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

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

APPLICATION OF COG OPERATING, Case Nos.
LLC FOR COMPULSORY POOLING, 22298-22300
LEA COUNTY, NEW MEXICO;

APPLICATION OF COLGATE Case Nos.
OPERATING, LLC TO POOL 23149-23156
ADDITIONAL INTERESTS, LEA
COUNTY, NEW MEXICO;

APPLICATION OF COLGATE Case Nos.
OPERATING, LLC FOR COMPULSORY 23093;
POOLING, EDDY COUNTY, 23107-23114
NEW MEXICO

1	APPLICATION OF CROCKETT	Case Nos.
2	OPERATING, LLC FOR	23092 & 23096
3	COMPULSORY POOLING, LEA	
4	COUNTY, NEW MEXICO;	
5		
6	APPLICATION OF DEVON ENERGY	Case Nos.
7	COMPANY, L.P. FOR HORIZONTAL	23119, 23120
8	SPACING UNIT AND COMPULSORY	23147, 23148
9	POOLING, LEA COUNTY, NEW	
10	MEXICO;	
11		
12	APPLICATION OF EARTHSTONE	Case Nos.
13	OPERATING, LLC FOR COMPULSORY	22978-22981
14	POOLING, LEA COUNTY, NEW	
15	MEXICO;	
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17	APPLICATION OF FRANKLIN	Case Nos.
18	MOUNTAIN ENERGY FOR	23129-23167
19	COMPULSORY POOLING, LEA	
20	COUNTY, NEW MEXICO;	
21		
22	APPLICATION OF MARATHON OIL	Case Nos.
23	PERMIAN, LLC FOR COMPULSORY	23168, 23169
24	POOLING, EDDY COUNTY, NEW	
25	MEXICO;	

1	APPLICATION OF MATADOR	Case Nos.
2	PRODUCTION COMPANY FOR	22211-22218;
3	COMPULSORY POOLING, LEA	
4	COUNTY, NEW MEXICO;	
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6	APPLICATION OF MATADOR	Case Nos.
7	PRODUCTION COMPANY FOR	22988
8	COMPULSORY POOLING, EDDY	
9	COUNTY, NEW MEXICO;	
10		
11	APPLICATION OF MATADOR PRODUCTION	Case Nos.
12	COMPANY TO AMEND ORDER, LEA	23121-23128
13	COUNTY, NEW MEXICO;	
14		
15	APPLICATION OF MEWBOURNE OIL	Case Nos.
16	COMPANY FOR COMPULSORY POOLING,	22161-22164
17	LEA COUNTY, NEW MEXICO;	
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19	APPLICATION OF MEWBOURNE OIL	Case Nos.
20	COMPANY FOR COMPULSORY POOLING,	22427, 22428,
21	EDDY COUNTY, NEW MEXICO;	22721, 22722,
22		23115, 23170-
23		23173
24		
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1	APPLICATION OF OXY USA, INC.	Case Nos.
2	FOR APPROVAL OF NON-STANDARD	23116
3	HORIZONTAL WELL, LEA COUNTY,	
4	NEW MEXICO;	
5		
6	APPLICATION OF SPUR ENERGY	Case Nos.
7	PARTNERS, LLC FOR COMPULSORY	23046, 23094
8	POOLING, EDDY COUNTY, NEW	23100,
9	MEXICO;	
10		
11	APPLICATION OF STEWARD ENERGY	Case Nos.
12	II, LLC TO POOL ADDITIONAL	23095
13	INTERESTS AND COMPULSORY POOLING	23097-23099
14	LEA COUNTY, NEW MEXICO;	
15		
16	APPLICATION OF TAP ROCK	Case Nos.
17	OPERATING, LLC FOR	23105-23106
18	COMPULSORY POOLING, LEA	
19	COUNTY, NEW MEXICO;	
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21	APPLICATION OF V-F PETROLEUM,	Case Nos.
22	INC. FOR COMPULSORY POOLING AND	23117, 23118
23	HORIZONTAL SPACING UNIT, EDDY	
24	COUNTY, NEW MEXICO;	
25		

1 APPLICATION OF V-F PETROLEUM, Case Nos.
2 INC. FOR COMPULSORY POOLING AND 23102-23104
3 HORIZONTAL SPACING UNIT, LEA
4 COUNTY, NEW MEXICO;

5
6 APPLICATION OF WHIPTAIL Case No.
7 MIDSTREAM, LLC FOR HEARING 22782
8 ON REMEDIATION AND CLOSURE
9 PLANS, RIO ARRIBA COUNTY,
10 NEW MEXICO;

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12 APPLICATION OF FAE II OPERATING, Case Nos.
13 LLC FOR APPROVAL OF AN ENHANCED 22971, 22972
14 OIL RECOVERY PROJECT, LEA
15 COUNTY, NEW MEXICO.

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VIDEOCONFERENCE HEARING

DATE: Thursday, November 3, 2022
TIME: 8:15 a.m. MDT
BEFORE: Hearing Examiner Bill Brancard
Technical Examiner Dean McClure
Special Guest Examiner, Philip Goetze
LOCATION: Remote Proceeding
Santa Fe, NM 87501
REPORTED BY: Dana Fulton, Notary Public
JOB NO.: 5529252

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A P P E A R A N C E S

ON BEHALF OF NEW MEXICO ENERGY MINERALS AND NATURAL
RESOURCES DEPARTMENT:

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AND FRANKLIN MOUNTAIN ENERGY:

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

ON BEHALF OF MATADOR PRODUCTION COMPANY, MEWBOURNE OIL COMPANY, OXY USA, INC., COG OPERATING, LLC, EARTHSTONE OPERATING, APACHE CORPORATION, ADVANCE ENERGY PARTNERS, CONOCOPHILLIPS COMPANY:

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ON BEHALF OF APACHE CORPORATION; CHEVRON USA, INC.; CITATION OIL AND GAS CORPORATION; OXY USA, INC.; XTO HOLDINGS, LLC; XTO ENERGY, INC.; TAP ROCK OPERATING, LLC; MRC DELAWARE RESOURCES, LLC; MRC PERMIAN; EARTHSTONE OPERATING; TAP ROCK OPERATING, LLC; CONOCOPHILLIPS; COG OPERATING, LLC; CONCHO OIL AND GAS, LLC:

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

ON BEHALF OF DOYLE AND MARGARET HARTMAN:

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ON BEHALF OF COG OPERATING; CONOCO PHILLIPS; COLGATE
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A P P E A R A N C E S (Cont'd)

ON BEHALF OF SPUR ENERGY PARTNERS, STEWARD ENERGY II,
LLC; V-F PETROLEUM, INC.; COLGATE OPERATING, LLC:

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

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

ON BEHALF OF WHIPTAIL MIDSTREAM; V-F PETROLEUM, INC.;
COTERRA ENERGY COMPANY; CIMAREX ENERGY COMPANY; DEVON
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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Crockett Operating, L.L.C. (Case no. 23092):		
Exhibit A	Compulsory Pooling Checklist	49/50
Exhibit B	Application	49/50
Exhibit C	Landman Affidavit	49/50
Exhibit D	Geologist Affidavit	49/50
Exhibit E	Notice Affidavit	49/50
Exhibit F	Affidavit of Publication	49/50

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Crockett Operating, L.L.C. (Case no. 23096):		
Exhibit A	Compulsory Pooling Checklist	52/54
Exhibit B	Application	52/54
Exhibit C	Landman Affidavit	52/54
Exhibit D	Geologist Affidavit	52/54
Exhibit E	Notice Affidavit	52/54
Exhibit F	Affidavit of Publication	52/54

(Exhibits retained by counsel.)

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

NO.	DESCRIPTION	ID/EVD
Spur Energy Partners (Case no. 23046):		
Exhibit A	Landman Affidavit	56/58
Exhibit B	Geologist Affidavit	56/58
Exhibit C	Notice Affidavit	56/58

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Colgate Operating (Case no. 23093):		
Exhibit A	Landman Affidavit	60/61
Exhibit B	Geologist Affidavit	60/61
Exhibit C	Notice Affidavit	60/61

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Steward Energy (Case no. 23099):		
Exhibit A	Landman Affidavit	66/68
Exhibit B	Geologist Affidavit	66/68
Exhibit C	Notice Affidavit	66/68

(Exhibits retained by counsel.)

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

NO.	DESCRIPTION	ID/EVD
Spur Energy Partners (Case no. 23100):		
Exhibit A	Landman Affidavit	71/72
Exhibit B	Geologist Affidavit	71/72
Exhibit C	Notice Affidavit	71/72

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
V-F Petroleum, Inc. (Case nos. 23102-23104):		
Exhibit A	Landman Affidavit	75/78
Exhibit B	Geologist Affidavit	75/78
Exhibit C	Notice Affidavit	75/78

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Colgate Operating (Case nos. 23107-23110):		
Exhibit A	Landman Affidavit	81/88
Exhibit B	Geologist Affidavit	81/88
Exhibit C	Notice Affidavit	81/88

(Exhibits retained by counsel.)

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

NO.	DESCRIPTION	ID/EVD
Colgate Operating (Case nos. 23111-23114):		
Exhibit A	Landman Affidavit	91/92
Exhibit B	Geologist Affidavit	91/92
Exhibit C	Notice Affidavit	91/92

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Mewbourne Oil Company (Case no. 23115):		
Exhibit A	Landman Affidavit	96/98
Exhibit B	Geologist Affidavit	96/98
Exhibit C	Notice Affidavit	96/98

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Oxy USA, Inc. (Case no. 23116):		
Exhibit A	Compulsory Pooling Checklist	106/107
Exhibit B	Application	106/107
Exhibit C	Landman Affidavit	106/107
Exhibit D	Geologist Affidavit	106/107
Exhibit E	Facilities Engineer Affidavit	106/107
Exhibit F	Notice Affidavit	106/107
Exhibit G	Affidavit of Publication	106/107

(Exhibits retained by counsel.)

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

NO.	DESCRIPTION	ID/EVD
V-F Petroleum, Inc. (Case no. 23117):		
Exhibit A	Landman Affidavit	110/111
Exhibit B	Geologist Affidavit	110/111
Exhibit C	Notice Affidavit	110/111

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
V-F Petroleum, Inc. (Case no. 23118):		
Exhibit A	Landman Affidavit	113/117
Exhibit B	Geologist Affidavit	113/117
Exhibit C	Notice Affidavit	113/117

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Devon Energy Production Company, LP (Case nos. 23119, 23120):		
Exhibit A	Landman Affidavit	123/126
Exhibit B	Geologist Affidavit	123/126
Exhibit C	Notice Affidavit	123/126

(Exhibits retained by counsel.)

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

NO.	DESCRIPTION	ID/EVD
Matador Production Company (Case nos. 23121-23124):		
Exhibit A	Extension Applications	129/130
Exhibit B	Original Orders	129/130
Exhibit C	Landman Affidavit	129/130
Exhibit D	Notice Affidavit	129/130
Exhibit E	Affidavit of Publication	129/130

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Matador Production Company (Case nos. 23125-23128):		
Exhibit A	Extension Applications	133/185
Exhibit B	Original Orders	133/185
Exhibit C	Landman Affidavit	133/185
Exhibit D	Notice Affidavit	133/185
Exhibit E	Affidavit of Publication	133/185

(Exhibits retained by counsel.)

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

NO.	DESCRIPTION	ID/EVD
Devon Energy Production Company, LP (Case nos. 23147, 23148):		
Exhibit A	Landman Affidavit	140/150
Exhibit B	Geologist Affidavit	140/150
Exhibit C	Notice Affidavit	140/150
(Exhibits retained by counsel.)		

NO.	DESCRIPTION	ID/EVD
Marathon Oil Permian, LLC (Case no. 23168):		
Exhibit A	Landman Affidavit	152/155
Exhibit B	Geologist Affidavit	152/155
Exhibit C	Notice Affidavit	152/155
(Exhibits retained by counsel.)		

NO.	DESCRIPTION	ID/EVD
Marathon Oil Permian, LLC (Case no. 23169):		
Exhibit A	Landman Affidavit	158/160
Exhibit B	Geologist Affidavit	158/160
Exhibit C	Notice Affidavit	158/160
(Exhibits retained by counsel.)		

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

NO.	DESCRIPTION	ID/EVD
Mewbourne Oil Company (Case no. 23170):		
Exhibit A	Landman Affidavit	164/165
Exhibit B	Geologist Affidavit	164/165
Exhibit C	Notice Affidavit	164/165

(Exhibits retained by counsel.)

NO.	DESCRIPTION	ID/EVD
Mewbourne Oil Company (Case nos. 23171, 23172):		
Exhibit A	Landman Affidavit	168/172
Exhibit B	Geologist Affidavit	168/172
Exhibit C	Notice Affidavit	168/172

(Exhibits retained by counsel.)

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

NO.	DESCRIPTION	ID/EVD
	Mewbourne Oil Company (Case nos. 22427, 22428, 22721, 22722):	
Exhibit 1	Prehearing Statement	179/182
Exhibit 2	Applications and Notices	179/182
Exhibit 3	Landman Affidavit	179/182
Exhibit 4	Geologist Affidavit	179/182
Exhibit 5	Notice Affidavit	179/182
Exhibit 6	Published Notices	179/182
Exhibit 7	Pooling Checklists	179/182
Exhibit 8	Certified Notice Spreadsheet	179/182

(Exhibits retained by counsel.)

1 P R O C E E D I N G S

2 HEARING EXAMINER: This is the Oil
3 Conservation Division of New Mexico Hearings Docket
4 for November 3, 2022. I'm Bill Brancard, your Hearing
5 Examiner for today. With me is Technical Examiner,
6 Mr. Dean McClure, looking all shiny this morning.

7 As usual, we have a court reporter so
8 please speak clearly and slowly.

9 As always, the worksheet for today is
10 on our website. We have 104 cases listed. That's
11 obviously way too much so we added two more; 22971 and
12 22972 FAE will be heard at the end of docket today.
13 They were previously scheduled through a scheduling
14 order and we just forgot to put it on our worksheet.

15 So announcements for today. So we're
16 trying to catch up on all of the backlog of orders to
17 be written and we're getting a lot of grief for it.
18 So one of the problems is that we often, at these
19 hearings, request that you all provide us with
20 additional information or corrections. When folks
21 finally get around to drafting the order, they
22 discover that that information has not been provided.

23 So we will try, going forward, starting
24 today, to give you a deadline for when we would like
25 this information to be provided. Normally, the

1 information is not terribly complicated. It might be,
2 like, a revised checklist. So two weeks should be
3 plenty of time to provide us with that information.
4 And if you don't have it in two weeks, well, the
5 grumpy person writing the order may just draft a
6 dismissal instead, so be forewarned.

7 Additionally, and last week I brought
8 up the fact that, as of a while ago, all our e-mail
9 addresses, all our website addresses have all changed
10 as of, I don't know -- I don't know. When was it,
11 Dean, like, two months ago?

12 MR. MCCLURE: I was going to say, don't
13 quote me, but that sounds about right.

14 HEARING EXAMINER: Yeah. And so we're
15 still seeing notices that are being sent out, letters
16 that are being sent out to parties that are using our
17 old addresses; okay? And since I only told you last
18 week and many of these notices were probably already
19 in progress, it's only fair to clamp down on you
20 today. But in the future, you need to have the
21 correct addresses so folks who are given notice by you
22 know how to find these cases, how to provide
23 information to us, how to file documents. So please;
24 thank you. Remember, everything is now emnrd.nm.gov.
25 It's no longer state.nm.us.

1 I did note with that there's sort of
2 partial compliance that many of the letters that have
3 been sent out have the correct address for some of the
4 e-mails and websites, but not all of them. Anyway,
5 we're getting there, I guess.

6 So okay. We have 106 cases today.
7 Many of them are status conferences and that's what we
8 will start with. And so, I will start the proceedings
9 today.

10 Looking at the worksheet, we are Items
11 1 through 8. These are Case Numbers 22161, 22162,
12 22163, 22164, 22978, 22979, 22980, and 22981. Let's
13 start off with Mewbourne Oil Company.

14 MR. BRUCE: Mr. Examiner, can you hear
15 me?

16 HEARING EXAMINER: I can.

17 MR. BRUCE: Okay. Jim Bruce here on
18 behalf of Mewbourne.

19 HEARING EXAMINER: Thank you. I
20 believe the new party is Earthstone Operating.

21 MR. FELDEWERT: You are correct,
22 Mr. Examiner. Good morning, Michael Feldewert, on
23 behalf of Earthstone Operating.

24 HEARING EXAMINER: Thank you. We have
25 a few other entries and appearances here. COG

1 Operating?

2 MS. MUNDS-DRY: Good morning, Mr.
3 Hearing Examiner, Ocean Munds-Dry with COG Operating,
4 LLC.

5 HEARING EXAMINER: Thank you. Oxy USA?

6 MR. FELDEWERT: Good morning,
7 Mr. Examiner. Mr. Feldewert with Santa Fe Office of
8 Holland and Hart. I think Oxy has appeared in the
9 Mewbourne cases.

10 HEARING EXAMINER: Thank you. That is
11 correct. Apache Corporation?

12 MS. BENNETT: Good morning,
13 Mr. Examiner, Deana Bennett on behalf of Apache
14 Corporation.

15 HEARING EXAMINER: All right. So let's
16 start with you, Mr. Bruce. Where are we on these
17 cases?

18 MR. BRUCE: Mr. Examiner, the parties
19 have been in negotiations at Earthstone and Mewbourne.
20 I did speak with Mr. Feldewert, or had an e-mail
21 exchange with him, a couple of days ago. He would
22 like to continue this to another date for a status
23 conference. However, Mewbourne would just like to set
24 a hearing date, so that's where we are.

25 HEARING EXAMINER: Okay. Mr.

1 Feldewert?

2 MR. FELDEWERT: Mr. Bruce, has
3 accurately communicated the communications.

4 HEARING EXAMINER: All right. So if we
5 have a hearing, it will be in January. I don't know
6 if that affects anybody's thoughts, but let me go
7 around the horn here and see if any other persons have
8 any comments. COG?

9 MS. MUNDS-DRY: No comment; thank you.

10 HEARING EXAMINER: Negative nod there.
11 Apache? You were muted but we read your lips, "No
12 comment."

13 Okay. And I assume, Mr. Feldewert, Oxy
14 does not have a different position then?

15 MR. FELDEWERT: Correct.

16 HEARING EXAMINER: So we could possibly
17 do a status conference in December or a hearing in
18 January.

19 MR. BRUCE: My client would prefer a
20 hearing, Mr. Examiner.

21 HEARING EXAMINER: Well, let's do a
22 hearing then. January 19th for a hearing.

23 MR. BRUCE: Fine with us.

24 MR. FELDEWERT: Thank you,
25 Mr. Examiner.

1 HEARING EXAMINER: Any further comments
2 on these cases 22161 through 164, 22978 through 981?
3 Hearing none, these cases will be set for a hearing on
4 January 19th.

5 All right. With that, we are now on
6 Items 9 through 19. These would be Case Numbers
7 22211, 22212, 22213, 22214, 22215, 22216, 22217,
8 22218, and 22298, 22299, 22300. Matador Production
9 Company?

10 MR. BRUCE: Mr. Examiner, Jim Bruce for
11 Matador.

12 HEARING EXAMINER: Thank you. COG
13 Operating?

14 MS. HARDY: Good morning, Mr. Hearing
15 Examiner, Dana Hardy with Santa Fe Office of Hinkle
16 Shanor for COG Operating.

17 HEARING EXAMINER: Thank you. I have
18 an entry from Advanced Energy Partners, LLC.

19 MS. HARDY: That's also me,
20 Mr. Examiner.

21 HEARING EXAMINER: Okay. I'm not
22 seeing anybody else. Any other interested persons
23 Cases 22211 through 18; 22298 through 22300? Anyone
24 else? I'll start with Ms. Hardy.

25 MS. HARDY: Mr. Examiner, the parties

1 are still talking and negotiating. But at this point,
2 I think COG's preference is to set a contested hearing
3 date.

4 HEARING EXAMINER: Thank you. Mr.
5 Bruce?

6 MR. BRUCE: No problem with that.

7 HEARING EXAMINER: All right. So let's
8 also do January 19th.

9 MR. BRUCE: Thank you.

10 MS. HARDY: Thank you.

11 HEARING EXAMINER: Once again, any
12 other interested persons 22211 through 18; 22298
13 through 22300? Hearing none, these cases will be set
14 for hearing on January 19.

15 All right. We are down to Item
16 Number 21. Case Numbers 23105, 23106; Tap Rock
17 Operating?

18 MR. FELDEWERT: Mr. Examiner, Michael
19 Feldewert.

20 MR. BRUCE: Case Number 20, was that
21 included in the --

22 HEARING EXAMINER: No, you're right,
23 Mr. Bruce. I skipped right over it. I'm sorry.
24 Thank you.

25 So let's backtrack a bit. We're on

1 Item Number 20, Case 22988, Matador Production
2 Company.

3 MR. BRUCE: Mr. Examiner, Jim Bruce on
4 behalf of Matador.

5 HEARING EXAMINER: All right. Conoco
6 Phillips Company?

7 MS. HARDY: Mr. Examiner, Dana Hardy on
8 behalf of Conoco Phillips.

9 HEARING EXAMINER: Okay. And so, Ms.
10 Hardy, Conoco Phillips finds Matador objectionable
11 here so is Conoco preparing to file competing case(s)?

12 MS. HARDY: Mr. Examiner, Conoco
13 Phillips has plans to develop his own acreage that it
14 owns 100 percent of that Matador is proposing to
15 include in its spacing unit. So COG is planning to
16 oppose that earth application and would ask for a
17 contested hearing date.

18 HEARING EXAMINER: Okay. But we're not
19 anticipating a new application anytime soon from CP?

20 MS. HARDY: That's correct.

21 HEARING EXAMINER: Thank you. All
22 right. Mr. Bruce, I guess we'll do a hearing date; is
23 that correct?

24 MR. BRUCE: I believe so. Thank you.

25 HEARING EXAMINER: All right. Well,

1 let's set this for January 19, since we're on a roll.

2 MR. BRUCE: Seems to be a popular date.

3 HEARING EXAMINER: Yeah.

4 MR. BRUCE: Thank you.

5 HEARING EXAMINER: And are you okay
6 with that, Ms. Hardy?

7 MS. HARDY: That's fine. Thank you.

8 HEARING EXAMINER: All right. So
9 anyone else here for Case 22988? Hearing none, it
10 will be set for a hearing on January 19th.

11 With that, let's go to Case 23105,
12 23106 Tap Rock Operating.

13 MR. FELDEWERT: Good morning, Michael
14 Feldewert with Tap Rock Operating, LLC.

15 HEARING EXAMINER: Thank you. We have
16 an entry from COG Operating.

17 MS. HARDY: Yes, Mr. Examiner. Dana
18 Hardy for COG Operating.

19 HEARING EXAMINER: And then EGL
20 Resources?

21 MR. PADILLA: Mr. Examiner, Earnest
22 Padilla for EGL.

23 HEARING EXAMINER: Are there any other
24 interested persons for Cases 23105, 23106? Hearing
25 none.

1 So COG are you preparing to submit
2 competing cases?

3 MS. HARDY: Sorry, Mr. Examiner. COG
4 has sent out competing proposals and we are planning
5 to file competing applications by December 5th for the
6 January 5th docket.

7 HEARING EXAMINER: Okay. EGL?

8 MR. PADILLA: Mr. Examiner, I'm not
9 sure. I think we're just trying to protect appellate
10 rights at this point. I don't have any direction from
11 my client as to whether they will oppose the case or
12 just ride along.

13 But in terms of setting a date for a
14 hearing, I'd follow whatever your discretion would be.

15 HEARING EXAMINER: Gee thanks, Mr.
16 Padilla. So Mr. Rodriguez, any thoughts, proposals?

17 MR. RODRIGUEZ: Since COG can meet the
18 requirements for the January 5th docket, Tap Rock
19 would prefer that to be set for a contested hearing.
20 Otherwise, we're also okay with tacking onto the
21 January 19th docket.

22 HEARING EXAMINER: All right. Well,
23 how about if we take a risk here and go for January
24 5th? It might be less confusing if that's where COG
25 cases are. Is that okay, Ms. Hardy?

1 MS. HARDY: Mr. Examiner, I need to
2 confirm with COG's witnesses, but subject to that
3 confirmation, I believe that's fine.

4 HEARING EXAMINER: Okay. All right.
5 So we will wait to hear back from COG. Tentatively,
6 we are setting this for the January 5th docket as a
7 contested hearing. COG to confirm if January 5th
8 doesn't work out, we'll pick a random date in 2023 and
9 -- or you can give us dates. Sorry. I think that
10 would be preferable.

11 And then, Ms. Hardy, when COG files
12 applications, please send us an e-mail indicating that
13 these cases are to be added to a prehearing order.

14 MS. HARDY: I will do that. Thank you.

15 HEARING EXAMINER: Thank you. All
16 right.

17 Okay. With that, we are, I believe, on
18 Items 23 all the way up to 40, although we could go
19 further if we needed to. And these are Cases 23129
20 23130, 23131, 23132, 23133, 23134, 23135, 23136,
21 23137, 23138, 23139, 23140, 23141, 23142, 23143,
22 23144, 23145, and 23146, Franklin Mountain Energy?

23 MS. BENNETT: Good morning,
24 Mr. Examiner, Deana Bennett on behalf of Franklin
25 Mountain Energy. And, in fact, you could include also

1 cases on the docket 41 through 50 as well.

2 HEARING EXAMINER: All right. And so,
3 let me just first check in with COG Operating?

4 MS. HARDY: Yes, Mr. Examiner, Dana
5 Hardy, for COG Operating in all three cases.

6 HEARING EXAMINER: And is COG fine with
7 combining this with the next group?

8 MS. HARDY: Yes, that's fine.

9 HEARING EXAMINER: Are there any other
10 persons here? Okay. Let me -- okay. So the next
11 group to be combined with this is now Cases 23158,
12 23159, 23160, 23161, 23162, 23163, 23164, 23165,
13 23166, and 23167.

14 Are there any other persons here for
15 Cases 23129 through 23146 or 23158 through 23167?
16 Hearing none, since we have the same two parties,
17 let's start backwards here with COG Operating. And is
18 COG planning to file competing cases or you're just
19 sort of objecting to everything?

20 MS. HARDY: I'm filing competing
21 applications and --

22 HEARING EXAMINER: Ms. Hardy, you're
23 cutting out a bit so please start again.

24 MS. HARDY: Okay. I'll try to speak
25 up. We are filing competing applications. Should be

1 filed by December 5th to be initially set on the
2 January 5th docket.

3 HEARING EXAMINER: Now, is that for
4 both groups of cases?

5 MS. HARDY: Yes.

6 HEARING EXAMINER: Okay. Ms. Bennett,
7 any thoughts?

8 MS. BENNETT: Yes; thank you. So we
9 would like to have -- Franklin Mountain Energy would
10 like to have these cases set for a contested hearing
11 on January 19th or January 5th, but understanding that
12 January 5th may not be workable. But we are prepared
13 to move forward and would like to move forward on
14 January 5th or January 19th.

15 HEARING EXAMINER: Okay.

16 Ms. Hardy, have you gotten information
17 from your client about dates?

18 MS. HARDY: I think we would prefer
19 January 19th, Mr. Examiner.

20 HEARING EXAMINER: Okay. Well, that
21 could be an exciting one. So let's go for January
22 19th then.

23 MS. BENNETT: That sounds great. Thank
24 you.

25 MS. HARDY: Thank you.

1 HEARING EXAMINER: And everybody's okay
2 if we just do this all as one big prehearing order?

3 MS. HARDY: That's fine.

4 MS. BENNETT: Yeah.

5 HEARING EXAMINER: All right. So with
6 that --

7 MS. BENNETT: And just to clarify on
8 these, we will need to file continuances for all of
9 these cases, is that right, to get them to January
10 19th?

11 HEARING EXAMINER: That's right.

12 MS. BENNETT: So as the party
13 protesting our cases, I think that COG -- I'll work
14 with Ms. Hardy to ensure that the continuances get
15 filed by COG.

16 HEARING EXAMINER: That would be
17 wonderful, because otherwise, you'll start getting
18 those e-mails from Marlene. Wouldn't want to be you.

19 MS. BENNETT: Thank you.

20 MS. HARDY: Thank you.

21 HEARING EXAMINER: Okay. So with that,
22 we are already through 50 cases today.
23 Congratulations, everyone.

24 So we are now on Items 51 through 58.
25 And, gosh, I'm not sure what to do with this, but

1 we'll figure it out.

2 These are Cases 23149, 23150, 23151,
3 23152, 23153, 23154, 23155, and 23156; Colgate
4 Operating?

5 MS. HARDY: Mr. Examiner, Dana Hardy
6 with Hinkle Shanor on behalf of Colgate Operating.

7 HEARING EXAMINER: Okay.

8 MR. GALLEGOS: Mr. Examiner, Gene
9 Gallegos on behalf of Doyle and Margaret Hartman.

10 HEARING EXAMINER: Thank you. Good
11 morning, Mr. Gallegos.

12 Any other interested persons for Cases
13 23149 through 23156? All right. So we have an
14 objection to this case going forward by affidavit and
15 then we have a response to the objection to the case
16 going forward by affidavit. I will give you a brief
17 opportunity, Ms. Hardy, to explain why you are
18 objecting to an objection.

19 MS. HARDY: Thank you, Mr. Examiner.

20 In these cases, Colgate seeks to pull
21 record title owners of federal leases. They have not
22 signed communitization agreements. And Doyle Hartman
23 owns a minority record title interest in one of the
24 leases.

25 Colgate has obtained title opinion but

1 show Hartman does not own a working interest in these
2 units and is not pooling any working interest held by
3 Hartman. Object to the pooling of his record title
4 interest on the grounds that he believes he also owns
5 a working interest. And then, he objects to the costs
6 and missed penalty provisions of the pooling order
7 that apply to working interests not record title
8 interests.

9 So Colgate is agreeing, we've stated in
10 our motion, and I'll state it on the record, we're not
11 pooling any work.

12 So because his objection pertains to an
13 interest that is not being pooled, I filed a Motion to
14 Strike the Prehearing Statement. I don't think the
15 Hartmans should be permitted to hold up Colgate's 24-
16 well development involving two sections because he
17 claims to own a working interest that is not being
18 pooled.

