amending the exhibits to
13 pool these other three people, as we believe they do
14 own an interest in the space of the other.

15 MR. MCCLURE: So Kevin Conlin, Rosemary
16 O'Neill, Kevin R. Decker; to confirm, you believe they
17 have an interest in this unit; is that correct?

18 MR. CHRISTIAN: We believe there is a
19 possibility that they do own an interest in this unit.

20 MR. MCCLURE: If that's the case, why
21 are they listed down here with the asterisk saying
22 "Permian is pooling these parties out of an abundance
23 of caution"?

24 MR. CHRISTIAN: Because there is still
25 title matters pending that need to be resolved to

1 clear this interest. So we are pooling them out of
2 abundance of caution, if the title leans one way or
3 the other way.

4 MR. MCCLURE: Okay. So I guess, so I
5 understand correctly, there is an interest. Is there
6 an interest related to these four persons that needs
7 to be pooled?

8 MR. CHRISTIAN: Yes, there is.

9 MR. MCCLURE: And at this point, the
10 question is to whether -- which of these persons need
11 to be pooled for that interest; is that correct?

12 MR. CHRISTIAN: That is correct.

13 MR. MCCLURE: Is this interest included
14 in the table of ownership, directly above?

15 MR. CHRISTIAN: It is -- it is not
16 included in that table, I do not believe.

17 MR. MCCLURE: And what is the nature of
18 this interest that is in dispute, then?

19 MR. CHRISTIAN: This would be an
20 unleased mineral interest in a 0.1 acre tract within
21 this unit.

22 MR. MCCLURE: Did you say a 0.8 acres?
23 Is that what you said? I'm sorry, sir.

24 MR. CHRISTIAN: Sorry. It is a 0.1
25 acre tract within this spacing unit.

1 MR. MCCLURE: Okay. So 0.1 acres is
2 what is at pan here?

3 MR. CHRISTIAN: Point one.

4 MR. MCCLURE: Is that correct? Yeah,
5 0.1 acres.

6 MR. CHRISTIAN: Yes. Yes, sorry.

7 MR. MCCLURE: And that 0.1 acres, is it
8 included in the Summary of Ownership?

9 MR. CHRISTIAN: That is not. I do not
10 believe it's included in the original Summary of
11 Ownership.

12 MR. MCCLURE: Now, when you say, "the
13 original Summary of Ownership," are you referencing
14 the one that we're looking at on screen here, that's
15 on Page 21 and 22?

16 MR. CHRISTIAN: That is correct, yes.

17 MR. MCCLURE: Okay. And the persons at
18 pan, would it be accurate to say that either American
19 Energy Resources owns it, or else the other three
20 persons own it; is that accurate?

21 MR. CHRISTIAN: We've done title on the
22 tract, and we do not believe American Energy Resources
23 owns it. But as I mentioned, or possibly these other
24 parties -- but as I mentioned, we're pooling them out
25 of abundance of caution, and knowing that there's

1 potentially a title dispute here.

2 MR. MCCLURE: Okay. So in this title
3 dispute, who is the other person that's not listed
4 here -- or persons, that may be the actual owners?
5 Are they listed here somewhere?

6 MR. CHRISTIAN: Yes, these -- these are
7 the persons, here.

8 MR. MCCLURE: Okay. Maybe I didn't
9 understand your answer. So let me ask my question
10 again in a different manner, I guess. What are the
11 two possible sides of this interest dispute?

12 MR. CHRISTIAN: The possible sides here
13 are American Energy Resources is claiming 100 percent
14 interest in this tract. We got updated -- we got a
15 title opinion rendered showing that they do not own an
16 interest in this tract, because of a quit claim deed
17 did not have proper signature.

18 So we believe that it's a possibility
19 that the three individuals listed under American
20 Energy Resources own this 0.18 tract is --

21 MR. MCCLURE: Okay. Thank you, sir.
22 Yeah, that was -- yeah. I'll probably do better
23 asking question. That was actually what I was looking
24 for there. Okay. Thank you, sir. Not done with
25 questions, though.

