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

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

- Case Nos. 23841, 23842, 23845,  
23846, 23847, 23848, 23849,  
23850, 23851, 23852, 23853,  
23854, 23855, 23856, 23857,  
23858, 23859, 23860, 23861,  
23862, 23863, 23864, 23865,  
23866, 23867, 23621, 23622,  
23647, 23828, 23658, 23091,  
23659, 23660, 23661, 23811,  
23812, 23813, 23872, 23614,  
23615, 23616, 23617, 23088,  
23089, 23090, 23725, 23726,  
23755, 23871, 23873, 23876,  
23877, 23878, 23879, 23880,  
23881, 23882, 23883, 23884,  
23889, 23890, 23891, 23892,  
23893, 23894, 23899, 23900,

1 23901, 23902, 23903, 23904,  
2 23905, 23906, 23909, 23910,  
3 23911, 23912, 23913, 23914,  
4 23922, 23923, 23924, 23925,  
5 23926, 23927, 23929, 23930,  
6 23931, 23932, 23933, 23934,  
7 23935, 23939, 23940, 23619,  
8 23620, 23708, 23709

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10 VIDEOCONFERENCE HEARING  
11 DATE: Thursday, November 2, 2023  
12 TIME: 8:15 a.m.  
13 LOCATION: Remote Proceeding  
14 Santa Fe, NM 87501  
15 REPORTED BY: Dana Fulton  
16 JOB NO.: 5528943

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A P P E A R A N C E S

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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)

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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 RILEY PERMIAN OPERATING COMPANY 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)

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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)

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ALSO PRESENT:

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Dean McClure, Technical Examiner (by  
videoconference)  
Phillip Goetze, Technical Examiner (by  
videoconference)  
Marlene Salvidrez, OCD Law Clerk (by  
videoconference)  
Jonathan Samaniego, Non-Party (by  
videoconference)  
Michael Rodriguez, Tap Rock (by videoconference)

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I N D E X

WITNESSES:	DX	CX	RDX	RCX
HUXLEY SONG				
By Mr. Goetze		149		
GAVIN EDINGTON				
By Mr. Bruce	264			
CARSON COLLINS				
By Mr. Samaniego		282		

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Cases 23088/23089/23090/23091		
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Exhibit 4	Affidavit of Mailing	86/88
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Exhibit 4B	Notice Letter to Primary Working Interest Owners	87/88
Exhibit 4C	Notice Letter to Key Interest Owners or Fee Lessors	87/88
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
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4	Exhibit C	Declaration of Marathon's	
5		Geologist with Sub-Exhibits	101/101
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7	NO.	DESCRIPTION	ID/EVD
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9	Exhibit A	Land Professional Testimony	
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14	NO.	DESCRIPTION	ID/EVD
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6	NO.	DESCRIPTION	ID/EVD
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12	Exhibit C1	Updated Pooling Exhibit	130/131
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16	NO.	DESCRIPTION	ID/EVD
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21		Pooling Checklist	130/131
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6	NO.	DESCRIPTION
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16	Exhibit C1	Updated Pooling Exhibit
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18	Exhibit D	Attorney Self-Affirmed
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21	NO.	DESCRIPTION
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23	Case 23903	
24	Exhibit A	Copy of Application
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1	E X H I B I T S (Cont'd)		
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3	Case 23924		
4	Exhibit A	Application	178/180
5	Exhibit B	Self-Affirmed Statement of	
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7		Engineer	178/180
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16	NO.	DESCRIPTION	ID/EVD
17	Case 23925		
18	Exhibit A	Land Professional Testimony	
19		Of Mark Hajdik with	
20		Sub-Exhibits	182/183
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23	Exhibit C	Notice Testimony with	
24		Sub-Exhibits	182/183
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 23931/23932/23933/23934 (Cont'd)		
4	Exhibit B	Self-Affirmed Statement of	
5		Geologist Liz Olson with	
6		Sub-Exhibits	206/207
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9		Statement of Mailings	207/207
10	Exhibit D	Affidavit of Publication	207/207
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13	NO.	DESCRIPTION	ID/EVD
14	Case 23935		
15	Exhibit A	Copy of Application	219/221
16	Exhibit B	Self-Affirmed Statement	
17		of Landman Joshua Prastic	219/221
18	Exhibit B1	Order R-279-B	219/221
19	Exhibit B2	BLM Preliminary Approval	
20		Letter	219/221
21	Exhibit B3	State Land Office	
22		Preliminary Approval	219/221
23	Exhibit B4	Plat Map of Expansion	219/221
24	Exhibit C	Self-Affirmed Statement of	
25		Geologist Aaron Basil	220/221

E X H I B I T S (Cont'd)		
NO.	DESCRIPTION	ID/EVD
Case 23935 (Cont'd)		
Exhibit C1	Development Plan	220/221
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NO.	DESCRIPTION	ID/EVD
Case 23939/23940		
Exhibit A	Compulsory Pooling Checklists	226/229
Exhibit C	Self-Affirmed Statement of Landman Greg Pazer	226/229
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1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 23939/23940 (Cont'd)		
4	Exhibit C2	Land Tract Map and Ownership	
5		Breakdown	227/229
6	Exhibit D	Self-Affirmed Statement of	
7		Geologist Eric Surratt	228/229
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10	Exhibit D3	Subsea Structure Map	228/229
11	Exhibit D4	Cross-Section Map	228/229
12	Exhibit D5	Well Log Cross-Section	228/229
13	Exhibit E	Self-Affirmed Statement of	
14		Notice with Sample Letters	228/229
15	Exhibit F	Affidavit of Notice of	
16		Publication	228/229
17			
18	NO.	DESCRIPTION	ID/EVD
19	Case 23619/23620		
20	Exhibit A	Compulsory Pooling Checklist	230/232
21	Exhibit B	Self-Affirmed Declaration of	
22		Landman Don Johnson with	
23		Sub-Exhibits	231/232
24			
25			

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 23619/23620 (Cont'd)		
4	Exhibit C	Self-Affirmed Declaration of	
5		Geologist Ben Kessel with	
6		Sub-Exhibits	231/232
7			
8	NO.	DESCRIPTION	ID/EVD
9	Case 23828		
10	Exhibit A	Compulsory Polling Checklist	240/243
11	Exhibit B	Self-Affirmed Statement of	
12		Landman Drew Oldis	240/243
13	Exhibit B1	Land Plat and Ownership	241/243
14	Exhibit B2	C-102s	241/243
15	Exhibit B3	Well Proposals and AFEs	241/243
16	Exhibit B4	Chronology of Contacts	242/243
17	Exhibit C	Affidavit of Notice	242/243
18	Exhibit D	Affidavit of Publication	242/243
19			
20	NO.	DESCRIPTION	ID/EVD
21	Case 23708/23709		
22	Exhibit 1	Compulsory Pooling Checklist	259/266
23	Exhibit A1	Special Provision to	
24		Pooling Orders	259/266
25			

1	E X H I B I T S (Cont'd)		
2	NO.	DESCRIPTION	ID/EVD
3	Case 23708/23709 (Cont'd)		
4	Exhibit 2	Affidavit of Landman	
5		Carson Collins with	
6		Sub-Exhibits	259/266
7	Exhibit 2E	Lease at Issue	259/266
8	Exhibit 3	Geologist's Affidavit with	
9		Sub-Exhibits	260/266
10	Exhibit 4	Affidavit of Engineer	
11		Gavin Edington	260/266
12	Exhibit 4A	APDs for Vertical Test	
13		Bone Spring and Wolfcamp	261/266
14	Exhibit 4B	APDs for Vertical Test	
15		Bone Spring	261/266
16	Exhibit 4C	Production Plat	261/266
17	Exhibit 5	Notice Letter to Interested	
18		Owners	262/266
19	Exhibit 5A	Original Notice Letter	262/266
20	Exhibit 5B	Second Notice Letter	262/266
21	Exhibit 7	Affidavit of Publication	262/266
22	Exhibit 8	Application and Proposed	
23		Notice	262/266
24			
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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
Case 23922		
Exhibit A	Application	287/287
Exhibit B	Affidavit of Land Witness	
	Mark Smith	287/287
Exhibit B1	CV of Mark Smith	286/287
Exhibit C	Notice of Affidavit	287/287
Exhibit D	Affidavit of Publication	287/287

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P R O C E E D I N G S

MR CHAKALIAN: We're going to get going with status conference number 23841 and 23842. I show Ms. Bennett and Mr. Feldewert.

MS. BENNETT: Good morning, everyone. This is Deana Bennett on behalf of Franklin Mountain Energy. I'm having some issues with my -- some technical issues this morning, but I'm hoping I'm working through them. I appreciate your patience.

MR CHAKALIAN: Good morning, Ms. Bennett. How are we proceeding?

MS. BENNETT: So these two cases are set for a status conference today because Franklin Mountain Energy filed these cases and -- at a hearing a few weeks ago. Conoco Phillips I believe mentioned that they were anticipating filing competing applications.

And so rather than setting these for a contested hearing date, I wanted to touch base with the Division and with Conoco Phillips to see what the plans were, and if competing cases are not going to be filed in the near term to request that we be allowed to move forward with these cases by hearing in the more immediate future.

MR CHAKALIAN: Okay. Do we have a

1 representative from Conoco Phillips with us?

2 MR. FELDEWERT: Good morning, Mr.  
3 Examiner. Michael Feldewert standing from the office  
4 of Holland and Hart. I think we're in the case for  
5 next for COG Operating.

6 MR. CHAKALIAN: Yes.

7 MR. FELDEWERT: The COG has submitted  
8 competing well proposals called their Knight -- wells.  
9 They were sent out in October. So I think those cases  
10 should be on. If everything goes right, those cases  
11 could be on December 2nd -- the December 7th docket  
12 for a status conference at that point.

13 MR CHAKALIAN: Do you have case  
14 numbers, Mr. Feldewert?

15 MR. FELDEWERT: I do not because they  
16 have not been filed yet. The well proposals went out  
17 in October.

18 MR CHAKALIAN: When do you anticipate  
19 filing them with the Division?

20 MR. FELDEWERT: Well, assuming it's  
21 okay to waive the normal 30-day period for parties to  
22 discuss the matter before pooling applications are  
23 filed, I could file them for the December 7th docket.

24 MS. HARDY: Mr. Examiner, I'm sorry to  
25 interrupt. This is Dana Hardy. I had entered an

1 appearance in these cases for Armstrong Energy and  
2 Slash Exploration.

3 MR CHAKALIAN: Thank you.

4 MS. HARDY: Thank you.

5 MR CHAKALIAN: And we'll get to you in  
6 just a moment, Ms. Hardy.

7 Mr. Feldewert, what were you referring  
8 to when you were talking about waiving the 30-day rule  
9 to discuss the case?

10 MR. FELDEWERT: So normally the course  
11 of proceedings is you submit your well proposals to  
12 the affected parties. We then generally wait at least  
13 30 days before filing a pooling application under some  
14 Division precedent.

15 Now, I know Ms. Hardy is in here for  
16 Armstrong Energies, so there's other parties involved  
17 other than COG Operating, but, you know, we could  
18 either file it for the December 7th docket or wait the  
19 normal course of events and be on the January docket.

20 MR CHAKALIAN: Okay. Ms. Hardy?

21 MS. HARDY: Mr. Examiner, that plan is  
22 fine with Armstrong and Slash. They just need to  
23 determine which party they're negotiating with and  
24 need more time to do that. So whichever hearing date  
25 ends up being set is fine with me.

1                   MR. FELDEWERT: My suggestion would be  
2 we could file for the December 7th docket, and then  
3 you could have -- we could have a status conference at  
4 that point. In other words, the cases will be on the  
5 docket.

6                   MR CHAKALIAN: Uh-huh. And are there  
7 any other parties to these cases? Am I missing  
8 anyone?

9                   I can't hear you, Mr. Padilla, did you  
10 say something?

11                  MR. PADILLA: No.

12                  MR CHAKALIAN: Okay.

13                  Okay, so Ms. Bennett, back to you. You  
14 now know that COG is filing competing applications.  
15 How do you want to proceed?

16                  MS. BENNETT: Well, I prefer to set the  
17 case -- the cases for contested hearing on the 12-7  
18 docket. If we're going the way of the requirement for  
19 a 30 days between filing the applications and the --  
20 or the 30 for the proposal letters, excuse me, then I  
21 think it makes sense to just go ahead and get these on  
22 the docket for December 7th.

23                  And if Slash and Armstrong needs more  
24 time to evaluate between then and now, we can always  
25 accommodate that. And -- but I think it makes sense

1 to go ahead and just get these on the docket as a  
2 contestant hearing on December 7th if there's still  
3 room available that date.

4 MR CHAKALIAN: Okay. Is this a policy,  
5 or is this in the rule about the 30 days that you're  
6 talking about?

7 MS. BENNETT: The 30 days for the  
8 proposal letter is in an order. It's not in the  
9 rules, but it's sort of a presumption for good-faith  
10 negotiations between the parties.

11 MR CHAKALIAN: Okay. And it reduces  
12 the amount of contested hearings we have?

13 MR. FELDEWERT: We hope so.

14 MS. BENNETT: No. I don't think that  
15 it does, but --

16 MR CHAKALIAN: Ms. Bennett, I'm not  
17 sure -- Ms. Bennett, I'm not sure why we need to rush  
18 this to a contested hearing on December 7th. I think  
19 we should follow the 30-day policy or order you cite.

20 So let me find out from Marlene if the  
21 -- would you be ready for a late December contested  
22 hearing, or would you prefer it to be in January?

23 MS. SALVIDREZ: Well, Mr. Feldewert, it  
24 sort of depends on when you're going to be able to  
25 file the applications.

1           Mr. Hearing Examiner, just so you know,  
2 there's also an unwritten policy that we cannot file  
3 new applications for the second docket of the month.

4           And that is not, you know, in an order  
5 or anything like that. That was sort of a docket  
6 management rule that was instituted a few years ago  
7 when the dockets were getting so full and we were  
8 having so many continuances it was determined to have  
9 a continuance docket and a new case docket. But  
10 there's been some flexibility in that, I would say,  
11 over the past year. And so if the timing works such  
12 that the COG proposal letter could be ripe for hearing  
13 on the second December docket, then that seems  
14 workable to me.

15           MR CHAKALIAN: I think we'll look at  
16 setting this for the first docket in January for a  
17 contested hearing. Are there any issues with that,  
18 Mr. Feldewert or Ms. Hardy?

19           MR. FELDEWERT: No, that's fine from my  
20 perspective, and I can -- I'm assuming then I'll just  
21 -- I'll go ahead and file the applications either for  
22 the December 7th docket then or to be on the January  
23 4th -- 4th, is that what it is?

24           MR CHAKALIAN: It is.

25           MR. FELDEWERT: Okay.

1 MS. HARDY: No objection from me, Mr.  
2 Examiner. Thank you.

3 MR CHAKALIAN: Ms. Hardy, how do you  
4 anticipate you're going to participate in the January  
5 4 hearing?

6 MS. HARDY: I'll have to consult with  
7 my clients about that, and I -- I don't know that they  
8 would plan to present testimony, but I expect they  
9 would like me to reserve the right to question  
10 witnesses.