19 And if he ultimately establishes to a
20 quiet title action or documentation that he does own a
21 working interest, then Colgate would need to address
22 the issue with him at that time through pooling or
23 through negotiations.

24 So I don't think it's valid to object
25 to the pooling of a record title interest based on

1 your claim that you own an interest that's not being
2 pooled.

3 That's kind of where we are, and I know
4 that Hartman's prehearing statement also raised an
5 argument that his due process rights were violated
6 because an interest was pooled in the first cases from
7 these wells, and he didn't receive notice.

8 That's incorrect. His record title
9 interest wasn't -- just today. So I think that the
10 objection really isn't valid and I'm not sure what we
11 would be deciding at a hearing.

12 So I would ask that the cases go
13 forward by affidavit and that the objection submitted
14 by Hartman be determined to be invalid or stricken.

15 MR. GALLEGOS: Mr. Examiner?

16 MS. HARDY: Mr. Brancard, I think
17 you're muted.

18 HEARING EXAMINER: Oh. That was a
19 great point I made.

20 So, Mr. Gallegos, I have one question
21 for you, which is, at the end of Ms. Hardy's filing
22 from yesterday, she indicates that Colgate agrees with
23 the three conditions requested by Hartman here. It's
24 Paragraph 8, page 3 of her filing.

25 So my only question, Mr. Gallegos, is

1 if -- does the agreement to those three conditions
2 remove your objection to this case going forward by
3 affidavit?

4 MR. GALLEGOS: No, it does not,
5 Mr. Examiner. And we're -- we're -- I think we're
6 overlooking by Ms. Hardy trying to address what
7 amounts to a property interest issue which may end up
8 having to be settled by the courts, what we're
9 overlooking is that now it's recognized -- whether
10 they want to call it record title, working interest,
11 or whatever -- now, they recognize that they did not
12 give our clients notice of the prior hearing.

13 We're not here for really the merits
14 hearing because that happened with the absence of
15 notice to Doyle Hartman. This case was heard in June
16 with no notice.

17 So what we're doing here now is saying
18 by Colgate, oh, now we want to join Hartman, but he's
19 got to be subject to orders that resulted from a
20 hearing in June to which he has no opportunity to
21 object. And he has objections to terms of those
22 orders.

23 So the issue really here is, now is the
24 first time that Hartman has a chance to actually be
25 heard on all of the matters. The risk penalty, the

1 wells to be drilled, and all of that. That's the
2 issue. And we certainly are entitled to that hearing
3 on the merits because we weren't able to participate
4 in June. Because Colgate knew of our interest,
5 obviously. It's speaking to it in terms of their spin
6 on what the interest amounts to. They know of the
7 interest. Did not give -- did not give notice. And
8 so now they want us to be subject to an order in which
9 we had no opportunity to address on the merits.

10 So, yeah. We believe this matter
11 should be set for hearing. In the meantime, if we can
12 work out something with Colgate, we will continue to
13 do that.

14 But the conditions that Colgate wants
15 to set so it can go forward does not overcome the fact
16 that it knew of the interest, didn't give notice to
17 which we were entitled, and now is trying to bootstrap
18 us in and make us subject to an order that resulted
19 from a hearing which we did not have the opportunity
20 to participate.

21 HEARING EXAMINER: Okay. Thank you.
22 Well, let me just say a couple of things. If we have
23 a hearing on this matter, the Hartmans can raise
24 whatever issues they like and the amendment to the
25 order that might result from that hearing could

1 include whatever conditions the Hartmans might want to
2 impose as to themselves, as opposed to everyone else
3 who has already been pooled, okay?

4 Second of all, when we pool a record
5 title owner, we often don't include a lot of the
6 conditions that you may find objectionable,
7 Mr. Gallegos, such as, the risk charge, etcetera,
8 because the record title owner is not participating.

9 Anyway, all that is just sort of for
10 background. The reality is that, under our
11 Alternative Procedure Rules 4.12, it simply says if an
12 interested party objects to the procedure we will have
13 a hearing with live witnesses. So we will have a
14 hearing with live witnesses because the Hartmans, as I
15 just asked Mr. Gallegos to confirm, are still
16 objecting.

17 Is that correct, Mr. Gallegos? I'm
18 putting words in your mouth.

19 MR. GALLEGOS: Yes, sir, Mr. Examiner.

20 HEARING EXAMINER: Okay. So we just
21 need a date now for a live hearing. Is January
22 workable for the parties? Let's start with you, Ms.
23 Hardy.

24 MS. HARDY: Given the -- I think it
25 would be a pretty short hearing if it's only on a

1 record title interest. I and Colgate has plans
2 evidently to inspect these wells. I would request
3 that the hearing be set on December 1st, if that's
4 possible. I think it would be a short hearing.

5 HEARING EXAMINER: Okay. Mr. Gallegos?

6 MR. GALLEGOS: We disagree with that.
7 First of all, we seem to be accepting a
8 characterization of the interest of Hartman by
9 Ms. Hardy, which is incorrect, which we don't agree
10 with. They do have a operating rights interest.
11 We're talking about federal leases.

12 And we want a hearing on what you
13 always address in a pooling application. So yes, we
14 don't want some kind of shorttail hearing based on
15 Colgate's view of the case. We have a different view
16 and we're entitled to a hearing.

17 HEARING EXAMINER: Okay. Mr. Gallegos,
18 your client may disagree with how Colgate has
19 characterized their interest, but the reality is, for
20 this hearing, Colgate is stuck with what they applied
21 for. And they applied to pool the Hartmans as a
22 record title owner. Therefore they cannot pool the
23 Hartmans as whatever, an unleased mineral interest
24 owner, etcetera, under this proceeding. They would
25 need to have a new proceeding to do that.

1 So yes, this case only applies to the
2 status of the Hartmans as a record title owner. So I
3 will have to agree with Ms. Hardy on that, but that's
4 also a real limitation on what Colgate is doing. If
5 it turns out the Hartmans own more than what Colgate
6 thinks, Colgate's going to have to come back again for
7 another amendment. I mean, that is the status of the
8 situation here.

9 So let's set this then for December 15.
10 I know I'm really going out on a limb because we
11 already have five contested hearings set for that
12 date, but what the heck? It's right before Christmas.

13 Any objections to December 15 for a
14 contested hearing on this case?

15 MR. GALLEGOS: No objection on the part
16 of the Hartmans.

17 HEARING EXAMINER: Ms. Hardy?

18 MR. GALLEGOS: No objection, Mr.
19 Examiner, by Hartman.

20 HEARING EXAMINER: Thank you -- thank
21 you. I'm trying for Ms. Hardy to respond here to
22 December 15th.

23 MS. HARDY: That's fine, Mr. Examiner.
24 Thank you.

25 HEARING EXAMINER: Okay. So with that,

1 Case Numbers 23149 through 23156 will be set for a
2 contested hearing on December 15.

3 MS. HARDY: Thank you.

4 HEARING EXAMINER: Thank you.

5 MR. GALLEGOS: Thank you.

6 HEARING EXAMINER: With that, we're at
7 Item 59 Case 22782, the continuing extensions for
8 Whiptail Midstream.

9 MR. SAVAGE: Good morning, Mr. Hearing
10 Examiner and Mr. Technical Examiner. Darin Savage
11 with the Santa Fe Office of Abadie and Schill on
12 behalf of Whiptail Midstream.

13 HEARING EXAMINER: All right. Is there
14 anyone here today on behalf of the Oil Conservation
15 Division? Hearing none, Mr. Savage, can you update us
16 on the status of this matter?

17 MR. SAVAGE: I believe I can, to an
18 extent. Ms. Luck [ph] has provided us with good
19 follow-up by e-mail and phone calls over the past
20 month letting us know the issues COCD is working
21 through, which is always appreciated. However, we
22 have not been informed of a final decision. So I was
23 going to let Ms. Luck speak to that. I can't speak to
24 that at this point. That's about as far as I can go
25 on the status.

1 HEARING EXAMINER: So we would probably
2 want to set this for another status conference.

3 MR. SAVAGE: I believe so; you know,
4 we're waiting for a response, and we'd like to respond
5 to that. So I think another status conference would
6 be in order.

7 HEARING EXAMINER: All right. How
8 about December 15?

9 MR. SAVAGE: That sounds appropriate,
10 thank you.

11 HEARING EXAMINER: All right. So with
12 that, Case 22782 will be set for a status conference
13 on December 15. Thank you, Mr. Savage.

14 MR. SAVAGE: All right. Thank you.

15 HEARING EXAMINER: All right. Fifty-
16 nine down. Let's have a hearing or two. We are now
17 on Item 60, Case 23092, Crockett Operating?

18 MS. VANCE: Good morning, Mr. Hearing
19 Examiner. Good morning, Mr. McClure. Paula Vance
20 with the Santa Fe office of Holland & Hart on behalf
21 of the applicant, Crockett Operating, LLC.

22 HEARING EXAMINER: Thank you. Are
23 there any other interested persons here for Case
24 23092?

25 MR. ENGINEER: Good morning,

1 Mr. Examiner, Percy Engineer with Crockett Operating.

2 HEARING EXAMINER: Thank you, Mr.
3 Engineer. You really confused me being a landman
4 named Engineer but I'll try to deal with it.

5 So with that, Ms. Vance, please proceed
6 with your case.

7 MS. VANCE: Thank you, Mr. Hearing
8 Examiner. So in Case 23092, Crockett seeks to pool
9 uncommitted interest within the San Andres formation.
10 That's the Bronco San Andres pool and the Pool Code is
11 7500. And that's underlying a standard 480-acre more
12 or less horizontal well spacing unit comprised of the
13 W/2 of Section 31 and the SW/4 of Section 30, Township
14 13 South, and Range 38 East, NMPM, Lea County, New
15 Mexico. Crockett seeks to dedicate the spacing unit
16 to the proposed Ackbar 30 31 A Fee Number 1H well.

17 In this case, we have provided the
18 compulsory pooling checklist, as well as self-affirmed
19 statement of landman, Percy Engineer, and geologist,
20 Zachary Koehler [ph].

21 Mr. Engineer previously testified
22 before the Division one time but that was some years
23 ago. And Mr. Koehler [ph] has not previously
24 testified before the Division. Therefore, we've
25 provided resumes for both Mr. Engineer, which is

1 Exhibit C-2 or Sub Exhibit C-2 in his part of the
2 packet and Mr. Koehler's [ph] is Sub Exhibit D-1 in
3 his portion of the hearing packet.

4 Their resumes demonstrate that their
5 background, qualifications, and educational experience
6 or demonstrates their background qualifications and
7 educational experience in their respective fields.

8 And just to give a brief summary, Mr.
9 Engineer is an Army veteran. He has degrees in
10 operational management and strategic management. He
11 has over 14 years' of experience working as a landman
12 and in oil and gas operations. He's currently the
13 president of Eight Energy, Inc. in which he manages
14 land projects in West Texas and Southeast New Mexico.
15 He's also a consultant land manager for Crockett and
16 one of its affiliate entities, GO Basic Engineer
17 Energy One, LLC. Sorry about that.

18 And Mr. Koehler [ph] has a degree in
19 geology and over 11 years of experience working as a
20 geologist. He is currently president and senior
21 geologist at OSV Geological. I'm not sure if I said
22 that right, but he's the president and senior
23 geologist there in is contracted to Crockett.

24 Based on their background,
25 qualifications, and educational experience, I would

1 tender Mr. Engineer as an expert in land matters and
2 Mr. Koehler [ph] as an expert in geology matters and
3 ask that their credentials be accepted as a matter of
4 record before the Division.

5 HEARING EXAMINER: They are so accepted
6 as expert witnesses.

7 MS. VANCE: Thank you, Mr. Brancard.
8 Mr. Engineer's Self-Affirmed Statement is Exhibit C,
9 which includes Sub Exhibit C-1. It's a letter from
10 Vadar -- from Vadar's CEO which explains the
11 relationship -- working relationship between Crockett
12 and the parent company, Vadar. C-2 is Mr. Engineer's
13 resume; C-3 is the C-102; C-4 is the land track map
14 and ownership breakdown; C-5 is the sample well
15 proposal letter and AFE; and C-6 is a chronology of
16 contacts.

17 This is followed by Mr. Koehler's [ph]
18 Self-Affirmed Statement which is Exhibit D. It
19 includes Sub Exhibits D-1, that's Mr. Keller's resume;
20 D-2 a locator map; D-3 a Sub-C structure map; D-4
21 cross-section map; and D-5 a stratigraphic cross-
22 section.

23 In these cases, Mr. Koehler [ph] did
24 not observe any faulting, pinch outs, or other
25 geologic impediments to the horizontal drilling of

1 these wells.

2 And then lastly, is Exhibit E, a Self-
3 Affirmed Statement of Notice with sample letters that
4 were timely mailed on October 14, 2022. And Exhibit
5 F, the Affidavit of Notice of Publication, which was
6 timely published on October 18, 2022.

7 And unless there are any questions, I
8 would ask that all exhibits and sub-exhibits be
9 admitted into the record and that Case 23092 be taken
10 under advisement by the Division at this time.

11 (Exhibits A through F were marked for
12 identification.)

13 HEARING EXAMINER: Thank you. Mr.
14 McClure, any questions?

15 MR. MCCLURE: I have no questions,
16 Mr. Brancard.

17 HEARING EXAMINER: And I don't believe
18 I have any questions either.

19 MS. VANCE: Excellent.

20 HEARING EXAMINER: So with that, are
21 there any other interested persons for Case 23092?
22 Hearing none, the exhibits in this case will be
23 admitted into the record and Case 23092 will be taken
24 under advisement.

25 //

1 (Exhibits A through F were admitted
2 into evidence.)

3 With that, we're on Item 61. This is
4 Case 23096, Crockett Operating?

5 MS. VANCE: Good morning, again,
6 Mr. Hearing Examiner and Mr. McClure. Paula Vance
7 with the Santa Fe Office of Holland & Hart on behalf
8 of the applicant, Crockett Operating, LLC.

9 HEARING EXAMINER: Thank you. Are
10 there any other interested persons for Case 23096?
11 Hearing none, you may proceed, Ms. Vance.

12 MS. VANCE: Thank you, Mr. Hearing
13 Examiner.

14 So in Case 23096, Crockett seeks to
15 pool uncommitted interest within the San Andres
16 formation. The pool is Bronco San Andres South Pool
17 and the pool code is 7500.

18 This is underlying a standard 480-acre
19 more or less horizontal well spacing unit comprised of
20 the W/2 of Section 19 and the NW/4 of Section 30,
21 Township 13 South, Range 38 East, Lea County, New
22 Mexico. Crockett seeks to dedicate this spacing unit
23 to the proposed Anakin 30 19 A Fee Number 1H well.

24 In this case, we have provided the
25 compulsory pooling checklist as well as the Self-

1 Affirmed Statement of Landman, Percy Engineer, and
2 geologist, Zachary Koehler [ph], both of whom now have
3 had their credentials accepted as a matter of record.

4 Mr. Engineer's Self-Affirmed Statement
5 is Exhibit C, which includes Sub Exhibits C-1, again,
6 similar to the previous case, a letter from Vadar CEO
7 that outlines the relationship between the parent
8 company, Vadar, and operator Crockett.

9 That's followed by C-2, which is
10 Mr. Engineer's resume; C-3 C-102; C-4 a land track map
11 and ownership breakdown; C-5 a sample well letter and
12 AFE; and C-6 a chronology of contacts.

13 This is followed by Mr. Koehler's [ph]
14 Self-Affirmed Statement, which is Exhibit D and
15 includes Sub Exhibits D-1, Mr. Koehler's resume; D-2
16 the locator map; D-3 a Sub-C structure map; D-4 cross-
17 section map; and D-5 the stratigraphic cross-section.

18 In these cases, Mr. Koehler did not
19 observe any faulting, pinch outs, or other geologic
20 impediments to the horizontal drilling of these wells.

21 And lastly, is Exhibit E, a Self-
22 Affirmed Statement of Notice with sample letters that
23 were timely mailed on October 14, 2022.

24 And Exhibit F, the Affidavit of Notice
25 of Publication, which was timely published on

1 October 18, 2022.

2 And unless there are any questions, I
3 would ask that all exhibits and sub-exhibits be
4 accepted into the record and that Case 23092 be taken
5 under advisement by the Division at this time.

6 (Exhibits A through F were marked for
7 identification.)

8 HEARING EXAMINER: Thank you. Mr.
9 McClure, questions?

10 MR. MCCLURE: No questions, Mr.
11 Brancard.

12 HEARING EXAMINER: Thank you. Ms.
13 Vance, you've referred to the proposed Anakin well
14 here in this case. My emphasis is on the word
15 "proposed" because in the letter that Mr. Engineer
16 sent out with the well proposal, it indicates that
17 this well has already been drilled to depth. Is that
18 correct?

19 MS. VANCE: It's been drilled and
20 that's all. And we kept the word proposed in there
21 just because, you know, we're still waiting, you know,
22 on getting the Compulsory Pooling Order and have yet
23 to finish it, so still currently in the process.

24 HEARING EXAMINER: So drilled but not
25 completed?

1 MS. VANCE: That's correct.

2 HEARING EXAMINER: Thank you. And
3 just, you know, don't want to hold you up as an
4 example here, but I will. And so, in your packet, the
5 letter from your law firm sending notice out of this
6 meeting -- sorry, this hearing -- is one example, just
7 one example of letters sent out in packets today that
8 have both a correct and incorrect website address in
9 the same letter. So just saying, it's an example.

10 MS. VANCE: Yes, and we did actually --
11 we updated our letters after I -- I think I reached
12 out to both yourself and Marlene, but we had sent
13 these letters out prior to getting those updated
14 e-mails. So it has been corrected and all of our
15 letters going out moving forward.

16 HEARING EXAMINER: Thank you. And I'm
17 just using you as an example because you're the first
18 case up. There's plenty more examples following.

19 MS. VANCE: I have no problem; I have
20 thick skin. Thank you, Mr. Hearing Examiner.

21 HEARING EXAMINER: Thank you. All
22 right. Are there any other interested persons for
23 Case 23096? Hearing none, the exhibits will be
24 admitted into the record and Case 23096 will be taken
25 under advisement.

1 (Exhibits A through F were admitted
2 into evidence.)

3 MS. VANCE: Thank you, Mr. Hearing
4 Examiner; thank you, Mr. McClure.

5 HEARING EXAMINER: Thank you. With
6 that, we are on Item 62, Case 23046, Spur Energy
7 Partners?

8 MS. MCLEAN: Good Morning. Jackie
9 McLean on behalf of Spur Energy Partners.

10 HEARING EXAMINER: Thank you. We have
11 an entry of appearance from Apache Corporation?

12 MS. MCLEAN: Mr. Hearing Examiner, I
13 believe that Apache has withdrawn their appearance in
14 this case.

15 HEARING EXAMINER: Okay.

16 MS. BENNETT: This is Deana Bennett on
17 behalf of Apache. I'm not sure if we have withdrawn
18 but I do know that we don't object to the case moving
19 forward by affidavit.

20 HEARING EXAMINER: Thank you. That's
21 all I needed to know. Any other interested persons
22 then for Case 23046? Hearing none, Spur may proceed.

23 MS. MCLEAN: Thank you. In Case Number
24 23046, Spur seeks to pool all uncommitted interest in
25 the Yeso formation underlying a 320-acres standard

1 horizontal spacing unit comprised of the S/2 N/2 and
2 N/2 S/2 of Section 21, Township 19 South, Range 25
3 East in Eddy County, New Mexico.

4 And this spacing unit will be dedicated
5 to the Alto Amm 21 Number 10H, 11H, 20H, 50H, 60H, and
6 70H wells.

7 The Alto Amm 21 Number 10H, 20H, and
8 60H wells will be drilled from surface hole locations
9 in the SW/4, NW/4 Unit E of Section 22 to bottom hole
10 location in the SW/4 NW/4 Unit E of Section 21.

11 And the Alto Amm 21 Number 11H, 50H,
12 70H wells will be drilled from surface hole location
13 in the SW/4 NW/4 Unit L of Section 22 to bottom hole
14 location in the NW/4 SW/4 Unit L of Section 21.

15 And this is a proximity track spacing
16 unit with a completed interval of the Alto Amm 21
17 Number 20 H well located within 330 feet of the 4/4
18 section line separating the S/2 N/2 and N/2 S/2 of
19 Section 22 to allow for the creation of the 320-acre
20 spacing unit.

21 The exhibit packets that we submitted
22 to the Division for Case Number 23046 contain Exhibit
23 A, which is the land professional's testimony and
24 related land exhibits, the plat of tract, ownership
25 interests, hold parties, a well proposal letter, and a

1 summary of communication.

2 Then we have Exhibit B, geology
3 testimony, which includes a location map, structure
4 map, gun barrel diagram, and a structural cross-
5 section of the intervals of interest.

6 Exhibit C, notice testimony, which sets
7 out when the notice letter of this hearing and
8 application were sent out to the parties to be pooled.
9 As well as Exhibit C-4, which shows that we timely
10 published notice of this hearing.

11 We also filed supplemental exhibits in
12 this case on October 4th because this case was
13 supposed to be heard last month and, with the Apache
14 issue, it was continued. So we filed supplemental
15 exhibits that include an updated plat of tracts, a
16 tract of ownership pooled parties, an updated notice
17 chart to all interested parties, and then updated --
18 we have received more certified mail receipts.

19 And with that, I ask that Exhibits A,
20 B, and C as well as the supplemental exhibits, be
21 admitted into the record in Case Number 230946 and
22 that the case be taken under advisement.

23 (Exhibits A through C were marked for
24 identification.)

25 HEARING EXAMINER: Thank you. Mr.

1 McClure, any questions?

2 MR. MCCLURE: Yes. So just to confirm,
3 public notice was conducted then back in September;
4 correct?

5 MS. MCLEAN: That is correct. It was
6 done -- let me just double-check here and give you the
7 date -- on September 11, 2022.

8 MR. MCCLURE: Okay. Thank you. That
9 was the only question I had, Mr. Brancard.

10 MS. MCLEAN: Thank you.

11 HEARING EXAMINER: Thank you. I would
12 just note that thanks for submitting the updated
13 exhibits. That's very helpful. What you didn't
14 update was your checklist, which still has the old
15 hearing date on it.

16 MS. MCLEAN: Oh, I did not. Yes,
17 you're -- make sure. Yes, you're correct. We can
18 submit an updated checklist.

19 HEARING EXAMINER: Okay. That's all I
20 have. And as I said earlier, there's a deadline.
21 Within two weeks, you have to submit this changed
22 checklist.

23 MS. MCLEAN: We will do that. Thank
24 you, Mr. Examiner.

25 HEARING EXAMINER: Thank you. Are

1 there any other interested persons then for Case
2 23046? Hearing none, the exhibits, including the
3 supplemental exhibits will be admitted into the
4 record. The case will be taken under advisement. The
5 record left open for a corrected checklist to be
6 submitted within two weeks.

7 (Exhibits A through C were admitted
8 into evidence.)

9 With that, we are on Item Number 63
10 Case 23093, Colgate Operating?

11 MS. HARDY: Mr. Examiner, Dana Hardy
12 with Hinkle Shanor on behalf of Colgate Operating.

13 HEARING EXAMINER: Thank you. Are
14 there any other interested persons for Case 23093?
15 Hearing none, Ms. Hardy, you may proceed.

16 MS. HARDY: Thank you.

17 HEARING EXAMINER: Please speak sort of
18 slowly and clearly. Your mic is not picking up great
19 today.

20 MS. HARDY: Okay. Thank you. Colgate
21 -- virtual connectivity interruption -- uncommitted
22 interest from the top of the Third Bone Spring to the
23 base of the Bone Spring Formation underlying a 160-
24 acre standard horizontal spacing unit comprised of the
25 N/2 of the S/2 of Section 13, Township 20 South, Range

1 28 East, in Eddy County. That unit will be dedicated
2 to the Wombat 13 Federal Com 133H well.

3 And due to an ownership depth
4 severance, Colgate seeks to pool interest from the
5 stratigraphic equivalent of approximately 7,900 TVD to
6 approximately 8,966 TVD.

7 Our exhibits include the affidavits of
8 landman Travis Matcha and geologist David Dageon [ph].

9 Mr. Matcha provides the standard land
10 exhibits. The plat of tracts, ownership interests,
11 and pooled parties are shown in Exhibit A-3.

12 Mr. Dageon [ph] provides a location
13 map, cross-section map, structure map, structural and
14 stratigraphic cross-sections, and a gun barrel
15 diagram.

16 My notice affidavit is Exhibit C. It
17 includes a chart of the address and certified mail
18 receipts. We do have receipts from all but one owner
19 and that is Jennings Production. And as shown on
20 Mr. Matcha's Exhibit A-5, that party has assigned its
21 interest to Colgate.

22 So with that, unless there are
23 questions, I would ask that the exhibits be admitted,
24 and that the case be taken under advisement.

25 //

1 (Exhibits A through C were marked for
2 identification.)

3 HEARING EXAMINER: Thank you. Mr.
4 McClure?

5 MR. MCCLURE: I have no questions,
6 Mr. Brancard.

7 HEARING EXAMINER: Okay. Ms. Hardy,
8 let's look at your checklist for this case.

9 MS. HARDY: Okay.

10 HEARING EXAMINER: And as I've said,
11 and I, you know, I hate to repeat this, but the
12 checklist gets attached to the order so it's real
13 important. And the order relies on the checklist for
14 certain things like the description of the spacing
15 unit. So in this case I'm looking at where it says,
16 "depth severance".

17 MS. HARDY: Yes.

18 HEARING EXAMINER: And you're simply
19 referring to an exhibit to describe the depth
20 severance. That's, you know, we need a description of
21 the depth severance in the checklist.

22 MS. HARDY: Okay. I'll provide that.

23 HEARING EXAMINER: So, I mean, the
24 sentence that's in the exhibit, I mean, sorry, that's
25 in your notice is fine, that one sentence. It doesn't

1 have to be elaborate, but it needs a, you know, I
2 mean, the details can be provided further in -- I mean
3 the supporting details can be provided in the exhibit,
4 but the actual description of the depth severance
5 should be in the checklist.

6 MS. HARDY: Sure. I'll include that
7 and submit another checklist. Thank you.

8 HEARING EXAMINER: Okay. With that,
9 are there any other interested persons then for Case
10 23093? Hearing none, the exhibits, in this case, will
11 be admitted into the record. The case will be taken
12 under advisement. And the record left open for
13 revised checklist to be submitted within two weeks.

14 (Exhibits A through C were admitted
15 into evidence.)

16 MS. HARDY: Thank you.

17 HEARING EXAMINER: Thank you. With
18 that, we are on Item 64, Case 23094, Spur Energy
19 Partners?

20 MS. HARDY: Mr. Examiner, Dana Hardy on
21 behalf of Spur Energy Partners.

22 HEARING EXAMINER: Are there any other
23 interested persons for Case 23094?

24 MR. HOLLIDAY: Mr. Examiner, this is
25 Benjamin Holliday on behalf of Silverback II

1 Operating.

2 HEARING EXAMINER: Okay. Mr. Holliday,
3 does Silverback object to this case going forward by
4 affidavit?

5 MR. HOLLIDAY: We actually, late
6 yesterday evening, filed a mutual continuance in this
7 case. The parties are attempting to negotiate a JOA
8 and just aren't there quite yet.

9 HEARING EXAMINER: You're correct. I
10 have this on one piece of paper but not on another so
11 we have a Motion to Continue in this case. What are
12 we continuing this case to, Ms. Hardy?

13 MS. HARDY: Mr. Examiner, we would
14 request the November 17th docket. I think at that
15 point, we should be able to present the case by
16 affidavit.

17 HEARING EXAMINER: Is that okay with
18 you, Mr. Holliday?

19 MR. HOLLIDAY: Yes, it is.

20 HEARING EXAMINER: All right. So with
21 that, Case 23094 will be continued to November 17.
22 And you've already filed the continuance; correct?

23 MS. HARDY: That's correct.

24 HEARING EXAMINER: Thank you. All
25 right. Thank you.

1 With that, we're on Item 65, Case 23095
2 Steward Energy?

3 MS. MCLEAN: Hello, again, Mr.
4 Examiner. Jackie McLean with Hinkle Shanor on behalf
5 of Steward Energy.

6 HEARING EXAMINER: Thank you. Are
7 there any other interested persons for Case 23095?
8 Hearing none, Ms. McLean, you may proceed.

9 MS. MCLEAN: Thank you. In Case Number
10 23095 Steward is seeking to pool additional
11 uncommitted interests under the terms of Division
12 Order Number R-22192, which was entered in Case Number
13 22734 on July 25, 2022.

14 And Order Number R-22192 pooled all
15 uncommitted interests in the San Andres formation
16 underlying a standard horizontal spacing unit
17 comprised of the W/2 E/2 and lots 1, 2, 3, and 4 of
18 irregular Section 14, Township 13 South, Range 28
19 East, in Lea County, New Mexico. And the Order
20 designated Steward as the operator of the unit and --

21 HEARING EXAMINER: Ms. Mclean, I'm
22 going to have to stop you here.

23 MS. HARDY: Yes.

24 HEARING EXAMINER: Because there's a
25 serious problem in what you've just described and

1 there's a serious problem in the entire application.

2 MS. HARDY: Okay.

3 HEARING EXAMINER: It's not Range 13
4 South -- Range 28 East. It's Range 38 East. Range 28
5 East would put you in Eddy County; you're off by about
6 60 miles.

7 MS. HARDY: I see that. Wow, okay.

8 HEARING EXAMINER: And so, because this
9 mistake is -- I found it. It's in the application,
10 it's in the notice, it's in the publication. We're
11 just going to have to dismiss this case and you really
12 just need to start over.