1 If I can direct to your attention to
2 Page 30 of 47. That's on the amended -- yeah, this
3 should be a summary of your -- oh, Ms. Vance got it up
4 for us. Yeah, the Summary of Communication. Sir, are
5 you with me, here?

6 MR. CHRISTIAN: Yes, I am.

7 MR. MCCLURE: Okay. On this bottom
8 entry that you have for September 24th of 2024, you
9 reference "ongoing email and telephone correspondence
10 with uncommitted working interest owners and offers
11 made to unleased mineral interest owners." Do you see
12 what I'm referring to?

13 MR. CHRISTIAN: Yes.

14 MR. MCCLURE: Do you have available the
15 actual breakdown of the individuals that these
16 communications was sent to, and the dates of those?

17 MR. CHRISTIAN: I don't have it,
18 probably, readily available, but I do have email
19 correspondence back and forth with individuals that
20 have taken place from this date all the way until
21 today, probably. So.

22 MR. MCCLURE: Okay. If I tell you I'm
23 going to want to see a breakdown of those
24 communications, do you understand what I'm asking for?

25 MR. CHRISTIAN: Yes, I do.

1 MR. MCCLURE: Okay. I believe there's
2 a typo on one of your C102s, but let me draw your
3 attention to, and ask you. Looks like I have a note
4 for Page 17 of 47.

5 MR. CHRISTIAN: Yes.

6 MR. MCCLURE: If you can zoom in on
7 that -- or if Mr. Christian can see if, then that's
8 cool.

9 Do you see in Section 12 where one of
10 the entries still say 330 feet from that quarter line?

11 MR. CHRISTIAN: Yes, I do.

12 MR. MCCLURE: Do you believe that's a
13 typo, or is that correct?

14 MR. CHRISTIAN: I believe that's a
15 typo, as this wellbore would stay -- it's currently
16 planned to be within 320 -- I mean, three 30 feet of
17 the 1320 line from the south. So I believe that that
18 is a typo.

19 MR. MCCLURE: Okay. Thank you, sir.

20 Mr. Hearing examiner, I don't have any
21 further questions, but I am going to want a correction
22 from Ms. Vance.

23 THE HEARING EXAMINER: Okay. So you're
24 finished with this witness; is that right?

25 MR. MCCLURE: I am, Mr. Hearing

1 Examiner.

2 THE HEARING EXAMINER: Okay. Are there
3 any other witnesses that you're going to want to
4 question?

5 MR. MCCLURE: I do not believe I will
6 have any other questions for any other witnesses,
7 Mr. Hearing Examiner.

8 THE HEARING EXAMINER: What about
9 Mr. Dupuis? I don't know how to say his name
10 properly.

11 MS. VANCE: Dupuis.

12 THE HEARING EXAMINER: It is Dupuis?

13 MS. VANCE: I believe so.

14 THE HEARING EXAMINER: Okay.

15 Is - he's --

16 MS. VANCE: Mr. Christian can correct
17 me if I'm wrong. Sorry.

18 THE HEARING EXAMINER: He's the
19 gentleman who filed the rebuttal exhibit. Did
20 you -- you don't think you'll have a question for him?

21 MR. MCCLURE: I read through about 95
22 percent of it. I do not believe, I do not believe I
23 will have any questions for him.

24 THE HEARING EXAMINER: Perfect.

25 Mr. -- Thank you, Mr. Christian.

1 You're excused.

2 Mr. Dupuis, are you with us now?

3 MR. DUPUIS: Yes, sir. I sure am.

4 THE HEARING EXAMINER: Okay. I'm going
5 to wait 'til I can see you.

6 MR. DUPUIS: One moment.

7 THE HEARING EXAMINER: I can see you
8 now. Okay. Would you raise your right hand please?
9 WHEREUPON,

10 JAMES DUPUIS,
11 called as a witness and having been first duly sworn
12 to tell the truth, the whole truth, and nothing but
13 the truth, was examined and testified as follows:

14 THE HEARING EXAMINER: Would you state
15 and spell your name for the record?

16 MR. DUPUIS: James Dupuis D-U-P-U-I-S.

17 THE HEARING EXAMINER: How do you say
18 your last name?

19 MR. DUPUIS: Dupuis.

20 THE HEARING EXAMINER: Dupuis. Okay.
21 Perfect. You're seeking to be admitted as an expert
22 before this Division; is that correct?