11 MR CHAKALIAN: That sounds good.

12 So Mr. Feldewert, I -- so you're going  
13 to file competing applications that we're going to  
14 have a status conference on December 7; is that  
15 correct?

16 MR. FELDEWERT: I could do that, yes,  
17 sir.

18 MR CHAKALIAN: Okay. And does that  
19 violate the 30-day unwritten policy?

20 MR. FELDEWERT: Slightly by a couple  
21 weeks, yes.

22 MR CHAKALIAN: Ms. Bennett, how do you  
23 feel about that?

24 MS. BENNETT: So we would be going to  
25 hearing on January 4th? Yeah, that's fine. I mean,

1 thank you. I did just want to say that I understand  
2 the Division's preference to follow the guidance and  
3 orders that have been set out, but I also just did  
4 want to say that I don't think I'm asking to rush the  
5 process. We did file these applications in October,  
6 and so at this point it will have been multiples of  
7 months before we actually go to hearing.

8 And so -- and we did have a status  
9 conference on these cases earlier where if there's any  
10 sort of rush here -- virtual connectivity interruption  
11 --

12 MR CHAKALIAN: Ms. Bennett, you're  
13 muted. I can't hear you.

14 MS. BENNETT: This is Deana. I don't  
15 think I can hear you, but you can hear me at least for  
16 the moment. If we could just --

17 MR CHAKALIAN: We can, yes.

18 MS. BENNETT: I'll finish up what I was  
19 saying which is that I'm fine for January 4th. And  
20 then if you don't mind skipping over the next few  
21 status conferences to allow me to reconnect to audio  
22 since I'm counsel in the next few status conferences,  
23 I would really appreciate that.

24 MR CHAKALIAN: Okay.

25 All right, if there's nothing more on

1 those two cases, we'll skip down and past to number --  
2 a lot of skipping, Ms. Bennett.

3 I think we'll just take a five-minute  
4 break and let you fix your audio because you're on  
5 most of the cases for the next page and a half. Okay?  
6 Just nod if that's okay with you.

7 I have no idea if you can hear me, Ms.  
8 Bennett.

9 Let's take a five-minute break. It is  
10 11 -- it is, excuse me, 8:26 a.m. We'll come back at  
11 8:30, so four minutes from now. Thank you.

12 (Off the record.)

13 MR CHAKALIAN: Thank you to Ms. Vance  
14 for sending me the highlighted Division policy.

15 So I am now apprised of the 30 days  
16 prior to filing compulsory pooling application policy  
17 that we have here.

18 So Mr. Feldewert, I am not asking you  
19 to contradict this policy. So if you follow this  
20 policy, when would you be filing your competing  
21 applications?

22 MR. FELDEWERT: We would -- well, we  
23 would be filing -- we'd either have the option of the  
24 December 7th docket or the January 4th docket for new  
25 cases. I suppose we could file for the second docket

1 in January to get it on the Division's docket. That  
2 would be within the timeframe. It's up to you. I  
3 mean, you'll see in that Division policy that it says  
4 "absent extenuating circumstances" so you do have some  
5 flexibility there.

6 MR CHAKALIAN: I see.

7 MR. FELDEWERT: So, you know, it's up  
8 to you. I could file for the December 7th docket, the  
9 December 21st docket, or the January 4th docket. The  
10 only one that would arguably not fall within that 30-  
11 day timeframe given when the letters went out would be  
12 the December 7th docket because we'd have to file on  
13 or before November 7th, next Tuesday.

14 MR CHAKALIAN: Okay. I leave it to  
15 your discretion to follow this policy. And it looks  
16 like you'll be getting some applications in for our  
17 December 21st docket.

18 And Ms. Bennett, I think that still  
19 allows us to keep your contested hearings on the  
20 January 4th docket?

21 MS. BENNETT: Yes, it does. Thank you.

22 MR CHAKALIAN: Okay. Very good. Then  
23 that's how we will proceed there. Thank you.

24 So we're going to move on now.

25 MR. FELDEWERT: So hold on. I'm sorry,

1 just apologies. Just to be clear, you want me to file  
2 then for the December -- on the December 21st docket?

3 MR CHAKALIAN: Yes.

4 MR. FELDEWERT: Okay. Thank you very  
5 much.

6 MR CHAKALIAN: Okay. Thank you.

7 We're now calling 23845 through 23852,  
8 and I show Ms. Bennett and Mr. Feldewert are present.  
9 Are there any other parties in those cases?

10 No? Okay.

11 Ms. Bennett?

12 MS. BENNETT: Thank you, Mr. Hearing  
13 Examiner. In these cases, Franklin Mountain Energy  
14 filed applications again for the September 5th -- or  
15 on September 5th, and I believe in these cases we  
16 might be in the same situation where we were waiting  
17 for COG to submit competing applications.

18 My notes are a little unclear as to why  
19 these cases were protested by COG, so I'm interested  
20 in hearing from Mr. Feldewert about the status of any  
21 COG activities with respect to these cases.

22 MR CHAKALIAN: Okay.

23 Mr. Feldewert?

24 MR. FELDEWERT: Certainly. So COG has  
25 submitted competing oil proposals that are called

1 their Crow wells and then their Moaning Pheasant wells  
2 which again are in similar circumstance. I could file  
3 them for the December 21st docket.

4 MR CHAKALIAN: Okay.

5 So Ms. Bennett, are you asking for a  
6 contested hearing then on the January 4th docket?

7 MS. BENNETT: Yes, thank you.

8 MR CHAKALIAN: Then we will set these  
9 cases for contested hearings on the January 4 docket,  
10 and Mr. Feldewert will file his competing cases so  
11 that they appear on the December 21st docket; is that  
12 correct?

13 MR. FELDEWERT: Yes, sir.

14 MR CHAKALIAN: Okay. I'm going to just  
15 make some notes here.

16 MS. SALVIDREZ: Gregory, this is  
17 Marlene. Can I say something?

18 MR CHAKALIAN: Yes, please.

19 MS. SALVIDREZ: So I only notice once a  
20 month, and we notice at the beginning of the month.  
21 So I'm not sure what's going on regarding these cases  
22 being on the last docket of the month if we only  
23 notice once a month.

24 MR CHAKALIAN: Thank you. So Marlene,  
25 with that in mind and with this 30-day policy, and I

1 don't know if there are extenuating circumstances to  
2 depart from the policy. Mr. Feldewert?

3 MR. FELDEWERT: Well, there's no  
4 extenuating circumstances from COG's perspective.  
5 We're not aware of any drilling deadlines or anything  
6 like that that would, you know, require an  
7 acceleration of this matter. I know the parties are  
8 hopefully going to be in discussions, if not already.  
9 So I'm not aware of any extenuating circumstances.

10 MS. BENNETT: And Mr. Examiner, if I  
11 could just weigh in on this. I don't think we're  
12 asking for a departure from the policy. We could have  
13 these noticed on the January 4th docket, right, Mr.  
14 Feldewert? And that would be completely compliant  
15 with the policies?

16 MR. FELDEWERT: They could be filed on  
17 the January 4th docket. You would not have an order  
18 because we don't have case numbers.

19 MS. BENNETT: Right, but we could have  
20 a pre-hearing order for the Franklin Mountain Energy  
21 cases to be combined with the cases that you would be  
22 filing on the January 4th docket.

23 MR. FELDEWERT: If that would be the  
24 examiner's preference, I think we can make that  
25 happen, yeah.

1 MR CHAKALIAN: All right. Before we  
2 have any more back and forth between the parties --

3 MS. BENNETT: Sorry about that.

4 MR CHAKALIAN: -- I would ask the  
5 parties just to address the hearing examiner.

6 So it sounds to me -- this is what I'm  
7 hearing. I'm hearing that Franklin Mountain Energy is  
8 ready to proceed with a contested hearing. The  
9 problem here is that it doesn't allow COG to file its  
10 competing applications if it has to abide by this 30-  
11 day policy and our noticing practice that Marlene  
12 brought up.

13 So Marlene, do you have any  
14 suggestions?

15 MS. SALVIDREZ: -- November 7th, so  
16 they could be on the December 7th notice, and then  
17 they continue them to the January 4th docket.

18 MR CHAKALIAN: Mr. Feldewert?

19 MR. FELDEWERT: That's fine with me.  
20 Yeah, I can certainly file them as Marlene requested  
21 so we have case numbers on the December 7th docket.

22 MR CHAKALIAN: Ms. Bennett?

23 MS. BENNETT: That works. Thank you.

24 MR CHAKALIAN: All right. So I need to  
25 change my notes. Hold on a moment.

1 MR. FELDEWERT: You and me both.

2 MR CHAKALIAN: Okay. So we're still  
3 setting these Franklin Mountain Energy cases 23841,  
4 23842, 23845 all the way through 23852, we're still  
5 setting these for January 4 contested hearings, but we  
6 are requiring COG to file its competing application on  
7 or before November 7 so that Marlene can notice them  
8 for the December 7 docket.

9 Marlene, did I get that right?

10 MS. SALVIDREZ: That was perfect.

11 MR CHAKALIAN: Good. Okay. Anything  
12 more from the parties on these cases? No? Okay.  
13 Let's move on.

14 We're going to move on to another group  
15 of cases also involving Ms. Bennett, Franklin Mountain  
16 Energy, 23853 all the way through 23647 -- no, I  
17 apologize -- well, yes, I think we have consolidated  
18 cases all the way through 23647.

19 And it looks like we have Ms. Ryan?

20 MS. RYAN: Yes, good morning, Mr.  
21 Examiner. I'm entering appearance on behalf of COG  
22 Operating in these cases.

23 MR CHAKALIAN: And we have Mr.  
24 Feldewert again?

25 MR. FELDEWERT: Yes, sir. This time

1 for MRC Permian.

2 MR CHAKALIAN: Okay. Do we have any  
3 other entries of appearance for any of those cases  
4 that I just called? No? Okay.

5 What are we doing with these cases, Ms.  
6 Bennett?

7 MS. BENNETT: Thank you, Mr. Examiner.  
8 So I did file a request to have these cases  
9 consolidated today for a status conference, and in my  
10 filing I requested that these cases be set for a  
11 January 18th contested hearing. And it was an  
12 unopposed filing, so I think that that's pretty  
13 straightforward.

14 But then last night I was conferring  
15 with Franklin Mountain Energy and they told me, which  
16 I verified this morning, that MRC Permian has only  
17 filed competing applications for one slot within these  
18 Sections which is the west half east half. And  
19 whereas Franklin Mountain Energy has filed  
20 applications to cover the full Section, so the east  
21 half and the east half of the west half.

22 And so what I would like to do is with  
23 the permission of the parties and with the permission  
24 of the Division is set -- have some time for me to  
25 work with COG, who I think might be considering

1 submitting competing applications, but I'm not sure.  
2 And if they aren't, then have the flexibility to move  
3 forward with the cases where MRC Permian does not have  
4 competing applications.

5 MR CHAKALIAN: So then you don't want a  
6 January 18th contested hearing right now, you want to  
7 set these for a status conference?

8 MS. BENNETT: I think that might be the  
9 best thing is to set it for a status conference on the  
10 November 16th docket so that I can get some more  
11 clarity from COG and my clients and about the next  
12 steps here.

13 And I apologize for the timing of this,  
14 but I only realized this last night and confirmed it  
15 this morning.

16 MR CHAKALIAN: So before I turn to the  
17 other parties, we're talking specifically about cases  
18 23853 through 23867; is that correct?

19 MS. BENNETT: The -- well, the  
20 competing MRC Permian cases are the cases 23621 and  
21 23622, 23623, and 23647.

22 MR CHAKALIAN: And that's why I show  
23 them as consolidated. But we have objections filed to  
24 all of these cases by --

25 MS. BENNETT: Yes. Yes, Your Honor.

1 Yes, sir.

2 MR CHAKALIAN: So, okay. Mr. -- so  
3 basically then you're asking to set all of these cases  
4 for a status conference in two weeks?

5 MS. BENNETT: That would be my request.  
6 That would allow us to perhaps streamline the  
7 contested hearing on January 18th.

8 MR CHAKALIAN: Any objection to that,  
9 Mr. Feldewert?

10 MR. FELDEWERT: No.

11 MR CHAKALIAN: Any objection to that,  
12 Ms. Ryan?

13 MS. RYAN: No.

14 MR CHAKALIAN: No? Okay. Then we  
15 won't set this for a contested hearing yet. We will  
16 set this in two weeks for another status conference,  
17 all of these cases. Is there anything left on these  
18 cases today?

19 MS. BENNETT: No, nothing from me.  
20 Thank you very much for your consideration.

21 MR CHAKALIAN: Uh-huh.

22 MS. SALVIDREZ: Gregory, this is  
23 Marlene.

24 Can you file continuances today so I  
25 could get the docket out, please?

1 MS. BENNETT: Yes. Thank you, Marlene.

2 MS. SALVIDREZ: Thank you.

3 MR CHAKALIAN: Thank you, Marlene.

4 Okay. I am now calling case 23828.

5 This is Mr. Rankin and Ms. Shaheen, I believe.

6 MR. RANKIN: Good morning, Mr.

7 Examiner. Adam Rankin appearing on behalf of the  
8 Applicants for Energy Partners, LLC, with the Santa Fe  
9 office of Holland & Hart. I apologize. My camera is  
10 not working this morning.

11 MR CHAKALIAN: Okay. Ms. Shaheen?

12 MS. SHAHEEN: Good morning, Mr.

13 Examiner. Sharon Shahan, Montgomery & Andrews on  
14 behalf of Longfellow Energy.

15 MR CHAKALIAN: Okay. We have a status  
16 conference today based on an objection filed in this  
17 case. How are we proceeding?

18 MS. SHAHEEN: Mr. Examiner --

19 MR. RANKIN: Good morning, Mr.

20 Examiner. I'll let -- yeah, I'll let Ms. Shaheen go  
21 ahead.

22 MS. SHAHEEN: I understand that Spur  
23 Energy will be dismissing its request to extend time  
24 for drilling, and with that dismissal, Longfellow  
25 Energy does not object to this case going forward by

1 affidavit today.

2 MR CHAKALIAN: Today? Have the exhibit  
3 been filed in this case?

4 MR. RANKIN: Yes, Mr. Hearing Examiner,  
5 they have been filed.

6 MR CHAKALIAN: Okay.

7 So Ms. Shaheen, you're going to file a  
8 withdrawal of an objection?

9 MS. SHAHEEN: I can do that, Your  
10 Honor.

11 MR. RANKIN: Yes.

12 MR CHAKALIAN: Yeah, I'd like to have  
13 the record clean.

14 MS. SHAHEEN: Absolutely.

15 MR CHAKALIAN: And -- okay. And Mr.  
16 Rankin, you're prepared to proceed?

17 MR. RANKIN: We can proceed either now  
18 or towards the end of the docket if you'd like to get  
19 through the status conferences. However your  
20 preference.

21 MR CHAKALIAN: Yeah, and plus I'd like  
22 to give the technical reviewer time to look at this  
23 case as well.

24 Mr. McClure, any objection to that?

25 MR. MCCLURE: Which docket numbers are

1 we referring to?