13 MS. HARDY: I understand.

14 HEARING EXAMINER: I should have
15 stopped you before you got going.

16 MS. HARDY: It's okay.

17 HEARING EXAMINER: All right.

18 MS. HARDY: Okay. We will -- do you
19 want us to file a dismissal, or will you dismiss the
20 case?

21 HEARING EXAMINER: Oh, we can just
22 dismiss it.

23 MS. HARDY: Okay. All right. We will
24 refile.

25 HEARING EXAMINER: Thank you.

1 MS. HARDY: Thank you.

2 HEARING EXAMINER: With that, we are on
3 Item 66, Case 23099, Steward Energy?

4 MS. HARDY: Mr. Examiner, Dana Hardy on
5 behalf of Steward Energy.

6 HEARING EXAMINER: All right. Are
7 there any other interested persons for Case 23099?
8 Hearing none, Ms. Hardy, you may proceed.

9 MS. HARDY: Thank you. In this case,
10 Steward seeks and order pooling all uncommitted
11 interests in the San Andres Formation underlying a
12 320-acre standard horizontal spacing unit comprised of
13 the W/2 of Section 28, Township 13 South, Range 38
14 East in Lea County and proposes to dedicate the unit
15 to the Winnebago Fee 5H well. This is a proximity
16 tract unit.

17 Our exhibits include the affidavits of
18 landman Taylor Warren and geologist Shane Field.

19 Mr. Warren provides the standard land
20 exhibits; the plat of tracts, ownership interests, and
21 pooled parties are shown are Exhibit A-3.

22 Mr. Field provides a location map,
23 structure map, cross-section, and gun barrel diagram.

24 My notice affidavit is Exhibit C. It
25 includes a chart of the addresses and certified mail

1 receipts. Several of the notices were undeliverable
2 but we did send to multiple addresses and sent several
3 of those and we also timely published notice.

4 (Exhibits A through C were marked for
5 identification.)

6 So with that, I would request that the
7 exhibits be admitted and that the case be taken under
8 advisement.

9 HEARING EXAMINER: Thank you. Mr.
10 McClure?

11 MR. MCCLURE: Yes, Mr. Brancard, I do
12 have some questions. Well, a question I guess, on
13 this case.

14 Ms. Hardy, on your Exhibit A-3, I'm
15 assuming it's a typo for your Tract A where it has
16 your committed working interest owners as totaled to
17 85.9 percent. I guess, can you confirm that for me?

18 MS. HARDY: On which tract?

19 MR. MCCLURE: On Tract A.

20 MS. HARDY: It looks like it should add
21 up to more than 85 percent.

22 MR. MCCLURE: Yeah, well 65 plus 30,
23 you know, would be 95. And then, in addition to that,
24 you don't have any uncommitted interest owners shown.
25 So the presumption would be your committed interest

1 owners equal that 100.

2 MS. HARDY: Yes, I think that's right,
3 Mr. McClure.

4 MR. MCCLURE: Okay. So there are -- it
5 is accurate that there are no uncommitted interest
6 owners and that the committed interest owners is 100
7 percent then?

8 MS. HARDY: In that tract, that's
9 correct.

10 MR. MCCLURE: Okay. Yeah, so excuse
11 me. Yes, I meant Tract A. Yup, that's what I was
12 referring to.

13 MS. HARDY: Yeah.

14 MR. MCCLURE: Thank you, Ms. Hardy.
15 Thank you, Mr. Brancard, that was my only question.

16 MS. HARDY: Thank you.

17 HEARING EXAMINER: Ms. Hardy, there's a
18 fair number of unlocatable parties here. And I know
19 your Exhibit A-5 is a chronology of contacts
20 locatable, which is normally what we have -- we ask of
21 you to do. I'm just wondering if you could give us a
22 little more detail on what efforts were made to find
23 the unlocatable parties? I got a sense from some of
24 your exhibits that there were considerable efforts
25 made. Maybe if you could add that to Exhibit A-5 just

1 so we have it in one place?

2 MS. HARDY: Sure.

3 HEARING EXAMINER: In case anybody ever
4 comes back again and questions, you know, why didn't
5 you find me?

6 MS. HARDY: Right. Okay. Sure, I'll
7 be happy to submit an updated -- a more detailed
8 Exhibit A-5 on that issue.

9 HEARING EXAMINER: Okay. So again, are
10 there any other interested parties in Case 23099?
11 Okay. So that was, Mr. McClure, that was Exhibit A-2.
12 Is that correct?

13 MR. MCCLURE: Exhibit A-3, I believe,
14 Mr. Brancard.

15 HEARING EXAMINER: Okay.

16 MR. MCCLURE: Yep, A-3.

17 HEARING EXAMINER: So if we could then
18 accept the exhibits into to the record. This case is
19 taken under advisement and the record left open for
20 revisions to Exhibit A-3 and Exhibit A-5.

21 (Exhibits A through C were admitted
22 into evidence.)

23 MS. HARDY: Thank you.

24 HEARING EXAMINER: Again, two-week
25 deadline.

1 MS. HARDY: Thank you.

2 HEARING EXAMINER: All right. With
3 that, we're on Item 67, Case 23100, Spur Energy
4 Partners.

5 MS. MCLEAN: Hello, again. Jackie
6 McLean with Hinkle Shanor on behalf of Spur Energy
7 Partners.

8 HEARING EXAMINER: Thank you. Are
9 there any other interested persons for Case 23100?
10 Hearing none, you may proceed, Ms. McLean.

11 MS. MCLEAN: Thank you. Before I
12 proceed, is there anything in this -- I just wanted
13 to --

14 HEARING EXAMINER: You may go forward
15 and take your risk here.

16 MS. MCLEAN: Okay. Thank you,
17 Mr. Hearing Examiner.

18 In Case 23100, Spur seeks to pool all
19 uncommitted interests within the Yeso formation
20 underlying a 160-acre standard horizontal spacing unit
21 comprised of the W/2 W/2 of Section 23, Township 17
22 South, Range 27 [sic] East in Eddy County, New Mexico.

23 Basing unit will be dedicated to the
24 Sierra Nevada 23 State Com 10H and 60H wells, which
25 will be horizontally drilled from surface hole

1 locations in the NE/4 NW/4 Unit C of Section 23 to
2 bottom hole locations in the SW/4 SW/4 Unit M of
3 Section 23.

4 And the exhibit package submitted to
5 the Division for Case Number 23100 contains the
6 Exhibit A, land professional's testimony and related
7 exhibits, including the plat of tracts, ownership
8 interests, pooled parties, a well proposal letter, and
9 summary of communications. And there were no
10 unlocatable parties in this one.

11 Exhibit B, geology testimony, which
12 includes a location map, structure map, gun barrel
13 diagram, and a structural cross-section of the
14 interval interests.

15 And then Exhibit C is a notice
16 testimony, which sets out when the notice letter of
17 this hearing and application were sent to the parties
18 to be pooled.

19 We also timely published notice of this
20 hearing. And I just wanted to state that the only
21 returned mail that we received for this was an
22 overriding royalty interest. Every other person
23 received notice of the hearing.

24 And with that, I ask that Exhibits A,
25 B, and C be admitted into the record in Case 23100 and

1 the case be taken under advisement.

2 (Exhibits A through C were marked for
3 identification.)

4 HEARING EXAMINER: Thank you. Mr.
5 McClure, questions?

6 MR. MCCLURE: Yes, Mr. Brancard. Ms.
7 McLean, hopefully, I'm pronouncing your last name
8 correct. Is that correct?

9 MS. MCLEAN: McLean, but close.

10 MR. MCCLURE: McLean.

11 MS. MCLEAN: McLean" deluxe, like at
12 McDonald's, you know.

13 MR. MCCLURE: I noticed in your
14 structure map it looks like this well is standup
15 wherein there are surrounding lay-down wells and lay-
16 down orientation. I guess, do we have any explanation
17 as to the reason that Spur feels this will be more
18 productive, I guess, to go in standup orientation?

19 MS. MCLEAN: I believe in the geology
20 testimony, at Paragraph 8, he states that -- the
21 geologist states that the standup orientation is more
22 appropriate to properly develop this acreage. And it
23 will avoid interference with the offsetting Spur
24 operated other stand-up wells that are in that same
25 area.

1 So I believe that was the explanation,
2 but if you would like more, we can certainly
3 supplement that.

4 MR. MCCLURE: Not necessarily. I was
5 going to say, what it looks like here, I guess, is in
6 that paragraph you cite is he's stating that there is
7 no preferred orientation. So essentially, it was
8 decided, based upon ownership reasons, then was the
9 reason for the orientation. Is that kind of your
10 understanding then?

11 MS. MCLEAN: I believe so. I think
12 just because of the other ones.

13 MR. MCCLURE: Mm-hmm. Okay. Thank
14 you. I have no other questions. Thank you.

15 MS. MCLEAN: Thank you.

16 HEARING EXAMINER: Thank you. Once
17 again, are there any other interested persons for Case
18 23100? Hearing none, the exhibits will be admitted
19 into the record and Case 23100 will be taken under
20 advisement. Thank you.

21 (Exhibits A through C were admitted
22 into evidence.)

23 MS. MCLEAN: Thank you.

24 HEARING EXAMINER: Okay. With that, we
25 are on Items 68, 69, and 70. These are cases 23102,

1 23103, 23104, V-F Petroleum.

2 MS. MCLEAN: Yes, Jackie McLean with
3 Hinkle Shanor on behalf of V-F Petroleum, Inc.

4 HEARING EXAMINER: Okay. And we have
5 an entry appearance, COG Operating, Conoco Phillips?

6 MS. MUNDS-DRY: Good morning,
7 Mr. Hearing Examiner, Ocean Munds-Dry for COG
8 Operating, LLC, and ConocoPhillips.

9 HEARING EXAMINER: Thank you. Ms.
10 Munds-Dry, does COG, Conoco object to this case going
11 ahead by affidavit?

12 MS. MUNDS-DRY: We do not; thank you.

13 HEARING EXAMINER: Thank you. With
14 that, you may proceed, Ms. McLean.

15 MS. MCLEAN: Thank you. V-F has
16 consolidated Case Numbers 23102, 23103, and 23104,
17 which seek to pool all uncommitted interests within
18 the Bone Spring Formation underlying a 240-acre, more
19 or less standard horizontal spacing unit comprised of
20 the E/2 SE/4 of Section 29 and the E/2 E/2 of Section
21 32, in Township 21 South, Range 35 East.

22 Specifically, in Case Number 23102, V-F
23 is seeking to pool all uncommitted interests in the
24 Bone Spring Formation underlying a 240-acre standard
25 horizontal spacing unit comprised of the E/2 SE/4 of

1 Section 29, and the E/2 E/2 of Section 32. And
2 dedicate the unit to the Cache River 29 32 State Com
3 Number 104H, 204H, and 304H wells.

4 In Case Number 23103, V-F seeks to pool
5 uncommitted interests within the Bone Spring Formation
6 underlying a 240-acre, standard horizontal spacing
7 unit comprised of the E/2 SW/4 of Section 29, and the
8 E/2 W/2 of Section 32. And dedicate this unit to the
9 Cache River 29 32 State Com Number 102H, 202H, and
10 302H wells.

11 And then in Case Number 23104, V-F is
12 seeking to pool the uncommitted interests within the
13 Bone Spring Formation underlying a 240-acre, standard
14 horizontal spacing unit comprised of the W/2 SW/4 of
15 Section 29 in the W/2 W/2 of Section 32. And dedicate
16 the unit to the Cache River 29 32 State Com Number
17 101H, 201H, and 301H wells.

18 And the exhibit packet that we
19 submitted to the Division for Case Numbers 23102,
20 23103, and 23104 all contain land professional's
21 testimony, which include a plat of tracts, ownership
22 interests, pooled parties, well proposal letters, and
23 a summary of communications.

24 Exhibit B, geology testimony, which
25 includes a location map, first, second, and third Bone

1 Spring structure maps, stratigraphic cross-sections of
2 the intervals of interest.

3 And then Exhibit C, notice testimony,
4 which sets out when the notice letter of this hearing
5 and application were sent to the parties to be pooled,
6 as well as publication notice of this hearing which is
7 Exhibit C-4.

8 And with that, I ask that Exhibits A,
9 B, and C be admitted into the record in Case Numbers
10 23102, 23103, and 23104 and that the cases be taken
11 under advisement.

12 (Exhibits A through C were marked for
13 identification.)

14 HEARING EXAMINER: Thank you. Mr.
15 McClure, questions?

16 MR. MCCLURE: Yes, Mr. Brancard. Ms.
17 McLean, on the acreage that is in the middle of this
18 acreage, I guess, what I'm referring to is the W/2 of
19 the SE/4 of 29 and the W/2 of the E/2 of Section 32,
20 do you know what the plan is for this acreage?

21 MS. MCLEAN: I do not, but I can ask
22 the client what the plan is and provide you with that
23 information.

24 MR. MCCLURE: Do you know if V-F owns
25 that interest or do you know what the status of that

1 interest is in that tract?

2 MS. MCLEAN: I think that V-F does own
3 it and likely is planning to development -- develop it
4 but I do believe that V-F owns interest in that
5 acreage.

6 MR. MCCLURE: The majority of the
7 interest, or I suppose you probably don't know that
8 off the top of your head?

9 MS. MCLEAN: I don't know the amount
10 off the top of my head, but I do know that they own an
11 interest. Would you like me to provide more specifics
12 on that? I believe they do plan on developing it, but
13 I'm, you know, not 100 percent sure exactly what the
14 plan is.

15 MR. MCCLURE: Yeah, my only concern, I
16 guess, is if we are going to end up with stranded
17 acreage, I guess, surrounded by these wells just to
18 make sure it is going to, you know, actually end up
19 getting produced.

20 MS. MCLEAN: I do not believe that it
21 will be stranded.

22 MR. MCCLURE: I have no other
23 questions, Mr. Brancard. I'll leave it up to your
24 discretion whether you think that we want them to
25 actually submit us anything towards this though or

1 just take our verbal testimony here.

2 HEARING EXAMINER: Thank you. Ms.
3 Munds-Dry, are you still on the call?

4 MS. MUNDS-DRY: I'm here.

5 HEARING EXAMINER: Do you have any idea
6 if COG has any plans for that acreage?

7 MS. MUNDS-DRY: No, I don't.

8 HEARING EXAMINER: It seems to be a
9 larger percentage owner than V-F, actually.

10 MS. MUNDS-DRY: No, I don't. All I
11 know for this area is that we have signed the JOA with
12 V-F in this particular acreage.

13 HEARING EXAMINER: Okay. Yes; so Ms.
14 McLean, if you could provide us with information about
15 the status of the W/2 of the E/2, essentially, of
16 Section 32, and then up into Section 29. The missing
17 240-acres.

18 MS. MCLEAN: We can do that,
19 Mr. Examiner.

20 HEARING EXAMINER: With that, are there
21 any other persons with comments on Cases 23102, 103,
22 104? Hearing none, the exhibits will be admitted into
23 the record. Cases will be taken under advisement, and
24 we'll be awaiting submittal of information on the
25 240-acre parcel in between these three parcels.

1 Again, please have that within two weeks.

2 (Exhibits A through C were admitted
3 into evidence.)

4 MS. MCLEAN: We will do that. Thank
5 you.

6 HEARING EXAMINER: Okay. With that,
7 let me just check in with our court reporter, Ms.
8 Fulton. Are you doing okay?

9 THE REPORTER: I'm doing fine.

10 HEARING EXAMINER: All right. Well,
11 let's keep going then a little bit here.

12 With that, we are on Items 71 through
13 74. These will be Cases 23107, 23108, 23109, 23110;
14 Colgate Operating?

15 MS. MCLEAN: Me again, Mr. Examiner.
16 Jackie McLean, with Hinkle Shanor, on behalf of
17 Colgate Operating.

18 HEARING EXAMINER: Thank you. Are
19 there any other interested persons for Cases 23107,
20 108, 109, 110?

21 Hearing none, first, Ms. McLean, you
22 want to do these Bone Spring cases first and then the
23 Wolfcamp cases. Is that what you would like to do?

24 MS. MCLEAN: Yes, that's the plan,
25 Mr. Examiner.

1 HEARING EXAMINER: Okay. So please
2 proceed with these four cases then.

3 MS. MCLEAN: Thank you. Colgate has
4 consolidated Case Numbers 23107 to 23110, which seeks
5 to pool uncommitted interests within the Bone Spring
6 Formation in Sections 16 and 17 of Township 20 South,
7 Range 28 east, in Eddy County, New Mexico.

8 In Case Number 23107, Colgate is
9 seeking to pool all uncommitted interests in the Bone
10 Spring Formation underlying a 320-acre, more or less,
11 standard horizontal spacing unit comprised of the N/2
12 N/2 of Sections 16 and 17 and plans to dedicate the
13 spacing unit to the Dingo 17 Federal Com 121H and 131H
14 wells.

15 In Case Number 23108, Colgate is
16 seeking to pool all uncommitted interests, again, in
17 the Bone Spring Formation, underlying a 320-acre
18 standard horizontal spacing unit comprised of the N/2
19 S/2 of Sections 16 and 17 and dedicate the spacing
20 unit to the Dingo 17 Federal Com 123H and 133H wells.

21 Then we have Case Number 23110, which
22 we seek to pool all uncommitted interests in the Bone
23 Spring Formation underlying a 320-acre standard
24 horizontal spacing unit comprised of the S/2 S/2 of
25 Section 16 and 17 and dedicate the spacing unit to the

1 Dingo 17 Federal Com 124H and 134H wells.

2 And then finally, Case Number 23109
3 involves an overlapping spacing unit, which is
4 comprised of the S/2 N/2 of Sections 16 and 17. And
5 in this overlapping spacing unit, Colgate seeks to
6 pool all uncommitted interests from the top of the
7 third Bone Spring Formation to the base of the Bone
8 Spring Formation underlying the overlapping spacing
9 unit and dedicate the spacing unit to the Dingo 17
10 Federal Com 132H well.

11 And the unit will partially overlap
12 with a spacing unit for the State Com CV 002H well,
13 which is also operated by Colgate and is dedicated to
14 the S/2 N/2 of Section 16 in the second Bone Spring
15 Interval.

16 And for that reason, Colgate is seeking
17 to pool the interests from the top of the third Bone
18 Spring Formation at a stratigraphic equivalent of
19 approximately 7,480 feet to the base of the Bone
20 Spring Formation at approximately 8,821 feet TED.

21 And the exhibit packet that we
22 submitted to the Division for Case Numbers 23107
23 through 23110 contains Exhibit A, the land
24 professional's testimony, and related land exhibits.
25 And you'll see for Case Number 23109, with Exhibit

1 A-3, we have included a plat of the overlapping
2 spacing unit as well.

3 And then Exhibit B, geology testimony,
4 we have gun barrel diagrams, location maps, Bone
5 Spring structure maps, and cross-sections of the
6 intervals of interest.

7 And then Exhibit C, notice testimony,
8 which sets out when the notice letter of this hearing
9 and application were sent to the parties to be pooled,
10 as well as the publication notice for this.

11 And with that, I ask that Exhibits A,
12 B, and C be admitted into the record in Case Numbers
13 23107, 23108, 23109, and 23110 and that the cases be
14 taken under advisement.

15 (Exhibits A through C were marked for
16 identification.)

17 HEARING EXAMINER: Thank you. Mr.
18 McClure, questions?

19 MR. MCCLURE: Yes, Mr. Brancard. Ms.
20 McLean, is it correct that Case 23109 is the only one
21 that has a depth severance?

22 MS. MCLEAN: Yes, that is correct.

23 MR. MCCLURE: Okay. Now, the
24 overlapping well, were all working interest owners
25 notified of this application that have a working

1 interest in that horizontal spacing unit of that
2 overlapping well?

3 MS. MCLEAN: We did not because we are
4 the operator. Colgate is the operator of that well
5 and that spacing unit. And I believe that they,
6 Colgate, separately notified them. And that we did
7 notify all working interest owners that this was an
8 overlapping spacing unit in this case.

9 MR. MCCLURE: And was that notice
10 included in this case packet anywhere?

11 MS. MCLEAN: Yes, sir. It is for
12 Exhibit -- part of Exhibit C-1. And we included a
13 copy of the application, which was styled as
14 Application of Colgate Operating --

15 MR. MCCLURE: Let's see. Am I -- maybe
16 I'm just missing it here.

17 MS. MCLEAN: It should be page 32 of
18 the PDF is our notice that we sent.

19 MR. MCCLURE: Mm-hmm.

20 MS. MCLEAN: And then we attached --
21 which we did not include --

22 MR. MCCLURE: Okay. So it's not
23 included here then.

24 MS. MCLEAN: Yeah, we didn't include
25 the actual applications that we sent with them. But

1 it is our understanding that all of the working
2 interest owners in the overlapping spacing unit are
3 the same working interest owners in this current unit
4 that we are seeking to pool besides the -- sorry.

5 MR. MCCLURE: Oh, no, I apologize.
6 Please continue.

7 MS. MCLEAN: I was just going to say,
8 so the working interest owners received notice of this
9 application. It was included in this packet. Exhibit
10 C-1 is the cover letter for the packet that we
11 included all of the applications behind it, including
12 the application for the overlapping spacing unit, Case
13 Number 23109.

14 MR. MCCLURE: Now, were all working
15 interest owners notified or just the ones to be force
16 pooled of this case?

17 MS. MCLEAN: We notified all of them.
18 And you'll see in the chart -- I'm trying to find --
19 we did not -- so COG had already executed a JOA, but
20 we notified Devon, Diamond Head, and Dugan, who are
21 the working interest owners. There's not that many in
22 this case.

23 MR. MCCLURE: So Concho doesn't have a
24 working interest in the section with the overlapping
25 well, then?

1 MS. MCLEAN: So the section with
2 overlapping well is 132 and I'm just looking, sorry.
3 I'm just looking at my exhibit here to make sure I'm
4 giving you the right information.

5 So 132 -- so they had already executed
6 a JOA and so I believe, I'm not 100 percent sure.
7 They have -- okay, yeah. They have no working
8 interest in this -- because they are just in the N/2
9 N/2.

10 If you look at our Exhibit A-3, and the
11 overlapping spacing unit is the S/2 N/2, and COG only
12 has a working interest in the N/2 N/2 of Section 16.
13 They're highlighted in -- on the top there.

14 MR. MCCLURE: Are you referring to page
15 12 according to our --

16 MS. MCLEAN: Yes, page 12 of the PDF.

17 MR. MCCLURE: And is Colgate the only
18 working interest then within the State Lease LG 0794,
19 Allotment 4, or however you call that last four
20 digits, I guess?

21 MS. MCLEAN: It appears to be. Hold
22 on; I'm looking at it. I believe that's the case. So
23 this is the S/2 just looking at the -- it's so tiny.
24 They make it so easy for us to read; right?

25 MR. MCCLURE: Yeah, it looks like it's

1 the fourth column over then.

2 MS. MCLEAN: Right.

3 MR. MCCLURE: And it does seem to
4 indicate that it is 100 percent Colgate. Thank you,
5 Ms. McLean, that's the only question I had.

6 MS. MCLEAN: Okay. Thank you.

7 HEARING EXAMINER: Thank you. I think
8 in that regard, first of all, thank you for the map of
9 the overlapping spacing interests.

10 MS. MCLEAN: We have been listening,
11 Mr. Examiner.

12 HEARING EXAMINER: Nothing that we have
13 -- I have requested, and you did exactly -- that's all
14 it has to show.

15 MS. MCLEAN: Thank you.

16 HEARING EXAMINER: But I think the
17 other part that we wanted is a statement somewhere.
18 It could be in the land person's affidavit; it could
19 be in the notice affidavit that indicates that, you
20 know, persons were given notice of the overlapping
21 spacing units.

22 I think what you're saying,
23 essentially, is the application included both the
24 compulsory pooling and the overlapping spacing unit
25 and therefore, by giving them the application, they've

1 gotten notice of both. And really all you need to
2 confirm is that it's the same people.

3 MS. MCLEAN: Okay.

4 HEARING EXAMINER: Because I mean, I
5 think this is -- for this issue, it's a lot simpler in
6 this case because you just have three parties you have
7 to give notice for that.

8 MS. MCLEAN: Yes.

9 HEARING EXAMINER: So simply a
10 statement that you can either add it to the land
11 person's affidavit or add it to your notice affidavit
12 that indicates that you have complied with that notice
13 portion for overlapping spacing units.

14 MS. MCLEAN: Okay. We will do that
15 within two weeks, Mr. Examiner.

16 HEARING EXAMINER: Yes. Okay. So now,
17 I really got confused on these color-coded maps here
18 and now I think I understand why I'm confused. I'm
19 looking at your Exhibit A-3; okay?

20 MS. MCLEAN: In the same Case 23109?

21 HEARING EXAMINER: Well, it's the same
22 exhibit in each case, which is sort of almost the same
23 exhibit, which is what's troublesome.

24 So if you look at that page in each
25 case and you get down to the bottom where it says unit

1 capitulation, it will say, for 23109 S/2 of the N/2.
2 You look at 23107, it will say N/2 of the N/2.

3 And yet, it will have the same exact
4 percentages. Whoa. Which, once I started looking at
5 it more carefully, is not possible because, as you
6 indicated, COG is really only in the N/2 of the N/2.

7 So for 23107, your Exhibit A-3 unit
8 capitulation of N/2 N/2 should, based the way I read
9 this, should just be 50 percent Colgate 50 percent
10 COG. But instead, the same percentages are used for
11 each unit. It's just that bottom box, I think that's
12 the problem.

13 MS. MCLEAN: Yes, I see that. We can
14 do a revised Exhibit A-3 and have the landman confirm
15 all the percentages.

16 HEARING EXAMINER: But anyway. But
17 otherwise, I mean, I think this is all fine. This is
18 actually fairly simple, even though you have a complex
19 set of leases in here, the ownership is not that
20 complex. So it's just a little bit of math, you know?

21 MS. MCLEAN: Not my forte, but I'm glad
22 you can add it up. But we will submit a revised
23 Exhibit A that reflects the notice as well as Exhibit
24 A-3 percentages.

25 HEARING EXAMINER: Right. So the

1 notice is only for 23109.

2 MS. MCLEAN: Right.

3 HEARING EXAMINER: But the A-3 may be
4 for, you know, you can see when you go back through
5 it, could be for all of them.

6 MS. MCLEAN: We will check that,
7 Mr. Examiner.

8 HEARING EXAMINER: With that, are there
9 any other interested persons for Cases 23107, 108,
10 109, 110? Hearing none, the exhibits will be admitted
11 into the record. These cases will be taken under
12 advisement, the record left open for submittal of
13 revised Exhibits A-3, and for Case 23109, for a
14 statement about compliance with notice for overlapping
15 spacing units to be inserted to the affidavit of your
16 choice.

17 (Exhibits A through C were admitted
18 into evidence.)

19 MS. MCLEAN: Thank you.

20 HEARING EXAMINER: Thank you. All
21 within two weeks.

22 All right. Well, let's try a few more
23 cases, and then maybe we'll take a little break.

24 So we're on Items 75, 76, 77, 78.
25 These will be Cases 23111, 23112, 23113, 23114;

1 Colgate Operating?

2 MS. MCLEAN: Jackie McLean with Hinkle
3 Shanor on behalf of Colgate Operating.

4 HEARING EXAMINER: Are there any other
5 interested persons for Cases 23111 through 23114?
6 Hearing none, Ms. McLean, you may proceed.

7 MS. MCLEAN: Thank you. In these
8 cases, Colgate has consolidated Case Numbers 23111 to
9 23114, which seek to pool uncommitted interests within
10 the Wolfcamp Formation in Sections 16 and 17 of
11 Township 20 South, Range of 28 East, in Eddy County,
12 New Mexico.

13 Specifically, in Case Number 23111,
14 Colgate seeks to pool all uncommitted interests in
15 Wolfcamp Formation underlying a 320-acre standard
16 horizontal spacing unit comprised of the N/2 N/2 of
17 Section 16 and 17, Township 20 South, Range 28 East,
18 and to dedicate the unit to the Dingo 17 Federal Com
19 201H well.

20 In Case Number 23112, Colgate is
21 seeking to pool all uncommitted interests in the
22 Wolfcamp Formation underlying a 320-acre, more or
23 less, standard horizontal spacing unit comprised of
24 the N/2 S/2 of Section 16 and 17, Township 20 South,
25 Range 28 East, and dedicate this unit to the Dingo 17

1 Federal Com 203H well.

2 In Case Number 23113, Colgate is
3 seeking to pool all uncommitted interests in the
4 Wolfcamp Formation underlying a 320-acre, standard
5 horizontal spacing unit comprised of the S/2 N/2 of
6 Sections 16 and 17, Township 20 South, Range 28 East,
7 and dedicate the unit to the Dingo 17 Federal Com 202H
8 well.

9 And then finally, in Case 23114,
10 Colgate is seeking to pool all uncommitted interests
11 in the Wolfcamp Formation underlying a 320-acre, more
12 or less, standard horizontal spacing unit comprised of
13 the S/2 S/2 of Section 16 and 17, Township 20 South,
14 Range 28 East, and dedicate this unit to the Dingo 17
15 Federal Com 204H well.

16 The exhibit packet submitted to the
17 Division in these cases contain Exhibit A, land
18 professional's testimony and related land exhibits,
19 which include a plat of tracts, ownership interests,
20 pooled parties, a well proposal letter, and summary of
21 communications.

22 Exhibit B, geology testimony, gun
23 barrel diagrams, location maps, Wolfcamp structure
24 maps, and structural and stratigraphic cross-sections
25 of the intervals of interest.

1 And Exhibit C, notice testimony, which
2 sets out when the notice letter of this hearing and
3 application were sent to the parties to be pooled, as
4 well as a publication notice.

5 And with that, I ask that Exhibits A,
6 B, and C be admitted into the record in Case Numbers
7 23111, 23112, 23113, and 23114 and that the cases be
8 taken under advisement.

9 (Exhibits A through C were marked for
10 identification.)

11 HEARING EXAMINER: Thank you. Mr.
12 McClure, questions?

13 MR. MCCLURE: Mr. Brancard, I don't
14 have any questions. Although, it does look like the
15 error that you pointed out with Exhibit A-3 for the
16 prior four cases is also present in these cases.