23 MR. DUPUIS: Yes.

24 THE HEARING EXAMINER: Okay. Good. In
25 what field?

1 MR. DUPUIS: I'm a title attorney.

2 THE HEARING EXAMINER: Okay. Very
3 good. Can you briefly summarize your education and
4 work experience that go toward that field?

5 MR. DUPUIS: Sure. I'm a -- a 2001
6 graduate at -- at law school, and I've been practicing
7 title examination since 2002, exclusively.

8 THE HEARING EXAMINER: All right.
9 That's good enough for me. You are hereby admitted as
10 a title attorney expert before this Division.

11 Now, do you want -- do you have any
12 questions for him, or do you want me to ask questions?

13 MS. VANCE: I will make him available
14 for questioning. I don't have any questions.

15 THE HEARING EXAMINER: Do you -- you
16 filed a exhibit with this -- in this case, did you
17 not?

18 MR. DUPUIS: Yes, sir.

19 THE HEARING EXAMINER: Okay. Did -- do
20 you adopt that under oath, here today?

21 MR. DUPUIS: Yes, I do.

22 THE HEARING EXAMINER: Okay. Is it
23 accurate?

24 MR. DUPUIS: Yes, it is.

25 THE HEARING EXAMINER: Okay. Do you

1 have any corrections to make?

2 MR. DUPUIS: No, I don't.

3 THE HEARING EXAMINER: Okay. And can
4 you tell me what your conclusion is? What is your
5 expert opinion?

6 MR. DUPUIS: Sure. I was asked to
7 opine on the validity of a -- of a deed from -- was
8 Mr. Bradley Light of Cavern City Cinemas, and I
9 determined that the deed is most likely void. And
10 that's apparently the deed that Mr. Samaniego is
11 claiming through and under.

12 THE HEARING EXAMINER: And why is it --

13 MR. DUPUIS: So that's how --

14 THE HEARING EXAMINER: Okay. Thank
15 you. And why is this most likely void, in your own
16 words?

17 MR. DUPUIS: Mr. Bradley acquired his
18 interest in multiple deeds at a time that he was
19 presumably married, as far as we can tell. And so the
20 property was presumptive of the community property,
21 but the deed out of Mr. Bradley didn't contain his
22 wife's signature.

23 And according to New Mexico law, the
24 wife's signature is -- is valid, otherwise the deed
25 is -- is void.

1 THE HEARING EXAMINER: I see. Okay.
2 Thank you very much.

3 Mr. McClure, any questions for this
4 witness?

5 MR. MCCLURE: I have no questions for
6 this witness, Mr. Hearing Examiner.

7 THE HEARING EXAMINER: Thank you
8 Mr. McClure.

9 Okay. Ms. Vance, any questions based
10 on what I asked?

11 MS. VANCE: No.

12 THE HEARING EXAMINER: All right.

13 And we don't have any other evidence to
14 rebut that because Mr. Samaniego decided not to
15 participate today. So I don't believe I need to
16 strike an intervention. It's shown by your witness
17 that Mr. Samaniego owns no interest in this case.

18 MS. VANCE: And just to confirm, don't
19 need to strike because there's no reason for him to
20 intervene. But also, it sounds like you don't need to
21 strike his objection because it's basically moot at
22 this point.

23 THE HEARING EXAMINER: Yeah. It's not
24 based on a valid reason.

25 MS. VANCE: Okay. Thank you.

1 THE HEARING EXAMINER: Okay.

2 So Mr. McClure, with all that said, do
3 you have anything that you need Ms. Vance to submit or
4 is this case finished and we take under advisement?