2 MR CHAKALIAN: 30, number 30 on the  
3 docket.

4 MR. MCCLURE: Oh, only number 30?  
5 Okay.

6 MR CHAKALIAN: Only number 30.

7 MR. MCCLURE: Okay, yeah, that  
8 shouldn't be an issue especially if we do it like  
9 towards after lunch or something.

10 MR CHAKALIAN: Okay.

11 MR. MCCLURE: Well, I mean, I haven't  
12 looked at the -- I'm sorry, Mr. Examiner. I hadn't  
13 looked at the file at all yet, so you could give me a  
14 break and a chance --

15 MR CHAKALIAN: Mr. Rankin, I can't  
16 promise you what order we'll take this case in, but we  
17 will take it today based on the withdrawal that Ms.  
18 Shaheen files.

19 MR. RANKIN: Thank you, Mr. Examiner.  
20 The very end is fine with me just so long as we get it  
21 done today, I appreciate the opportunity to go  
22 forward.

23 MR CHAKALIAN: We will get it done  
24 today.

25 And Ms. Shaheen, will you send -- when

1 you file that withdrawal, will you copy and email --  
2 can see that you filed it?

3 MS. SHAHEEN: Will do.

4 MR CHAKALIAN: Okay. Thank you very  
5 much.

6 Let's move on to 23658. This is Ms.  
7 Hardy, it looks like?

8 MS. HARDY: That's correct, Mr.  
9 Examiner. Dana Hardy with Hinkle Shanor for Toro  
10 Operating.

11 MR CHAKALIAN: And we are set for a  
12 status conference. Are there any other parties in  
13 this case?

14 MR. TREMAINE: Yes, Mr. Hearing  
15 Examiner. This is Jesse Tremaine for the Oil  
16 Conservation Division. This case is before the  
17 Division as a notice demand from the Oil Conservation  
18 Division.

19 MR CHAKALIAN: Uh-huh. Good, thank  
20 you. Welcome.

21 Ms. Hardy, how do you want to proceed?

22 MS. HARDY: Mr. Examiner, OCD is I  
23 believe working on some permit conditions that would  
24 apply to authorization of this facility. So we're  
25 working with them on that, and I think we just need

1 more time. We haven't received OCD's proposal at this  
2 point, so we'd ask for another status conference to be  
3 set in these cases, and whatever date works for Mr.  
4 Tremaine is fine with me.

5 MR CHAKALIAN: Mr. Tremaine?

6 MR. TREMAINE: That is all correct.  
7 The details of this case that are taking some time are  
8 the permit conditions. We intend to -- or the  
9 Division prefers to come to terms in a settlement of  
10 the notice. So that's what we're working on right  
11 now, and we do need a little bit more time.

12 So either the second hearing this month  
13 or the December 7th date is fine with the Division.

14 MR CHAKALIAN: Which do you prefer?

15 MR. TREMAINE: The December 7th date.

16 MR CHAKALIAN: Okay. We will reset  
17 this case for a status conference on December 7 so the  
18 parties can work out the permit conditions with the  
19 Division. Okay.

20 MS. HARDY; Thank you, Mr. Examiner.

21 MR CHAKALIAN: Is there anything left  
22 in this case?

23 MR. TREMAINE: No.

24 MS. HARDY: Not from me.

25 MR CHAKALIAN: All right. I am calling

1 23091. It looks like we have a Mr. Morgan. Mr.  
2 Morgan, are you with us?

3 MR. MORGAN: Good morning, Mr.  
4 Examiner. Scott Morgan with Cavin & Ingram on behalf  
5 of Realeza Del Spear.

6 MR CHAKALIAN: Good morning. We have a  
7 motion and a response. Do we have any other parties  
8 with us today?

9 MR. FELDEWERT: Mr. Examiner, Michael  
10 Feldewert with Santa Fe Office of Holland & Hart  
11 appearing on behalf of Chevron USA.

12 MR CHAKALIAN: Thank you.

13 MR. Bruce: And Jim Bruce representing  
14 Cimarex.

15 MR CHAKALIAN: Very good, Mr. Bruce.  
16 Very good. So Mr. Bruce -- okay, which party filed  
17 the motion?

18 MR. MORGAN: That was Realeza Del  
19 Spear, Your Honor.

20 MR CHAKALIAN: Okay. Very good.

21 MR. MORGAN: Mr. Examiner, we filed  
22 that.

23 MR CHAKALIAN: Very good.

24 And Mr. Bruce, you responded?

25 MR. BRUCE: Correct.

1 MR CHAKALIAN: Okay. Very good.

2 MR. MORGAN: Mr. Examiner?

3 MR CHAKALIAN: Yes, Mr. Morgan?

4 MR. MORGAN: If I may, we are  
5 withdrawing our objection to this moving forward as  
6 well as that motion to continue. We filed that -- we  
7 didn't receive notice within the timeline allowed  
8 under the rules, so we'd be entitled to continuance.  
9 After review, it make sense for us to withdraw.

10 MR CHAKALIAN: Uh-huh. And Mr. Morgan,  
11 may I ask why you did not file any evidence for me to  
12 consider in your motion?

13 MR. MORGAN: There were two primary  
14 reasons. Number one, the quick turnaround on this  
15 based on when my clients actually received the notice.  
16 We weren't able to get an affidavit from them as  
17 quickly as we had hoped.

18 And then secondly, under the  
19 administrative code our clients were entitled  
20 regardless of evidence to a continuance because the  
21 notice was not received at least three days prior to  
22 the date that an entry of appearance and pre-hearing  
23 statement needed to be filed.

24 MR CHAKALIAN: Did you read the  
25 response that Mr. Bruce filed?

1 MR. MORGAN: I did.

2 MR CHAKALIAN: Okay. And is he correct  
3 that you -- that your client does not have a working  
4 interest in this?

5 MR. MORGAN: He is correct. He is  
6 correct, there is not a working interest there.

7 MR CHAKALIAN: So then why would your  
8 client be entitled to file the motion?

9 MR. MORGAN: Because they received the  
10 notice and they were made parties by Mr. Bruce. We  
11 didn't have time to review to determine within that  
12 kind of 12-hour period whether they did indeed have  
13 that working interest still.

14 MR CHAKALIAN: I see. Okay.

15 Okay, very good. Mr. Bruce, how do you  
16 want to proceed with this case?

17 MR. BRUCE: I would just group it with  
18 the others below for similar access starting at the  
19 bottom of this docket --

20 MR CHAKALIAN: Okay. I'm calling the  
21 other cases, sir. Hold on a second. They are on --  
22 they are number 44, 45, 46. They're going to be  
23 called in the order that they appear on the worksheet.  
24 So this case is grouped with those.

25 MR. BRUCE: Thank you.

1 MR CHAKALIAN: Okay. Thank you, Mr.  
2 Morgan. Was there anything else?

3 MR. MORGAN: No, Mr. Examiner. Thank  
4 you.

5 MR CHAKALIAN: Okay. Very good. Thank  
6 you, sir.

7 Mr. Feldewert, is there anything on  
8 this case?

9 MR. FELDEWERT: No, sir. Thank you.

10 MR CHAKALIAN: Okay, you're welcome.  
11 Thank you.

12 Okay, so the motion is withdrawn. What  
13 I'm understanding it would have been denied, but it  
14 was withdrawn.

15 So we're going to move on to 23659,  
16 Franklin Mountain Energy, and it looks like that is  
17 grouped with two other cases, 23660 and 61. And it  
18 looks like we have Ms. Bennet?

19 MS. BENNETT: Good morning. Deana  
20 Bennett on behalf of Franklin Mountain Energy in the  
21 Franklin Mountain Energy cases, and also, these are  
22 consolidated with the three MRC Permian cases that  
23 follow on the docket, 238 --

24 MR CHAKALIAN: And we have Mr. --

25 MS. BENNETT: Sorry.

1 MR CHAKALIAN: Right. And we have Mr.  
2 Feldewert?

3 MR. FELDEWERT: Yes, sir. Michael  
4 Feldewert with the Santa Fe office of Holland & Hart  
5 for MRC Permian who is an applicant, and Matador  
6 Production Company.

7 MR CHAKALIAN: Okay. And so those  
8 cases are 23811, 12, and 13; is that correct?

9 MR. FELDEWERT: Yes, sir.

10 MR CHAKALIAN: All right. And do we  
11 have any other parties entering an appearance on these  
12 six cases? No? Okay.

13 Ms. Bennett, let's start with you on  
14 your three cases.

15 MS. BENNETT: Thank you. So these  
16 cases were set a couple of months ago, and in the  
17 meantime MRC Permian submitted competing pooling  
18 applications. And so what we had agreed to at the  
19 last status conference was to have a status conference  
20 today. And my desire would be to get these set for a  
21 contested hearing on the next available docket date.

22 MR CHAKALIAN: Okay.

23 Mr. Feldewert?

24 MR. FELDEWERT: MRC likewise would like  
25 to proceed to hearing. They had mentioned these since

1 January, it looks like it's getting a number of  
2 contested cases on there. They had talked to me about  
3 having it on the February 15th docket.

4 MR CHAKALIAN: Marlene?

5 MS. SALVIDREZ: That's fine. There are  
6 no cases on that docket yet.

7 MR CHAKALIAN: February 15. Let me  
8 just check something here. Yes, February 15 sounds  
9 good. Okay. So we will put these six cases as  
10 consolidated for a contested hearing on the February  
11 15th docket.

12 MS. BENNETT: Mr. Examiner, is there  
13 any availability on the December 16th docket? Or is  
14 that docket completely full?

15 MR CHAKALIAN: My preference is to put  
16 these on the February 16th docket.

17 MS. BENNETT: Thank you.

18 MR CHAKALIAN: Okay. Is there anything  
19 left for these six cases before we move on?

20 MR. FELDEWERT: No. Thank you very  
21 much.

22 MS. BENNETT: Yes, thank you very much.

23 MR CHAKALIAN: Thank you.

24 We're down to our last few status  
25 conferences. I'm calling 23872, Spur Energy. Ms.

1 Hardy?

2 MS. HARDY: Yes, Mr. Examiner. Dana  
3 Hardy on behalf of Spur Energy Partners.

4 MR CHAKALIAN: We have Mr. Suazo? Is  
5 there someone here -- Ms. Hardy --

6 MR. PARROT: Your Honor, I'm sorry.

7 MR CHAKALIAN: Oh.

8 MR. PARROT: This is James Parrot with  
9 Beatty & Wozniak. I'm actually going to be  
10 substituting in for Mr. Suazo.

11 MR CHAKALIAN: Okay, great. Are you  
12 able to turn your camera on?

13 MR. PARROT: I'm working on it. It  
14 apparently is on the wrong camera, so if you can just  
15 give me one moment.

16 MR CHAKALIAN: Sure.

17 MR. PARROT: I think I'll have it  
18 working. There we go.

19 MR CHAKALIAN: There you are. Okay,  
20 welcome Mr. Suazo. And you said you are representing  
21 who?

22 MR. PARROT: So this is James Parrot  
23 with Beatty and Wozniak.

24 MR CHAKALIAN: Oh, excuse me.

25 MR. PARROT: Representing Riley

1 Permian.

2 MR CHAKALIAN: Okay. Very good. So  
3 you filed an objection to this going forward by  
4 affidavit?

5 MR. PARROT: Yes, sir.

6 MR CHAKALIAN: Okay. Very good. Are  
7 you submitting a competing application?

8 MR. PARROT: So I conferred with my  
9 client about that. They have a very large working  
10 interest in the north half of Section 10, and given  
11 that large working interest are evaluating options of  
12 potentially filing a competing application in the next  
13 couple of weeks.

14 MR CHAKALIAN: Ms. Hardy?

15 MS. HARDY: Mr. Examiner, based on that  
16 information, it sounds like we need to go ahead and  
17 set a contested hearing date. And I think Spur would  
18 like to have these heard sooner rather than later.  
19 I'm not sure when Mr. Parrot can file the competing  
20 application. I think we would request one of the  
21 January dockets for a contested hearing.

22 MR CHAKALIAN: Well, the January 4  
23 docket is full for contested hearings at this point.  
24 It would have to be the latter, but how does that 30-  
25 day policy that we spoke of earlier, how does that

1 affect his filing competing application?

2 MS. HARDY: Well, I think that if Mr.  
3 Parrot's going to file, he could do so by December --  
4 the first week in December for the first January  
5 docket, and then the cases could be continued to the  
6 January 18th docket.

7 MR CHAKALIAN: Mr. Parrot?

8 MR. PARROT: No problem with that, Mr.  
9 Examiner. Thank you.

10 MR CHAKALIAN: All right. Let me take  
11 some notes here. So we have a competing application.  
12 You're going to file by December 7th so we can have a  
13 status conference January 4 and a contested hearing  
14 January 18th; is that what I'm understanding?

15 MR. PARROT: That sounds like it's  
16 consistent with what you and Ms. Hardy just discussed.  
17 And just to be clear, Riley Permian has not actually  
18 told me to file a competing application yet, but if  
19 they make the decision that that will get filed, then  
20 my understanding is that we'll need to file it by  
21 December 7th.

22 MR CHAKALIAN: And if your client does  
23 not want to file a competing application, are you  
24 going to withdraw your objection?

25 MR. PARROT: Yeah.

1 MR CHAKALIAN: Okay.

2 MR. PARROT: For, you know, I know the  
3 parties are in some discussions. It's -- I suppose  
4 it's possible that Spur would withdraw its  
5 application.

6 MR CHAKALIAN: Okay.

7 Ms. Hardy?

8 MS. HARDY: That plan is fine with me,  
9 Mr. Examiner, and I assume after the parties reach an  
10 agreement that Spur's application would be withdrawn  
11 because definitely Riley is the only party that's  
12 being pooled. So if they're able to work this out,  
13 then I think we wouldn't need a hearing.

14 MR CHAKALIAN: Okay. Thank you for  
15 that information. I made the notes I need.

16 So then I'm not sure whether we should  
17 set this for a contested hearing for January 18. It  
18 seems like we have time to do this. What do you  
19 suggest, Ms. Hardy?

20 MS. HARDY: Well, Mr. Examiner, I think  
21 it would be helpful to set it for a contested hearing  
22 on January 18th and then if the issues are resolved,  
23 we could go ahead and dismiss the application.

24 But Spur does want -- does plan to  
25 drill these wells, and so we'd rather have it moving

1 forward instead of just in a holding pattern.

2 MR CHAKALIAN: Okay. So then you're  
3 expecting the Division to issue a pre-hearing order  
4 then?

5 MS. HARDY: Yes, correct.

6 MR CHAKALIAN: Okay.

7 Marlene, do you have any feedback?

8 MS. SALVIDREZ: We might be back in we  
9 just set this for a status conference on January 4th,  
10 and they can let us know what's happening before we  
11 actually issue a PHO. But it's up to you.

12 MR CHAKALIAN: If we set this for a  
13 status conference on January the 4th, would it still  
14 allow us time to issue a pre-hearing order for the  
15 18th of January?