17 HEARING EXAMINER: Thank you. Ms.
18 McLean, I guess I would say that.

19 MS. MCLEAN: I had a feeling.

20 HEARING EXAMINER: Because it looks
21 like the same ownership -- Wolfcamp.

22 MS. MCLEAN: It is, Mr. Examiner.

23 HEARING EXAMINER: So again, if you
24 could just do a revised Exhibit A-3s for all four of
25 these cases. Other than that, I don't have any other

1 questions.

2 Are there any other interested persons
3 then for Case 23111 through 23114? Hearing none, the
4 exhibits will be admitted into the record, and Cases
5 23111 through 23114 will be taken under advisement,
6 the record left open for two weeks for the submittal
7 of revised Exhibit A-3.

8 (Exhibits A through C were admitted
9 into evidence.)

10 MS. MCLEAN: Thank you, Mr. Examiner.

11 HEARING EXAMINER: Thank you. All
12 right. So since we're about to shift law firms here,
13 why don't we take a short break till 10:10 a.m.?

14 Thank you, everyone.

15 (Off the record.)

16 HEARING EXAMINER: I think we ended our
17 last episode at Case Number 78, so we're now on Item
18 Number 79, Case 23115, Mewbourne Oil Company.

19 MR. FELDEWERT: Good morning,
20 Mr. Brancard, Mr. McClure. Michael Feldewert with the
21 Santa Fe Office of Holland & Hart on behalf of the
22 Applicant.

23 HEARING EXAMINER: Thank you. And we
24 have an entry from Coterra Energy, et al.

25 MR. SAVAGE: Good morning; Darin

1 Savage, with the Santa Fe Office of Abadie & Schill on
2 behalf of Coterra Energy and its subsidiaries,
3 including Cimarex Energy Company.

4 HEARING EXAMINER: Does Coterra, et al.
5 object to this case going forward by affidavit?

6 MR. SAVAGE: No objection. Thank you.

7 HEARING EXAMINER: Thank you. Are
8 there any other interested persons in Case 23115?
9 Hearing none, Mr. Feldewert, you may proceed for
10 Mewbourne.

11 MR. FELDEWERT: Thank you. Mewbourne
12 seeks to pool a standard 320-acre horizontal well
13 spacing unit in the Bone Spring Formation. It's
14 comprised of the S/2 of the N/2 of Sections 11 and 10
15 in 19 South 30 East, down there in Eddy County, by
16 what they call the Scarecrow well, which is a laydown
17 well.

18 Our exhibit package provides the
19 compulsory pool and checklist for this particular
20 matter. The application, along with the notice for
21 the docket.

22 Exhibit A is the self-affirmed
23 statement of Tyler Jolly. He is the landman. He
24 provides a number of exhibits, including A-1 being the
25 C-102s or the C-102 for this well.

1 A-2 provides a nice map of the general
2 area with the spacing unit shown in red in the bottom
3 left-hand side -- left-hand corner, I should say.

4 A-3, Mr. Brancard and Mr. McClure, is a
5 notice letter for the overlapping spacing unit. And
6 you will see that in that letter we identify
7 specifically not only the proposed spacing unit but
8 also the two existing spacing units that are being
9 overlapped. And then, as part of Exhibit A-3, he
10 provides the two working interest owners, besides
11 Mewbourne, that are impacted by the overlapping
12 spacing unit.

13 Again, we don't seek approval for that;
14 nobody's going to object. But I understand that this
15 is the type of information you wanted for the pooling
16 case.

17 Exhibit A-4 provides the tracts of land
18 that are involved here for that S/2 of the N/2
19 acreage. There are five tracts.

20 Exhibit A-5 -- I'm sorry. As part of
21 Exhibit A-4, is then a breakdown of the ownership in
22 each of those five tracts, along with the consolidated
23 ownership on the last page of that exhibit. And
24 you'll see the only party that they seek the approval
25 now is Cimarex or Coterra.

1 Exhibit A-5 is the well proposal letter
2 that went out to Cimarex in August, along with the --
3 a follow-up letter in September correcting the
4 location description of the well, and that includes
5 the AFE that was sent out with the well proposal
6 letter.

7 Exhibit A-6 then provides a chronology
8 of contacts with Cimarex dealing with the pooling
9 issues.

10 Exhibit B is the affidavit or self-
11 affirmed statement from the geologist, Mr. Crosby. He
12 provides a nice, structure map that has a lot of
13 information on it. But he does provide the --
14 identify the spacing unit there in the S/2 of the N/2
15 of Sections 11 and 10 and then the trajectory of the
16 proposed well.

17 Exhibit B-2 is the stratigraphic cross-
18 section that corresponds with the A to A Prime on the
19 prior exhibit. And on that exhibit, he provides
20 the -- with the red arrow, a general location of the
21 third Bone Spring Sand Interval that they are
22 targeting with this particular well.

23 Exhibit C is the affidavit from my
24 office providing notice or confirming that notice of
25 this hearing was provided to Cimarex, and it even has

1 an old-fashioned green card that was signed by
2 someone.

3 So with that, Mr. Brancard and
4 Mr. McClure, we ask that Exhibits A, B, and C be
5 admitted into evidence and that this matter be taken
6 under advisement.

7 (Exhibits A through C were marked for
8 identification.)

9 HEARING EXAMINER: Thank you. Mr.
10 Savage, any questions, or concerns?

11 MR. SAVAGE: Mr. Brancard, we're just
12 preserving appellate rights so no questions at this
13 time.

14 HEARING EXAMINER: Thank you. Mr.
15 McClure?

16 MR. MCCLURE: Yeah, Mr. Brancard, I am
17 just looking on the overlapping, but I don't have any
18 questions. Thank you.

19 HEARING EXAMINER: Mr. Feldewert, I
20 mean, thank you for the information on the overlap.
21 Again, as you might have noticed, in one of the prior
22 cases from the Hinkle firm, they actually did a map
23 which was very helpful. And, in your case, that might
24 be really helpful because it looks like you have
25 overlapping like this and then like that, if I read

1 the letter correctly.

2 MR. FELDEWERT: Correct. So if you
3 look at the letter, it specifically identifies the
4 overlapping -- the two overlapping spacing units with
5 the acreage that's involved.

6 HEARING EXAMINER: Right. One unit
7 seems to be entirely contained within the unit that
8 you're proposing. I got that, right? And the other
9 though is, sort of, perpendicular.

10 MR. FELDEWERT: If you need a -- yeah,
11 Mr. Brancard, if you need a picture and you go to
12 Exhibit B-1.

13 HEARING EXAMINER: B-1.

14 MR. FELDEWERT: Yeah, you'll see that
15 stand up well in the E/2 of the E/2 of 11? That's one
16 of the wells that's identified in spacing units in the
17 letter.

18 And then you're going to see, kind of,
19 a, I don't want to call it diagonal, because it's -- I
20 don't think it's intended to be that way, but you'll
21 see a well, in -- fully within the existing spacing
22 unit that starts in the Section 11 in, kind of, the
23 E/2 of the W/2 that extends then as a lay down into
24 Section 10. That's what matches the acreage
25 description that you see of the overlapping spacing

1 unit or units in Exhibit A-3.

2 HEARING EXAMINER: Thank you. All
3 right. Thank you. Well, I appreciate the information
4 on the notice. So Great Western got notice but
5 they're also committed to your unit. I mean, they got
6 notice of the overlap?

7 MR. FELDEWERT: Yes, and then --

8 HEARING EXAMINER: And they are a
9 committed party within your spacing unit?

10 MR. FELDEWERT: Yeah; and not to make
11 it too confusing, but yes. They got notice of the
12 overlap, and then, separately, they got notice of the
13 pooling application, but they've since reached an
14 agreement with Cimarex -- I'm sorry, with Mewbourne
15 and there's no need to pool them.

16 HEARING EXAMINER: Thank you. All
17 right.

18 Are there any other questions? Any
19 other persons interested in Case 23115? Hearing none,
20 the exhibits will be admitted into the record and Case
21 23115 will be taken under advisement.

22 (Exhibits A through C were admitted
23 into evidence.)

24 MR. FELDEWERT: Thank you, gentlemen.

25 MR. MCCLURE: Thank you.

1 HEARING EXAMINER: With that, we are on
2 Item Number 80, Case 23116; Oxy USA, Inc.?

3 MR. RANKIN: Mr. Examiner, Adam Rankin,
4 appearing on behalf of the Applicant in this case from
5 the Santa Fe Office of Holland & Hart.

6 HEARING EXAMINER: Thank you. Mr.
7 Rankin, your voice is a little soft today, so speak a
8 little louder or -- that would be great.

9 HEARING EXAMINER: Are there any other
10 interested persons for Case 23116? Hearing none, Oxy
11 may proceed.

12 MR. RANKIN: Thank you, Mr. Examiner.
13 In this case, Oxy seeks an order approving an
14 approximately 1280-acre nonstandard horizontal well
15 spacing unit in the Wolfcamp Formation, underlying
16 Sections 5 and 8, all within Township 24 South, Range
17 35 East, in Lea County, New Mexico and pooling all
18 uncommitted mineral interest owners in the proposed
19 nonstandard horizontal well spacing unit.

20 The proposed spacing unit will be
21 initially dedicated to six initial wells, identified
22 as that Maltese 5 8 Fed Com wells, that will be
23 drilled from the north to the south.

24 In the packet of exhibits that we filed
25 on Tuesday is a table of contents that identifies each

1 of the exhibits that were pre-filed for this case.

2 Exhibit A is a copy of the compulsory
3 pooling checklist that identifies the spacing unit and
4 the other elements required for pooling.

5 Exhibit A -- rather B -- is a copy of
6 the application that was filed in this case.

7 Exhibit C is the self-affirmed
8 statement of Oxy's landman, land negotiator,
9 Mr. Matthew Cole. Mr. Cole has previously testified
10 before the Division and has been accepted as an expert
11 in petroleum land matters.

12 His self-affirmed statement reviews the
13 nature of the spacing unit and the fact that, given
14 that the configuration of the federal leases involved,
15 that the BLM will not permit commingling of service
16 production in this acreage. And therefore, in order
17 to save on space and reduce impacts on surface -- the
18 surface facilities, they are seeking a single-spacing
19 unit through a CA.

20 In order to obtain a CA, the BLM
21 requires them to have a spacing unit designated by the
22 Division, and therefore, they are seeking a
23 nonstandard spacing unit in this case to combine the
24 acreage to enable them to get a CA from the BLM.

25 Exhibit C-1 is a copy of the proposed

1 CA that would address -- that will be submitted to the
2 BLM for approval. In Mr. Cole's statement, he
3 identifies each of the wells and the locations for
4 those wells that will be drilled in the spacing unit.

5 C-2 is a copy of the C-102s for each of
6 the wells reflecting that the locations first and last
7 take points and that the wells will be dedicated to
8 the Antelope Bridge Wolfcamp Pool, Pool Code 2220.
9 There are no ownership, depth severances within the
10 acreage.

11 Exhibit C-3 is a plat of the tracts
12 that comprise the proposed spacing unit, along with
13 the interest ownership for each tract. You'll see in
14 that exhibit, Mr. Examiner, that Oxy is seeking to
15 pool a single interest owner in this acreage whose
16 interest is less than one-tenth of a percent across
17 the spacing unit.

18 Exhibit C-4 is a sample of the well
19 proposal letters and AFEs that were sent to the owners
20 of working interest. Mr. Cole confirms that the AFEs
21 and the costs are consistent with what Oxy and other
22 operators have occurred for drilling similar wells in
23 this area within the Wolfcamp Formation.

24 C-5 is a summary of the contacts that
25 Oxy has undertaken to reach the single interest owner

1 that they're seeking to pool here and efforts to
2 follow-up with the owner by identifying several
3 different phone numbers.

4 Also in Mr. Cole's statement, he
5 identifies that the costs that they are seeking here
6 are 8500 per month while drilling and 850 while
7 producing and that these costs are similar and
8 consistent with what other operators are charging for
9 similar wells in the area.

10 And then finally, C-6 is a copy of a
11 notice plat identifying the offsetting tracts and the
12 operators of those tracts that Oxy has provided notice
13 to pursuant to the Division rules for nonstandard
14 spacing units.

15 Exhibit D is a copy of the self-
16 affirmed statement of Oxy's geologist. This is the
17 first time that Mr. Pardolly [ph] is testifying in
18 this -- before the Division. Therefore, attached is
19 D-1 is a copy of his resume. We ask at this time that
20 Mr. Pardolly [ph] be recognized as an expert in
21 petroleum geology.

22 HEARING EXAMINER: Hearing no
23 objections, so qualified.

24 MR. RANKIN: Thank you. Mr. Pardolly's
25 [ph] statement reviews the acreage and the tracts that

1 will be dedicated to this spacing unit and identifies
2 the geology in his review. It confirms that he has
3 not identified any geologic impediments to drilling
4 wells in this acreage and confirms that the target
5 interval is consistent across the entire spacing unit.

6 He testifies further that the approval
7 of a nonstandard spacing unit will allow Oxy to space
8 its wells in its preferred spacing; therefore,
9 minimizing waste. And that the approval of a
10 nonstandard spacing unit will result in protection
11 of correlative rights and will reduce waste.

12 Attached to his exhibits, his
13 affidavit -- rather his self-affirmed statement, are
14 the exhibits that reflect the location of the spacing
15 unit, the cross-section -- line of cross-section A to
16 A Prime that would -- and the wells that were used to
17 construct a cross-section that is Exhibit D-4
18 identifying the zones that Oxy is targeting with its
19 six wells.

20 Exhibit E is a self-affirmed statement
21 of Oxy's facilities engineer, Mr. Jeffrey Bullock.
22 Mr. Bullock has not previously testified before the
23 Division and therefore, attached to his self-affirmed
24 statement, is Exhibit E-1, which is a copy of his
25 resume reflecting his credentials to testify as a

1 petroleum -- an expert in petroleum engineering
2 matters. And at this time, Mr. Examiner, I would
3 tender Mr. Bullock as an expert in petroleum
4 engineering.

5 HEARING EXAMINER: Hearing no
6 objections, so accepted.

7 MR. RANKIN: Mr. Bullock reviews the
8 savings, both in terms of surface acreage and in terms
9 of costs and emissions, that will result if Oxy is
10 permitted to drill these wells in a single-spacing
11 unit.

12 Exhibits E-1 -- rather E-2 through E-4,
13 identify that they will realize an approximate two-
14 acre surface reduction if they're able to drill this
15 acreage under a single space unit by reducing the
16 number of production trains from four down to three.

17 In addition, those will result in a
18 nearly \$8 million cost savings to Oxy that will allow
19 them to make the drilling of these wells more
20 competitive and allow the acreage to be -- result in a
21 cost savings for the production life of these wells.

22 And then finally, because there's one
23 fewer battery train proposed, that it will result in
24 approximately 25 percent reduction in unavoidable
25 permitted air emissions from the tanks and related

1 facilities.

2 Therefore, Mr. Examiner, Mr. Bullock
3 testifies that the proposed nonstandard spacing unit
4 is necessary to protect -- necessary to reduce waste
5 and prevent waste and will also be protected
6 of correlative rights.

7 Exhibit F is a copy of the affidavit
8 that I prepared reflecting that we provided notice to
9 the offsets in this tract -- that are on this tract
10 and as well to the working interest owners that are
11 being pooled.

12 Attached to that affidavit is a copy of
13 the letter that was sent to each of those owners and
14 operators as well as a status of the certified mailing
15 that went out reflecting, again, the status of each of
16 those mailings.

17 Exhibit G is a copy of the affidavit of
18 publication that was run in the newspaper of Lea
19 County, the Hobbs News-Sun, reflecting each of the
20 parties that we're seeking to pool and otherwise were
21 required to give -- to be notified or identified by
22 name in that publication.

23 And with that, Mr. Examiner, if there's
24 no further questions, we ask that Exhibits A through G
25 and their attachments be accepted into the record.

1 (Exhibits A through G were marked for
2 identification.)

3 HEARING EXAMINER: Thank you. Mr.
4 McClure, questions?

5 MR. MCCLURE: Mr. Brancard, I don't
6 have any questions for this case.

7 HEARING EXAMINER: Thank you. So, Mr.
8 Rankin, looking at your well proposals, it appears
9 that if you were to pursue this as standard horizontal
10 spacing units that you have two wells that could be
11 used as proximity wells. Is that correct, 33H, 35H?
12 And therefore, this would be two standard horizontal
13 spacing units; right?

14 MR. RANKIN: Right.

15 HEARING EXAMINER: Am I correct?

16 MR. RANKIN: That's my understanding,
17 yes.

18 HEARING EXAMINER: So your proposal
19 then is to combine two standard horizontal spacing
20 units into one larger nonstandard horizontal spacing
21 unit.

22 MR. RANKIN: Correct.

23 HEARING EXAMINER: And you have
24 provided us the information in support of that.

25 So is there anyone else here on behalf

1 of Case 23116? Hearing none, the exhibits will be
2 admitted into the record and Case 23116 will be taken
3 under advisement.

4 (Exhibits A through G were admitted
5 into evidence.)

6 MR. RANKIN: Thank you, Mr. Examiner.
7 Have a good day.

8 HEARING EXAMINER: Thank you. Gosh, is
9 he leaving us? With that, I will call Item Number
10 23117; V-F Petroleum?

11 MR. SAVAGE: Good morning,
12 Mr. Hearing Examiner and Mr. Technical Examiner.
13 Darin Savage with the Santa Fe Office of Abadie &
14 Schill appearing on behalf of V-F Petroleum, Inc.

15 HEARING EXAMINER: All right. Mr.
16 Salvage, do you want to combine this with the next
17 case or do them separately?

18 MR. SAVAGE: Let's do these separately.
19 There might be some differences that justify that.

20 HEARING EXAMINER: All right. So with
21 that, are there any other interested persons for Case
22 23117? Hearing none, please proceed.

23 MR. SAVAGE: If it pleases the
24 Division, we will present Case Number 23117 by
25 affidavit. This case covers lands in Sections 33 and

1 34, Township 18 South, Range 28 East, Eddy County, New
2 Mexico.

3 The landman for this case, Ryan Curry,
4 has not testified previously before the Division as an
5 expert witness. Mr. Curry graduated in 2020 from
6 Texas Tech University with a bachelor's degree in
7 energy commerce. He has worked at V-F Petroleum for
8 approximately two months and has been working as a
9 professional landman in New Mexico for approximately
10 two years.

11 A one-page resume has been attached to
12 his statement for the Division's review. We ask that
13 he be accepted as an expert witness in petroleum land
14 matters.

15 HEARING EXAMINER: Hearing no
16 objection, so accepted.

17 MR. SAVAGE: Thank you. The geologist
18 for the case, Jason Lodge, has testified before the
19 Division as an expert witness and his credentials have
20 been accepted as a matter of record.

21 In Case Number 23117, V-F Petroleum
22 seeks an order establishing a standard 320-acre, more
23 or less, spacing unit comprised of the S/2 N/2 of
24 Section 34 and 33 and pooling all uncommitted
25 interests in the Bone Spring Formation. The unit will

1 be dedicated to two initial wells, the Walker 34-33
2 State Com Number 223H well and the Walker 34-33 State
3 Com 233H well.

4 Orientation of the well is lay down,
5 east to west, and setback requirements under statewide
6 rules are met.

7 Mr. Curry's Exhibit A includes his
8 landman affidavit, the C-102s, an ownership breakdown,
9 the well proposal letter with AFEs, and a rather
10 extensive chronology of contacts.

11 Mr. Lodge's Exhibit B for this case
12 includes his geology affidavit, along with geology
13 Exhibits B-1 a location map; B-2 a Sub-C structure map
14 for the second Bone Spring Sand; B-3 a Sub-C structure
15 map for the third Bone Spring Sand; and B-4 a
16 structural cross-section that appeared to show good
17 potential for development as described in his
18 affidavit.

19 Exhibit C provides the affidavit of
20 notice for mailings and publication notice. Notice
21 was both timely sent and published. There were a
22 number of cards returned as undeliverable, as you may
23 note.

24 If I can direct your attention to
25 Paragraph 13 in Mr. Curry's land statement. It

1 provides an overview of the parties involved with the
2 undeliverable addresses. These parties were contacted
3 by either phone or e-mail, or both, as also described
4 in the chronology of contacts. And the commercial
5 database used to contact the parties is described.

6 Both Mr. Curry and Mr. Lodge affirm
7 that the approval of this application is in the best
8 interest of conservation, protection of correlative
9 rights and the prevention of waste and will prevent
10 the drilling of unnecessary wells.

11 At this time, I move that Exhibits A,
12 B, and C and all sub exhibits be accepted into the
13 record for Case 23117. And that this case be taken
14 under advisement.

15 (Exhibits A through C were marked for
16 identification.)

17 I am available for any questions, thank
18 you.

19 HEARING EXAMINER: Thank you. Mr.
20 McClure, any questions?

21 MR. MCCLURE: No, Mr. Brancard, I don't
22 have any questions for this case.

23 HEARING EXAMINER: Thank you. Mr.
24 Savage, thank you for the documentation of the efforts
25 to locate people. That's helpful.

1 MR. SAVAGE: Thank you.

2 HEARING EXAMINER: With that, the
3 exhibits -- are there any other interested persons
4 then for Case 23117? Hearing none, the exhibits in
5 this case will be admitted into the record and Case
6 23117 will be taken under advisement.

7 (Exhibits A through C were admitted
8 into evidence.)

9 MR. SAVAGE: Thank you.

10 HEARING EXAMINER: With that, I call
11 the next Item. Item 82, Case 23118; V-F Petroleum?

12 MR. SAVAGE: Darin Savage with the
13 Santa Fe Office of Abadie & Schill on behalf of V-F
14 Petroleum, Inc.

15 HEARING EXAMINER: Are there any other
16 interested persons for Case 23118? Hearing none, V-F
17 may proceed.

18 MR. SAVAGE: Thank you. Again, this
19 case covers lands in Sections 33 and 34, Township 18
20 South, Range 28 East, Eddy County, New Mexico.

21 The landman for this case is Shawn
22 Johnson, who has previously testified before the
23 Division as an expert witness and his credentials have
24 been accepted as a matter of record acknowledging his
25 expertise in petroleum land matters.

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1 Somehow, Mr. Ryan Curry's one page
2 resume got inserted into this hearing packet, so
3 please disregard that unless you find that
4 particularly riveting. I apologize for that insertion
5 there.

6 The geologist for the case, Jason
7 Lodge, has testified before the Division as an expert
8 witness and his credentials have been accepted as a
9 matter of record.

10 In Case Number 23118, V-F Petroleum
11 seeks an order establishing a standard 240-acre, more
12 or less, spacing unit comprised of the N/2 NW/4 of
13 Section 34 and N/2 N/2 of Section 33 and pooling all
14 uncommitted interests in the Bone Spring Formation.

15 The unit will be dedicated to two
16 initial wells; the Walker 34-33 State Com 224H well
17 and the Walker 34-33 State Com 234H well.

18 Orientation of the unit is lay down
19 east to west and setback requirements under statewide
20 rules are met.

21 Mr. Johnson's exhibit includes his
22 landman affidavit, the C-102s, an ownership breakdown,
23 the well proposal letter with AFEs, and a
24 communications summary describing the contacts.

25 Mr. Lodge's Exhibit B for this case

1 includes his geology exhibit -- geology affidavit,
2 along with geology Exhibits B-1 a location map; B-2 a
3 Sub-C structure map for the second Bone Spring Sand;
4 B-3 a Sub-C structure map for the third Bone Spring
5 Sand; and B-4, a structural cross-section that showed
6 good potential for development as described by his
7 affidavit.

8 Exhibit C provides the affidavit of
9 notice for mailings and publication notice. Notice
10 was both timely sent and published. All owners -- all
11 working interest owners were located and provided
12 notice.

13 Both Mr. Johnson and Mr. Lodge affirm
14 that the approval of this application is in the best
15 interest of conservation, protection of correlative
16 rights and the prevention of waste and will prevent
17 the drilling of unnecessary wells.

18 At this time, I move that Exhibits A,
19 B, and C and all sub exhibits be accepted into the
20 record for Case 23118. And that this case be taken
21 under advisement.

22 (Exhibits A through C were marked for
23 identification.)

24 I stand available for any questions you
25 may have, thank you.

1 HEARING EXAMINER: Thank you. Mr.
2 McClure?

3 MR. MCCLURE: Yes, Mr. Brancard, I do
4 have a couple of questions.

5 Mr. Savage, I guess, as you're probably
6 expecting, I guess I'm kind of wondering what the
7 story is with the N/2 of the NW/4 of Section 34.
8 Actually, it might be northeast. I might have it
9 wrote down in my notes wrong.

10 MR. SAVAGE: It should be the
11 northwest. Northwest N/2, I believe you're correct on
12 that.

13 MR. MCCLURE: Okay. Then my notes are
14 right. I guess, what is the thought process of why
15 we're missing the acreage there where we have it
16 filled in on the other well?

17 MR. SAVAGE: You know, that's an
18 interesting question. This is the development plan
19 that they presented to me and that's what they wanted
20 to go forward with. I can inquire and find out why
21 they excluded the northeast -- N/2 northeast but --
22 I'm sorry. Yeah, N/2 northeast. I'll find out why
23 they excluded that, but I don't have a specific answer
24 to that question. This is just what they decided what
25 they wanted to develop.

1 MR. MCCLURE: Okay; yeah. The only
2 reason I was wondering is because it just looks like
3 it's a state active lease and the same lease is a part
4 of the other little area so I wasn't quite sure.

5 MR. SAVAGE: No, it's a standard unit.
6 They didn't mention anything about anything being
7 stranded in that regard but that's a concern, stranded
8 acreage and I'd be -- about that.

9 MR. MCCLURE: Exactly. Yes -- yes,
10 sir. And that was the only question I had. Thank
11 you, Mr. Savage. Thank you, Mr. Brancard.

12 HEARING EXAMINER: Thank you. You
13 know, Mr. Savage, I was just glancing through your
14 exhibit packet. You have two wells dedicated to this?

15 MR. SAVAGE: Yes.

16 HEARING EXAMINER: Is that correct?

17 MR. SAVAGE: That's correct.

18 HEARING EXAMINER: I was looking at the
19 C-102s, and maybe this is explained in the geological
20 exhibits, but those two wells seem to be just 75 feet
21 apart from each other?

22 MR. SAVAGE: Okay. If that is the --
23 if that's the dimensions on that, that they present,
24 then I would have to go with that. You know, their
25 technical folks were the ones that developed this

1 particular plan, so I assume that's going to be a
2 feasible development plan. But if there's a concern
3 there, I would certainly want to look into that.

4 HEARING EXAMINER: Just curious. I
5 think that could be probably handled better at the APD
6 stage, but.

7 MR. SAVAGE: Yes.

8 HEARING EXAMINER: Because one's 330
9 from the north line and the other one's 405 from the
10 north line.

11 MR. SAVAGE: Right. Yeah; I'm looking
12 at that right now. Okay. That's the -- if you look
13 at his -- that's the service hole location, the bottom
14 of the location. But they did provide -- the landman
15 did provide take points in paragraph -- in his landman
16 affidavit. Take a look at those. Looks like I
17 accidentally knocked out my exhibit here. Hold on.

18 In Mr. Johnson's landman affidavit, he
19 did provide take points. I don't know if that
20 clarifies what the distance is on that, which may be
21 different. I'm looking at those here now. Those are
22 Paragraph 7 and Paragraph 8. And those are the same
23 405 and 330, so that looks like the locations of the
24 lateral that they're shooting for, Mr. Brancard.

25 MR. MCCLURE: If I may, Mr. Brancard,

1 it does look like they're total vertical depth in
2 those same Paragraphs 7 and 8 is, you know, like 900
3 feet deeper for one of them than the other.

4 HEARING EXAMINER: Okay. I was
5 wondering about that.

6 MR. SAVAGE: That is correct. Yes.
7 Thank you, Mr. McClure.

8 HEARING EXAMINER: Okay. That makes
9 sense.

10 MR. SAVAGE: That section there. Yes,
11 that makes sense.

12 HEARING EXAMINER: They're just
13 stacking them that way. Okay. All right. Excellent.

14 All right. Are there any other persons
15 then for Case 23118? Hearing none, the exhibits will
16 be admitted into the record and Case 23118 will be
17 taken under advisement. Thank you.

18 (Exhibits A through C were admitted
19 into evidence.)

20 MR. SAVAGE: Thank you.

21 MR. MCCLURE: Mr. Brancard, were we
22 going to get any supplemental information regarding
23 the possibility of stranded acreage or what's your
24 thoughts?

25 HEARING EXAMINER: Oh, yes, I'm sorry.

1 You did request that information and Mr. Savage was
2 going to look into the N/2 of the NE; is that correct?

3 MR. MCCLURE: Yes, I believe that's
4 correct. Yeah, I think my original notes were wrong.

5 MR. SAVAGE: We'd be glad to do that.
6 Thank you. I'll get that to you within the two weeks.

7 HEARING EXAMINER: Right, because 117
8 goes all the way across for two miles. It's just 118
9 that's the mile and a half.

10 MR. SAVAGE: There should be a good
11 reason for that, I would guess, but we'll find out.

12 HEARING EXAMINER: The record will be
13 left open for information about this 80-acre tract.
14 Thank you.

15 MR. SAVAGE: Thank you.

16 HEARING EXAMINER: All right. With
17 that, we will go to Cases 23119, 23120; Devon Energy
18 Production?

19 MR. SAVAGE: Good morning,
20 Mr. Hearing Examiner and Mr. Technical Examiner.
21 Darin Savage with the Santa Fe Office of Abadie &
22 Schill on behalf of Devon Energy Production Company,
23 LP.

24 HEARING EXAMINER: Thank you. So are
25 there any other interested persons then for Case

1 23119, 23120? Hearing none, Mr. Savage, you indicated
2 that these cases will need to be continued but you'd
3 like to put on a presentation today; is that correct?

4 MR. SAVAGE: That is correct.

5 HEARING EXAMINER: All right. Well,
6 why don't we do that.

7 MR. SAVAGE: All right. Thank you,
8 Mr. Hearing Examiner. I'll pull these up here. We
9 are presenting Cases 23119 and 23120, which cover
10 lands in Sections 22 and 27, Township 25 South, Range
11 32 East, Lea County, New Mexico.