5 MR. MCCLURE: Mr. Hearing Examiner, I
6 will need additional stuff from Ms. Vance. Also, upon
7 looking at the notice list, I do have another question
8 that Ms. Vance might be able to answer, or potentially
9 might need to ask Mr. Christian about it, if she can.

10 THE HEARING EXAMINER: Let's get
11 Mr. Christian back, since he's sworn in.

12 Mr. Christian?

13 MR. CHRISTIAN: I'm here.

14 THE HEARING EXAMINER: Okay. Go ahead,
15 Mr. McClure.

16 MR. MCCLURE: Thank you, Mr. Examiner.

17 Mr. Christian. I'm looking at the
18 persons that were noticed of this application,
19 starting on Page 42 of 47. Do you know if any of
20 these four persons that we were talking about earlier,
21 that being American Energy Resources, Kevin Conlin,
22 Rosemary O'Neill, and Kevin Decker; do you believe any
23 of these four individuals were provided notice of this
24 application?

25 MR. CHRISTIAN: I believe notices were

1 sent to them when we amended this, but I will defer to
2 Ms. Vance.

3 MS. VANCE: Mr. Hearing Examiner, I can
4 answer that.

5 Mr. Technical examiner.

6 So we actually have another case that's
7 on the March 13th docket, which is the Wolfcamp, the
8 Caveman Wolfcamp case, which we do have an order for.
9 And we -- based off of what happened in this case at
10 the last hearing, we ended up providing notice to
11 those parties out of an abundance of caution.

12 But taking into consideration the
13 decision that was just made by the Hearing Examiner
14 that we don't need to strike the intervention, or
15 strike the objection of Mr. Samaniego, or AER, or any
16 of these parties, notice to them is irrelevant at this
17 point, because even though we're pooling them out of
18 an abundance of caution, notice isn't really required
19 because they're not affected parties.

20 And if there ends up being a need to
21 pool them later on, based on anything Mr. Samaniego
22 brings to a district court, then we can come back and
23 pool them. But -- and either way, Mr. Samaniego, he
24 received notice because he showed up to the hearing.

25 THE HEARING EXAMINER: Okay. Is

1 that --

2 Mr. McClure, have you given Ms. Vance
3 the list that -- of things you need?

4 MR. MCCLURE: One of the things I need
5 is the working interest, the Summary of Interest to be
6 corrected, based upon or witness, her landman. Today,
7 there's a 0.1 acres that's not in there, and that is
8 interest that belongs to a set, at least four persons.
9 That's the reason I'm asking about notice; nothing to
10 do intervention.

11 THE HEARING EXAMINER: Ms. Vance?

12 MS. VANCE: Yes. I mean, we can follow
13 up with notice. We can provide a revised hearing
14 packet for the notice.

15 THE HEARING EXAMINER: For the notice?

16 Is that what you're asking, Mr. McClure
17 for the notice?

18 MR. MCCLURE: Well, no, I was asking
19 for the interest, but I want to confirm that notice
20 was provided to these persons. So I don't know if
21 Ms. Vance is saying it was, and it's not -- I'm sorry.
22 Go ahead, Mr. Hearing Examiner?

23 THE HEARING EXAMINER: No, but what you
24 said before about what you wanted didn't sound like
25 what Ms. Vance said, and that's why I'm addressing it

1 again.

2 Ms. Vance, I think he wants a table
3 that shows that 0.1 acre that was brought out here in
4 cross-examination today. That was -- it's omitted
5 from your exhibit. He wants that, plus I think he
6 wants to see that notice was provided to that owner of
7 the 0.1 acre.

8 Is that right, Mr. McClure?

9 MR. MCCLURE: That is correct,
10 Mr. Hearing Examiner.

11 THE HEARING EXAMINER: Is there
12 anything else besides those two things that you want
13 amended?

14 MR. MCCLURE: Yes, there is,
15 Mr. Hearing Examiner.

16 THE HEARING EXAMINER: Please?

17 MR. MCCLURE: Ms. Vance, if you happen
18 to have a pen and paper in front you --

19 MS. VANCE: I do. And I believe I
20 already know what you want, which is a revised C102
21 and a revised Chronology of Contacts.