16 MS. SALVIDREZ: Yes.

17 MR CHAKALIAN: Okay. That's what we'll  
18 do. We'll set this for a status conference, Ms.  
19 Hardy, since it sound like it's a 50-50 chance that  
20 this will go to a contested hearing from what I'm  
21 understanding today.

22 MS. HARDY: And Mr. Examiner, that's  
23 fine with me. I just want to be sure that we would be  
24 able to get a setting on the January 18th docket.

25 That's my concern about it is if we

1 wait until a status conference to set a contested  
2 hearing date, that docket may be full and then we're  
3 looking at February or March, and that's a significant  
4 amount of delay from Spur's filing of the application  
5 last month. That's my only concern about that plan.

6 MR CHAKALIAN: Uh-huh.

7 MS. HARDY: Because I think from Spur's  
8 perspective, we'd rather go ahead and have a hearing  
9 set on January 18th and then we can vacate it if we  
10 need to.

11 MR CHAKALIAN: Okay. We'll issue the  
12 pre-hearing order setting is for a contested hearing  
13 on January 18, and we'll set it for a status  
14 conference on January 4 to make sure the parties are  
15 prepared.

16 MS. HARDY: Thank you.

17 MR CHAKALIAN: Okay. Anything else,  
18 Mr. Parrot?

19 MR. PARROT: No. If it pleases the  
20 Division, I'll sign off. Thank you.

21 MR CHAKALIAN: Okay. Thank you, sir.

22 I am calling cases 23614, 15, 16, and  
23 17. And it looks like we have Mr. Rankin, Mr.  
24 Padilla, Ms. Hardy, and Ms. Shaheen. Are there any  
25 other parties besides what I just called? No?

1                   Okay. Mr. Rankin, I have your motion.  
2 I have no response yet from the other parties. Are  
3 the other parties going to file a response?

4                   MS. SHAHEEN: Your Honor, Sharon  
5 Shaheen, Montgomery & Andrews on behalf of Empire. We  
6 do plan to file a response, absolutely, and no later  
7 than November 10th.

8                   MR CHAKALIAN: Okay.

9                   MS. SHAHEEN: I understand that the  
10 motion will be heard on the 16th?

11                   MR CHAKALIAN: I'm going to set it for  
12 a hearing, for a motion hearing on the 16th, yes. And  
13 I wanted to work out the time with the parties today  
14 during the status conference. But let me ask Mr.  
15 Padilla and Ms. Hardy.

16                   Are you also planning on filing  
17 responses?

18                   MR. PADILLA: No.

19                   MR CHAKALIAN: Okay.

20                   MR. PADILLA: But we're not going to  
21 file a separate response. We're all filing together.

22                   MS. HARDY: That's correct.

23                   MR CHAKALIAN: Okay. Very good. So  
24 Ms. Shaheen, you say that you'll have this filed by  
25 the 10th; is that correct?

1 MS. SHAHEEN: If that's acceptable to  
2 you.

3 MR CHAKALIAN: It is. It doesn't give  
4 Mr. Rankin a lot of time to reply, but so be it.

5 Mr. Rankin, when do you think you'll  
6 file your reply?

7 MR. RANKIN: Well, Mr. Examiner, it's  
8 hard to know what they're going to say what I may  
9 respond and how I may need to respond. But I do  
10 believe that I made a suggestion to counsel that we  
11 make an attempt to confer over the issues.

12 And I believe the motion that we're  
13 discussing -- I mean, we did file two motions, and one  
14 was a motion to compel, production of documents that's  
15 on the face of their exhibits and testimony were  
16 obviously not produced and were responsive to our  
17 subpoena.

18 And so my request to them is that we  
19 confer in advance of their filing any response to  
20 allow us time to determine whether we can eliminate  
21 some of the issues or arguments or points of dispute  
22 so therefore the -- you know, what needs to actually  
23 be briefed will be more narrow.

24 So, you know, that was late yesterday,  
25 and I haven't heard back from them yet, but I do hope

1 that we can proceed with some sort of conference to  
2 discuss the scope of what wasn't produced so we can  
3 hopefully narrow the issues.

4 So my hope is that we will be able to  
5 confer, and that following that conference we will  
6 have a more narrow set of issues to brief and argue  
7 over. So given that, given the uncertainty around  
8 that, I think I can't exactly answer your question.

9 MR CHAKALIAN: Certainly.

10 MR. RANKIN: But I will file a reply  
11 before we have the argument.

12 The other thing, Mr. Examiner, and I  
13 just want to address your timing, and we can do that  
14 separately, based on your proposal to have a special  
15 hearing date. But I do want to just address that at  
16 some point.

17 MR CHAKALIAN: Great. Go right ahead.

18 MR. RANKIN: So Mr. Examiner, given the  
19 timeframes here and the potential scope of the issues,  
20 you have suggested a special hearing date set sometime  
21 between November 28th and the 30th, which works for  
22 our witnesses just fine.

23 The concern I have, though, is that if  
24 we don't hear argument until the 16th and then we wait  
25 some time for an order, even if we have it at the

1 moment, you know, on that date, even if we have a  
2 verbal direction to parties about what to produce, it  
3 doesn't give us much time, it doesn't give Empire much  
4 time to produce what documents may be responsive.

5 And based on their evidence and  
6 testimony, I think there's going to be a substantial  
7 number of documents that will need to be produced. So  
8 it doesn't give them much time to produce those  
9 documents, nor does it give us much time on the other  
10 end to review them before having to turn around and  
11 put them into exhibits and prepare cross-examination  
12 for hearing on the 20th of -- you know, sometime  
13 between the 20th and 30th.

14 So my concern is that setting a special  
15 hearing date at the end of November just does not give  
16 either party enough time to either produce the  
17 documents or to review them.

18 MR CHAKALIAN: Okay. I understand that  
19 argument.

20 Ms. Shaheen?

21 MS. SHAHEEN: Thank you, Mr. Examiner.  
22 Yes, I disagree with Mr. Rankin. Without going into  
23 the merits of his motion at this time, it's Empire's  
24 position that much of what Goodnight is now demanding  
25 is actually public record.

1           And the parties had an agreement that  
2 we would not be producing public record documents and  
3 data that's available in the public record. So that  
4 information has been available to them from the very  
5 beginning.

6           So we don't anticipate that there will  
7 be much if anything responsive to the motion to compel  
8 that the parties haven't already agreed does not need  
9 to be produced.

10           As another example, the parties agree  
11 that attorney-client privilege or work product would  
12 not need to be produced, and we believe that a good  
13 portion of what Mr. Rankin is now saying we need to  
14 produce falls within that category as well.

15           So that said, we think this hearing  
16 should go forward as soon as possible, and we don't  
17 think that there's an additional need for time to  
18 address what arguably may be responsive to the motion  
19 to compel.

20           MR CHAKALIAN: Okay.

21           Ms. Hardy or Mr. Padilla, do you have  
22 anything to add to that?

23           MR. PADILLA: Not for me.

24           MS. HARDY: No, Mr. Examiner. I agree  
25 with Ms. Shaheen.

1 MR CHAKALIAN: Mr. Rankin and Ms.  
2 Shaheen, I would like to have these hearings sooner  
3 than later, which is why I proposed late November, but  
4 I also understand Mr. Rankin's argument, and now I  
5 understand Ms. Shaheen's position a little better.

6 I think what I'll do is I'll let the  
7 parties respond first to the motion -- the two motions  
8 that were filed by Mr. Rankin. And I believe that on  
9 the 16th of November at the end of the oral argument  
10 on the motions I believe we'll be able to set a date  
11 for the special hearing either in late November or in  
12 nearly December.

13 But I'll leave that timeframe open for  
14 now for the parties to, as you say, winnow down the  
15 issues that are in contention here and they can  
16 negotiate further.

17 So Ms. Shaheen, does that sound  
18 acceptable to you?

19 MS. SHAHEEN: It does, Mr. Examiner.  
20 And the only other thing I would like to note is that  
21 we understand that the motion to continue which was in  
22 the alternative a motion to exclude is now removed  
23 because you continued the hearing, and I just wanted  
24 to confirm that on the record.

25 MR. RANKIN: Yeah, Mr. Examiner, I

1 would agree. However, I'll just reserve the right to,  
2 obviously to address, you know, motions in limine or  
3 at the hearing, motions, any concerns we have about  
4 what has or hasn't been produced. So obviously we  
5 reserve the right to make arguments and objections to  
6 testimony and evidence at the time.

7 MR CHAKALIAN: The parties always have  
8 the right to make objections at a hearing, so that's  
9 my policy. I couldn't see it any other way.

10 Ms. Shaheen, can you clarify what  
11 you're asking me to say on the record?

12 MS. SHAHEEN: I'd just like to make  
13 sure that the parties agree and that you also agree  
14 that the motion to continue or in the alternative to  
15 exclude evidence is now moot since the motion -- the  
16 hearing's been continued, and therefore, we don't need  
17 to file a response. That's the only thing I want to  
18 clarify.

19 MR CHAKALIAN: I understand perfectly.  
20 Give me a moment to look at the motion to continue.  
21 Hold on one second.

22 Mr. Rankin, would you -- were they both  
23 filed on the 31st?

24 MR. RANKIN: They were filed  
25 contemporaneously, yeah.

1 MR CHAKALIAN: -- continue to a status  
2 conference or in the alternative exclude Empire's  
3 evidence and testimony. Motion to continue case  
4 numbers 14 through 17 to a status conference on this  
5 -- you're right. That is moot, correct, by my  
6 decision to hold a special hearing either in late  
7 November or in early December depending on the issues,  
8 the outcome of the motion hearing on November 16.

9 So yes, Ms. Shaheen. You are correct.  
10 That's not in contention, and you don't have to  
11 respond to that because in essence, we're already  
12 doing that, although we're not obviously excluding any  
13 evidence at all.

14 That being said, let's figure a time  
15 for the motion hearing on the 16th of November. Do  
16 you -- let's start with you, Mr. Rankin.

17 MR. RANKIN: Let me just pull up my  
18 calendar. I believe that's the normal docket date.  
19 So I suppose we could have that argument at the end of  
20 the docket. I don't know how -- I haven't yet had an  
21 opportunity to review what that docket looks like, but  
22 perhaps either at the end of that docket may be an  
23 appropriate time to address the parties' positions.

24 MR CHAKALIAN: Uh-huh.

25 Ms. Shaheen?

1 MS. SHAHEEN: I'm available any time  
2 during the November 16th docket.

3 MR CHAKALIAN: Ms. Hardy and Mr.  
4 Padilla, are you both available?

5 MR. PADILLA: Yes.

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

7 MR CHAKALIAN: Okay. Wonderful.  
8 Marlene, what does that docket look  
9 like now?

10 MS. SALVIDREZ: We have around 30 cases  
11 right now, and adding cases, you know, 11 to 29 will  
12 make it around 50. So it should be a small docket.

13 MR CHAKALIAN: Yeah, I'm not sure what  
14 you mean by 11 through 29; what are you speaking  
15 about?

16 MS. SALVIDREZ: So we had a status  
17 conference on today's worksheet the numbers 11 through  
18 29 cases. Those will be continued to November 16th as  
19 a status conference, so we have around -- with adding  
20 those cases, we'll have around 60 cases.

21 MR CHAKALIAN: Now I understand what  
22 you were talking about. I see. Okay. But they are  
23 still status conferences, so they shouldn't take too  
24 much time.

25 MS. SALVIDREZ: Correct. And it's a

1 small docket, so.

2 MR CHAKALIAN: Okay. So we will add  
3 cases 23614, 15, 16, and 17 to the end of the November  
4 16 docket for a motion hearing.

5 Mr. Rankin, if you do file a reply, I  
6 do want time to -- I do want to have time to review  
7 it, so I need to set a deadline for the reply. Do you  
8 have a suggestion?

9 MR. RANKIN: Well, based on my  
10 experience with you, Mr. Hearing Examiner, I think  
11 you're very effective and efficient at reviewing  
12 filings quickly.

13 I would request, Mr. Examiner, that I  
14 be given at least until, you know, I'd like to be able  
15 to, you know, confer with the client and be able to  
16 have a wholesome response.

17 So I would like to be given until the  
18 15th, perhaps until the, you know, I don't know what  
19 time you need, but maybe until noon on the 15th or so.  
20 That would just give me the time to put together a  
21 response and have the client review it.

22 MR CHAKALIAN: All right. That doesn't  
23 leave me a lot of time for review, Mr. Rankin, because  
24 we have meetings on the afternoon before a docket to  
25 review any issues in upcoming dockets, which you

1 obviously don't know our inner workings here.

2 So I would say I would need your reply,  
3 if there is going to be a reply, by about 10 a.m. on  
4 the 15th. Does that give you enough time?

5 MR. RANKIN: I will make it work, Mr.  
6 Examiner.

7 MR CHAKALIAN: Okay. Thank you.

8 MR. RANKIN: Mr. Examiner, one other  
9 item I think that I would like to see happen in this  
10 case.

11 MR CHAKALIAN: Yes?

12 MR. RANKIN: I did mention it to  
13 counsel yesterday in the emails to keep the confer  
14 over the discovery issue.

15 In the exhibits that they filed, there  
16 were a number, five of them, that were very difficult  
17 to read, key elements of the exhibits that make it  
18 hard for us to interpret the significance, the  
19 meaning, and other, you know, important issues in  
20 those exhibits.

21 And I would ask that Empire prepare  
22 replacement exhibits so that those exhibits can be  
23 legible. And I can identify them for you, but --

24 MR CHAKALIAN: Yes. Would you give me  
25 a moment, let me -- I would like to look at those.

1                   So these are the filings that Empire --  
2                   MR. RANKIN: Yes.  
3                   MR CHAKALIAN: Okay.  
4                   And I see 369 pages, Ms. Shaheen?  
5                   MS. SHAHEEN: That sounds about right.  
6                   MR CHAKALIAN: Okay. Very good.  
7                   MS. SHAHEEN: We're happy to replace  
8 those with legible exhibits. If Mr. Rankin can't read  
9 them, I'm sure I'm going to have even more trouble.  
10                  MR. RANKIN: Right.  
11                  MR CHAKALIAN: So Mr. Rankin, do you  
12 have some page numbers for me to look at?  
13                  MR. RANKIN: Well, I have exhibit  
14 numbers and some of them are multiple pages, but I can  
15 give the exhibit numbers, and I think it sounds like  
16 Ms. Shaheen will agree, but I'm happy to read them to  
17 you over the record here.  
18                  It's Exhibit -- Empire Exhibit E2, E as  
19 in elephant.  
20                  MR CHAKALIAN: Okay. Hold on, let me  
21 find it. Oh. Let's see, it is 300 and I'm on E1 now  
22 at page 302. I have it. It's page 305 of the 369-  
23 page PDF.  
24                  MR. RANKIN: Yes. The depth track on  
25 the left side is not legible. I cannot read it.

1 MR CHAKALIAN: I see. So Exhibit E2;  
2 are there any others?

3 MR. RANKIN: Yes, Mr. Examiner.  
4 Exhibits F1, F3, F4, and F6 all suffer from similar  
5 issues where it's just not possible to read key  
6 depths, you know, headings. It's just difficult to  
7 read. You can't quite make out --

8 MR CHAKALIAN: Ms. Shaheen, do you have  
9 the full list from Mr. Rankin on the exhibits that  
10 need to be clarified?