12 The landman, Beryl [ph] Brown for these
13 cases has testified before the Division and his
14 credentials have been accepted and made a matter of
15 record.

16 The geologist, Kate Houston Kennedy,
17 has testified previously before the Division as an
18 expert witness and her credentials have been accepted
19 as a matter of record.

20 In Case Number 23119, Devon seeks an
21 order establishing a standard 320-acre spacing unit
22 covering the E/2 W/2 of Sections 22 and 27 and pooling
23 all uncommitted interests in the Bone Spring Formation
24 designated as an oil pool.

25 The unit is dedicated to the Haflinger

1 22-27 Fed Com Number 304H well as the initial well.
2 Orientation to the well is standup, north to south,
3 and its location is orthodox.

4 Mr. Brown's Exhibit A for Case 23119
5 includes his landman affidavit, C-102, an ownership
6 breakdown, the well proposal letter with an AFE, and a
7 chronology of contacts.

8 Ms. Houston Kennedy's Exhibit B for
9 this case includes her geology affidavit along with
10 the five standard geology exhibits showing a potential
11 for development as described in her affidavit.

12 Exhibit C provides the affidavit of
13 notice for mailings and publication notice. Notice
14 was both timely mailed and all working interest owners
15 were locatable and received notice.

16 Only eight overriding royalty interest
17 owners were unlocatable, as described in Paragraph 12
18 of Mr. Brown's affidavit.

19 Notice by publication was not timely,
20 unfortunately, and Devon respectfully requests a
21 continuance that would allow the defect in the
22 publication notice to be cured.

23 Both Mr. Brown and Ms. Houston Kennedy
24 affirm that the approval of this application is in the
25 best interest of conservation, protection of

1 correlative rights, and the prevention of waste and
2 will prevent the drilling of unnecessary wells.

3 In the next case, Case Number 23120,
4 Devon seeks an order establishing a standard 640-acre
5 spacing unit covering the W/2 of Sections 22 and 27
6 and pooling all uncommitted interests in the Wolfcamp
7 Formation designated as an oil pool underlying the
8 unit.

9 The unit is dedicated to seven initial
10 wells and these are the Haflinger, and they all have
11 the same prefix, Haflinger 22-27 Fed Com, Number 610H
12 well; Number 710H well; Number 625H well; Number 715H
13 well; Number 721H well; Number 821H well; and the
14 Number 831H well. I believe I covered all seven of
15 those.

16 Orientation of the wells are standup,
17 north to south, and their locations are orthodox. The
18 721H well is positioned to be the proximity well and
19 its completed interval will be within 330 feet of the
20 section line separating the E/2 W/2 and W/2 W/2 to
21 allow for the larger 640-acre spacing unit through the
22 use of proximity tracts.

23 Mr. Brown's exhibit for Case 23120
24 includes his landman affidavit, the C-102s, an
25 ownership breakdown, the well proposal letters with

1 AFEs, and the chronology of contacts.

2 Ms. Houston Kennedy's Exhibit B for
3 this case includes her geology affidavit, along with
4 the five standard geology exhibits showing the
5 potential for development as described in her
6 affidavit.

7 Mr. Brancard, I would like to direct
8 you to Paragraph 5 of the geologist's affidavit where
9 she discusses the Cotton Draw Fault System and
10 provides an overview of how Devon has addressed any
11 concerns or issues with this fault system.

12 Exhibit C provides the affidavit of
13 notice for mailings and publication notice. Notice
14 was timely mailed and all working interest owners were
15 locatable and received notice. There were eight
16 overriding royalty interest owners who were
17 unlocatable and that's described in Paragraph 18 of
18 Mr. Brown's affidavit.

19 And again, notice by publication was
20 not timely and Devon again requests a continuance that
21 would allow the defect in the publication notice to be
22 cured.

23 Both Mr. Brown and Ms. Houston Kennedy
24 affirm that the approval of this application is in the
25 best interest of conservation, protection of

1 correlative rights, and the prevention of waste and
2 will prevent the drilling of unnecessary wells.

3 At this time, I move that Exhibits A,
4 B, and C and all sub exhibits be accepted into the
5 record for Cases 23119 and 23120. And that this
6 case -- these cases be taken under advisement.

7 (Exhibits A through C were marked for
8 identification.)

9 And I'm available for any questions,
10 regarding the cases that you may have.

11 HEARING EXAMINER: Thank you. Mr.
12 McClure, questions?

13 MR. MCCLURE: Yes, Mr. Brancard. Mr.
14 Savage, for Case 23119, for the Wolfcamp.

15 MR. SAVAGE: I believe that's -- that
16 would be for the Bone Spring?

17 MR. MCCLURE: Looks like it downloaded
18 from the 23119 and it says Wolfcamp on this Exhibit
19 A-2.

20 MR. SAVAGE: Okay. That must be a
21 mistake on our part.

22 MR. MCCLURE: Maybe can you scroll up?
23 Well, I mean, I guess, well, I'll figure that out here
24 in a bit. But I guess what my question is though, for
25 the Wolfcamp, whichever case that is, it looks -- I'm

1 sorry?

2 MR. SAVAGE: Excuse me. I'm sorry. Go
3 ahead, please continue. Go ahead.

4 MR. MCCLURE: The Exhibit A-2 for the
5 tract one ownership, it looks like Providence
6 Minerals, LLC is listed as being uncommitted? But
7 then when your guy goes down to the end where it shows
8 the uncommitted working interest owners seeking to be
9 compulsory pooled highlighted in yellow, they are not
10 included there.

11 MR. SAVAGE: Yes. I believe that
12 Providence has committed to a JOA in this regard and I
13 believe that that was an oversight on us.

14 MR. MCCLURE: Okay. So then on the
15 tract one, the oversight is -- or the discrepancy --
16 the inaccuracy, I guess, is where it says Providence
17 is uncommitted because they are committed then?

18 MR. SAVAGE: I believe that is correct.
19 I believe that they got a commitment to that or a
20 voluntary agreement and we would need to change that
21 in the exhibit to reflect that.

22 MR. MCCLURE: Oh, actually, are both
23 exhibits on the combined? You have both exhibits on
24 both cases then, in both case files?

25 MR. SAVAGE: Yeah, I think there's a

1 single difference and I believe it involves Oxy
2 between the two cases.

3 MR. MCCLURE: Well, what I mean is, is
4 it a combined packet? So maybe I am looking at the
5 packet from the wrong case file and just scrolled down
6 to the wrong place in it.

7 MR. SAVAGE: It is a combined packet;
8 that's correct.

9 MR. MCCLURE: Okay -- okay. I
10 apologize. Okay. I got you. Yeah, that's the reason
11 then. I was looking at one from the other case file
12 and it's just the combined packet. I hadn't scrolled
13 all the way down to see all of that. But regardless,
14 okay. Thank you. Yep. That was all my questions,
15 Mr. Savage. Thank you.

16 MR. SAVAGE: Thank you, Mr. McClure.
17 Sorry for the confusion on our end.

18 MR. MCCLURE: No problem.

19 HEARING EXAMINER: Thank you. I think
20 I noticed the same thing. So it was Exhibit A-2 on
21 Case 23120. You need to clarify the status of
22 Providence.

23 MR. SAVAGE: We will do that, clarify
24 that, and --

25 HEARING EXAMINER: I think you gave

1 them notice anyway, so --

2 MR. SAVAGE: Yeah; we gave everybody
3 notice. You know, in negotiations, you know, you have
4 ongoing negotiations and sometimes you run into
5 something like that; I apologize for that. But we
6 will certainly clarify that.

7 HEARING EXAMINER: All right. So any
8 other questions or concerns for Cases 23119, 23120?
9 Hearing none, the exhibits will be admitted into the
10 record.

11 (Exhibits A through C were admitted
12 into evidence.)

13 We are looking forward to a revised
14 Exhibit A-2 in Case 23120. And furthermore, because
15 of the publication issue, both of these cases will be
16 continued to the November 17th docket and you don't
17 need to file a continuance.

18 MR. SAVAGE: Okay; thank you. Thank
19 you, Mr. Hearing Examiner.

20 HEARING EXAMINER: All right; thank
21 you. So with that, we are now on, I believe, Items 85
22 through 88, Cases 23121, 23122, 23123, 23124; Matador
23 Production Company?

24 MS. VANCE: Paula Vance, Santa Fe
25 office of Holland & Hart --

1 HEARING EXAMINER: Ms. Vance, you're
2 really quiet.

3 MS. VANCE: Okay; can you hear me now?

4 HEARING EXAMINER: Not very loud. You
5 can try shouting.

6 MS. VANCE: I can use my command voice,
7 since I am a lieutenant commander in the Coast Guard.

8 HEARING EXAMINER: Exactly. Those
9 skills come in handy once in a while.

10 MS. VANCE: Is that better? Can you
11 hear me now?

12 HEARING EXAMINER: Yes; that's a little
13 better. Yes. Okay.

14 MS. VANCE: Okay. I apologize for
15 that. I'm not sure what the issue is. Anyway, Paula
16 Vance with the Santa Fe office of Holland & Hart on
17 behalf of the Applicant, Matador Production Company.

18 HEARING EXAMINER: All right. And
19 you're doing these four cases separate from the next
20 four cases; is that correct?

21 MS. VANCE: That's correct.

22 THE REPORTER: Thank you. Are there
23 any other interested persons for Cases 23121, 122,
24 123, or 124? Hearing none, Matador may proceed.

25 MS. VANCE: All right. Give me one

1 second. I'm going to try to fix my audio. Nope. I
2 don't know what I'm doing. Okay. I will proceed.
3 Hopefully, you can hear me. Okay.

4 In Case Numbers 23121, 23122, 23123,
5 and 23124, Matador seeks to amend the Division orders
6 for its Bivins Fed Com wells, and those wells are
7 numbers 137H, Number 138H, 213H and 214H, and is
8 respectfully requesting an extension of time to
9 commence drilling the initial wells under the orders
10 for those wells.

11 In the exhibit packet we provided,
12 Exhibit A is the extension applications; Exhibit B is
13 a copy of the original orders in those cases for the
14 Bivins wells; and then Exhibit C is an affidavit from
15 landman David Johns in which he attests to why there
16 is good cause to extend the orders in these cases.

17 And just a brief explanation, Matador
18 filed federal APDs for the Number 137H and the Number
19 138H Bivins wells in October 2021 and the Number 213H
20 and Number 214H Bivins wells in November 2021 and has
21 not yet received approval. But once Matador receives
22 approval, Matador intends to promptly drill those
23 wells.

24 And then Exhibit D is a self-affirmed
25 statement of notice with sample letters that were

1 timely mailed on October 14, 2022 and an affidavit of
2 notification of application, which is Exhibit E, which
3 was timely published on October 16th and 19th for the
4 respective cases that are indicated.

5 And unless there are any questions, I
6 would ask that the exhibits be admitted into the
7 record and that case numbers 23121, 23122, 23123, and
8 23124 be taken under advisement by the Division at
9 this time.

10 (Exhibits A through E were marked for
11 identification.)

12 HEARING EXAMINER: Thank you. Mr.
13 McClure, any questions?

14 MR. MCCLURE: Yes, Mr. Brancard, I do.
15 Ms. Vance, it looks like only two persons were noticed
16 on these first four cases; is that correct?

17 MS. VANCE: I believe that is correct.

18 MR. MCCLURE: Now, the original order
19 from last year, it looks like there were nine noticed
20 persons. Do you know what the discrepancy is there or
21 the reason for the discrepancy, excuse me.

22 MS. VANCE: I apologize for
23 interrupting. I'm not sure, but I'm happy to follow
24 up with Matador. I'm not sure if it's a case where
25 they may have reached agreement with those parties.

1 But again, I'm happy to follow up and get an answer
2 for you.

3 MR. MCCLURE: Thank you. Yeah. That
4 was kind of maybe what my presumption might be the
5 reason for it, but a confirmation of that would
6 definitely be good. Thank you; that's the only
7 question I had.

8 HEARING EXAMINER: Thank you. Are
9 there any other interested persons for cases 23120,
10 121, 122, 123? Hearing none, these cases will be --
11 the exhibits will be admitted into the record and the
12 cases will be taken under advisement. Thank you.

13 (Exhibits A through E were admitted
14 into evidence.)

15 MS. VANCE: Thank you.

16 MR. MCCLURE: Are we asking for the
17 additional supplemental information, Mr. Brancard?

18 HEARING EXAMINER: I'm sorry; what was
19 your information, Mr. McClure?

20 MR. MCCLURE: The reason for the
21 difference in notice, assuming that we want that,
22 anyway?

23 HEARING EXAMINER: Yes.

24 MS. VANCE: Does that need to be filed
25 or can I e-mail the Division with that information?

1 Maybe e-mail Mr. McClure directly?

2 HEARING EXAMINER: Mr. McClure, are you
3 okay with that?

4 MR. MCCLURE: Oh, I apologize, Mr.
5 Brancard, I thought you were -- I was going to say, I
6 would assume you'd want them to file it in the case
7 file, would we not?

8 HEARING EXAMINER: Well, if there's no
9 need to correct anything?

10 MR. MCCLURE: Well, I guess you make a
11 good point.

12 HEARING EXAMINER: You're asking for an
13 explanation here.

14 MR. MCCLURE: I was going to say, a
15 follow up by an e-mail would be fine with me if it's
16 good with you?

17 HEARING EXAMINER: Okay. And then,
18 based on that, if you need to change anything in the
19 exhibits, follow up immediately.

20 MS. VANCE: Will do.

21 HEARING EXAMINER: Thank you. All
22 right. With that, Cases Numbers 89, 90, 91, 92.
23 These are Case Numbers 23125, 23126, 23127, 23128;
24 Matador Production Company?

25 MS. VANCE: Hello again; still me. Mr.

1 Hearing Examiner and Mr. McClure, Paula Vance with the
2 Santa Fe office of Holland & Hart on behalf of the
3 Applicant, Matador Production Company.

4 HEARING EXAMINER: Thank you. Are
5 there any other interested persons for cases 23125,
6 126, 127, 128? Hearing none, please proceed.

7 MS. VANCE: Thank you, Mr. Hearing
8 Examiner. In Case Numbers 23125, 23126, 23127, 23128,
9 Matador seeks to amend the Division orders for its
10 Weinberger Fed Com wells, and those are Number 135H,
11 Number 136H, Number 211H, and Number 212H, and is
12 respectfully requesting an extension of time to
13 commence drilling. The initial wells under those
14 orders for those wells.

15 In the exhibit packet we have provided
16 the extension applications, which is Exhibit letter A;
17 a copy of the original orders, which is Exhibit B; and
18 Exhibit C is an affidavit from landman David Johns in
19 which he attests to why there is good cause to extend
20 the orders.

21 And again, a brief explanation.
22 Matador filed federal APDs for each of the wells in
23 September 2021 and has not yet received approval. But
24 once they receive approval, they plan to drill these
25 wells promptly.

1 sample of the letters and that is followed by the
2 green cards, and there are five green cards, and then
3 all of the notices of publication. But I'm happy to
4 look on the Division's website.

5 MR. MCCLURE: How many pages do you
6 have on that exhibit? Because there's 56 of them on
7 the one I'm looking at.

8 MS. VANCE: I had 62.

9 MR. MCCLURE: Okay.

10 HEARING EXAMINER: I don't see any
11 green cards.

12 MR. MCCLURE: I wonder if it's in one
13 of the other case files or something?

14 HEARING EXAMINER: Did you have a
15 spreadsheet on notice, Ms. Vance?

16 MS. VANCE: We did not; just the green
17 cards were included. And I'm on the Division's
18 website and I'm pulling up, starting with the first
19 case, 125. Yeah; I see that there are 56 pages. So,
20 yeah. I'm not sure why that's not in there? That's
21 not the complete packet that I have in front of me
22 that's in our case file. But I'm happy to refile
23 these with the green cards and the Notice of
24 Publication. If you give me --

25 HEARING EXAMINER: Do we have a list of

1 the parties who were supposed to receive notice?

2 MS. VANCE: I do. I'm not sure if --
3 can I e-mail that packet to you right now so you can
4 see that and we can file it after the hearing? I'm
5 not sure why the complete packet is not on the OCD's
6 images.

7 HEARING EXAMINER: Why don't we hold
8 this case then for a little bit and get back to it
9 later?

10 MS. VANCE: Yeah. Would it be --

11 HEARING EXAMINER: And you can send
12 us --

13 MS. VANCE: Oh, I'm sorry. Please go
14 ahead.

15 HEARING EXAMINER: Can you send us the
16 information or send it to Marlene.

17 MS. SALVIDREZ: Actually, just file it
18 online and I will approve it right away.

19 MS. VANCE: Thank you.

20 MR. MCCLURE: So we are just moving
21 these to the end of the docket then, Mr. Brancard, or?

22 HEARING EXAMINER: Yes; I think that
23 would be appropriate. Because it sounds like Ms.
24 Vance has the information. You can get it to us. She
25 doesn't need two weeks to do it. And we can hopefully

1 evaluate it by the end of today.

2 MR. MCCLURE: Ms. Vance, the only thing
3 I guess I would point out real fast is these cases
4 also seem to have the same discrepancy between the
5 original order notice and these orders notice, in that
6 if you only noticed 5 people this time I think
7 initially there were 15 people noticed. So if you
8 just wanted to include these cases in the follow-up
9 e-mail that you will be providing to me on the initial
10 four cases?

11 MS. VANCE: I am happy to do that, Mr.
12 McClure.

13 MR. MCCLURE: Thank you.

14 HEARING EXAMINER: All right. Why
15 don't we just stay these cases; 23125 through 23128,
16 and we will get back to them, hopefully, at the end of
17 the docket here today.

18 MS. VANCE: That would be much
19 appreciated, Mr. Hearing Examiner.

20 HEARING EXAMINER: All right; thank
21 you. So why don't we move on then to our next two
22 cases. These are Items 93 and 94 on the worksheet.
23 These are Cases 23147, 23148; Devon Energy Production?

24 MR. SAVAGE: Good morning Mr. Hearing
25 Examiner and Mr. Technical Examiner, Darin Savage with

1 Abadie & Schill appearing on behalf of Devon Energy
2 Production Company, LLP.

3 HEARING EXAMINER: Thank you. Are
4 there any other interested persons for cases 23147,
5 23148? Hearing none, Devon may proceed.

6 MR. SAVAGE: Thank you. These cases,
7 Numbers 23147 and 23148, cover lands in the W/2 of
8 Sections 26 and 35, excluding the SW/4 S/W S/W of
9 Section 35, all in Township 22 South, Range 33 East,
10 Lea County, New Mexico.

11 The S/W 4 of Section 35 is excluded due
12 to BLM restrictions on leasing in this area. In this
13 area, the BLM has had some restrictions on these
14 sections in a number of areas. Previously, we pooled
15 in the E/2 of some of these sections and experienced
16 the same BLM restrictions.

17 The landman in this case, Matthew
18 Hoops, has testified previously before the Division as
19 an expert witness and his credentials have been
20 accepted as record acknowledging his expertise. The
21 geologist is Thomas Peryam, who has testified before
22 the Division as an expert witness and his credentials
23 have been accepted as a matter of record.

24 In Case Number 23147, Devon seeks an
25 order establishing a nonstandard 600-acre, more or

1 less, spacing unit comprised of the W/2 of Section 26
2 and the NW/4 and the N/2 SW/4 and the SE/4 SW/4 of
3 Section 35 -- and that's basically the W/2, excluding
4 the S/W S/W -- and pooling all uncommitted interest
5 owners in the Bone Spring Formation.

6 The unit will be dedicated to four
7 initial wells; the Serpentine 35-26 State Fed Com 1H
8 well; the Serpentine 35-26 Fed Com 9H well; the
9 Serpentine 35-26 Fed Com 11H well; and the Serpentine
10 35-26 Fed Com 12H well.

11 Orientation of the well is stand up,
12 south to north, and all setback requirements under
13 statewide rules are met. Since Devon is requesting a
14 nonstandard spacing unit, Devon is applying
15 administratively for approval of the nonstandard unit
16 and is working with the OCD through this process.

17 Mr. Hoops' Exhibit A includes his
18 landman affidavit, the C102s, the ownership breakdown,
19 well proposals with AFEs, and chronology of contacts
20 showing the extent of negotiations and interactions
21 with Marathon.

22 Mr. Peryam's Exhibit B for this case
23 includes his geology affidavit along with the standard
24 geology exhibits listed as B-1 through B-6 that show
25 potential for development as described in his

1 affidavit.

2 Exhibit C provides the Affidavit of
3 Notice for mailings and publication notice. Notice
4 was both timely sent and published. All owners were
5 locatable and notice was delivered.

6 In Case Number 23148 Devon seeks an
7 order establishing a nonstandard 600-acre, more or
8 less, spacing unit comprised of the W/2 of section 26
9 and the NW/4 and the N/2 SW/4 and the SE/4 SW/4 of
10 Section 35 and pooling all uncommitted interest owners
11 in the Wolfcamp formation.

12 The unit will be dedicated to two
13 initial wells; the Serpentine 35-26 Fed Com 2H well
14 and the Serpentine 35-26 Fed Com 10H well.
15 Orientation of the unit is stand up, south to north,
16 and setback requirements under statewide rules are
17 met. Again, Devon is applying administratively for
18 approval of the nonstandard unit and is working with
19 the OCD through this process.

20 Mr. Hoops' Exhibit A includes his
21 landman affidavit, the C102s, the ownership breakdown,
22 the well proposals with AFEs and chronology of
23 contacts showing the extent of negotiations with
24 Marathon.

25 Mr. Peryam's Exhibit B for this case

1 includes his geology affidavit along with the standard
2 geology exhibits that he lists as B-1 through B-6.

3 Exhibit C provides the Affidavit of
4 Notice for mailings and publication notice. Again,
5 notice was both timely sent and published and all
6 owners, both working interests and overrides, were
7 locatable and notice delivered.

8 Both Mr. Hoops and Mr. Peryam affirm
9 that the approval of these applications, the two, is
10 in the best interests of conservation, protection of
11 correlative rights, and the prevention of waste and
12 will prevent the drilling of unnecessary wells.

13 At this time, I move that Exhibits A,
14 B, and C and all sub exhibits be accepted into the
15 record for Cases 23147 and 23148 and that the cases be
16 taken under advisement.

17 (Exhibits A through C were marked for
18 identification.)

19 And I am available for any questions
20 that you may have.

21 HEARING EXAMINER: Thank you. Mr.
22 McClure, any questions?

23 MR. MCCLURE: Yeah, I do, Mr. Brancard.
24 Mr. Savage, how it kind of seemed from your testimony
25 here is your NSP is based upon the exclusion of the

1 SW/4 of the SW/4 of Section 35; is that correct?

2 MR. SAVAGE: That's correct. And
3 that's what we had done in the past with the -- when
4 we addressed the E/2 of these sections. Correct, Mr.
5 McClure.

6 MR. MCCLURE: I was going to say, the
7 only difficulty we're looking at here is your infill
8 well or, excuse me, your defining well. You're
9 essentially fitting the SE/4 of the SW/4 to its
10 spacing unit. You're not excluding the SW/4 of the
11 SW/4?

12 MR. SAVAGE: That would be the
13 flipside, I believe. I would have to look at that,
14 that we added that quarter section; I agree.

15 MR. MCCLURE: Well, the reason I bring
16 this up because, I mean, they're both NSPs, but the
17 reason I bring this up is the notice requirements for
18 NSPs is different based upon whether you're including
19 or excluding --

20 MR. SAVAGE: That sounds correct.

21 MR. MCCLURE: Yeah. So do you know if
22 the notice that was conducted was done based upon the
23 inclusion or the exclusion of that?

24 MR. SAVAGE: Well, you know, it has
25 gone through that -- I can't remember the exact

1 details of that. I would have to pull that up. But
2 it's gone through that process and I believe it has
3 been approved, the NSP. But I do need to talk with
4 Mr. Lowe.

5 You know, we did some changes with the
6 wells and I believe we may need to talk with him
7 either about supplementing or doing something to
8 account for possibly some of these changes that we did
9 with this application.

10 MR. MCCLURE: Mm-hmm.

11 MR. SAVAGE: But as I understand, you
12 know, how we viewed that is, that well, the spacing
13 unit would have been a standard unit. And the rules
14 point out, it would have been a standard unit had we
15 been able to include that SW SW/4 because we would
16 have used a proximity well, possibly, to bring that
17 in. And so, how they were looking at that was that
18 because -- excluded because we could not do the full
19 standard spacing unit that we had to exclude that SW
20 SW/4. That's how we were doing that. And I believe
21 that you would have to do notice of adjacent owners
22 all the way around.

23 MR. MCCLURE: Correct; yeah, that
24 essentially would be the difference.

25 MR. SAVAGE: Yeah. And I know we went

1 ahead and accounted for everybody as a precaution. I
2 know that we did all of the adjoining owners and
3 potential owners in that regard. But that has been
4 extensively reviewed -- during the --

5 MR. MCCLURE: And you believe -- and
6 you believe the admin order for that NSP has already
7 been approved? Do you happen to have it with you?

8 THE WITNESS: I believe that's already
9 been approved, but I -- I think I need to talk to Mr.
10 Lowe about, you know, we did -- we did an amended
11 application to address the change of the 9H well and I
12 want to make sure with Mr. Lowe that, that is not an
13 issue in there.

14 MR. MCCLURE: So then perhaps the
15 initial NSP has been approved but there may be an
16 amended NSP that you're going to submit an application
17 for?

18 MR. SAVAGE: I believe that may be the
19 proper process for this so I'm going to have to look
20 that up closely.

21 MR. MCCLURE: Okay.

22 MR. SAVAGE: But we've gone through a
23 lot of the evaluation at this point on the NSP.

24 MR. MCCLURE: Okay. Do you happen to
25 have that NSP number?

1 MR. SAVAGE: I can certainly e-mail
2 that to you. I'll be glad to e-mail that to you.

3 MR. MCCLURE: Yes; please e-mail that
4 to me.

5 MR. SAVAGE: Yeah.

6 MR. MCCLURE: And then, has the
7 Division -- I know in the prior CP orders with these I
8 thought we were doing the NSP as a part of the CP. I
9 guess I don't know. Has the Division communicated to
10 you that we can administratively do an NSP and then do
11 the compulsory pooling based upon that, or?

12 MR. SAVAGE: That's been my
13 understanding. That's how we've done it in the past
14 and we've never had an objection to that. It's my
15 understanding that you can do the NSPs and the NSLs
16 administratively and go through the notice process for
17 those applications on the backside.

18 MR. MCCLURE: Okay. Well, the only
19 other question I have for you, Mr. Savage, is that
20 your understanding then that, that SW/4 of the SW/4,
21 the BLM has no intention of leasing it out anytime in
22 the immediate future then; is that correct?

23 MR. SAVAGE: Yes. We ran into that
24 with the E/2 and we tried to lease that -- Devon tried
25 to lease that numerous times and has been in

1 conversation with the BLM and that's been the
2 conclusion, is that, that is fully restricted. And I
3 believe it's based on habitat issues.

4 MR. MCCLURE: Okay; thank you, Mr.
5 Savage. I have no more questions for you on these
6 cases.

7 HEARING EXAMINER: Okay. We need to
8 really clarify what this case is about.

9 MR. SAVAGE: Okay.

10 HEARING EXAMINER: You have applied
11 through a hearing for a nonstandard spacing unit.

12 THE WITNESS: That is correct.

13 HEARING EXAMINER: But it appears that
14 you have also applied administratively for a
15 nonstandard spacing unit.

16 MR. SAVAGE: Well --

17 THE REPORTER: You can do either, okay?

18 MR. SAVAGE: Yes. I thought -- yes.
19 So, you know, if we are approving the nonstandard
20 spacing unit through this hearing, we are going to
21 give you a lot of grief now about your nonstandard
22 spacing unit application.

23 MR. SAVAGE: Okay.

24 HEARING EXAMINER: Okay? But it
25 appears that you are already processing this through

1 the administrative process?

2 MR. SAVAGE: That is correct. And, Mr.
3 Brancard, I apologize if there was some confusion
4 there. But the language in there about requesting a
5 nonstandard, I guess that was with an appeal to
6 provide notice to the OCD that we were wanting
7 approval of the NSP but that we -- and we wanted the
8 Division to be aware of that upfront with the pooling
9 process, but that the intent was to go through the
10 administrative process on that. There may be a better
11 way to phrase that --

12 HEARING EXAMINER: Just say what you
13 just said.

14 MR. SAVAGE: So we would just --

15 HEARING EXAMINER: This is a
16 nonstandard spacing unit. We will apply for
17 administrative approval of a nonstandard spacing unit.

18 MR. SAVAGE: Yes; I agree, that
19 additional request for approval is misplaced in that
20 application. But the intent is, I believe, expressed
21 in that desire and the action of pursuing the
22 administrative process.

23 HEARING EXAMINER: Okay. So the
24 question then is, what is nonstandard about this
25 spacing unit? Because we could look at this as a,

1 what? A 640-acre spacing unit that's missing 40
2 acres.

3 THE WITNESS: That is correct.

4 HEARING EXAMINER: Okay. If that's
5 correct, then your spacing unit needs to have a
6 proximity well.

7 MR. SAVAGE: I guess with the
8 configuration that Devon was going forward with that
9 we felt like we couldn't extend the proximity well
10 since they were starting from with the drilling pads
11 in the south and then they were doing take points
12 where the lateral did not include that -- did not
13 bring in that S/W S/W4, we felt like the cleaner
14 approach would be to do a nonstandard to account for
15 that 4/4 section, as opposed to trying to reach
16 something where it wasn't operationally feasible do a
17 lateral to pull in that S/W SW/4. That was the
18 thinking behind that.

19 So we thought it was a cleaner approach
20 where the, you know, the end result would be analogous
21 and the only difference it looks like would be that
22 the additional notice to ensure that correlative
23 rights were protected, providing that the Division
24 would approve that approach.

25 HEARING EXAMINER: Okay. Well, your 9H

1 well looks close to being a proximity well.