22 MR. MCCLURE: I want a revised C-102,
23 and revised C Pack, Revised Summary of Contacts, and a
24 Revised Working Interest -- or excuse me, Interest
25 Ownership.

1 MS. VANCE: Can you explain or -- I'm
2 not trying to ask, but I'm just confused why we need a
3 revised compulsory pooling checklist?

4 MR. MCCLURE: Well, with -- probably
5 because you didn't let me finish. I was asking if you
6 had pen and paper handy for a pool, and pool code,
7 because the pool is incorrect.

8 MS. VANCE: Okay.

9 MR. MCCLURE: The correct pool should
10 be "Esperanza; Bone Spring." The pool code is 97755.

11 MS. VANCE: I have that.

12 MR. MCCLURE: Okay. If we want to
13 correct the C Pack to include that, in addition to
14 that, revise the C-102 to include it, and correct
15 that, where it has 330 feet listed there in that one
16 area.

17 MS. VANCE: Got it.

18 MR. MCCLURE: Okay. And then did you
19 understand what I was referring to in regards to the
20 Interest Ownership Summary?

21 MS. VANCE: Yes, and I will confer with
22 Mr. Christian on that.

23 MR. MCCLURE: Okay. And it's, of
24 course, in the party's discretion, but if there is a
25 0.1 acres that the party intends to force pool

1 somebody of, it seems like the more accurate
2 description of why we're force pooling them is because
3 that's 0.1 acres, rather than out of abundance of
4 caution.

5 MS. VANCE: We can provide a
6 description.

7 MR. MCCLURE: Okay. Sounds good.
8 Because it sounds like, to me, that it's -- you're
9 doing both warnings out of abundance of caution, but
10 it's going to be either one group or the other group.
11 Is that your understanding as well, Ms. Vance?

12 MS. VANCE: Can you re-ask the
13 question, so I understand?

14 MR. MCCLURE: Okay. Well, my current
15 understanding, from talking to your landman, was that
16 that 0.1 acres needs to be force pooled. The question
17 at this time is, are we force pooling this set of
18 three persons, or are we force pooling Mr. Samaniego?
19 That was my understanding. Now, if that's not
20 correct, then --

21 MS. VANCE: I believe that's --

22 MR. MCCLURE: -- please make me aware.

23 MS. VANCE: -- that's correct.

24 MR. MCCLURE: Okay. Then when you
25 revise your interest owner table, if we could make a

1 better description of why you're asking to force pool,
2 potentially, either three of those four people, or the
3 one on the four people, rather than simply saying "out
4 of abundance of caution."

5 MS. VANCE: We can -- I can do that.
6 That makes sense.

7 MR. MCCLURE: Okay. Thank you,
8 Ms. Vance. Then the only other thing I was looking
9 for is to confirm that these persons were provided
10 notice. Obviously, Ms. Samaniego did show up at
11 hearing. I'm not sure what's most appropriate in
12 regards to the notice for him.

13 The -- our Hearing Examiner could maybe
14 weigh in on that a little bit more, but I would like
15 to see that notes are provided into these other three
16 persons if there's a possibility that they're being
17 force pooled.

18 MS. VANCE: I will coordinate with
19 Mr. Christian on that.

20 MR. MCCLURE: Okay. And if they were
21 not noticed, would it be your intent to task for a
22 continuance to cure notice?

23 MS. VANCE: Yes.

24 MR. MCCLURE: Okay. Thank you,
25 Ms. Vance.

1 Thank you, Mr. Hearing Examiner. I
2 think that concludes my list.

3 THE HEARING EXAMINER: Thank you,
4 Mr. McClure.

5 Ms. Vance, can you give us a time that
6 you will -- Ms. Vance a timeframe for the amended
7 exhibit packet?

8 MS. VANCE: Yes, I will say I don't
9 believe we did the notice on this, because the
10 assumption was, you know, they didn't own an interest.
11 So I do need to follow up with Mr. Christian, and just
12 coordinate timeframes.