11 MS. SHAHEEN: I believe I have E2, F1,  
12 F3, F4, F6, and if it's in the email that Mr. Rankin  
13 sent yesterday, I have that as well. So we will do  
14 our best to provide more legible exhibits.

15 MR CHAKALIAN: Okay. So Ms. Shaheen,  
16 instead of having competing documents filed, what I'd  
17 like you to do is I'd like you to file an amended  
18 exhibit with a new date of whatever date you're going  
19 to submit these clarifications.

20 And we will replace this original  
21 exhibit filing with the amended exhibit filing so that  
22 the reviewers don't get confused with this as well.

23 MS. SHAHEEN: Okay. Just to make sure  
24 I understand, you want me to file an entire new  
25 exhibit package?

1 MR CHAKALIAN: Yes.

2 MS. SHAHEEN: Okay. Got it.

3 MR CHAKALIAN: Yes, definitely. Okay,  
4 thank you very much.

5 Is there anything else on these four  
6 cases?

7 MR. RANKIN: No, Mr. Chairman. I  
8 believe that covers it. And I hope that we'll have  
9 some progress on our winnowing down of the issues so  
10 that the briefing can be more focused. And I look  
11 forward to that with discussions with counsel.

12 MR CHAKALIAN: Wonderful. Let me make  
13 some notes on this, and then we'll move on to Mr.  
14 Bruce's cases will be next.

15 MR. MOELLENBERG: Mr. Hearing Examiner?

16 MR CHAKALIAN: Yes?

17 MR. MOELLENBERG: This is Dal  
18 Moellenberg. I believe that you may have skipped over  
19 the cases beginning with 23853 for a status  
20 conference, and I had a matter to address there.

21 MR CHAKALIAN: Okay. Very good. Let  
22 me get to that. Give me one moment to make notes here  
23 and then we'll come back to what you just pointed out  
24 to me. Give me one second here.

25 MR. MOELLENBERG: Thank you.

1 MR CHAKALIAN: So we have a response  
2 November 10, reply by 10 a.m. We have amended  
3 exhibits.

4 Okay, Mr. Moellenberg, would you give  
5 me the number on our worksheet, please?

6 MR. MOELLENBERG: Thank you, Mr.  
7 Hearing Examiner. Sorry for the interruption.

8 This is the cases beginning with 23853  
9 through I think 23867.

10 MR CHAKALIAN: And what are those  
11 numbers on our docket?

12 MR. MOELLENBERG: Starting with number  
13 11.

14 MR CHAKALIAN: Mr. Moellenberg, I  
15 believe we dealt with these cases this morning. We  
16 had Ms. Ryan, we had Ms. Bennett, Mr. Feldewert. I  
17 called for any other parties and didn't hear you say  
18 anything.

19 MR. MOELLENBERG: Mr. Hearing Examiner,  
20 there may have been some confusion because I think  
21 that you dealt -- you called the cases preceding that  
22 up to 23852, and then you skipped to the cases  
23 beginning with 23621. I was here listening to that --

24 MR CHAKALIAN: No, 23621 --

25 MR. MOELLENBERG: -- but I didn't hear

1 you call the cases beginning with number 11.

2 MR CHAKALIAN: Okay, I --

3 MR. MOELLENBERG: Those are the only  
4 cases I had appeared on.

5 MR CHAKALIAN: I understand. I did  
6 call 23853 through 23867, and they are combined with  
7 23621 through 23647. We did discuss the cases. Let  
8 me tell you what we discussed, and then by all means  
9 please address whatever I'm missing here.

10 We have set these for a status  
11 conference on November 16.

12 MR. MOELLENBERG: Mr. Hearing Officer,  
13 let me explain what the situation is for this group of  
14 cases.

15 So I had filed an appearance in the  
16 cases beginning with item 11 on Friday. On Monday, a  
17 motion was filed proposing to set these cases for a  
18 contested hearing on January 18th. However, I wasn't  
19 served with that motion.

20 So I think this -- my recollection is,  
21 and I'll defer to Ms. Bennett here, but I don't think  
22 these cases have been dealt with in the status  
23 conference. And again, I think the pending motion was  
24 to set these for a contested hearing on January 18th.

25 MR CHAKALIAN: Okay, Mr. Moellenberg.

1 MR. MOELLENBERG: I became aware -- I  
2 wasn't served with that motion and just became aware  
3 of it this morning when I checked the docket.

4 MR CHAKALIAN: Mr. Moellenberg, which  
5 party are you representing in these cases?

6 MR. MOELLENBERG: Occidental Permian  
7 Limited Partnership.

8 MR CHAKALIAN: Okay. All right. Very  
9 good.

10 Ms. Bennett, did we not deal with these  
11 cases this morning?

12 MS. BENNETT: Thank you, Mr. Examiner.  
13 We did deal with these cases this morning, and Mr. --  
14 I apologize that I did not serve Mr. Moellenberg with  
15 the motion to set these cases for a contested hearing.  
16 It was completely inadvertent.

17 But we did address these cases earlier  
18 today, and it was my request to the Division that  
19 these cases be set for a status conference on November  
20 16th rather than have them set for the contested  
21 hearing on January 18th due to some developments --  
22 they're not actually developments, but information  
23 that I became aware of last night.

24 MR. MOELLENBERG: Okay.

25 Mr. Hearing Examiner, then it must have

1     been my mistake. I got mixed up with the case  
2     numbers.

3                   MR CHAKALIAN: Okay.

4                   MR. MOELLENBERG: So no problem with  
5     the status conference on November 16th.

6                   MR CHAKALIAN: Okay. Is there anything  
7     -- do you need anything else from us today, Mr.  
8     Moellenberg?

9                   MR. MOELLENBERG: Thank you, Mr.  
10    Examiner. No, I don't. If we're set for a status  
11    conference on November 16th, that'll be fine.

12                  MR CHAKALIAN: We are. We're set for a  
13    status conference on that date for the case numbers on  
14    the docket, our docket number 11 all the way through  
15    number 29. So it's a substantial amount of cases that  
16    are being consolidated together.

17                  MR. MOELLENBERG: Okay. Fair enough.  
18    And sorry for missing the call of those.

19                  MR CHAKALIAN: Yeah, happy to clear up  
20    the confusion.

21                  Okay. It looks like we're going now to  
22    hearings, uncontested hearings. I'm going to call Mr.  
23    Bruce's cases 23088 Cimarex, 23089, 90, and 91 since  
24    that motion has been withdrawn.

25                  Mr. Bruce, are you ready to continue?

1 MR. BRUCE: Yes, sir.

2 MR CHAKALIAN: All right. And then do  
3 we -- Mr. Feldewert, are you representing Holland &  
4 Hart in this case?

5 MR. FELDEWERT: I am with Holland &  
6 Hart representing Chevron USA.

7 MR CHAKALIAN: Thank you. Okay. And  
8 Mr. Feldewert, you have no objection to this going  
9 forward as affidavit?

10 MR. FELDEWERT: I do not.

11 MR CHAKALIAN: Okay, great.

12 Mr. Bruce, it's your show.

13 MR. BRUCE: Okay, Mr. Examiner. I'll  
14 briefly explain what is being requested, and I might  
15 go into a little history because these matters have  
16 been pending now for two years.

17 First of all, this all relates to  
18 acreage in Township 25 South, Range 27 East, and the  
19 zone being pooled is what has been called the Harkey,  
20 H-A-R-K-E-Y formation, which is actually the lower  
21 Bone Spring.

22 The first case seeks to pool that  
23 formation in the west half west half of Sections 8 and  
24 17. The second case involves the east half west half  
25 of Sections 8, 17 and 20, so the first well is a two-

1 mile lateral. The remaining three wells are three-  
2 mile laterals. The case 90 involves the west half  
3 east half of Sections 8, 17, and 20. And then the  
4 final case involves the east half east half of  
5 Sections 8, 17, and 20.

6 As I said, these are lower Bone Spring  
7 only. There is a history between Chevron and Cimarex  
8 in these matters. Originally both Bone Spring and the  
9 Wolfcamp were involved. There were competing  
10 applications between Chevron and Cimarex. There was a  
11 related case to the south which was decided by the  
12 Division and was appealed de novo to the commission.

13 And because the same legal issues were  
14 involved, these cases were raised up to the  
15 commission, but then Chevron and Cimarex settled out,  
16 and so these cases were remanded to the Division, and  
17 that's why we're here now.

18 Actually, I think Mr. Feldewert can  
19 correct me, but there were actually two sets of  
20 Chevron cases filed. The first set was dismissed, and  
21 then the other ones were dismissed when the parties  
22 were settled. And Cimarex has filed three sets of  
23 applications on this acreage, so my file is one of the  
24 thicker ones I have sitting around on my desk.

25 And because of that, you know, there

1 was that notice issue which Mr. Morgan raised,  
2 actually three sets of notices were sent out to all of  
3 the interest owners regarding these matters over the  
4 past couple of years, so there is quite a history.

5 The exhibit packages are virtually  
6 identical except for the wells involved. The Exhibit  
7 1, the pooling checklist; Exhibit 2, the landman's  
8 affidavit with the usual land plat C-102 ownership  
9 list, summary of contacts, and proposal letter and the  
10 AFEs.

11 I would note that the AFEs originally  
12 filed in these matters were from October 2021, so I  
13 had the Cimarex prepare new AFEs, and those are the  
14 ones that are submitted to the Division with these  
15 applications.

16 And the new AFEs have also been sent  
17 out to all of the working interest owners so that they  
18 have a better idea of the costs involved.

19 Exhibit 3 is the geologist's affidavit  
20 with the usual structure, isopach, cross-section, et  
21 cetera, showing that the zone is continuous across  
22 this area and is amenable to horizontal drilling.

23 Exhibit 4 is my affidavit of mailing.  
24 Exhibit 4A is the list of parties being pooled in each  
25 well. Exhibit 4B is the notice letter to the primary

1 working interest owners which are Chevron, MRC  
2 Permian, and MRC LIKE, and Premier. And Exhibit 4C is  
3 the notice letter that went out to a number of key  
4 either mineral interest owners or fee lessors on the  
5 last case, number 91.

6 There is Exhibit 5, the certified  
7 notice spreadsheet. Exhibit 6, the affidavit of  
8 publication which was timely published. And then in  
9 each case, Exhibit 7 is the pertinent application and  
10 proposed notice.

11 I would note that MRC also entered  
12 appearance via Kyle Perkins, an in-house attorney for  
13 MRC, and Mr. Feldewert can confirm this, but confirmed  
14 by email that they have no objection to these matters  
15 proceeding forward by affidavit.

16 But with that, in each matter I would  
17 ask that Exhibits 1 through 3 plus the sub-exhibits in  
18 Exhibits 2, 3, and 4 be admitted into the record and  
19 that the matters be taken under advisement.

20 MR CHAKALIAN: Okay. The exhibits are  
21 here thereby admitted into evidence. Let's turn to  
22 our technical examiner, Mr. McClure.

23 MR. MCCLURE: Thank you, Mr. Hearing  
24 Examiner.

25 Mr. Bruce, on your pooling checklist,

1 and it may be included in the application here and in  
2 the fine details, I guess, but it just mentions in the  
3 pooling checklist that the depth severance is not in  
4 the zone being pooled. Where is that depth severance  
5 located at, I guess?

6 MR. BRUCE: On the -- there's two  
7 things, Mr. McClure. I'm glad you raised the pooling  
8 checklist. Before I get to your question, I'll say  
9 one thing is that the new AFEs I got did not include  
10 the measured depth for each well, so I've asked that  
11 of my client, and I will refile these pooling  
12 checklists to fill in the measured depth. All they  
13 gave me was the total vertical depth.

14 On page 1 of each pooling checklist,  
15 there's a stratigraphic definition of the zone being  
16 pooled specifying a certain well, and it goes to the  
17 base of the Bone Spring formation. Not being a  
18 geologist, I don't really know where that begins.  
19 I've always kind of thought that it might be basically  
20 the -- right around the top of the -- Bone Spring. If  
21 you want me, I can ask that info of my geologist.

22 And I don't know that there's been as  
23 such a depth severance, Mr. McClure. It's just that  
24 there are existing wells on certain of this acreage as  
25 noted in the applications themselves. And nobody has

1 objected to the overlapping well units, and in one  
2 there's two operators in a well unit, both Cimarex and  
3 Chevron.

4 I don't know that there's a depth  
5 severance, but because of those existing wells, only  
6 this zone is being pooled, and those other wells are  
7 completed in a higher zone than what is being pooled  
8 here.

9 MR. MCCLURE: Okay. So to your  
10 understanding there may not even be a depth severance  
11 then; is that correct, Mr. Bruce?

12 MR. BRUCE: I will ask that. I think  
13 it's simply being done because of the existing wells  
14 out there in this area.

15 MR. MCCLURE: Okay. Thank you, sir.  
16 Yeah, I was just sitting here looking at it, and I  
17 mean, technically it would probably -- if there's not  
18 a depth severance, then I guess the statement there is  
19 absolutely correct because it's not in the zone being  
20 pooled, if there isn't one.

21 But if we could get additional clarity,  
22 I guess, as to if there is a depth severance where  
23 that's at. And if there's not, if we could then  
24 change that to "no" when you go to refile the pooling  
25 checklist.

1 MR. BRUCE: Okay. I'll get that info.

2 MR. MCCLURE: Okay. Very good. And  
3 yes, your reference to maybe having an identifier  
4 that's common to the state of New Mexico rather than  
5 the state of Texas in regards to the Harkey formation.  
6 If we could get maybe a little bit more detail as to  
7 where we're referring to that here.

8 I hadn't reviewed the type log myself,  
9 but I'm assuming you're likely correct that it's  
10 either the Bone Spring 2 Lime or the Bone Spring 2  
11 Sand. I'm not really sure. But if we could get some  
12 -- maybe some additional clarity as to what the  
13 stratigraphic equivalent is of the type log reference  
14 there.

15 MR. BRUCE: Yeah, I'm always confused.  
16 I've only really dealt with two sets of cases where  
17 they were seeking to force pool the Harkey Formation,  
18 and I suppose that's because this is pretty much close  
19 to the state line with Texas, so.

20 MR. MCCLURE: It is right there, yeah.  
21 And maybe the equivalent of the Harkey Formation does  
22 -- I mean, I would assume it doesn't stop at the state  
23 line. But I just know that commonly speaking our  
24 district geologists here don't use that designation, I  
25 guess, that being Harkey Formation.

1                   But I have noticed that several  
2 operators do use it in the state of New Mexico,  
3 internally at least, and I think Mewbourne is one of  
4 them. Oh, I guess this is Cimarex, excuse me. I'm  
5 guessing Cimarex as well, then.

6                   Now, the more detailed -- you got pen  
7 and paper handy, Mr. Bruce?

8                   MR. BRUCE: Yes, sir.

9                   MR. MCCLURE: Okay. The correct pools  
10 in this area, pool code 97816. That covers the  
11 entirety of Section 8 and the east half of Section 17  
12 and east half of Section 20.