2 MR. SAVAGE: That's 9? Let me pull
3 that up here.

4 HEARING EXAMINER: But it's not pooling
5 in that last 4/4 down there.

6 MR. SAVAGE: That's right. That was
7 the concern.

8 HEARING EXAMINER: Southeast of the
9 Southwest, I guess?

10 MR. SAVAGE: Right. That was the
11 concern, you know, that those laterals were not
12 extending sufficiently to actually operate fully as a
13 proximity well. We ran into that in the E/2 too. We
14 had a lateral that didn't extend all the way up and, I
15 think, was able to include a restricted 4/4 section
16 and we went with the nonstandard on that. The
17 Division agreed to that.

18 HEARING EXAMINER: Okay. So are you
19 saying that all of these nonstandard issues are being
20 addressed in your nonstandard application?

21 MR. SAVAGE: That is correct, Mr.
22 Brancard. I believe that's correct. In the future,
23 we'll be a little bit more specific on our placement
24 of approval language. But, yes. We were going
25 through that process. A lot of it has been reviewed

1 and we'd like to finalize that as part of this process
2 with the pooling.

3 HEARING EXAMINER: Okay. You need to
4 provide us with some sort of certificate or revised
5 landman's affidavit or a certificate from you sort of
6 saying what the process is.

7 MR. SAVAGE: Okay. We will do that.

8 HEARING EXAMINER: And that this is a
9 nonstandard spacing unit and the nonstandard spacing
10 unit will be approved and we will be seeking
11 administrative approval of a nonstandard spacing unit.

12 MR. SAVAGE: Yes; thank you, Mr.
13 Brancard. We'll get that to you.

14 HEARING EXAMINER: Mr. McClure, any
15 other concerns or questions?

16 MR. MCCLURE: If you're asking me, Mr.
17 Brancard, no. Just the NSP was the only thing I had
18 questions about and the potentially stranded acreage,
19 but I think I already asked all of my questions.

20 HEARING EXAMINER: Thank you. And so,
21 these would apply to both cases, Mr. Savage; just one
22 is Bone Spring and one is Wolfcamp?

23 MR. SAVAGE: Yes, sir.

24 HEARING EXAMINER: All right. Are
25 there any other persons then for Cases 23147, 23148?

1 Hearing none, and the exhibits will be admitted into
2 the record and cases 23147 and 23148 will be taken
3 under advisement. We will leave the record open for
4 two weeks for clarification that our approval is only
5 for compulsory pooling and that all issues related to
6 nonstandard spacing units will be addressed
7 administratively.

8 (Exhibits A through C were admitted
9 into evidence.)

10 MR. SAVAGE: Thank you.

11 HEARING EXAMINER: Thank you. All
12 right. So with that, I believe we are on Item Number
13 95, Case 23168, Marathon Oil Permian, LLC?

14 MS. BENNETT: Good morning, everyone.
15 Deana Bennett on behalf of Marathon Oil Permian, LLC.

16 HEARING EXAMINER: Thank you. Are
17 there any other persons for Case 23168? Hearing none,
18 please proceed.

19 MS. BENNETT: Thank you very much. As
20 a preliminary matter, I did submit a revised exhibit
21 packet yesterday with a notice that I was filing a
22 revised exhibit packet and a short summary of what the
23 revisions were. So I will be working off of the
24 revised exhibit packet and happy to answer any
25 questions you may have about the revisions.

1 So in Case 23168, Marathon seeks an
2 order from the Division pooling all uncommitted
3 interests within a standard 640-acre Wolfcamp spacing
4 unit, which was in the Wolfcamp Purple Sage and the
5 spacing unit underlies the W/2 of Section 35, Township
6 22 South, Range 28 East, and the W/2 of Section 2,
7 Township 23 South, Range 28 East, and this spacing
8 unit will be dedicated to two wells; the Trojan Horse
9 35 WXY Fed Com 2H well and the Trojan Horse 35 WXY 4H
10 well.

11 So in the materials that I submitted
12 yesterday, the revised packet, I have included the
13 declaration of Chase Rice. He's the landman for
14 Marathon and he has previously testified before the
15 Division and his credentials have been accepted as a
16 matter of record.

17 And behind his self-affirmed
18 declaration is the application, corrected C102s -- so
19 that's the change from the original exhibit packet I
20 submitted -- so the corrected C102s which shows
21 standard setbacks for the Purple Sage Wolfcamp pool.

22 Then behind the C102s there are the
23 tracts, maps, summary of interests. We have also
24 included a summary of contacts, sample well proposal,
25 an AFE, and then the Notice Affidavit prepared by my

1 office and the notice affidavit does show that notice
2 was timely mailed and that it was timely published.
3 And I have noted for my office to update the website
4 to the current website in our future mailings, but
5 thank you for pointing that out today.

6 In the Tab C, that contains the
7 declaration of Matt Baker; he's a geologist with
8 Marathon and he has previously testified before the
9 Division, and his exhibits contain the usual suite of
10 geology exhibits, including a locator map, well bore
11 schematic, a structure map, a cross reference well
12 locator map, a stratigraphic cross-section, an isopach
13 map and then an excerpt from the Sweeney-Zoback [ph]
14 paper describing the rationale for the orientation in
15 this area.

16 With that, I would ask that the revised
17 exhibits in Case Number 23168 be admitted into the
18 record and this case taken under advisement and I am
19 happy to answer any questions the Division may have.

20 (Exhibits A through C were marked for
21 identification.)

22 HEARING EXAMINER: Thank you. Mr.
23 McClure?

24 MR. MCCLURE: No, Mr. Brancard, I don't
25 have any questions for this case.

1 HEARING EXAMINER: All right. Let me
2 find the application. First of all, appreciate you
3 indicating what all of the changes are in your revised
4 submittal. But I guess just to totally clean things
5 up so that we have a good checklist that can be
6 attached to the order, if you could submit a version
7 that doesn't have red on it?

8 MS. BENNETT: Oh, sure. Definitely, I
9 can definitely do that. As you noted, I did indicate
10 it in red just for your convenience so I am happy to
11 now remove the red.

12 HEARING EXAMINER: Okay. So our rules
13 require that applications for this process have a
14 statement as to whether the pooled unit is for gas or
15 oil production. I don't see anything in your
16 application as to whether these are gas or oil wells.

17 MS. BENNETT: Well, I think that's
18 interesting? I've been using this same form of
19 application for a long time now. So I did note in my
20 application -- I'm sorry.

21 HEARING EXAMINER: I think it's in your
22 checklist. I think you are required to say it in your
23 checklist, so.

24 MS. BENNETT: Okay. And in the
25 application we did say -- I'm looking at Exhibit B-

1 1 -- we said that these wells will be located within
2 the Purple Sage Wolfcamp gas pool, which, while
3 perhaps not a direct statement of this being a gas
4 pool, it is. We did identify the pool and pool code
5 and that it is a gas pool.

6 HEARING EXAMINER: Yeah. I mean,
7 that's the thing that always gets me about Purple Sage
8 because your checklist indicates that, yes, it is a
9 Purple Sage gas pool and then it says primary product
10 oil. But that's an ongoing internal debate at the
11 OCD. I think I'm in the minority in trying to say you
12 can't use the Wolfcamp Purple Sage for oil wells, but
13 that seems to be what people use it for.

14 Okay. Was there anything else, Mr.
15 McClure?

16 MR. MCCLURE: I don't have anything
17 else. I was going to say, I thought in the past and
18 once you pointed out that it says oil in the
19 checklist, it seems like in the past we've been having
20 gas there for the Purple Sage Wolfcamp because I was
21 thinking that we default to gas unless -- unless an
22 operator actually shows that the GOR qualifies it for
23 oil, I believe?

24 HEARING EXAMINER: Yeah. We actually
25 have definitions of oil and gas well in our rules.

1 MR. MCCLURE: Yeah, we do. Yeah.

2 HEARING EXAMINER: So. I would hope
3 that, you know, companies that are spending over \$10
4 million on a well know what they're shooting for.

5 MS. BENNETT: Mm-hmm. It sounds like a
6 fix for this could be for me to fix that in the
7 compulsory pooling checklist when I submit the
8 checklist, revised.

9 HEARING EXAMINER: Okay. That would be
10 great.

11 MS. BENNETT: I will definitely do
12 that.

13 HEARING EXAMINER: Thank you. All
14 right. Are there any other interested persons for
15 Case 23168? Hearing none, the exhibits will be
16 admitted into the record. Case 23168 will be taken
17 under advisement. We will leave the record open for
18 two weeks to submit a claim revised checklist. Thank
19 you.

20 (Exhibits A through C were admitted
21 into evidence.)

22 With that, we'll call Item 96, Case
23 23169; Marathon Oil Permian, LLC?

24 MS. BENNETT: Good morning, almost
25 afternoon. Deana Bennett, Modrall Sperling, on behalf

1 of Marathon Oil Permian, LLC.

2 HEARING EXAMINER: Thank you. Any
3 other persons here for Case 23169? Hearing none,
4 please proceed.

5 MS. BENNETT: Thank you. In Case
6 23169, Marathon seeks an order from the Division
7 pooling all uncommitted interests within a Wolfcamp
8 horizontal spacing unit underlying the N/2 of Sections
9 5 and 6, Township 23 South, Range 28 East, Eddy
10 County, New Mexico. And again, this is in the Purple
11 Sage Wolfcamp gas pool.

12 This spacing unit will be dedicated to
13 the Maximus 5 WXY Fed Com 1H and the Maximus 5 WXY Fed
14 Com 2H wells. And I submitted the application -- I'm
15 sorry -- the exhibits on Tuesday and did not have to
16 revise them on Tuesday but will have to revise them
17 after today.

18 But going with what I submitted, I
19 submitted the self-affirmed declaration of Chase Rice,
20 who has previously testified before the Division and
21 his credentials have been accepted as a matter of
22 record. And behind his declaration we have included
23 the application, C102, the lease tract map and summary
24 of interests, the sample proposal letter, AFEs, and
25 the notice affidavit. And you'll see from the notice

1 affidavit that mailings were timely done and
2 publication was also timely done.

3 Then Tab C contains the self-affirmed
4 declaration of Matt Becker. Mr. Becker is a geologist
5 for Marathon and he has previously testified before
6 the Division and his credentials have been accepted as
7 a matter of record. And he includes behind his self-
8 affirmed declaration the usual suite of exhibits,
9 which are the locator map, well bore schematic,
10 structure map, cross referenced wells locator map, the
11 stratigraphic cross-section, the gross interval ISA
12 core, and an excerpt from the Sweeney-Zoback [ph]
13 paper discussing the preferred orientation in this
14 area.

15 I do want to just acknowledge that I
16 did do oil in the pool or in the compulsory pooling
17 checklist for this one so I will make that change and
18 submit the compulsory pooling checklist to you.

19 And then while we've been discussing or
20 while we've been on the hearing today, marathon has
21 actually been able to make contact with Ms. Chanly
22 [ph], who is one of the working interest owners. She
23 owns a very -- very small interest. We noted in the
24 summary of contacts that research was ongoing to try
25 to reach out to her and they were able to reach her

1 today. And so, I am going to remove her from the
2 pooling. As of now, she's shown as a party that
3 Marathon is seeking to pool. But because they have
4 been able to actually contact her today, I am going to
5 remove her from the pooling list -- pool party list
6 and I will update that and resubmit the exhibits. And
7 if Marathon has to come back and pool her at a later
8 date, they'll do that.

9 So with that, I would ask that the
10 exhibits in Case Number 23169 be admitted into the
11 record, that the case be left open for me to submit
12 additional exhibits, and the case be taken under
13 advisement.

14 (Exhibits A through C were marked for
15 identification.)

16 HEARING EXAMINER: Thank you. Mr.
17 McClure?

18 MR. MCCLURE: Yes, Mr. Brancard, I do
19 have a question for Ms. Bennett. Ms. Bennett, so
20 based upon the geologist's testimony here, it looks
21 like it is equally preferred whether it is a laydown
22 or stand up well; is that kind of correct then? My
23 understanding, I mean.

24 MS. BENNETT: That's correct. Yes,
25 your understanding is correct that it could be either

1 laydown or stand up and Marathon has chosen its
2 orientation based on its ownership.

3 MR. MCCLURE: Yeah. I was going to
4 say, based off the -- it looks like the actual thing
5 would be half way between, it says, 45 degrees. But
6 from that thought process, I guess, equally stand up
7 or laydown is equally bad, I guess would be the
8 thought process, or equally good, but.

9 MS. BENNETT: Yeah; let's go with glass
10 half -- half full.

11 MR. MCCLURE: Half full; yeah. There
12 you go. Thank you, Ms. Bennett. Mr. Brancard, that
13 was all my questions.

14 HEARING EXAMINER: Thank you. Okay.
15 So for the list of pool parties, your client has made
16 contact with somebody they hadn't made contact with
17 before.

18 MS. BENNETT: Mm-hm.

19 HEARING EXAMINER: But I'm sensing that
20 they're not committed yet but they might be committed
21 so you want to take them off the list of pool parties?

22 MS. BENNETT: That's right. Yes. They
23 haven't had a chance to have discussions with her
24 before today because they haven't been able to find
25 her so it would be premature to pool her today. But

1 they might not be able to reach an agreement with her
2 so we would come back if necessary.

3 HEARING EXAMINER: Okay. All right.

4 MS. BENNETT: And she does have -- it's
5 Norma J. Chanly [ph] and she does have less than 1
6 percent interest, so it's a very small interest. But,
7 as I mentioned, the broker, Marathon's broker was able
8 to find a phone number for her today and called her,
9 so we'll be back in touch if we need to.

10 HEARING EXAMINER: Thank you. Thank
11 you for your client's doggedness on this issue. All
12 right. Any other concerns or questions on Case 23169?
13 Hearing none, the exhibits in this matter will be
14 admitted into the record. Case 23169 will be taken
15 under advisement, the record left open for two weeks,
16 and I believe we have a revised checklist and a
17 revised list of pool parties.

18 (Exhibits A through C were admitted
19 into evidence.)

20 MS. BENNETT: That's correct; that's my
21 understanding. Thank you.

22 HEARING EXAMINER: Thank you. With
23 that, I believe we are on Item Number 97, Case 23170;
24 Mewbourne Oil Company?

25 MR. FELDEWERT: Good morning, Mr.

1 Examiner. Michael Feldewert with the Santa Fe office
2 of Holland & Hart on behalf of the Applicant.

3 HEARING EXAMINER: Are there any other
4 interested parties here for Case 23170? Hearing none,
5 Mewbourne may proceed with the Sig well.

6 MR. FELDEWERT: Thank you, Mr.
7 Examiner. I split this one out from the other two
8 cases because this involves an effort to pull a
9 standard 619.84-acre horizontal well spacing unit in
10 the Bone Spring Formation using a proximity track
11 well. There are some lots involved here, but it
12 essentially seeks to pool the S/2 equivalent of
13 Section 6 and then the S/2 of Section 5 in 20 South,
14 29 East, down there in Eddy County for what's been
15 referred to as the Sig wells; there's three of them.

16 Our package today provides the
17 application checklist for this case along with the
18 application. And then, Exhibit A is the affidavit
19 from the landman, Tyler Jolly, who provides the
20 description of the spacing unit and the initial
21 proposed wells; Exhibit A-1 provides the C102s for
22 those proposed wells. A-2 provides a general location
23 map at about the middle shows the location of the
24 acreage at issue here. Exhibit A-3, as we saw in the
25 previous case, has the -- because we are going to be

1 overlapping some existing Bone Spring spacing units --
2 Exhibit A-3 contains a letter sent out to the affected
3 working interest owners identifying not only the
4 proposed spacing unit that's identifying in detail the
5 spacing units -- there's four of them -- that will be
6 overlapped by this proposed spacing unit.

7 And at the end of Exhibit A-3, as Mr.
8 Jolly points out, is a list of the parties that
9 received these letters. Now, you'll see that he sent
10 out a letter for each of the wells so that's why you
11 do see some duplication here. But at the end of
12 Exhibit A-3, which is page 26 of the PDF, you'll see a
13 list of the affected working interest owners in the
14 proposed spacing unit and then the overlapping spacing
15 units.

16 Exhibit A-4 provides a tract map of the
17 acreage at issue here and then an ownership breakdown
18 by tract and then by spacing unit. And you will see
19 when you get to the end of that exhibit that they seek
20 to just pool one party here and that is Magnum Hunter,
21 the only remaining party that needs to be pooled.

22 Exhibit A-5 is the well proposal letter
23 that was sent to Magnum Hunter. There was actually
24 two of them. There was an initial letter that
25 identified two of the three Sig wells and then a third

1 letter that identified the third Sig Bone Spring well.
2 And along with those, in that exhibit, we then also
3 provide the AFEs that are related to each of the three
4 proposed initial wells.

5 And then Exhibit A-6 provides a summary
6 of the communications with the party that remains to
7 be pooled.

8 Exhibit B is the affidavit, or the
9 statement, I should say, from Charles Crosby, the
10 geologist, who identifies the target intervals and
11 then provides a structure map of the area in which he
12 identifies the spacing unit with a black hash and then
13 shows the general orientation of the three proposed
14 wells. And since they are targeting two different
15 intervals within the Bone Spring Formation, he's
16 provided a stratigraphic cross-section of 8A prime.
17 The first one shows the targeted interval with a green
18 line in the second Bone Spring Sands. And then
19 Exhibit B-3 provides a stratigraphic cross-section,
20 the same stratigraphic cross-section, showing the
21 targeted interval with a red line in the third Bone
22 Spring sand.

23 Finally, Exhibit C is the affidavit
24 from my office providing -- confirming that notice of
25 this hearing was provided to Magnum Hunter and we have

1 provided the actual green card demonstrating receipt
2 of that notice.

3 So with that, we would ask that this
4 matter be taken under advisement and that Exhibits A,
5 B, and C be admitted into evidence.

6 (Exhibits A through C were marked for
7 identification.)

8 HEARING EXAMINER: Thank you. Mr.
9 McClure, any questions?

10 MR. MCCLURE: Actually, Mr. Brancard, I
11 -- I don't think I do have any questions. I mean, we
12 do have a number of overlapping here, but I don't
13 think I have any questions on it. Thank you.

14 HEARING EXAMINER: Okay. So Mr.
15 Feldewert, you are simply putting us on notice that
16 there is an overlapping spacing unit. You are not
17 asking in your application for approval of such?

18 MR. FELDEWERT: That is -- that is
19 correct, Mr. Brancard. We do not expect the need for
20 that.

21 HEARING EXAMINER: All right. Are
22 there any other interested persons then for Case
23 23170? Hearing none, the exhibits in Case 23170 will
24 be admitted into the record and the case will be taken
25 under advisement.

1 (Exhibits A through C were admitted
2 into evidence.)

3 MR. FELDEWERT: Thank you, sir.

4 HEARING EXAMINER: Okay. With that, we
5 move on to Items 98 and 99. This is Cases 23171 and
6 23172; Mewbourne Oil Company?

7 MR. FELDEWERT: Good morning -- it's
8 still morning -- Mr. Brancard and Mr. McClure.
9 Michael Feldewert from the Santa Fe office of Holland
10 & Hart on behalf of the Applicant in both of these
11 consolidated cases.

12 HEARING EXAMINER: Thank you. Are
13 there any other interested persons for Cases 23171 and
14 23172? Hearing none, Mewbourne may proceed.

15 MR. FELDEWERT: Gentlemen, under these
16 consolidated applications, Mewbourne seeks to pool two
17 standard horizontal spacing units in the Wolfcamp
18 Formation underlying the S/2 equivalent of Section 6
19 and the S/2 of Section 5 in 19 South, 29 East. This
20 is the same acreage that was involved in the prior
21 case, we are just now dealing with the Wolfcamp
22 Formation without a proximity tract well.

23 We provided in our hearing packet the
24 checklist for each of these cases and then also the
25 applications that were filed in each of these cases.

1 And beginning on page 17 of the PDF, you'll find,
2 again, the self-affirmed statement of Tyler Jolly.
3 He's the landman with the company. He identifies what
4 is sought under each of these two consolidated cases,
5 identifies the initial wells that will be dedicated to
6 these proposed spacing units, and then provides as
7 Exhibit A-1 the C102s for the two proposed wells.

8 A-2, again, is a general location map
9 showing the location of this acreage and you'll see it
10 with a blue box at the middle of the page. Again, we
11 do not have any overlapping spacing units here so we
12 move directly to Exhibit A-3, which is the tract map
13 for first the N/2 of the S/2 acreage. And we have an
14 ownership breakdown there with that exhibit which
15 notes that Magnum Hunter is the only party that seeks
16 to be pooled. And then, continuing through that
17 exhibit, you'll see the tract map that's the same for
18 the S/2 acreage, again, with the ownership breakdown
19 providing the ownership by spacing unit. And again,
20 Magnum Hunter is the only party that remains to be
21 pooled.

22 Exhibit A-4 is the well proposal letter
23 that went out for these two Wolfcamp wells. It also
24 included a Bone Spring well, but what's at issue here
25 are the wells identified in subparagraph 2 and 3 of

1 this letter, which is the two Wolfcamp wells along
2 with the AFEs for these two Wolfcamp wells.

3 Exhibit A5 is again the summary of
4 communications with Magnum Hunter. Exhibit B is then
5 the statement of the geologist, Charles Crosby. He
6 provides a structure map of the Wolfcamp Formation as
7 exhibit B-1, has identified both spacing units there
8 in the S/2 equivalent of 6 and the S/2 of 5 and the
9 general orientation of the proposed wells. And yes,
10 there's some other wells shown on here, but those are
11 not in the Wolfcamp, okay? There are no overlapping
12 spacing units here.

13 Then Exhibit B-2 is the stratigraphic
14 cross-section, 8A prime, that identifies with a red
15 line the targeted interval within the Wolfcamp sands
16 underlying this acreage.

17 And finally, Exhibit C is the affidavit
18 from our office providing -- confirming that notice of
19 this hearing was provided to the party that remains to
20 be pooled here and that is Magnum Hunter. There's
21 actually two letters, one for each case.

22 So with that, we ask that Exhibits A,
23 B, and C be admitted into evidence and that these two
24 matters be taken under advisement.

25 //

1 (Exhibits A through C were marked for
2 identification.)

3 HEARING EXAMINER: Thank you. Mr.
4 McClure?

5 MR. MCCLURE: Again, Mr. Brancard, I --
6 I don't have any questions for either of these cases.

7 HEARING EXAMINER: Okay. Mr.
8 Feldewert, I think we have a problem with notice here
9 and it has to do with legal descriptions. So 171
10 involves Lot 6, right? NW SW equivalent. Okay?

11 MR. FELDEWERT: Okay.

12 HEARING EXAMINER: Application for 172
13 involves Lot 7, SW SW equivalent. But if you go to
14 the notice you attached to your application for 172,
15 it refers to Lot 6 NW SW.

16 MR. FELDEWERT: If you can give me a
17 minute to catch up with you here. So the --

18 HEARING EXAMINER: If you just focus on
19 the application for 172.

20 MR. FELDEWERT: Yeah; that's what I'm
21 looking at now.

22 HEARING EXAMINER: Okay.

23 MR. FELDEWERT: So the application
24 itself lists the correct lot and the 4/4 equivalent.

25 HEARING EXAMINER: Right. But when you

1 look at the notice attached to that application, it's
2 got the incorrect lot and the incorrect equivalent.

3 MR. FELDEWERT: So that is correct, Mr.
4 Examiner. I guess I would point out a couple of
5 things; one, the application that Magnum Hunter
6 received certainly correctly identifies the spacing
7 unit and they received actual notice of that
8 application and that is the only party that they seek
9 to pool. There's no un-locatable party; it is simply
10 Magnum Hunter. So clearly, Magnum Hunter, in advance
11 of this hearing, is fully aware of the acreage that is
12 involved in both cases and the proposed spacing unit.

13 HEARING EXAMINER: Okay. But it's
14 wrong in the notice that we send out to the public?

15 MR. FELDEWERT: It would be -- you are
16 correct in that the docket notice which I submit to
17 you that would not have been relied upon by anybody
18 does incorrectly have Lot 6 rather than Lot 7.

19 HEARING EXAMINER: Okay. All right.
20 So unlike the case earlier today -- and I try to be
21 consistent here -- where we actually ended up
22 dismissing the whole case because of this problem,
23 that case actually had the problem in the application
24 itself. This problem is just in the notice. It's
25 also in your landman's affidavit. That's easy enough

1 to correct.

2 MR. FELDEWERT: Mm-hmm.

3 HEARING EXAMINER: So my solution is to
4 continue just 23172 and, as we have done before with
5 other cases, provide us with a correct notice
6 provision and we will put it in the docket for the
7 next go around.

8 MR. FELDEWERT: The docket notice?

9 HEARING EXAMINER: Yeah. I mean, it's
10 the notice that was attached to the application.

11 MR. FELDEWERT: Right.

12 HEARING EXAMINER: You need to provide
13 us with a correct version of it and then when we
14 notice it for the next hearing, we will have the
15 correct notice in there.

16 MR. FELDEWERT: If you think that is
17 necessary here, then we will do that. It seems to be
18 of far more substance here, given the fact that Magnum
19 Hunter got the correct application with the correct
20 legal description.

21 HEARING EXAMINER: I don't know. I
22 don't know if Magnum Hunter exists. It sounds like a
23 70s TV show.

24 MR. MCCLURE: That was Magnum PI, which
25 I actually liked. Gage Garner was the best actor in

1 that; he was great.

2 MR. FELDEWERT: Oh, that was Rockford
3 files. Magnum PI was something different.

4 HEARING EXAMINER: He did a lot.

5 MR. FELDEWERT: Yeah.

6 HEARING EXAMINER: All right. So
7 that's how we will solve this. So at this point, are
8 there any other interested persons for Cases 23171 and
9 23172?

10 MR. FELDEWERT: Are we able to get on
11 the docket -- next docket two weeks from now, Mr.
12 Examiner?

13 HEARING EXAMINER: You've got to get us
14 a new notice paragraph before the end of the day
15 because Marlene will be getting out that packet.

16 MR. FELDEWERT: We will get that to
17 Marlene today.

18 HEARING EXAMINER: All right. So with
19 that, the exhibits in these two cases will be admitted
20 into the record. Case 23171 will be taken under
21 advisement. Case 23172 will be continued to November
22 17th, assuming that we can get this notice provision
23 sent in. And also, please revise the landman's
24 affidavit.

25

1 (Exhibits A through C were admitted
2 into evidence.)

3 MR. FELDEWERT: Yeah; we can get that.

4 HEARING EXAMINER: And make sure that
5 checklist is correct too. I think it is, but.

6 MR. FELDEWERT: Certainly.

7 HEARING EXAMINER: All right. Thank
8 you.

9 MR. FELDEWERT: Thank you.

10 HEARING EXAMINER: All right. So I
11 believe the next case, we've got a late filed
12 objection. This is Item Number 100, Case 23173;
13 Mewbourne Oil Company?

14 MR. BRUCE: Mr. Examiner, Jim Bruce
15 representing Mewbourne.

16 HEARING EXAMINER: Thank you. And we
17 have an entry from Coterra Energy?

18 MR. SAVAGE: Mr. Hearing Examiner,
19 Darren Savage on behalf of Coterra Energy Company and
20 Cimarex Energy Company.

21 HEARING EXAMINER: And I think we have
22 a late -- well, it's not a late entry -- but we have
23 an entry from COG Operating?

24 MR. FELDEWERT: Yes, Mr. Examiner.
25 Michael Feldewert with the Santa Fe office of Holland

1 & Hart on behalf of COG Operating, LLC,
2 ConocoPhillips, and Concho Oil and Gas, LLC.

3 HEARING EXAMINER: Thank you. And my
4 understanding is that COG, et al., objects to this
5 case being heard by affidavit?

6 MR. FELDEWERT: Yes. I spoke with Mr.
7 Bruce about this yesterday and COG intends to send out
8 competing well proposals. And therefore, yes, we
9 would ask that this matter be set for a status
10 conference whenever you think it's appropriate. I
11 think the well proposal is going out either today or
12 tomorrow. Do we have to wait the full 30 days?

13 MR. BRUCE: There may be --

14 HEARING EXAMINER: Not if you want a
15 status conference, but if you want a hearing, yes.

16 MR. FELDEWERT: No; good point. Good
17 distinction. So it seems to me that, you know, we can
18 set this for a status conference in December and see
19 where things stand with the competing well proposals
20 and go from there.

21 HEARING EXAMINER: All right. December
22 1, December 15; Mr. Bruce?

23 MR. BRUCE: Mr. Examiner, I recognize
24 the practicalities of the situation. I am simply here
25 to express the displeasure of Mewbourne. I filed my

1 exhibits and if you look at them, Mewbourne sent its
2 well proposal out over five months ago and they have
3 negotiated in good faith with Concho/ConocoPhillips
4 and they received notice of the hearing two-and-a-half
5 weeks ago. There was never any discussion of any
6 objection from COG to Mewbourne. And then, less than
7 24 hours before the hearing, we get this objection.
8 And I know it's going to be continued, but Mewbourne's
9 not happy. So I do not want a status conference; I
10 want it set for a hearing.

11 HEARING EXAMINER: All right. So we
12 can do that. I would assume then, Mr. Feldewert, that
13 COG is shooting to get on the January 5th docket?

14 MR. FELDEWERT: I believe that's the
15 earliest we could get on, right?

16 HEARING EXAMINER: So why don't we set
17 this for a hearing for January 5th?

18 MR. BRUCE: Thank you, Mr. Examiner. I
19 will file the continuance notice.

20 HEARING EXAMINER: Thank you. All
21 right. So Case 23173 is set for hearing on January
22 5th.

23 MR. FELDEWERT: Thank you.

24 HEARING EXAMINER: All right. So we
25 have a set of -- a slew of -- well, not a slew, we

1 have four cases that were part of a contested hearing,
2 prehearing order and all that. But I think we might
3 be able to do them by affidavit today. I'm going to
4 ask if that's possible, if we can get that done right
5 now? These are Cases 22427, 22428, 22721, 22722;
6 Mewbourne Oil Company?

7 MR. BRUCE: Mr. Examiner, Jim Bruce
8 entering an appearance for Mewbourne Oil Company.

9 HEARING EXAMINER: All right. I will
10 go around the horn here, but first I'll just ask, is
11 there any party that objects to these cases going
12 forward by affidavit? Hearing none, let's go for some
13 entries of appearance here. Cimarex Energy?