13 We provided notice on the other case
14 that will be heard next week, but yes. Can I -- would
15 it be appropriate to just follow up with The Examiner
16 via -- through email to confirm a date? At this
17 point, there are no party -- other parties involved.
18 So it seems like we can communicate and provide --

19 THE HEARING EXAMINER: It sounds like
20 if you need to deal with notice for a party, sounds
21 like you're going to need at least 20 days to deal
22 with that. And that also sounds like we're going to
23 have to put -- do we have to also -- do we have to do
24 anything, Ms. Vance, or is it just you?

25 MS. VANCE: It would just be me.

1 You -- The Division has already provided public notice
2 with the information to go to the case file.

3 THE HEARING EXAMINER: But it sounds
4 like we're going to have to come back on the record to
5 see if that party objects; Right?

6 MS. VANCE: Right.

7 THE HEARING EXAMINER: Okay. All
8 right. So then, with that being said, why don't you
9 continue this case, which will give you plenty of time
10 to get all this other information in. Why don't you
11 continue this case for a month from today.

12 Freya, when would be the closest docket
13 we have in about a month?

14 MS. TSCHANTZ: Is a special docket
15 okay?

16 THE HEARING EXAMINER: Yeah, of course
17 it is.

18 MS. TSCHANTZ: Okay. We have
19 April 1st.

20 THE HEARING EXAMINER: Ms. Vance,
21 April 1st?

22 MS. VANCE: April 1st works.

23 THE HEARING EXAMINER: Seems good to
24 me.

25 MS. VANCE: Yes. And I did have one

1 follow up question.

2 THE HEARING EXAMINER: Yes?

3 MS. VANCE: Since Mr. Samaniego is
4 aware of these, and has had notice, is The Division
5 requiring that we also send letter notice to him, and
6 public notice? I believe, at this point, he's
7 received notice.

8 THE HEARING EXAMINER: Mr. McClure, how
9 do you feel about that?

10 MR. MCCLURE: I mean, he did show up at
11 hearing. Having said that, it might be more
12 conservative providing written notice as well. But
13 the point of the notice is to let him know of the
14 hearing, which he's already aware of.

15 I don't -- seems like more, like, a
16 legal determination, for however you want to handle
17 it, Mr. Hearing Examiner.

18 THE HEARING EXAMINER: Thank you,
19 Mr. McClure.

20 Why would Mr. Samaniego need additional
21 notice? Let's change that. You're asking this
22 question?

23 MS. VANCE: Yes. I don't believe he
24 needs additional notice.

25 THE HEARING EXAMINER: But what -- you

1 brought it up. What was going through your head why
2 you thought he might need additional notice?

3 MS. VANCE: If -- I just want to make
4 sure that I'm meeting the request from The Technical
5 Examiner regarding notice. But it appears to me that
6 Mr. Samaniego has received all of the notice he needs.
7 And so the notice that we would be providing would
8 just be to the three parties that may also have this
9 interest.

10 THE HEARING EXAMINER: Okay.

11 MS. VANCE: Thank you.

12 THE HEARING EXAMINER: It's your
13 determination. Thank you.

14 All right. If there's nothing further,
15 then we are off the record, at least for now, until
16 April the 1st.

17 And, Ms. Vance, you will continue your
18 case 'til April the 1st. And let's give Mr. McClure
19 some time to review the exhibits. So I'm going to
20 give you a deadline filing your amended hearing packet
21 for four working days before April 1st.

22 MS. VANCE: And I will also file a
23 revised rebuttal to fix Mr. Dupuis's self-affirmed
24 statement.

25 THE HEARING EXAMINER: Perfect. Thank

1 you.

2 All right, well, thank you, Mr. McClure,
3 Ms. Vance, Mr. Cogswell, Ms. Tschantz.

4 We're off the record.

5 (Whereupon, at 1:33 p.m., the
6 proceeding was concluded.)

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CERTIFICATE

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.



JAMES COGSWELL

Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, STEPHEN SMALE, 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.

A handwritten signature in black ink, appearing to be 'S. Smale', with a long horizontal flourish extending to the right.

STEPHEN SMALE

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