13                  MR. BRUCE: Okay.

14                  MR. MCCLURE: And then for the rest of  
15 that area it is pool code 97494 which covers the  
16 relevant stuff here is the west half of Section 17 and  
17 the west half of Section 20.

18                  MR. BRUCE: Okay.

19                  MR. MCCLURE: So what we're going to  
20 need to do is on your pool name and pool code on the  
21 pooling checklist if you just want to include both of  
22 those pools in there. And then we'll also need new C-  
23 102s included with those proper designations.  
24 Essentially each well that has more than one pool will  
25 also have more than one C-102, a C-102 for each of the

1 pools.

2 MR. BRUCE: Got you.

3 MR. MCCLURE: And essentially we --

4 MR. BRUCE: What are the --

5 MR. MCCLURE: Go ahead.

6 MR. BRUCE: What are the names of 97816  
7 and 97494, the pools?

8 MR. MCCLURE: 97816 is alphabet of --  
9 well, letters and numbers, essentially it's WC-015 G-  
10 02 S252715A; Bone Spring.

11 MR. BRUCE: Okay. So G-0252527158?

12 MR. MCCLURE: A. And there's an "S" in  
13 there, as well. It could potentially be more  
14 convenient, perhaps, if I can send you an email after  
15 the hearing with this exact?

16 MR. BRUCE: Yeah, please do. That'd be  
17 great. Thank you.

18 MR. MCCLURE: And the other one's a lot  
19 easier, though. That one there's a Wildcat pool. The  
20 other one is much easier. The other one is simply  
21 Cottonwood Draw; Bone Spring. And that's for the  
22 97494.

23 MR. BRUCE: Okay. Thank you.

24 MR. MCCLURE: Yes, sir. If you don't  
25 have an answer for this, then I'll withdraw the

1 question. But the only other question I had is are  
2 you aware, is there a well in the west half of the  
3 west half of Section 20? That's why it's not being  
4 included?

5 MR. BRUCE: Yes, I believe there is.

6 MR. MCCLURE: Okay.

7 MR. BRUCE: I think it's a Cimarex  
8 well. Cimarex or Chevron, I can't remember. But I  
9 will look that up, and I will respond to you  
10 accordingly.

11 MR. MCCLURE: Okay. Very good. Thank  
12 you, Mr. Bruce. I think that's all I had in my notes  
13 for these four cases.

14 MR CHAKALIAN: Mr. McClure, I have a  
15 question for you.

16 MR. MCCLURE: Go ahead.

17 MR CHAKALIAN: We have posted a notice  
18 effective January 23, 2020, on our website that  
19 everyone is required to comply with, and part of the  
20 notice requires that the compulsory pooling  
21 application checklist and other documents must be  
22 filed timely. If they're not filed timely, then we  
23 either dismiss the case or the applicant files a  
24 continuance and resubmits the information.

25 Now, in this case, the checklist was

1 submitted, it's just incorrect or incomplete; is that  
2 what I'm hearing?

3 MR. MCCLURE: I guess the main thing  
4 that's incomplete on is Cimarex is missing their  
5 measured depth, as Mr. Bruce had called out. In  
6 regards to the pools, I would be tempted to give him a  
7 little bit of latitude simply because knowing the  
8 appropriate pools is difficult for the operators  
9 because a lot of that's kept internal to the OCD.

10 So without very good communication back  
11 and forth with the OCD, that's definitely a common  
12 error that can definitely occur there.

13 MR CHAKALIAN: Well, what I'm asking  
14 you is for some help. In this case, there was a  
15 checklist submitted. It's just missing the measured  
16 depth. At what point does this -- at what point does  
17 our policy require that someone comply with this  
18 policy, or is an error such as measured depth not  
19 considered a violation of the policy?

20 MR. MCCLURE: To be honest, Mr. Hearing  
21 Examiner, I guess I'm not sure if we've defined  
22 exactly at what point we're going to have the cut-off.  
23 My personal recommendation would be perhaps to go  
24 ahead and take it under advisement.

25 MR CHAKALIAN: Okay.

1 MR. MCCLURE: But, I mean --

2 MR CHAKALIAN: Okay. That's good  
3 enough.

4 MR. MCCLURE: What in the policy we  
5 define, you know, is something we should stick with.  
6 But I guess I'm not sure. I apologize, Mr. Hearing  
7 Examiner. I don't have a very good answer for you on  
8 that.

9 MR CHAKALIAN: You've answered my  
10 question.

11 So it's a gray area here, Mr. Bruce,  
12 when it comes to the error on this checklist, and it  
13 sounds like we're going to take these cases under  
14 advisement as long as you file the corrected checklist  
15 according to what Mr. McClure asked you to do.

16 Mr. McClure, when do you want this  
17 filed?

18 MR. MCCLURE: Have we been giving them  
19 ten business days? Is that what we've been giving  
20 them?

21 MR CHAKALIAN: So can I have a date to  
22 put in my notes?

23 MR. MCCLURE: Oh, I apologize.

24 MR CHAKALIAN: And Mr. Feldewert, did  
25 you have anything to add since your camera's on?

1 MR. FELDEWERT: No. Thank you for  
2 asking.

3 MR CHAKALIAN: You're welcome.

4 MR. MCCLURE: That would be November  
5 16th.

6 MR CHAKALIAN: Okay.

7 So Mr. Bruce, are you clear about the  
8 -- what's going on here?

9 MR. BRUCE: Yeah. Mr. McClure was very  
10 clear what he needs, and I'll get that done.

11 MR CHAKALIAN: Perfect. And this is  
12 very different, this measured depth error is very  
13 different from the other cases in which the affidavit  
14 wasn't filed at all, and so that's why you will not  
15 have to file a continuance in these cases.

16 MR. BRUCE: Thank you.

17 MR CHAKALIAN: Okay. And that's why  
18 we're going to take these under advisement. Let me  
19 make a note here before we move on.

20 MR. BRUCE: Thank you.

21 MR CHAKALIAN: Okay. We are going to  
22 move on to case 23725 and 26. We have Ms. Bennett?

23 MS. BENNETT: Good morning, again.  
24 Deana Bennett on behalf of Marathon Oil Permian LLC in  
25 this case.

1 MR CHAKALIAN: And I believe we have  
2 Mr. Rodriguez from Tap Rock. Or is that not the case?

3 MS. BENNETT: Mr. Rodriguez is on the  
4 call today, but he did not -- enter an appearance in  
5 the cases.

6 MR. RODRIGUEZ: Good morning. That is  
7 correct.

8 MR CHAKALIAN: Okay. So Mr. Rodriguez,  
9 since I have a note here with your name on it, what  
10 involvement do you have in this case?

11 MR. RODRIGUEZ: We are working  
12 interest. Tap Rock Operating, LLC is a working  
13 interest owner in these cases. I believe Marathon and  
14 Tap Rock have been negotiation a JOA which is close to  
15 being wrapped up, and so the exhibits as they're  
16 presented today do not show Tap Rock as a pooled  
17 party, so I have not entered my appearance in these  
18 cases.

19 However, I believe there's some new  
20 advancements that I think Ms. Bennett is going to  
21 discuss here momentarily.

22 MR CHAKALIAN: Okay.

23 Ms. Bennett?

24 MS. BENNETT: Thank you. Yes, as Mr.  
25 Rodriguez mentioned, the parties have been working

1 towards completing a JOA even as recently as last  
2 night and this morning, but they haven't quite  
3 finalized the JOA terms yet. And so with that new  
4 information, I had been hoping that the JOA would be  
5 executed by -- in order for us to move forward with  
6 the uncontested hearing today.

7 But given where we are right now, I  
8 would throw myself on the Division's mercy and ask for  
9 these cases to be continued to November 16th. They  
10 will be uncontested, and Mr. -- at least that's our  
11 goal because we are in the final minutes, I think, of  
12 working through this JOA. But we just aren't quite  
13 there yet.

14 So I would ask that the Division allow  
15 me to submit a late-filed motion to continue which  
16 will be unopposed and set these cases for an  
17 uncontested hearing on November 16th.

18 MR CHAKALIAN: Okay. Let me check with  
19 Marlene, but that sounds fine with me. Let me see if  
20 Marlene has any objection to that.

21 MS. SALVIDREZ: I don't have any  
22 objections if you can file them by today, please?

23 MS. BENNETT: Understood. And will do.  
24 Thank you.

25 MR CHAKALIAN: So we will reset -- we

1 will continue upon the proper filing and payment of  
2 fees case number 23725 and 23726 to the November 16  
3 docket for a uncontested affidavit hearing.

4 MS. BENNETT: Thank you.

5 MR CHAKALIAN: All right. Let's move  
6 on to 23755. This is Marathon Oil, Ms. Bennett, and  
7 Mr. Rankin or Mr. Feldewert for Holland & Hart for  
8 Fasken.

9 MS. BENNETT: Yes, good morning, Mr.  
10 Examiner. Deana Bennett on behalf of Marathon Oil  
11 Permian.

12 MR CHAKALIAN: Good morning. It looks  
13 like the other party --

14 MR. FELDEWERT: Good morning.

15 MR CHAKALIAN: Hello?

16 MR. FELDEWERT: Good morning, Mr.  
17 Examiner. Michael Feldewert with Santa Fe office of  
18 Holland & Hart for Fasken.

19 MR CHAKALIAN: And you withdrew your  
20 objection?

21 MR. FELDEWERT: We did, yes.

22 MR CHAKALIAN: Okay. Very good. So  
23 this case can proceed to hearing by affidavit?

24 MR. FELDEWERT: Yes, sir.

25 MR CHAKALIAN: Okay, great.

1                   Let's proceed, Ms. Bennett.

2                   MS. BENNETT: Thank you very much. So  
3 Mr. Examiner and technical examiners, we filed our  
4 exhibits timely on Tuesday and the exhibit packets are  
5 for our case 23755 which are the Marathon Decimus  
6 wells. And in these cases, Marathon is seeking to  
7 pool uncommitted mineral interest owners in a standard  
8 1,280-acre Wolfcamp spacing unit.

9                   And this is within the Purple Sage  
10 Wolfcamp pool which has special pools, and Marathon's  
11 application complies with the setbacks for the special  
12 pool rules for the Purple Sage Wolfcamp.

13                   Just really quickly, Marathon does have  
14 two proximity tracked wells identified in the  
15 compulsory pooling checklist and its application which  
16 allows it to create this larger standard spacing unit.  
17 The exhibits I filed contain the usual suite of  
18 exhibits.

19                   Tab A is the compulsory pooling  
20 checklist, Tab B is the self-affirmed declaration of  
21 Ryan Gyllenband who's previously testified before the  
22 Division and his credentials have been accepted as a  
23 matter of record. And his declaration includes the  
24 applications, C-102s, lease tract map, summary of  
25 contacts, the proposal letter, AFE's, and my notice

1 affidavit.

2 One comment about my notice affidavit  
3 is that I inadvertently failed to send a notice letter  
4 to one of the overriding royalty interest owners in my  
5 first batch of mailings, and so there's a second batch  
6 of mailing for a single overriding royalty interest  
7 owner, and that's identified in my notice packet.

8 And then Tab C is the self-affirmed  
9 declaration of Marathon's geologist, and he's  
10 previously testified before the Division, and his  
11 credentials have been accepted as a matter of record.  
12 And his exhibits contain the usual suite of exhibits,  
13 locator maps, structure maps, cross-section reference  
14 map, a cross-section isopach,

15 And then his final exhibit is an  
16 excerpt from the Snee-Zoback paper showing the stress  
17 orientation in this area.

18 So with that, I would ask that these  
19 exhibits behind Tab A -- well, the exhibits in Tab A,  
20 Tab B, and Tab C be admitted into the record and that  
21 this case be taken under advisement. And I'm happy to  
22 stand for any questions the Division may have.

23 MR CHAKALIAN: Your exhibits are  
24 admitted into evidence.

25 Mr. McClure?

1 MR. MCCLURE: Thank you, Mr. Hearing  
2 Examiner.

3 Ms. Bennett, you have identified as the  
4 parties being forced pooled as simply Exhibit B3. Is  
5 there a little bit more detail in regards to which  
6 persons in Exhibit B3 as being forced pooled?

7 MS. BENNETT: Yes, thank you for asking  
8 that question. The very last pages of Exhibit B3  
9 contain a separate document entitled "Parties to be  
10 Pooled." And that goes through the working interest  
11 owners, the unleased mineral interest owners, and the  
12 overriding royalty interest owners, so it's a separate  
13 sub-document within Exhibit B3. And it looks like  
14 that's on page 26 of the PDF, if that's helpful for  
15 you.

16 MR. MCCLURE: Page 26 of 85 as we got  
17 stamped in the imaging, I guess, on OCD?

18 MS. BENNETT: I'd have to look at the  
19 -- I pulled up what I filed, and it doesn't have the  
20 stamped. It could be -- let me -- I can pull that up  
21 real fast. What is your -- sorry, what does your page  
22 26 say on the top of it?

23 MR. MCCLURE: Yeah, that's all right.  
24 I'm going to go with that. Mine says "Summary of  
25 Contacts."

1 MS. BENNETT: Okay. If you could  
2 scroll up just two pages, so what would be page 24 for  
3 you.

4 MR. MCCLURE: Okay. And what's at the  
5 top of that is, well, "Summary of Interests" and then  
6 it has a table that says "Committed Working Interests"  
7 and it goes into "Uncommitted Working Interests." And  
8 continues on to "Unleased Mineral Owners," "Overriding  
9 Royalty Interest Owners." Is that what you're  
10 referring to?

11 MS. BENNETT: No. I'm wondering if  
12 we've have some sort of glitch again where what I  
13 intended -- what I show as being filed isn't what  
14 actually appears in the Division's record as being  
15 filed. So I'm going to pull up the Division's --  
16 what's been filed in the Division's records real  
17 quickly. It'll just take me a second to do that,  
18 though. And hopefully I can help us get to the bottom  
19 of this.

20 MR. MCCLURE: Yeah, thank you, Ms.  
21 Bennett.

22 MS. BENNETT: All right. So now I am  
23 looking at what we filed. I'm not sure how that  
24 happened, but in looking at what we filed, my two  
25 pages that identify the parties being pooled is not

1 within this -- what we filed. It is simply, though, a  
2 recap of page 24 of 85 and 25 of 85 minus the  
3 committed working interest owners at the top.

4 I do show that in the materials that I  
5 filled, but for some reason they're not showing up in  
6 your files. So I'm happy to submit just those two  
7 pages if that would be helpful for you, Mr. McClure.

8 MR. MCCLURE: Yes, Ms. Bennett. We're  
9 going to need -- I would definitely like to have  
10 something submitted more than just a verbal record, I  
11 guess, in the transcript here.

12 MS. BENNETT: Yes. I -- so I'm happy  
13 to submit that as soon as the hearings are over. I  
14 will say that I did go back in after we filed all of  
15 our exhibits and made sure that -- for these, anyway,  
16 made sure that the table of contents was in these.

17 But I didn't think to look at further  
18 down in the document to see if anything had been  
19 dropped out. So I apologize for that, and I will file  
20 them as soon as possible.

21 MR CHAKALIAN: So before we continue,  
22 what I'm understanding, Mr. McClure, is that there is  
23 a essential document that needs to be filed that's not  
24 part of this application?