14 MR. SAVAGE: Darin Savage with the
15 Santa Fe office of Abadie & Schill on behalf of
16 Coterra Energy and Cimarex Energy Company.

17 HEARING EXAMINER: All right. And as I
18 call you, if you've changed your mind and have an
19 objection, now's your chance. Colgate Operating?

20 MS. BENNETT: Good morning -- well,
21 good afternoon, Deana Bennett on behalf of Colgate
22 Operating.

23 HEARING EXAMINER: Thank you. MRC
24 Delaware Company?

25 MR. FELDEWERT: Michael Feldewert with

1 the Santa Fe office of Holland & Hart on behalf of MRC
2 Delaware Resources, LLC.

3 HEARING EXAMINER: And I believe in the
4 other two cases it's MRC Permian?

5 MR. FELDEWERT: The other two -- cases?

6 HEARING EXAMINER: The 721 and 722.

7 MR. FELDEWERT: Okay. Then that would
8 -- yes. Michael Feldewert with the Santa Fe office of
9 Holland & Hart appearing on behalf of MRC Permian.

10 HEARING EXAMINER: -- corporation, EOG
11 resources?

12 MR. PARROT: Good afternoon, Mr.
13 Examiner. This is James Parrot with Beatty & Wozniak
14 here for EOG Resources.

15 HEARING EXAMINER: Okay. COG
16 Operating?

17 MS. MUNDS-DRY: Good afternoon, Mr.
18 Hearing Examiner. Ocean Munds-Dry with COG Operating,
19 LLC.

20 HEARING EXAMINER: And is there anyone
21 else who wants to join the fun? Hearing none, as I
22 said, there are no objections, correct, to these cases
23 going forward by affidavit? Hearing none, Mr. Bruce,
24 you have the floor.

25 MR. BRUCE: Mr. Examiner, in these

1 collective cases, Mewbourne seeks pooling orders
2 regarding its Corona 25/26 wells, which the four cases
3 collectively cover Sections 25 and 26, 18 South, 30
4 East, in Eddy County, seeking to pool the Bone Spring
5 Formation.

6 I have submitted the exhibits. There
7 is the prehearing statement, the applications and
8 notices, the landman's affidavit, which includes, of
9 course, land plats, tract maps, C102s.

10 The landman, in his affidavit, sets
11 forth the parties being pooled. Actually, at this
12 point, the only parties being pooled are Magnum
13 Hunter, MRC Delaware, and Mike Miller. All of the
14 other parties have come to terms with Mewbourne.

15 The landman's affidavit, of course,
16 also contains acknowledgment of contacts, working
17 interest owners, a sample copy of the proposal letter,
18 and the AFEs. And his affidavit, of course, was for
19 the overhead rates requested and the penalty.

20 The geologist -- the landman is Josh
21 Henderson. There's also an affidavit by the
22 geologist, Charlie Crosby, which contains the
23 structure map. And if you look at the structure map,
24 you will see that these are lay down units and every
25 other Bone Spring well drilled in this area is a lay

1 down, so that is obviously the favored unit
2 orientation. This contains the structure map, cross-
3 section, structural drilling plans for all four wells.

4 Most of these exhibits were filed eight
5 weeks ago, but I updated Exhibit 5, which is the
6 notice affidavit. Which, at this point, only contains
7 the certified green cards or the white slips to the
8 parties being pooled.

9 I would note just one thing. On the
10 first cases, the 427 and 428, certified notice was
11 received by MRC Delaware and Magnum Hunter. We did
12 not receive a green card back from Mike Miller,
13 although it shows -- the USPS website shows it was
14 received almost 11 months ago.

15 On the second set of cases, 721 and
16 722, it's kind of a flip. The green cards show that
17 notice was received by Magnum Hunter and Mike Miller
18 that not by MRC. But regardless, notice was published
19 as against them so they all, obviously, received
20 notice. And with the published notices, Exhibit 6.

21 And then Exhibit 7 are the pooling
22 checklists for the wells and then my supplemental
23 notice that shows as a certified notice spreadsheet,
24 Exhibit 8.

25 I would move for the admission of

1 Exhibits 1 through 8, including revised Exhibit 5, and
2 ask that the matters be taken under advisement. And
3 with baited breath I await, Mr. Brancard, your
4 corrections on my pooling checklists, okay? but with
5 that, I'm done.

6 (Exhibits 1 through 8 were marked for
7 identification.)

8 HEARING EXAMINER: Thank you. All
9 right. Do any of the parties have any questions or
10 concerns at this point? Hearing none, it's up to you,
11 Mr. McClure.

12 MR. MCCLURE: Yes, Mr. Brancard. Mr.
13 Bruce, you mentioned on your latest -- which exhibit
14 packet did you say you had your public notice?

15 MR. BRUCE: Well, the -- well, of
16 course, Exhibit 2 is the applications and the proposed
17 notices that were submitted to the OCD when the
18 applications were filed. The publication affidavits,
19 there's two different ones, are Exhibit 6. And then,
20 the supplemental notice I filed -- and I don't
21 remember when I filed it -- Exhibit 5 contains a
22 certified notice to the only parties being pooled, the
23 three parties being pooled.

24 MR. MCCLURE: I was going to say, I
25 quite literally just found your Exhibit 6 just after I

1 asked; thank you. So then is it correct that the last
2 notice that went out for this case was back in April
3 then?

4 MR. BRUCE: Yeah; it was quite some
5 time ago.

6 MR. MCCLURE: Now, the other question I
7 had, I guess, your Attachment B-1 through B-4 that was
8 submitted back in September, it has all of the pooled
9 parties listed by a tract? My question for you is, it
10 looks like there isn't actually any description here
11 but my assumption is the starred persons are the
12 people that were originally being force pooled; is
13 that correct?

14 MR. BRUCE: Yes. There were -- yes,
15 that is correct. And my supplemental or additional
16 exhibits shows the only three parties being pooled.
17 Obviously, this was from two months ago. But
18 Mewbourne has come to terms with almost all of the
19 parties.

20 MR. MCCLURE: Yeah. So essentially,
21 all of those starred ones are no longer correct at
22 this juncture. It's now only the three different
23 persons that you have listed out in your exhibit that
24 was submitted 10/28 then; correct?

25 MR. BRUCE: Yeah. Just actually the

1 three -- three parties; Magnum Hunter, MRC and Mike
2 Miller. Those are the only three parties being
3 pooled.

4 MR. MCCLURE: Yes, sir. Okay. Yup. I
5 was just confirming where we're at. Actually, I don't
6 have any other questions. Thank you, Mr. Bruce; thank
7 you, Mr. Brancard.

8 HEARING EXAMINER: Everyone's getting a
9 little silly here.

10 MR. MCCLURE: It's getting to lunch,
11 see?

12 HEARING EXAMINER: Yeah. Well,
13 actually, I don't -- I don't have any questions. It's
14 a pretty thorough application.

15 MR. BRUCE: Excuse me? Did I hear that
16 correctly?

17 HEARING EXAMINER: Yes; well, you know,
18 you had months and months to work on it, so it's
19 pretty good. Thank you for the supplemental
20 application.

21 MR. BRUCE: Well, thank you; and I'm
22 done for the day.

23 HEARING EXAMINER: All right. With
24 that, are there any -- once again -- any other persons
25 with comments or concerns about Cases 22427, 22428,

1 22721, 22722? Hearing none, the exhibits in these
2 cases will be admitted into the record and these cases
3 will be taken under advisement.

4 (Exhibits 1 through 8 were admitted
5 into evidence.)

6 MR. BRUCE: Thank you.

7 HEARING EXAMINER: Okay. So we have
8 the matter of Cases 22971 and 22972 and I'm wondering
9 if it's time for a little break before we get there?

10 MR. FELDEWERT: I vote yes.

11 MR. MCCLURE: Mr. Brancard, it does
12 look like those prior four cases, the 125 through
13 128 --

14 HEARING EXAMINER: Oh, yes. I should
15 address that. But let's first -- so Mr. Feldewert and
16 Ms. Hardy, you are the prime instigators in the FAE
17 cases; correct?

18 MS. HARDY: That's correct.

19 HEARING EXAMINER: All right. So we'll
20 clean up these other cases and then we'll take, I
21 don't know, maybe a half hour break or so before we
22 handle the oral argument in those cases?

23 MR. FELDEWERT: Given, since I didn't
24 bring lunch, can we take a little bit longer than
25 that; 1:30 Mountain Time, does that work for you, Mr.

1 Brancard?

2 HEARING EXAMINER: Yeah; that works.
3 We'll get through these other cases and then we'll
4 come back at 1:30 to hear arguments in 22971 and
5 22972.

6 MR. FELDEWERT: Thank you.

7 MS. HARDY: Thank you.

8 HEARING EXAMINER: But in the
9 meanwhile, we have the Weinberger cases; is that
10 correct? We're back on Items 89 through 92, Cases
11 23125, 23126, 23127, 23128. We did not close these
12 cases so we need to do that now. Ms. Vance, what do
13 you have for us?

14 MS. VANCE: I filed the correct hearing
15 packet that includes the green cards and the notice of
16 publication. You should have 62 pages. And if you go
17 to Exhibit D, that is the self-affirmed statement from
18 myself regarding the letter notice that went out. A
19 sample of those letters, which I think was in the
20 other filing, but if you continue to scroll you'll see
21 the green cards and then the notice of -- the
22 affidavit of notice of publication attached at the
23 end. And that is -- that's been filed in all four
24 cases.

25 HEARING EXAMINER: Okay. So you simply

1 refiled the whole packet with stuff added at the end?

2 MS. VANCE: That's correct. I'm not
3 sure what happened. I'm not sure why what was
4 originally filed didn't include these exhibits. The
5 one that I thought was filed was this one so I just
6 went ahead and filed the one that was in our case
7 file.

8 HEARING EXAMINER: So, hmm? I see five
9 green cards, although Oxy may be here twice. So how
10 many parties were you having to notice?

11 MS. VANCE: It looks to be four, if
12 that's correct? Yes. And I'm happy to follow up.
13 Just like in the other case, the Bivins case, and just
14 confirm why there is, you know, the difference in the
15 number of parties that are being notified of the
16 request for extension.

17 HEARING EXAMINER: All right. If you
18 could do that, I believe, Mr. McClure, that's what you
19 had requested?

20 MR. MCCLURE: Yes, sir. Yes.

21 HEARING EXAMINER: Okay. So please
22 clarify exactly which parties are being noticed. You
23 may have a document earlier in your packet that does
24 that. You know, and I know it's only four parties,
25 but I kind of like it when y'all do a little

1 spreadsheet that just sort of says this is the
2 parties, this is their address, this is when we mailed
3 it, this is when they got it.

4 MS. VANCE: I will be -- I'm happy to
5 do that moving forward if that works for you, Mr.
6 Hearing Examiner?

7 HEARING EXAMINER: Okay. All right.
8 So anyone else out there, Cases 23125, 126, 127, 128?
9 Any other further comments, suggestions? Hearing
10 none, the cases -- the exhibits will be admitted into
11 the record. We will take this case under advisement
12 leaving the record open for two weeks for
13 clarification about how do we get to the number of
14 people getting notice in the amendment versus the
15 number of people that got notice in the original case.
16 Is that what you wanted, Mr. McClure?

17 (Exhibits A through E were admitted
18 into evidence.)

19 MR. MCCLURE: Correct; yes, Mr.
20 Brancard. That's correct.

21 HEARING EXAMINER: Okay. And then,
22 simply a spreadsheet just showing notice, documenting
23 the notice, that's all. I mean, if you had something
24 from the Postal Service I guess that would be fine
25 too.

1 MS. VANCE: And that spreadsheet, you
2 want that filed, Mr. Hearing Examiner?

3 HEARING EXAMINER: Yes.

4 MS. VANCE: But the information to Mr.
5 McClure, that can just be e-mailed directly to him;
6 correct?

7 HEARING EXAMINER: Yes. But, you know,
8 please be aware if something shows up in that that's,
9 like, whoa, why did you, you know? We may have to
10 reopen this case. Okay?

11 MS. VANCE: Understood; thank you, Mr.
12 Hearing Examiner. Thank you, Mr. McClure.

13 HEARING EXAMINER: Thank you. And with
14 that, I believe we are in recess until 1:30 Mountain
15 Daylight; it's still daylight time. I sure noticed it
16 walking the dog in the dark this morning. See you all
17 then.

18 (Off the record.)

19 HEARING EXAMINER: Ms. Fulton, our
20 court reporter, are you here and ready to go?

21 THE REPORTER: I'm here and ready.

22 HEARING EXAMINER: Excellent. We are
23 now on Case 22972, which I guess is related to Case
24 22971, applications of FAE. So let's start with
25 entries and appearance; FAE, Forty acres.

1 MS. HARDY: Good afternoon, Mr.
2 Examiner. Dana Hardy with the Santa Fe office of
3 Hinkle Shanor on behalf of Forty Acres Energy, or FAE
4 II Operating.

5 HEARING EXAMINER: Okay. And so, I
6 think we've got a slew of people also here, so let me
7 see here.

8 MR. FELDEWERT: So Mr. Examiner, I can
9 make this easy for you. It's Michael Feldewert
10 appearing on behalf of what I'll call the respondents
11 during the argument today, but the respondents
12 include: Apache Corporation; Chevron USA, Inc.;
13 Citation Oil and Gas Corporation; COG Operating, LLC;
14 ConocoPhillips; Oxy USA, Inc.; XTO Holdings, LLC; and
15 XTO Energy, Inc.

16 HEARING EXAMINER: Precisely; I was
17 just about to say that, reading off the top of your
18 pleading. Are there any other parties here today for
19 these cases: 22971, 22972?

20 I should have said that with me also
21 today is Dean McClure as Technical Examiner and
22 possibly jumping in, special guest examiner, Mr.
23 Philip Goetze, who loves when things get injected into
24 the ground.

25 So we are here on oral arguments. I

1 don't know if the parties have worked any of this
2 process out. Otherwise, I'll just make something up?

3 MS. HARDY: We haven't. It's fine if
4 you want to make something up, Mr. Examiner.

5 HEARING EXAMINER: All right. I don't
6 know. What should I give you, 20 minutes? Is that
7 too long?

8 MS. HARDY: I don't think I'll need
9 that long, but I think that's fine.

10 HEARING EXAMINER: Well, why don't you
11 take 15 minutes and then reserve 5 for a reply?

12 MS. HARDY: That makes sense to me; I
13 will do that. Thank you.

14 HEARING EXAMINER: And Mr. Feldewert,
15 can you actually say everything you need to say in 15
16 minutes or do I have to --

17 MR. FELDEWERT: Well, I didn't, to be
18 honest with you, I haven't -- I've got some notes. I
19 haven't timed it out. I don't -- I think I can get it
20 done in 20-30 minutes; I should be able to, depending
21 upon if you've got questions, of course, so.

22 HEARING EXAMINER: The referee is in
23 charge of the clock and will determine how much extra
24 time there is. So all right. Let's start with Ms.
25 Hardy on behalf of FAE.

1 MS. HARDY: Thank you, Mr. Examiner,
2 and thank you also for adding these cases at the end
3 of the docket. We were very excited to argue them
4 today, so I'm glad we could fit them in. Thank you.

5 The scope of FAE's motion is limited.
6 We are seeking a legal ruling that the 75 percent
7 stratification threshold that is set out in Section
8 70-7-8A of the Statutory Unitization Act is met when
9 the owners who will initially bear more than 75
10 percent of the cost -- and here, those are the Phase 1
11 owners -- have approved the unit agreement. Section
12 70-7-8A requires approval by -- and this is a quote --
13 "Those persons who, under the Division's order, will
14 be required initially to pay at least 75 percent of
15 the cost of unit operations." We are asking the
16 Division to apply the plain language of the statute.
17 And of course, under New Mexico law, there is a
18 presumption or understanding that the legislature
19 meant what it said and said what it meant.

20 The respondents' arguments are based,
21 in significant part, on misunderstandings about the
22 unit agreement. FAE's proposal is entirely fair and
23 it is consistent with the statute. As an initial
24 matter, the respondents' arguments about sort of what
25 I'll call nefarious conduct, such as gerrymandering

1 and nondisclosure, are completely unfounded.

2 The BLM required FAE to adopt this
3 formula and that is set out in Mr. Song's [ph]
4 affidavit that was attached to our motion. And that
5 was required by the BLM, even though another method
6 could have been more favorable for FAE. So the BLM
7 dictated that result.

8 FAE provided extensive information
9 regarding the unit and the formula at its working
10 interest owners meeting. It's not clear if the
11 respondents attended that meeting; I don't know. FAE
12 has certainly not hidden any information. The unit
13 agreement and exhibits, including the tract
14 participation formula, were attached to our
15 application and there is a significant amount of
16 information that's attached there. It includes
17 spreadsheets and quite a bit of detail.

18 FAE is proposing to develop an enhanced
19 oil recovery project to produce the remaining reserves
20 and provide revenue for all involved, including
21 respondents, the BLM, and the state of New Mexico. No
22 one else, including respondents, is proposing to
23 develop this acreage.

24 The Statutory Unitization Act was
25 adopted precisely to encourage this type of

1 development. It establishes the policy of promoting
2 secondary recovery to fully produce underlying
3 reserves.

4 The fundamental premise of the
5 respondents' argument is incorrect; they argue that
6 the Phase 2 owners are responsible for bearing the
7 initial cost incurred during the first three years of
8 unit operations, but that is not correct. Section
9 2.1.3 of the Unit Operating Agreement, which we have
10 attached to our application as Exhibit 2, it states at
11 Section 2.1.3 that upon the transition from Phase 1 to
12 Phase 2, the Phase 2 working interest owners will
13 participate at their Phase 2 working interest and pay
14 their proportionate share of the current net book
15 value of invested unit capital spending, plus interest
16 of 10 percent, as of the transition date to Phase 2.

17 So the Phase 2 owners are only paying
18 for the net book value of the unit facilities at the
19 beginning of Phase 2. And of course, they have to pay
20 for those. I mean, those are the facilities that are
21 used to develop their interest and any unit has
22 equipment and that is what they're required to pay.
23 And they're actually getting a really good deal
24 because they only pay the net book value at the
25 beginning of Phase 2. So they're getting handed, at

1 the beginning of Phase 2, an up and running unit
2 that's already been functioning for three years and
3 they don't have to bear the operating and maintenance
4 costs or the costs of getting the unit up and running
5 for the first three years. So this is actually a good
6 deal for them. I'm not really sure I understand the
7 opposition. It seems like it's very fair and
8 equitable.

9 And again, the unit facilities that
10 they're paying at the beginning of Phase 2 will be
11 used to produce their interest and their underlying
12 reserves. So that's a fundamental misunderstanding, I
13 think, of the respondents' position and their
14 argument. Phase 2 owners aren't paying all of the
15 costs of Phase 1.

16 Second, the statutory language here is
17 clear. It requires ratification by -- and this is a
18 quote -- "Those persons who, under the Division's
19 order, will be required initially to pay at least 75
20 percent of the cost of the unit operations." Under
21 New Mexico's Canons of Statutory Construction, the
22 Division must apply the plain language of the statute.

23 Contrary to respondents' claim, the
24 application of this language, the plain language, does
25 not lead to absurd results. The legislature

1 recognized here that units can be developed and costs
2 can be allocated in different ways. It may be based
3 on surface acreage or it may not. Here, it's not.
4 This language gives operators flexibility in that
5 regard with respect to the development of their units.

6 The respondents argue, in essence, that
7 the 75 percent ratification requirement really must
8 apply to the unit area, that 75 percent of the surface
9 acreage ownership of those parties, 75 percent of them
10 must approve. And the problem is that that's just not
11 what the statute says.

12 The statute is very clear that approval
13 is required by the parties who will pay 75 percent of
14 the cost. It's a cost-based approval requirement, not
15 a surface acreage requirement.

16 And so, for that reason, you know, the
17 respondents' arguments that are based on treatises and
18 other cases really don't have any bearing here because
19 it's possible in some units that the participation and
20 allocations are based on surface acreage, but here
21 they are not. And the statute says that the 75
22 percent threshold is met based on the interests who
23 will bear cost.

24 The respondents' argument that the
25 statutory language must really have been intended to

1 exclude back end payment interest, you know, parties
2 who can opt in later, is unpersuasive. If the
3 legislature had intended that, it could have easily
4 used that language; that's not what they said. Again,
5 they said that it's 75 percent of the parties who will
6 officially bear costs.

7 The OCD decisions discussed by
8 respondents are also not instructive as in those
9 cases; again, tract participation was based on surface
10 acreage. So the 75 percent in those cases was also
11 based on surface acreage, but it's not here.

12 In conclusion, really the only matter
13 for purposes -- at issue for purposes of this motion
14 is whether Section 70-7-8A means what it says, which
15 is that the ratification threshold is satisfied when
16 the plan for unit operations has been approved by the
17 owners who will initially bear 75 percent of the
18 costs.

19 And FAE has satisfied that requirement
20 here. We have shown by affidavit that the Phase 1
21 owners who will bear 75 percent of the costs have
22 approved the unit. Other issues involving approval of
23 the unit would need to be addressed at an evidentiary
24 hearing. And I think respondents are potentially
25 raising some of those issues in their response. But

1 this motion doesn't seek approval of the entire unit;
2 we are seeking an initial ruling on the 75 percent
3 threshold and what that means and that's all that is
4 addressed by this motion.

5 So I think I did that in much less than
6 15 minutes. But for those reasons, I would request
7 that the motion be granted. I am happy to answer
8 questions, if there are any.

9 HEARING EXAMINER: Thank you. So Mr.
10 McClure, any questions? Mr. McClure has disappeared.
11 I have an ugly little triangle in his box. Mr.
12 Goetze, any questions?

13 MR. GOETZE: No, I have no questions at
14 this point. I still haven't had much time to look at
15 the documents prepared, so no. Thank you.

16 HEARING EXAMINER: So Ms. Hardy, in
17 this case you have filed an application for
18 unitization; is that correct?

19 MS. HARDY: That's correct.

20 HEARING EXAMINER: And you have
21 identified the unit area?

22 MS. HARDY: Correct.

23 HEARING EXAMINER: And it's that
24 19,000-acre area?

25 MS. HARDY: That is right.

1 HEARING EXAMINER: Okay. And so, the
2 Division has to make a whole series of findings before
3 we approve the order for unitization?

4 MS. HARDY: Yes.

5 HEARING EXAMINER: Included in that is
6 a participation formula; correct?

7 MS. HARDY: Correct.

8 HEARING EXAMINER: And then we have to
9 issue an order that deals with allocations, how costs
10 are allocated to separately owned tracts, a provision
11 for carrying a working interest owner who is not
12 paying. After we do all of that, then we get to the
13 75 percent ratification.

14 MS. HARDY: Well, Mr. Examiner, so the
15 reason that we've filed this motion -- and I know that
16 all of those matters would have to be addressed in
17 order -- the reason that we've requested sort of a
18 ruling on this issue first is that Forty Acres, based
19 on the percentages of ownership, does not have 75
20 percent of approval of Phase 2. So we are asking,
21 really, for a legal decision on this provision of the
22 Statutory Unitization Act and whether having 75
23 percent of the interests that will bear the costs of
24 Phase 1 satisfies that requirement. Because if it
25 doesn't, FAE may need to go back to the drawing board

1 here. So we don't want to go through a whole hearing
2 process and waste resources of the Division and the
3 parties and everyone if we can't satisfy this 75
4 percent threshold.

5 HEARING EXAMINER: So if the Division
6 issued an order approving the unit, the 19,000
7 acres -- I think that's right -- and then said you
8 need to go get approval of 75 percent of the interest
9 owners in that 19,000 acres, you don't think you can
10 get that?

11 MS. HARDY: Correct. Based on who the
12 parties are and, you know, the number of very -- very
13 small interests, people are unlocatable. And under
14 the statute, you're required to provide written
15 approval of 75 percent, so.

16 HEARING EXAMINER: Right. But you're
17 not excluding unlocatable parties here. You're
18 excluding some pretty big players, it appears, from
19 the names of the opponents here

20 MS. HARDY: I don't actually know that
21 their interests -- I don't have their acreage interest
22 percentages, but I'm not sure that they would push
23 over the 75 percent.

24 HEARING EXAMINER: Okay; thanks.
25 That's -- I don't want to get too further into this

1 before we hear from the other parties. Mr. Feldewert,
2 are you available?

3 MR. FELDEWERT: Yes, I am; thank you.
4 So I want to talk about a couple of preliminary
5 undisputed points that bear on this statutory issue
6 raised, but I do want you to keep in mind the
7 statement that they don't have approval from 75
8 percent of the Phase 2 owners. And if they need it,
9 they have to go back to the drawing board. Okay?

10 This statutory issue has arisen, Mr.
11 Examiner, because FAE has proposed a very unusual and
12 objectionable tract participation formula and payment
13 provision in its proposed unit operating agreement.
14 FAE -- if I may share here -- FAE seeks to place
15 certain tracts -- can you all see that?

16 HEARING EXAMINER: What is it? There's
17 a share button -- oh, now you're making progress.

18 MR. FELDEWERT: Great; am I doing good
19 here?

20 HEARING EXAMINER: Oh, there you go.

21 MR. FELDEWERT: All right. So attached
22 to our brief, just so we understand the context here,
23 was what they identified as Exhibit C to their papers
24 that they filed with the Division. And this
25 identifies what they call the Phase 1 tracts and the

1 Phase 2 tracts.

2 And if you go to the bottom of this,
3 you'll see that there are 97 tracts in this entire
4 19,369-acre proposed unit. And they have proposed to
5 place certain tracts in what they call Phase 1 and
6 give it a Phase 1 participation formula, and that's
7 what we've highlighted here.

8 And when you look at and add up what
9 we've highlighted as Phase 1, those tracts account for
10 less than a third of their proposed 19,369-acre unit,
11 with all of the Phase 2 owners, which includes all of
12 my clients, being stuck into what they call a Phase 2
13 participation factor, which doesn't occur until three
14 years later, it accounts for -- and those Phase 2
15 owners account for over two thirds of the unit area.

16 When you look at Exhibit A-2 that we
17 attached to our response brief, what we did is we took
18 their unit area and we identified with red hashmarks
19 what we understand to be the Phase 1 tracts. And you
20 will see that they are spread throughout this proposed
21 unitized area. Okay? Now, if you keep that in mind
22 then you go to their application, in their
23 application, they provide the unit operating
24 agreement.

25 And this is the unusual provision,

1 Section 2.1.3; this is the provision that is creating
2 the statutory issue. Under this provision, only those
3 selected, limited Phase 1 owners can elect to
4 participate and share in the costs and revenues of the
5 unit operations across the entire unit for the first
6 three years. Phase 2 owners are not allowed to
7 participate in the revenue and the costs for the first
8 three years. However, these Phase 2 owners, while
9 they are not invoiced for the capital spent for the
10 first three years, they nonetheless incur those costs.

11 This provision states, "Upon transition
12 from Phase 1 to Phase 2, the Phase 2 working interest
13 owners will participate at their Phase 2 working
14 interest and pay their proportionate share of the
15 current net book value of invested unit capital
16 spending plus compounded interest accrued at 10
17 percent per annum as of the transition date of Phase
18 2." So they don't -- at the end of this three year
19 period, they are invoiced for their incurred capital
20 costs and net book value, plus this wonderful 10
21 percent compounded interest per annum. And if they
22 don't pay it, then you get to the last clause in which
23 it points out they would be considered
24 nonparticipating working interest owners subject to
25 cost plus 300 percent. This is the provision that my

1 clients object to in the unit operating agreement.
2 This is not a good deal; that's why they object to it.

3 But FAE refuses to change it. It's a
4 take it or leave it provision from them at this point
5 in time. And this is the unusual payment provision
6 that creates the statutory issue because they suggest
7 that you take this provision and that term initially
8 in the statute and that by combining those two, it
9 allows the Division to ignore the level of voluntary
10 participation by the respondents and the other Phase 2
11 owners that account for over two thirds of their
12 proposed unit area.

13 Now, before we get to the Act itself,
14 there's a couple of additional points here, which Ms.
15 Hardy touched on. This unusual payment provision that
16 we see here or an accounting provision or a payment
17 provision, whatever you want to call it, is in the
18 proposed unit operating agreement. It applies only to
19 the cost bearing interest owners, the working interest
20 owners.

21 This payment provision is not approved
22 by the BLM; it's not approved by the state land
23 office. They do not approve a provision in the unit
24 operating agreement. They don't approve cost
25 provisions like this because they don't have a cost

1 bearing interest. So it's odd for me to have FAE to
2 suggest here that this very unique provision was
3 somehow required -- that's the term they used -- by
4 the BLM. That simply cannot be the case because the
5 BLM does not have a cost bearing interest in any of
6 these tracts and they don't sign off on this kind of
7 an unusual provision.

8 The second point Ms. Hardy touched upon
9 briefly is that this was all put forth to my clients,
10 okay, without disclosing in any detail the methodology
11 and the data that they used to choose the Phase 1
12 tracts versus the Phase 2 tracts. In fact, they told
13 a number of my clients -- and we'll show it at the
14 hearing as needed -- they said, oh, well, this
15 methodology is proprietary. This information is
16 proprietary. So all they said in their motion to you
17 all and to us is that the Phase 1 tracts are based on
18 six months of oil production in 2021 and that the
19 Phase 2 tracts are based on some undisclosed analysis
20 of the remaining recoverable oil in place.

21 They have further refused to disclose
22 the total working interest that FAE holds in these
23 selected Phase 1 tracts, but you can take a look, they
24 own most of it. They refuse to identify any other
25 consenting working interest owners in the Phase 1

1 tracts. They just come out and say, well, with our
2 selected Phase 1 tracts, we have the necessary 75
3 percent approval, therefore you should rule in our
4 favor.