25 MR. MCCLURE: I mean, I would consider

1 it essentially, yeah, because they need to tell us  
2 which persons they're planning on pooling --

3 MR CHAKALIAN: Right.

4 MR. MCCLURE: -- before asking us to  
5 force pool.

6 MR CHAKALIAN: I'm just putting it in  
7 my own words, so --

8 MR. MCCLURE: Oh, yes. I apologize.

9 MR CHAKALIAN: I would agree with you.

10 So, Ms. Bennett, as I earlier discussed  
11 with Mr. Bruce, when a package is not complete we  
12 either dismiss the case or you file for a continuance  
13 according to the policy that I read earlier. Does  
14 that sound fair?

15 MS. BENNETT: Yes. I would request  
16 then that this case be continued so that I can file  
17 the updated exhibit packet. I understand where you're  
18 coming from, Mr. Hearing Examiner, and I'm happy to  
19 comply.

20 I do -- I'll do a double check,  
21 thorough double check before we come to hearing again  
22 just to make sure that the number of pages that I have  
23 included in our submission match was is actually  
24 reflected in your files. But as I mentioned, those  
25 two pages are definitely in the PDF that I created to

1 file, and so I'm not sure how they didn't get uploaded  
2 into the Division's files.

3 But I will endeavor to do a better job  
4 of double checking the numbers of pages before we get  
5 to hearing so this doesn't come up again.

6 MR CHAKALIAN: I'm not questioning your  
7 accuracy and meticulousness. It's just that there is  
8 a policy that's been posted since January 23rd of 2020  
9 that talks about the requirement to file a motion to  
10 continue no later than five business days after the  
11 hearing if a packet is not complete.

12 And it sounds like Mr. McClure is  
13 saying the packet is not complete, and I don't hear  
14 you arguing that point.

15 MS. BENNETT: I am -- so I will argue  
16 that point if you would like, but I also don't want to  
17 take the Division's time on arguing a point that the  
18 Division may already have ruled on.

19 But just in my own defense, I will say  
20 that the packet does contain a list of uncommitted  
21 mineral interest owners, unleased mineral interest  
22 owners, and overriding royalty owners. And my  
23 materials do state that Marathon is seeking to pool  
24 the uncommitted mineral interest owners, uncommitted,  
25 and the overriding royalty interest owners.

1           And so it's been my understanding that  
2 the Division has requested a list of parties to be  
3 pooled that confirms the parties that are to be  
4 pooled, but I do believe my application materials as  
5 they stand support the -- or identify the parties to  
6 be pooled.

7           That would be my argument, but I  
8 understand Mr. McClure's point and your point, and so  
9 happy to comply.

10           MR CHAKALIAN: Okay. Sounds good. I  
11 understand what you're saying is the data is there is  
12 some format, but it sounds like you're going to be  
13 submitting something that clarifies that data and  
14 makes it much easier for the Division to work your  
15 application. Is that correct?

16           MS. BENNETT: Yes.

17           MR CHAKALIAN: Okay. Very good. So  
18 please file a continuance within five days of today  
19 and then submit your document. I don't know that we  
20 have to -- I mean, we'll reopen the hearing on the  
21 next docket. Would the 16th work for you?

22           MS. BENNETT: Yes, Mr. Hearing  
23 Examiner, and I will file the continuance today so  
24 that we can make sure that we're on the November 16th  
25 docket for Ms. Salvidrez's guidance.

1 MR CHAKALIAN: Sounds good. We will  
2 finish up this hearing.

3 Mr. McClure, are there any other  
4 questions for Ms. Bennett?

5 MR. MCCLURE: Very -- well, more  
6 comments than questions.

7 MR CHAKALIAN: Go ahead, please.

8 MR. MCCLURE: Thank you, sir.

9 Ms. Bennett, in addition can we please  
10 re-scan and re-upload the admin checklist -- or,  
11 excuse me, the pooling checklist? You're missing the  
12 partial -- you're missing a band on the right-hand  
13 side of the document which does have relevant data  
14 including, essentially the township is cut off within  
15 there.

16 MS. BENNETT: Yes. I will rescan that.  
17 If it is convenient for you, Mr. McClure, would it be  
18 better if I just resubmitted an entire exhibit packet  
19 given these two separate issues?

20 MR. MCCLURE: I mean, based upon the  
21 earlier, I guess, discussion in this hearing, then I'd  
22 probably say probably yes. It probably would be more  
23 convenient.

24 The only other thing to point out when  
25 you're taking care of that pooling checklist as well

1 is the Purple Sage Wolfcamp pool is a gas pool, not an  
2 oil pool.

3 MS. BENNETT: Right. Yeah, thanks. I  
4 inadvertently -- that's a cut-and-paste issue. I'll  
5 fix that as well. Thank you.

6 MR CHAKALIAN: So Ms. Bennett, to  
7 answer the question, yes, please just amend -- file an  
8 amended exhibit list instead of, you know, bits and  
9 pieces of the exhibits.

10 And Mr. McClure, once she files the  
11 amended exhibit list and we continue this to November  
12 16th, what are you going to want on the 16th to either  
13 see or hear to take these cases under advisement?

14 MR. MCCLURE: I would say just to have  
15 that extra two pages that is in Ms. Bennett's original  
16 PDF that didn't make it into our file as well as a new  
17 pooling checklist that includes the entirety of it  
18 rather than a missing piece of it. And then that one  
19 minor typo or one minor change.

20 MR CHAKALIAN: Okay.

21 MR. MCCLURE: So essentially -- excuse  
22 me, sir, I apologize. To be more precise, we don't  
23 really need to hear anything other than yes, we  
24 submitted the updated PDF or the correct PDF.

25 MR CHAKALIAN: Perfect. And then you

1 can verify the missing pages at that time, right, Mr.  
2 McClure?

3 MR. MCCLURE: Yeah, my intent would be  
4 to leave a note for the next technical examiner or  
5 else look at it myself and let them know that it  
6 matched, essentially would be my --

7 MR CHAKALIAN: Of course, I'll have  
8 notes as well. Okay. So let me make some notes, Ms.  
9 Bennett, and then we'll end this hearing. We won't  
10 actually close the record, we'll just keep the record  
11 open for your submission. And we will reopen this on  
12 November 16 to answer that simple question, and then  
13 we'll take it under advisement at that time.

14 MS. BENNETT: Thank you very much. I  
15 appreciate that.

16 MR CHAKALIAN: Yes, of course. And Ms.  
17 Bennett, in your own words, what is the document that  
18 is missing? It's just a list of interest owners, is  
19 that what you'd call it?

20 MS. BENNETT: It's the parties to be  
21 pooled list.

22 MR CHAKALIAN: Thank you.

23 All right. If there's nothing further,  
24 we're going to move on to Spur Energy 23871. Looks  
25 like we're having an affidavit hearing.

1 Ms. Hardy?

2 MS. MCLEAN: Hi, Mr. Examiner. It's  
3 me, Jackie McLean for Hinkle Shanor on behalf of Spur  
4 Energy Partners.

5 MR CHAKALIAN: Ms. McLean, the floor is  
6 yours.

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

8 In case number 23871, Spur is applying  
9 for an order setting the time to commence drilling the  
10 Darko 25 Federal 20H, 21H, and 30H wells. And the  
11 Division had previously issued order number R22418 in  
12 case number 23012 on December 5, 2022, which approved  
13 a 320-acre horizontal spacing unit and these wells.

14 And that order provides that it will  
15 terminate if Spur fails to commence drilling the wells  
16 by December 5, 2023, unless good cause is shown. And  
17 good cause does exist for an extension because Spur  
18 has been unable to commence drilling the wells due to  
19 continued delays in the issuance of federal drilling  
20 permits.

21 And for that reason, Spur is requesting  
22 an extension for the deadline to commence drilling  
23 until December 5, 2024. We submitted an exhibit  
24 packet for this case that contains Exhibit A, the land  
25 professional testimony of Rhett Dalton which includes

1 a copy of the application, proposed notice and order  
2 that Spur is seeing to extend.

3 And then we have Exhibit B, notice  
4 testimony of my partner, Dana Hardy, that includes a  
5 notice letter sent to the parties, copies of the  
6 certified green cards and white slip returns, and an  
7 affidavit of publication in the Hobbs News-Sun for  
8 October 15, 2023.

9 And unless there are additional  
10 questions, I'd ask that Exhibits A and B be taken into  
11 the record in case number 23871 and that the case be  
12 taken under advisement.

13 MR CHAKALIAN: Ms. McLean, your  
14 exhibits are entered into evidence.

15 Mr. McClure?

16 MR. MCCLURE: I have no questions for  
17 this case, Mr. Hearing Examiner.

18 MR CHAKALIAN: Very good.

19 Ms. McLean, we will take your case  
20 under advisement as it stands now.

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

22 MR CHAKALIAN: Thank you.

23 I am now calling case 23873, Mewbourne  
24 Oil. Mr. Bruce?

25 MR. BRUCE: Yes, sir, I'm here.

1 MR CHAKALIAN: I don't believe there's  
2 any other parties, and I think you're proceeding by  
3 affidavit?

4 MR. BRUCE: Yes.

5 MR CHAKALIAN: Can you please proceed?

6 MR. BRUCE: Mr. Examiner, referring to  
7 Exhibit 1 you'll see that Mewbourne seeks to force  
8 pool all of Section 14 and all of Section 15, 18  
9 South, 29 East as to the Bone Spring formation.

10 This is a non-standard unit. The non-  
11 standard unit has been approved as noted in the  
12 checklist by administrative order NSP 2170. There are  
13 four wells involved which are noted in the second page  
14 of the pooling checklist.

15 The Exhibit 2 is the landman's  
16 affidavit with sub-exhibits which contain the usual C-  
17 102s, track maps, ownership lists, summary of  
18 contacts, and AFEs.

19 And Exhibit 3 is the geologist's  
20 affidavit with the structure map cross-section and the  
21 horizontal drilling plans. They show that the zone is  
22 continuous across the non-standard unit and amenable  
23 to development by horizontal drilling. Exhibit 4 and  
24 4A are my affidavit plus the notice of letter.

25 Everyone was sent certified notice.

1 Not everyone -- oh, I should say that the only two  
2 parties being pooled, WPX and MRC did receive  
3 certified notice. I did publish notice, and that is  
4 attached as Exhibit 6, although that affidavit of  
5 publication is superfluous because everyone received  
6 certified notice.

7 And then Exhibit 7 is the application  
8 and the proposed notice. I believe the exhibit  
9 package is complete, and the only other thing I  
10 noticed that when you are going through the exhibit  
11 package, the C-102s and the proposal letter contained  
12 the old well names. You know, the stand land office  
13 and the BLM are in the process of changing over  
14 terminology regarding well numbering for the Bone  
15 Spring.

16 So the pooling checklist does have the  
17 current well names on it, but those two, obviously the  
18 proposal letter but the C-102s which were prepared  
19 quite some time ago had the old well names, also.

20 But with that, I believe the exhibit  
21 package is complete, so I'd move the admission of  
22 Exhibits 1 through 7 plus sub-parts and ask that the  
23 matter be taken under advisement.

24 MR CHAKALIAN: Mr. Bruce, your exhibits  
25 are admitted into evidence.

1 Mr. McClure?

2 MR. MCCLURE: No questions on this  
3 case, Mr. Hearing Examiner.

4 MR CHAKALIAN: Thank you, Mr. McClure.  
5 Mr. Bruce, this case will be taken  
6 under advisement.

7 MR. BRUCE: Thank you.

8 MR CHAKALIAN: Thank you, sir.

9 I'm now calling Colgate Operating LLC,  
10 cases 23876, 77, 78, 79, 80, and 81.

11 Ms. Hardy?

12 MS. MCLEAN: It's me again, Jackie  
13 McLean.

14 MR CHAKALIAN: Ms. McLean, sorry about  
15 that.

16 MS. MCLEAN: No worries. Jackie McLean  
17 from Hinkle Shanor on behalf of Colgate Operating.

18 MR CHAKALIAN: And I believe you're  
19 proceeding by affidavit?

20 MS. MCLEAN: That's correct, Mr.  
21 Examiner.

22 MR CHAKALIAN: Please proceed.

23 MS. MCLEAN: Thank you.

24 In case numbers 23876 to 23881, Colgate  
25 is requesting a one-year extension of time to commence

1 drilling the Wombat 13 Fed Com wells. Order numbers  
2 R22429 to to R22433 required Colgate to commence  
3 drilling the Wombat 13 Fed Com 204H, 203H, 134H, 123H,  
4 and 134H wells by December 5, 2023. And order number  
5 R22533 requires Colgate to commence drilling the  
6 Wombat 13 Fed Com 133H well by March 10, 2024.

7 And again, these orders required the  
8 wells to be drilled within one year unless good cause  
9 is shown. And good cause does exist in these cases  
10 for an extension of time to commence drilling the  
11 wells because Colgate's ability to drill the wells has  
12 also been impacted by continued delays with federal  
13 permits as well as revisions to Colgate's drilling  
14 schedule as a result of the merger of Colgate and  
15 Centennial Resources.

16 For that reason, in case numbers 23876  
17 to 23880, Colgate is requesting a one-year extension  
18 until December 5, 2024, to commence drilling the  
19 wells. And in case number 23881, Colgate is  
20 requesting a one-year extension until March 10, 2025,  
21 to commence drilling the 133H well.

22 And Colgate has provide an exhibit  
23 packet in each case. They're the same Exhibit A, the  
24 self-affirmed statement of New Mexico Land Lead Travis  
25 Macha which includes the application and proposed

1 notice of hearing along with a copy of the orders that  
2 Colgate is seeking to extend.

3 And then Exhibit B, the notice  
4 testimony which includes a copy of the notice letter  
5 sent to all interested parties, a chart showing when  
6 the letter was sent out and when the return was  
7 received, as well as certified mail receipts and  
8 returns and an affidavit of publication for October  
9 13, 2023.

10 And I ask that Exhibits A and B be  
11 admitted into the record for case numbers 23876,  
12 23877, 23878, 23879, 23880, and 23881 and that the  
13 cases be taken under advisement. And I'm happy to  
14 answer any questions that you might have.

15 MR CHAKALIAN: Ms. McLean, your  
16 exhibits are entered into evidence.

17 Mr. McClure?

18 MR. MCCLURE: No questions for any of  
19 these six cases, Mr. Hearing Examiner.

20 MR CHAKALIAN: Okay. We will take  
21 these six cases under advisement.

22 MS. MCLEAN: Thank you.

23 MR CHAKALIAN: Thank you, Ms. McLean.

24 I am now calling Permian Resources  
25 23882, 23883, and 23884. I believe that we have Ms.

1 Hardy -- or Ms. McLean, sorry. Ms. McLean, I should  
2 get used to this by now.

3 And I believe we have Mr. Blake Jones  
4 with us?

5 MR. JONES: Yes. Blake Jones with  
6 Steptoe & Johnson monitoring the cases on behalf of  
7 Northern Oil and Gas.

8 MR CHAKALIAN: So you don't object to  
9 these cases proceeding by affidavit?

10 MR. JONES: No, we do not.

11 MR CHAKALIAN: Okay, very good.

12 Ms. McLean?

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

14 In case numbers 23882, 23883, and 23884, Permian  
15 Resources is applying for an order pooling all  
16 uncommitted interests in the Bone Spring formation  
17 underlying a 320-acre more or less standard horizontal  
18 spacing unit comprised of the east half west half,  
19 west half east half, and east half east half of  
20 Sections 1 and 2, Township 20 South, Range 35 East in  
21 Lea County, New Mexico.