5 But putting all of this aside, let's
6 just put all of this lack of information aside and get
7 to the statutory issue that's created by this unusual
8 provision that you see here. This provision in the
9 statute does not allow the Division to ignore the
10 voluntary level of participation by the owners in the
11 Phase 2 tracts, which account for over two thirds of
12 the unit area that FAE seeks to force them into. They
13 have filed two briefs to suggest otherwise. And all
14 they've cited to you is this single word in the first
15 sentence of Section 70-7-8, the word "initially." And
16 then they've coupled that with their unusual payment
17 provision that they have created. And by putting
18 those two together, they say, well, you just ignore
19 what my clients at the voluntary level of
20 participation by over two thirds of the unit area.
21 But that's not the case here. You can't do that under
22 the statute, for a couple of primary reasons.

23 First off, FAE's position -- let me go
24 back to their application; sorry about that -- FAE's
25 position assumes that the Phase 2 owners do not

1 initially pay the cost of unit operations. Well,
2 that's not correct. Read this provision. They incur
3 it from day one, they just aren't invoiced, under
4 their unique provision, until three years later. And
5 only three years later, they have an opportunity then
6 to elect to participate or not, and that's after 10
7 percent per annum interest has accrued on whatever
8 their share is of these incurred costs. So to suggest
9 that they don't incur these costs and aren't
10 responsible for initially paying these costs is just
11 not factually correct under their own provision.

12 But let's get to the statute. They do
13 not try in their brief to try to square their position
14 with the remainder of this Section 70-7-8. They don't
15 try in their brief to square their position with the
16 remainder of the Statutory Unitization Act and the
17 purpose that is expressed in there. They point to
18 zero legislative history to support their unique
19 interpretation. They offer no such interpretation
20 from any other case or regulatory body. They offer no
21 supporting discussion in any of the treatises that are
22 out there on statutory unitization, and there is not a
23 single Division order adopting this approach to
24 Statutory Unitization Act.

25 In contrast, we first note in our

1 briefs that a proposed tract allocation formula and
2 payment provision, like you see here -- which, you're
3 right, Mr. Examiner, you're going to have to
4 address -- can you guys still see it? Can y'all still
5 see it, Mr. Examiner? I can't hear you.

6 MR. MCCLURE: All we see is your
7 Word -- PDF --

8 HEARING EXAMINER: There you go.

9 MR. MCCLURE: Thank you. But on that
10 all we see is "export your PDF to any format," is all
11 we see.

12 MR. FELDEWERT: How do we get rid of
13 that? I'm not sure what I clicked there. I'm trying
14 to get to their payment provision. All right. Well,
15 first off, what they don't do is they -- we point out
16 that, that unusual participation formula, accounting,
17 payment provision, whatever you want to call it, has
18 nothing to do with the voluntary approval required
19 here by this statute, okay? The examination of the
20 participation formula, the payment provision, the
21 accounting that's in the unit operating agreement is
22 done under 70-7-6, a completely different statute.
23 And that is where the Division, as you pointed out,
24 Mr. Brancard, has to undertake an examination of the
25 documents, examination of the formula, and they have

1 to conclude, keeping in mind the working interest
2 owners of all of the tracts in the unit area, whether
3 that formula is, according to A6, fair, reasonable,
4 and equitable.

5 Then when you go to 70-7-6B, they also
6 have to keep in mind whether that formula allocates
7 production to each tract in proportion that the
8 relative value of each tract so determined bears to
9 the relative value of all tracts in the proposed unit
10 area. This is a different examination, separate and
11 apart from whether they got a voluntary threshold or
12 they have met the voluntary threshold requirement.

13 And as you may know, Mr. Brancard, and
14 others who have dealt with unit agreements like this
15 over the years, generally, a tract participation
16 formula which has to be negotiated so that it is fair
17 and reasonable and that people sign off on it, it is a
18 means of encouraging and eliciting voluntary agreement
19 in a proposed unitized area. It's a means of securing
20 as a carrot, so to speak, the voluntary level of
21 threshold that you need.

22 The tract participation formula that
23 the Division has to examine is not a device that an
24 applicant for a statutory unit gerrymanders or
25 manipulate to lower the approval threshold required by

1 Section 70-7-8. And I submit to you that that's
2 exactly what occurred in this case. They
3 gerrymandered the tracts and they come up with a
4 participation formula that seeks to exclude the level
5 of approval by over two thirds of the statutory unit
6 that they have proposed.

7 The second point here is that when you
8 look at just 70-7-8, so let's go back to that statute,
9 it consistently refers to the percentage of working
10 interest in said unit area. So that term "initially"
11 that you see up in the first sentence has to be read
12 in conjunction with the remaining language of the
13 statute and has to be interpreted in a fashion that
14 does not ignore the percent of the working interest in
15 the entire proposed unit area, or in this case over
16 two thirds of that referenced unit area. And when you
17 look at the context of this provision, it means that
18 the Division examines the level of voluntary
19 participation by the initial working interest owners
20 in the proposed unit area.

21 The Division, for example, does not
22 consider parties who may have a future or back end
23 cost bearing interest over time, like you see under
24 many contractual agreements, like farmout agreements,
25 like the lease assignment that we attached to our

1 response, or other contractual arrangements where a
2 third party is not required to initially pay the costs
3 of development, but over time, under the agreement,
4 develops a cost bearing interest. So the term
5 "initially" has meaning here in this context and it
6 ensures that these future or back end working interest
7 owners are not considered in determining compliance
8 with the 75 percent voluntary approval required by
9 this statute.

10 And I would also point out that
11 interpreting the term "initially" to refer to the
12 initial cost bearing working interest owners in the
13 unit area chosen by the applicant conforms exactly
14 with the remaining language that you see in this
15 statute, which consistently -- and I've highlighted in
16 blue -- talks about the unit area, the working
17 interest in the unit area. It's also consistent with
18 the numerous treatises on statutory unitization that
19 we cited in our brief. Which all those treatises
20 uniformly point out that the regulatory body looks at
21 the voluntary level of participation by the working
22 interest owners in the unit area that has been
23 proposed by the Applicant, not a subset of that unit
24 area.

25 It's also consistent -- what we pointed

1 out -- is also consistent with the prior orders from
2 this Division interpreting this very Act. The
3 Division has never -- never looked at the proposed
4 tract allocation formula or the proposed accounting or
5 payment provisions to determine whether the voluntary
6 threshold has been met. Instead, they have
7 consistently examined the level of voluntary
8 participation by the initial working interest owners
9 in the unit area proposed by the Applicant.

10 We also note in our brief that FAE's
11 invitation here to depart from the treatises and the
12 Division's precedents does not further the Act's
13 mandate to protect the correlative rights of all of
14 the working interest owners in the unitized area.
15 Here's the purpose of the Act up on the screen,
16 70-7-1.

17 And one of the stated purposes is that
18 the Division is to ensure that the correlative rights
19 are protected of all owners of mineral interests in
20 each unitized area, all of the working interest owners
21 in their proposed unitized area. You will not be
22 acting to protect the correlative rights of all of the
23 working interest owners in FAE's proposed area if
24 you're only going to look at the level of
25 participation by their chosen Phase 1 tracts. Or as

1 applied here, simply ignore the level of participation
2 by the working interest owners in over two thirds of
3 their proposed unitized area. And instead, you're
4 going to incentivize operators like FAE to gerrymander
5 or manipulate a, what they call, a phased-in tract
6 allocation formula to actually lower that threshold.
7 Or here, to silence the objection by the working
8 interest owners in over two thirds of their unitized
9 area.

10 Which then brings me to my final point.
11 And that is, if you guys look at this statute and you
12 find that either this statute or its context is
13 somehow ambiguous then it must be interpreted in a
14 fashion that restricts the police power of the state,
15 the authority to impose unitization, which is what
16 they're asking for here. And it must be interpreted,
17 if it's ambiguous, to protect as broad as possible the
18 rights of the working interest owners in the entire
19 unitized area. That is clear from the case law that
20 we have cited to you and the treatises that we have
21 cited to you that discuss utilizing the state's police
22 power to impose compulsory pooling or to impose
23 statutory unitization.

24 So in sum here, FAE's unprecedented
25 effort to couple their unusual tract allocation

1 formula and payment provision with this term
2 "initially" up here for the purpose of ignoring the
3 working interests in over two thirds of the proposed
4 unit area is not supported by the language of this
5 statute; it's not supported by the Act as a whole; it
6 is inconsistent with the statutory mandate to protect
7 the correlative rights of all of the working interest
8 owners in the proposed unit area; it's inconsistent
9 with every single treatise that you read about
10 Statutory Unitization Act there; and it is
11 inconsistent with your prior cases.

12 So focusing on what they have requested
13 here with this motion, we ask and seek the Division
14 reject their contention that it can satisfy this
15 statute, Section 70-7-8, by simply obtaining the
16 necessary voluntary approval from the working interest
17 owners in the Phase 1 tracts that they have selected
18 under their proposed allocation formula and payment
19 provision.

20 HEARING EXAMINER: Thank you. Mr.
21 McClure, questions?

22 MR. MCCLURE: I actually only have one
23 question here. Mr. Feldewert, it seemed like maybe
24 you were implying that the 10 percent interest, which
25 starts accruing from year one, is that what you were

1 implying? Is that your interpretation?

2 MR. FELDEWERT: Well, you know, I'm at
3 a loss here as to why I can't bring up that darn -- if
4 anybody knows how to get back to the --

5 MR. FELDEWERT: I think you had it
6 highlighted in your left tab there, didn't you, that
7 response brief, or not? Maybe I was wrong.

8 MR. FELDEWERT: No, that's our brief.
9 If you look at the provision in their unit
10 agreement -- give me a minute -- they talk about 10
11 percent -- there we go. I got it. Can you see it?

12 MR. MCCLURE: Yes. That's exactly what
13 I was referring to. Go ahead.

14 MR. FELDEWERT: Yeah; I'm sorry. If
15 they talk about plus compounded interest accrued at 10
16 percent per annum as of the transition date, then yes.
17 It's 10 percent per year. And the transition date,
18 according to their brief, is three years after they
19 commence unit operations.

20 MR. MCCLURE: Okay -- okay. I
21 apologize. Maybe I missed it. I think I
22 misunderstood what you were saying before. I thought
23 you were saying it started from, essentially, year
24 zero, I guess, from initial. And now, what you're
25 saying is what it almost seemed like it says, I guess,

1 because it starts when it goes from Phase 1 to Phase
2 2.

3 MR. FELDEWERT: Well, no. As I read
4 this -- you guys can read it yourself -- I mean, this
5 is all we've got to go on. But what this indicates to
6 my clients who have looked at this -- and they're much
7 smarter than I am -- is that under their proposed
8 accounting here, okay, they don't get -- they incur
9 the cost of this unit operation, this invested
10 capital, from day one -- from day one, their share of
11 the cost. It accrues, their share, at 10 percent per
12 annum up until the transition date, okay? And then at
13 the transition date to Phase 2, three years later,
14 they then have to make their election. And to make
15 their election, they've got to pay their accrued
16 interest, their accrued amount for that first three
17 years, their share of that under the second tract
18 allocation formula, plus 10 percent interest. And if
19 they don't, then they are nonconsenting interest
20 owners subject to the cost plus 300 percent. That's
21 how we interpret this. That's what we understand from
22 it.

23 This has been a take it or leave it
24 provision; no negotiation whatsoever, which gets me
25 back to the point here. They should have to go back

1 to the drawing board. Okay?

2 MR. MCCLURE: I was just confirming
3 what your -- how your clients had interpreted it.
4 Thank you. So then, in addition to this, even if this
5 were to come out, then your clients would still not
6 sign on due to the allocation; is that correct?

7 MR. FELDEWERT: Well, I mean, if this
8 provision comes out, then at some point we would have
9 something else to look at. But this is the most --
10 this is the provision that really raises the statutory
11 issue. This is what they're relying upon to say, you
12 know, hook you into the word "initially" and say,
13 well, we don't need to worry about the Phase 2 tract
14 owners, even though they own two thirds of the unit
15 area or own in the tracts that comprise two thirds of
16 the unit area. This is the provision that creates the
17 statutory issue.

18 MR. MCCLURE: Thank you, Mr. Feldewert.
19 That was the only questions I had.

20 HEARING EXAMINER: Mr. Goetze, any
21 questions?

22 MR. MCCLURE: Is Mr. Goetze with us,
23 Mr. Brancard?

24 HEARING EXAMINER: Well, his name is on
25 the list but he's not responding. There he is.

1 MR. GOETZE: I've got a lot of buttons
2 on. Thank you. And this was a short call. I'm just
3 curious your opinion, Mr. Feldewert. In my ten years
4 of history that these type of units were voluntary and
5 we rarely had any type of assessment, other than the
6 fact that you didn't show up with your checkbook, but
7 not forcing people to participate. Your thoughts?

8 MR. FELDEWERT: I don't disagree with
9 you. There has been very few statutory unitization
10 cases over the last, I don't know, 15 years maybe,
11 okay? One of them was FAE where they came in and
12 showed that they had 75 percent approval of all of the
13 working interest owners in their entire proposed unit
14 area, and we cite that case in our brief. They didn't
15 have something squarely like we see up here on the
16 screen.

17 But most of the time, yes, they are
18 able to reach a voluntary agreement because they
19 actually negotiate the participation formula in this
20 type of a payment provision. It's not presented as,
21 oh well, we think it was approved by the BLM,
22 therefore you must take it or leave it. And that's
23 what's going on here.

24 MR. GOETZE: Thank you. That was my
25 only question.

1 HEARING EXAMINER: Okay. I don't want
2 to get too lost in the details. In fact, I don't
3 really want to get into the details at all. So let me
4 just look at the statute here, Mr. Feldewert. So
5 70-7-8 -- there we go -- uses the term "initially" I
6 can see twice in here.

7 MR. FELDEWERT: One of them is a
8 negative, right? They use the same language whether
9 you're talking about the positive or what I call the
10 negative, you know, how you --

11 HEARING EXAMINER: Right; the 75 or the
12 25?

13 MR. FELDEWERT: You got it.

14 HEARING EXAMINER: You had started to
15 explain a bit about what you thought "initially"
16 meant. Perhaps you can give us a little further?
17 Obviously, the legislature means something here. Do
18 they mean that there's some, perhaps, some subset of
19 the total universe of possible interest owners who
20 would be involved in the initial approval?

21 MR. FELDEWERT: Well, I think, you
22 know, first off, who knows what the legislature meant.
23 Nobody can find any statutory history here, right?
24 Otherwise, if Dana found it, she would have presented
25 it. We couldn't find anything; we've looked.

1 But if you recognize the fact that when
2 you take a big block area like this, there's a lot of
3 contractual arrangements out there, okay? And some of
4 those contractual arrangements, like a farmout
5 agreement or lease assignment, they have parties or
6 owners in the interests that currently don't have a
7 cost bearing interest. But as the acreage is
8 developed over time, they then move into a cost
9 bearing interest, okay?

10 So it seems to me that when you look at
11 the purpose of the Act, you look at the language in
12 the statute, you look at what all of the treatises say
13 about what you look at, I think a logical conclusion
14 is that the legislature wanted to make sure that when
15 you're talking about 75 percent or more of the -- and
16 I'm looking at this second clause -- percent of the
17 working interest in "said unit area," you're talking
18 about the initial working interest in the unit area,
19 not somebody who's got a back end or delayed working
20 interest that may come to rise two or three years down
21 the road. That, to me, is a logical interpretation of
22 what this term "initially" means.

23 So in other words, if you look at the
24 current working interest owners who are going to bear
25 that cost bearing interest. Can you hear me -- can

1 you hear me?

2 HEARING EXAMINER: Yeah; I can hear you
3 but you couldn't hear me, and I made a good point.
4 It's based on cost, right? It's based on who is
5 making the original cost. And your percentage of
6 interest is based -- your percentage of voting is
7 based on not what your percentage of the unit is but
8 the percentage of your -- of the initial cost you are
9 paying.

10 MR. FELDEWERT: Are you talking about
11 the statute or are you talking about what FAE has
12 proposed with their unusual --

13 HEARING EXAMINER: I'm talking about
14 the statute.

15 MR. FELDEWERT: The statute? Okay.

16 HEARING EXAMINER: Okay?

17 MR. FELDEWERT: Yes.

18 HEARING EXAMINER: And I think the
19 second provision is a little more revealing, right?
20 It says if there is a single owner who is one who
21 under the Division's order will be required to pay at
22 least 25 percent. Okay? It doesn't say that there is
23 an owner who owns 25 percent of the interest, but that
24 they are paying 25 percent of the cost. Okay? But
25 that allocation comes entirely from the Division's

1 order.

2 MR. FELDEWERT: Yes.

3 HEARING EXAMINER: Right? Which kicked
4 us back to the prior section, 70-7-7, which is the
5 Division order, under E, "The Division must issue an
6 order that includes a provision governing how the
7 costs of unit operations shall be determined and
8 charged to the separately owned tracts and how the
9 costs shall be paid." So the Division can approve
10 some sort of formula allocating the costs to the
11 various tracts based on some sort of logic. I don't
12 know what it is, but it's something different than
13 just simply saying, "You own five acres, you get five
14 votes." Right? But if it says you own five acres,
15 you pay \$5000, well, then your vote is based on that
16 \$5000.

17 MR. FELDEWERT: So I think I'm
18 following you. I mean, first off, we're responding to
19 FAE's motion that says, well, here's our squirrely
20 participation formula. We have satisfied the Phase 1
21 with 75 percent; therefore, you guys are going to be
22 brought into the unit.

23 I don't agree with that at all, okay?
24 I agree that the threshold requirement applies to the
25 final decision. In fact, you have six months -- you

1 have a period of time -- I think my recollection is,
2 there's a period of time after the issuance of the
3 order where parties have an opportunity to participate
4 or not participate in order to see if they can come up
5 with the 75 percent threshold, if you read the
6 statute.

7 So I don't disagree with you, and that
8 is, the Division has to look at this carefully after a
9 factual presentation and determine what is fair and
10 equitable to everyone and determine that it properly
11 allocates production to the various tracts based on --
12 what's that statute say? "The relative value of each
13 tract so determined bears to the relative value of all
14 tracts in the unit area."

15 FAE is saying something else here.
16 They say, we've come up with formula. We don't care
17 if you guys like it or not. But since under our
18 formula we've got 75 percent of what we call Tract 1,
19 you guys are in. That's not how it works. That's why
20 their motion has to be denied.

21 HEARING EXAMINER: Okay. I am going to
22 allow Ms. Hardy to provide a reply or rebut or what do
23 we call it? Whatever.

24 MS. HARDY: Whatever.

25 HEARING EXAMINER: The last word.

1 MS. HARDY: Thank you. Okay. So I
2 think there are a number of issues here that are
3 really important that are being sort of overlooked by
4 Mr. Feldewert's argument.

5 First, let me share my screen here, and
6 hopefully this is going to work. The provision --
7 let's see here -- can you see my screen?

8 HEARING EXAMINER: Not yet. There is
9 sometimes a little delay. There it comes.

10 MS. HARDY: Okay.

11 HEARING EXAMINER: There we go.

12 MS. HARDY: So Mr. Feldewert is asking
13 the Division to ignore not only this "initially"
14 language, but also the fact that it references the
15 owners who will pay 75 percent of the costs of the
16 unit operations.

17 Mr. Feldewert is arguing that that
18 really means 75 percent of the unit area. And that's
19 not what the legislature says. I mean, maybe that's
20 what some people wish they would have said, but that's
21 just not what they said. So I think that's the first
22 issue.

23 The second issue that's very
24 significant. And I have also here, if I can share it,
25 the provision that we have talked about of the unit

1 operating agreement, which says that it's very
2 important. I think there's some language here that's
3 being completely overlooked and that is what I've
4 marked here in blue, that they pay their share of the
5 net book value of invested unit capital.

6 So if you buy a car, a used car, three
7 years after it was new, you're paying for the used
8 car. That's what they're paying. So it's just not
9 correct to argue that they are paying all of the costs
10 of unit operations for the first three years. That's
11 really important language and I think that that is
12 being overlooked.

13 So when you look at the statute and the
14 legislature's use of the term "initially," which had
15 to mean something and it also meant something, that
16 they were allowing for approval based on cost bearing
17 interests. The owners of interest who will bear 75
18 percent of the cost, the legislature was allowing this
19 type of a formula.

20 I mean, they have a preference for
21 statutory units; it's a public policy. I disagree
22 with Mr. Feldewert that we're ignoring all of the
23 other provisions of the Statutory Unitization Act.
24 That's not true. In fact, we've talked about in our
25 brief the first section regarding the purpose, which

1 Mr. Feldewert also talked about, which is to encourage
2 production of these underlying reserves through
3 secondary recovery. And that's exactly what Forty
4 Acres is trying to do here.

5 With respect to the Division's
6 decisions and the argument that the Division has never
7 approved a unit like this or they have only allowed
8 units to be approved based on 75 percent of the owners
9 in the unit area ratifying the agreement, I don't
10 think that the Division has addressed a unit agreement
11 like this. I haven't seen one. So I think, you know,
12 sort of the implication that it's been rejected or not
13 been allowed is not true. I think the other units
14 that were presented involved tract participation
15 formulas that were based on surface acreage, so they
16 were the same. You're looking at the ownership
17 interest being the same as the cost bearing interests.
18 And here, in this case, the formula is not determined
19 in that manner.

20 I think that the other factors that the
21 Division would need to look at under 70-7-6 would be
22 matters to be addressed at a hearing. I think, you
23 know, I don't think it's a take it or leave it deal.
24 We're only asking for a ruling on the 75 percent
25 approval requirement in 70-7-8. We're not asking for

1 approval of the entire unit. Of course, the Division
2 would have to make the other findings that are set out
3 in the other provisions of the Act if it were going to
4 ultimately approve the unit.

5 And with respect to going forward and
6 having a hearing where the Division addresses those
7 factors and then we try to address the 75 percent
8 approval requirement, I think I have explained why we
9 have asked for the ruling on the 75 percent issue
10 here. This is the formula that the BLM has approved
11 and the state land office has approved so this is what
12 we are prepared to go forward with at this time if we
13 can satisfy and the Division determines that 75
14 percent threshold requirement is met by having
15 approval of the Phase 1 owners who will bear 75
16 percent or more of the cost.

17 So that's what we're doing here and
18 that's what we have requested and I think that our
19 request is consistent with the language of the statute
20 that is very clearly stated and I think that what
21 we've asked is also consistent with the statute. So
22 with that, unless there are questions, I would ask
23 that the motion be granted. Thank you.

24 HEARING EXAMINER: Thank you. Mr.
25 McClure, final questions?

1 MR. MCCLURE: So the BLM has actually
2 granted approval for something on this then?

3 MS. HARDY: Yes.

4 MR. MCCLURE: And they have signed off
5 on it?

6 MS. HARDY: Yes; it's a very long
7 process that FAE went through to get working with the
8 BLM to try to put together a unit that the BLM would
9 approve and this is what they approved.

10 MR. MCCLURE: Having said that though,
11 they were primarily concerned with federal interests,
12 correct?

13 MS. HARDY: Most of the land is
14 federal, so.

15 MR. MCCLURE: So they were more
16 concerned with the royalty interests, which is not at
17 dispute here, right? Because we're talking about
18 working interests?

19 MS. HARDY: I mean, the BLM, this is
20 the formula that they wanted and this is what they
21 have approved.

22 MR. MCCLURE: Okay. Thank you, Ms.
23 Hardy. I don't have any other questions, Mr.
24 Brancard.

25 HEARING EXAMINER: Thank you. Mr.

1 Goetz?

2 MR. GOETZE: No questions at this time.
3 Thank you.

4 HEARING EXAMINER: Thank you. Okay.
5 Well, now I'm thoroughly confused about what the role
6 of the BLM is here. I mean, if there's a BLM unit,
7 why do we need to be involved with it? And if it's a
8 statutory unit under our Statutory Unitization Act,
9 what the heck are they doing? So I guess that's sort
10 of my concerns here. You know, I mean, when we have
11 BLM units that come before us, we don't say yea or nay
12 anymore because they're BLM units. But if it's a
13 statutory unit, that's ours to approve, so.

14 MS. HARDY: Mr. Brancard, I think it's
15 both, and it's also state acreage, so it's a
16 combination of state, federal, and private acreage.
17 And the state land office has also approved, so then
18 we are asking the Division to approve under the
19 Statutory Unitization Act as well.

20 HEARING EXAMINER: Okay. So let's --
21 well, I agree, Ms. Hardy, let's get down to the real
22 question here. What exactly are you seeking from the
23 Division at this point?

24 MS. HARDY: We are seeking a legal
25 ruling that the 75 percent approval requirement set

1 out in Section 70-7-8a would be satisfied by a showing
2 that the Phase 1 interest owners who will bear more
3 than 75 percent of the cost have approved the unit. I
4 think I stated that correctly?

5 HEARING EXAMINER: Okay. And by Phase
6 1, you mean Phase 1 under the plan that FAE has
7 drafted?

8 MS. HARDY: Exactly.

9 HEARING EXAMINER: Right. A plan that
10 has not been approved by the OCD?

11 MS. HARDY: Right. Not yet; that's
12 what we're asking.

13 HEARING EXAMINER: Well, I don't know.
14 This seems sort of clear to me that the language in
15 70-7-8, when it refers to "initially," those persons
16 who are required initially to pay at least 75 percent,
17 both times it's used it is "those persons who are
18 required to pay under the Division's order," okay? In
19 other words, the Division determines who are the ones
20 who are going to pay, whether it's everybody paying
21 the same amount or, you know, Group A and Group B or
22 however you want to do it. But it's part of the
23 Division's order, which would be issued under 70-7-7,
24 and we haven't got to that point.

25 So yes, FAE could come to the Division

1 -- I guess it has -- it has applied to the Division
2 for approval of the statutory unit. It has applied
3 for the approval of this plan. And so, it could end
4 up being that the Division will approve that plan with
5 exactly that phasing.

6 But it could also be, no. That the
7 Division will come up with its own plan, which is
8 really a scary idea. Or we will take somebody else's
9 idea, like Mr. Feldewert may have a better idea and
10 his clients.

11 So we are, clearly -- I believe we are
12 in unknown territory here because I think as -- I kind
13 of agree with Mr. Feldewert that my little experience
14 with statutory units is that they tend to be sort of
15 come prepackaged with everybody sort of saying this is
16 the unit and this is the order we want you to approve
17 because we've all kind of worked it all out. And the
18 Division doesn't have to think very hard, which is
19 good. We don't want the Division to think hard.

20 And so, that's my sense is that,
21 clearly, the statute is relying on what the Division
22 decides is the formula. And I don't think at this
23 point the fact that the Applicant has a formula that
24 it likes that that formula is necessarily the formula
25 that it will be there at the end of the day when

1 there's a vote. That's the way I look at the statute.
2 It creates a process for you to apply and the Division
3 to approve. And in between that, there is either a
4 lot of people slapping each other on the back saying
5 what a great plan this is or having a big hearing to
6 argue with each other about why it's not a great plan
7 or why it is a great plan.

8 And that's kind of where we're at, at
9 this point. We have an application and we can move
10 forward on it. But to sort of jump ahead to what
11 happens after the Division issues an order before we
12 have even considered the application seems premature
13 at this point.

14 So yes, I think you're right. We, you
15 know, there will be a vote by those people who have to
16 pay 75 percent of the initial costs, but we are a long
17 way from figuring out who those people are. I think
18 that's the bottom line here.

19 MS. HARDY: So Mr. Brancard, can I ask
20 a couple of questions?

21 HEARING EXAMINER: Sure. Now that I've
22 stuck my foot in my mouth.

23 MS. HARDY: No; thank you. So is what
24 you're saying really that we would have to go through
25 the hearing process and, you know, on the unit as

1 we've proposed it, with our approvals from BLM and the
2 state land office. If the Division gives thumbs up or
3 thumbs down and then we would have to address the 75
4 percent issue?

5 HEARING EXAMINER: Well, you know, the
6 results -- there are numerous possible results. One
7 is, you provide an application. People object to it
8 and we make a ruling going, bad application, go away,
9 try again. Okay?

10 The other is, we accept your
11 application, you know, the entire package, and go,
12 terrific, thanks for this great idea, go forth.

13 The third possibility is that we
14 approve your application, modified through the
15 process. Okay? And likely, what we would modify,
16 from what I'm hearing from the other parties, is how
17 things get allocated because that seems to, obviously,
18 be the big issue and, in fact, often is the big issue.
19 Right? Whenever companies get together to negotiate
20 and discuss how to develop an area; who gets to pay,
21 who gets to play?

22 So that's just sort of generically
23 three possibilities of what happens if you submit an
24 application. And clearly, I mean, unlike much of what
25 we do under the Oil and Gas Act, there is a whole

1 playbook here in the Statutory Unitization Act that
2 tells you exactly what's supposed to be in your
3 application, exactly the findings that we have to make
4 in order to approve your application, and then exactly
5 what has to be in our order when we approve your
6 application. Okay? So it's, you know, it's unusual
7 for us to have that much, you know, detail about how
8 exactly to move forward in this process. So we've got
9 to hit each of those steps along the way. And you
10 started it with the application and we can go from
11 there. I'm sorry if I'm not -- happy, but --

12 MS. HARDY: I understand what you're
13 saying and I just, due to this 75 percent issue, we
14 were just hoping to get a ruling on it as a threshold
15 matter because I think that impacts whether we go
16 forward with it. But I understand your discussion of
17 the statute.

18 HEARING EXAMINER: Yeah; I think it's a
19 little bit of the cart before the horse here. All
20 right. We will review this further and issue an
21 order. Are there any other comments, questions from
22 the parties?

23 MS. HARDY: Not from me, Mr. Examiner.

24 MR. FELDEWERT: Not from the
25 respondents, Mr. Examiner. We appreciate your time

1 here.

2 MS. HARDY: Yes; thank you very much.

3 HEARING EXAMINER: I am dismayed that I
4 will have to say now what I forgot to say at the end
5 of the rest of the hearing or at the beginning of it,
6 that everybody needs to get out and vote.

7 MS. HARDY: Will do.

8 HEARING EXAMINER: Thank you, everyone.

9 MS. HARDY: Thank you.

10 MR. FELDEWERT: Thank you.

11 HEARING EXAMINER: Have a great day.

12 (Whereupon, at 3:42 p.m., the
13 proceeding was concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

I, DANA FULTON, 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.

Dana Fulton

Notary Public in and for the
State of New Mexico

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