22 And Permian intends to dedicate these  
23 spacing units to the King Eider 12 Fed Com 502H, 503H,  
24 504H, and 505H wells. And the exhibit packet  
25 submitted to the Division for case numbers 23882,

1 23883, and 23884 all contain the same three exhibits.

2 Exhibit A, land professional testimony  
3 of Mason Maxwell and related standard land exhibits  
4 including a platted tracts, ownership interest, pooled  
5 parties, a well proposal letter, and summary of  
6 communications.

7 And Mr. Maxwell has not previously  
8 testified before the Division, so we've included a  
9 copy of his resume as Exhibit A1 and would like to  
10 qualify Mason Maxwell as an expert in petroleum land  
11 matters.

12 MR CHAKALIAN: Okay. Give me a moment  
13 to look at his CV.

14 MS. MCLEAN: Thank you.

15 MR CHAKALIAN: Mr. Jones, any objection  
16 to this witness being qualified as an expert?

17 MR. JONES: No objection.

18 MR CHAKALIAN: Do we have a page  
19 number, Ms. McLean, for your parties' CV?

20 MS. MCLEAN: Yes, I do. It is page 8  
21 of 40. That's in case number --

22 MR CHAKALIAN: I'm here. Thank you.

23 So I see that he has a bachelor of  
24 business administration that he achieved May of '22.

25 MS. MCLEAN: That's correct.

1 MR CHAKALIAN: I show some land work  
2 from June -- as an intern June of 2020 and then he is  
3 now a land negotiator since June of 2022 after his  
4 internship ended.

5 MS. MCLEAN: Yes, and I believe he's  
6 been, you know, with American Association of  
7 Professional Landmen since August 2019. He's been  
8 working as a landman throughout his time in college.  
9 So he has, you know, several years of experience as a  
10 landman. More than I do, that's for sure.

11 MR CHAKALIAN: Okay. All right, sounds  
12 good. And you're seeking to qualify him as an expert  
13 as a landman?

14 MS. MCLEAN: Yes, correct. In land  
15 matters, petroleum land matters.

16 MR CHAKALIAN: Okay. Seeing that  
17 there's no objection to my qualifying him as such,  
18 then I will qualify him as an expert as a landman. So  
19 please proceed.

20 MS. MCLEAN: Thank you, Mr. Examiner.  
21 Exhibit B is the geology testimony of Ira Bradford who  
22 has testified previously before the Division. And  
23 this includes a regional locator map, cross-section  
24 map, Bone Spring subsea structure maps, structural  
25 cross-section, a stratigraphic cross-section, and a

1 gun barrel development plan.

2 And then Exhibit C noticed testimony  
3 which includes a copy of the notice letter sent to the  
4 parties to be pooled, the copies of the certified  
5 mailed green cards and white slip returns, and an  
6 affidavit of publication in the Hobbs News-Sun for  
7 October 15, 2023.

8 And unless there are additional  
9 questions, I ask that Exhibits A, B, and C be admitted  
10 into the record in case numbers 23882, 23883, and  
11 23884, and that the cases be taken under advisement.

12 MR CHAKALIAN: Ms. McLean, your  
13 exhibits are admitted into evidence.

14 Mr. McClure?

15 MR. MCCLURE: Mr. Hearing Examiner, I  
16 have no questions on any of these three cases.

17 MR CHAKALIAN: Mr. McClure, Ms. McLean,  
18 your cases are now taken under advisement. Thank you.

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

20 MR CHAKALIAN: Let's take a ten-minute  
21 break. It is -- well, let's take an eight-minute  
22 break. It is 10:22 a.m. right now. Let's come back  
23 at 10:30 to continue.

24 And Mr. Bruce, it'll be your case at  
25 that point; 23889 and 90 will be up next.

1 (Off the record.)

2 MR CHAKALIAN: -- the hearings for the  
3 Oil Conservation Division. I am calling 23889, 23890.

4 Mr. Bruce?

5 MR. BRUCE: Yes, sir. In these cases  
6 collectively Mewbourne is seeking to force pool two  
7 well units which together cover the northwest quarter  
8 of Section 9, the north half north half of Section 8,  
9 and the north half north half of Section 7, 21 South,  
10 27 East.

11 The exhibit packages are virtually  
12 identical. The pooling checklist is Exhibit 1, and  
13 fortunately I believe it's complete this go-around.  
14 And then the landman's affidavit contains the usual  
15 sub-exhibits, the C-102s, the plats, ownership lists,  
16 proposal letter, and AFE.

17 Geologist's affidavit contains the  
18 usual structure map and cross-sections showing that  
19 the zone is continuous across the proposed well units.  
20 And Exhibit 4 is the affidavit of mailing. There were  
21 a couple of people who did not receive notice as shown  
22 on the certified notice spreadsheet Exhibit 5.

23 An affidavit of publication is attached  
24 as Exhibit 6. It was timely published and it shows  
25 that the parties who did not return a green card,

1 certified green card were noticed by publication. And  
2 then Exhibit 7 in each package is the application and  
3 proposed notice.

4 I believe all of the exhibits are  
5 there, and I ask that Exhibits 1 through 7 in each  
6 package be admitted into the evidence and that these  
7 matters be taken under advisement.

8 MR CHAKALIAN: Mr. Bruce, your exhibits  
9 are admitted into evidence.

10 Mr. McClure:

11 MR. MCCLURE: Thank you, Mr. Hearing  
12 Examiner.

13 Mr. Bruce, the pool name here is  
14 incorrect. This is actually a Upper Wolfcamp pool  
15 which seems to be the correct pool, don't get me  
16 wrong. The issue at play here, though, is the  
17 vertical extent of that pool is not the entirety of  
18 the Wolfcamp formation. It's only the Upper Wolfcamp  
19 formation.

20 MR. BRUCE: Okay. I just take the hand  
21 that's dealt me, Mr. McClure.

22 MR. MCCLURE: Of course.

23 MR. BRUCE: How should I correct that?  
24 This is not the Purple Sage, so.

25 MR. MCCLURE: I touched base with one

1 of our district geologists yesterday on the matter of  
2 exactly how to define the Upper Wolfcamp.  
3 Unfortunately, I don't have a very good definition for  
4 where the base of this pool extends to. Typically  
5 four to five hundred feet, although in this particular  
6 instance I believe the Wolfcamp formation is a little  
7 bit thinner than perhaps in other places.

8 MR. BRUCE: Thicker?

9 MR. MCCLURE: No, thinner. I think  
10 it's only a thousand feet thick here, I believe. I'm  
11 just remembering from my review yesterday. I don't  
12 have it in my notes.

13 So what we may --

14 MR. BRUCE: If you could discuss that  
15 --

16 MR. MCCLURE: Go ahead, Mr. Bruce.

17 MR. BRUCE: I was just going to say if  
18 you could -- I will ask my geologist, and then if you  
19 could confirm and maybe ask the district geologist to  
20 give me a definition, and we will -- I will modify the  
21 pooling checklist with whatever the Division  
22 recommends.

23 MR. MCCLURE: I was going to say my  
24 understanding is it's to the base of the upper  
25 productive zone essentially is kind of my

1 understanding. And I believe all these wells does fit  
2 that criteria, and I believe they're all within, from  
3 looking at the cross-section there, it looked like it  
4 was all within 200 feet.

5           Though my recommendation at this point  
6 would be just to rather include a footage at this  
7 time, just do the vertical extent, change that from  
8 entire Wolfcamp formation to just Upper Wolfcamp  
9 formation.

10           MR. BRUCE: Okay. I will do that if  
11 not today, then tomorrow.

12           MR. MCCLURE: And in regards to the  
13 name, did you want me to also email that to you in  
14 that same email I'll send you later this afternoon?

15           MR. BRUCE: Sure.

16           MR. MCCLURE: The other pool names?  
17 Okay. Because it's very similar, but it's a little  
18 bit off.

19           MR. BRUCE: Okay. I just take what's  
20 given to me on the C-102s, so I'm always the last to  
21 know, Mr. McClure.

22           MR. MCCLURE: Mr. Hearing Examiner?

23           MR CHAKALIAN: Yes?

24           MR. MCCLURE: I'd like to know what  
25 your thoughts are here on whether we want to take it

1 under advisement or continue it. Essentially, we're  
2 changing the vertical limit that is being requested to  
3 be force pooled. But everything else is staying the  
4 same. And all the wells are the same and such.

5 MR CHAKALIAN: I'll issue the same  
6 ruling as I did in the last incomplete checklist, and  
7 that is it won't require a continuance. The checklist  
8 is not missing, it's just -- it could be more  
9 accurate.

10 So Mr. Bruce, when will you file the  
11 amended --

12 Mr. McClure, do you want the exhibit  
13 packet just to be amended in total?

14 MR. MCCLURE: To be consistent, we  
15 might --

16 MR. BRUCE: I can --

17 MR. MCCLURE: Oh. Go ahead, Mr. Bruce,  
18 with your thoughts?

19 MR. BRUCE: Go ahead, Mr. --

20 MR CHAKALIAN: Mr. Bruce, I had asked  
21 Mr. McClure what he wants. So I'm not sure why you  
22 chimed in at that moment.

23 MR. BRUCE: Okay. I'm sorry.

24 MR CHAKALIAN: Mr. McClure?

25 MR. MCCLURE: Mr. Hearing Examiner, I

1 mean, in theory, all we need is the checklist, but  
2 it's -- rather, I want to be consistent with earlier  
3 and have him do the whole thing.

4 MR CHAKALIAN: I think so.

5 Mr. Bruce, when can you submit a  
6 revised exhibit list correcting the issues?

7 MR. BRUCE: I'll have to get together  
8 with Mewbourne's geologist, and I think we need some  
9 footages, depth footages. And so if I could just be  
10 given a week from today just to make sure because I  
11 don't know what the geologist's schedule is.

12 MR CHAKALIAN: Right. Okay.

13 Mr. McClure, do you have a problem with  
14 that?

15 MR. MCCLURE: No, I don't. I know  
16 earlier we did November 16th. I don't know if we want  
17 to do the same here. That'd give him an extra week on  
18 it.

19 MR CHAKALIAN: We -- when you say --

20 MR. MCCLURE: I'm fine either way.

21 MR CHAKALIAN: When you say we did  
22 November 16th, are you talking about Mr. Bruce's  
23 cases? Or are you talking about Ms. Bennett's cases?

24 MR. MCCLURE: Mr. Bruce, when he needs  
25 to submit a checklist for the Cimarex cases earlier,

1 docket 44 -- well, the Cimarex cases earlier, we gave  
2 him until --

3 MR CHAKALIAN: I have November 10. Mr.  
4 McClure, I have the deadline as November 10, not the  
5 16th.

6 MR. MCCLURE: Oh, okay. November 10 is  
7 fine as well, then.

8 MR CHAKALIAN: Okay, great.

9 Mr. Bruce, you have that as well for  
10 the Cimarex cases?

11 MR. BRUCE: I don't have that right in  
12 front of me, but November 10 is fine.

13 MR CHAKALIAN: That's what I have in my  
14 notes, so Mr. Bruce, it's up to you to correct me. If  
15 I'm wrong, you should tell me. But I have that you  
16 are -- we are taking this under advisement with the  
17 caveat that we need a corrected checklist from you  
18 with the measured depth and a few other issues on the  
19 pool name by November 10.

20 MR. BRUCE: That's perfectly acceptable  
21 to me, Mr. Examiner.

22 MR CHAKALIAN: Okay.

23 MR. BRUCE: I try not to -- hearing  
24 examiners. It doesn't get me far in life, okay?

25 MR CHAKALIAN: Amen. Okay, so Mr.

1 Bruce, I am basically making the same note for these  
2 two cases that we are taking them under advisement but  
3 we need a corrected checklist by November 10.

4 MR. BRUCE: Okay, great.

5 MR CHAKALIAN: Okay. And you don't  
6 need to file a continuance because we're not  
7 continuing this to another date.

8 MR. BRUCE: Correct. Thank you.

9 MR CHAKALIAN:

10 Okay we are --

11 Thank you.

12 We are going to move on to four cases  
13 filed by Matador. Ms. Vance?

14 MS. VANCE: Yes. Good morning, Mr.  
15 Hearing Examiner. Paula Vance with the Santa Fe  
16 office of Holland & Hart on behalf of the applicant  
17 Matador Production Company.

18 MR CHAKALIAN: Good morning. Please  
19 proceed.

20 MS. VANCE: Yes. So in these cases,  
21 Matador is seeking an amendment to the Division orders  
22 that have previously been issued for its Bivens Fed  
23 Com Wells and is respectfully requesting an extension  
24 of time to commence drilling the wells under -- or the  
25 initial wells under those orders.

1           In the exhibit packets we have included  
2 as Exhibit A a copy of the extension application.  
3 Exhibit B is a copy of the original orders. And I  
4 will note in case 23894 I have included a Exhibit B1,  
5 and we noted this in the application.

6           Also, there was a scrivener error in  
7 the compulsory pooling checklist, and so I have  
8 included in that particular hearing packet a corrected  
9 compulsory pooling checklist that I've highlighted the  
10 correct legal description. So just in that particular  
11 case.

12           And then we have also included an  
13 affidavit of landman David Johns who has previously  
14 testified before the Division, and his credentials  
15 have been accepted as a matter of record. He attests  
16 as to why there is good cause.

17           And similar to Ms. McLean's, what she  
18 explained earlier, we are still waiting on federal  
19 permits for these wells and we have provided --  
20 because this is the second request for extension for  
21 the same reason, we have provided a little bit more  
22 color as to why we are requesting this second  
23 extension, and that is in the landman's affidavit.

24           We have also included a sub-exhibit C1  
25 that provides an updated pooling exhibit. Matador was

1 able to reach voluntary agreement with several of the  
2 parties, and one of the pooled parties leased their  
3 interest, and those parties are now subject -- leased  
4 subject to the pooling order.

5 And then lastly is a self-affirmed  
6 statement from myself with a sample of the notice  
7 letters that were timely mailed on October 13th. And  
8 you'll see on the mailing report which is the very  
9 last page there the two parties that required notice  
10 both received those letter notice, so we didn't  
11 include an NOP.

12 And unless there are any questions, I  
13 would ask that all exhibits and sub-exhibits be  
14 admitted into the record and that these cases be taken  
15 under advisement at this time.

16 MR CHAKALIAN: Ms. Vance, your exhibits  
17 are admitted into evidence.

18 Mr. McClure?

19 MR. MCCLURE: No questions, Mr. Hearing  
20 Examiner.

21 MR CHAKALIAN: Okay. Ms. Vance, that  
22 concludes these four cases. They'll be taken under  
23 advisement.

24 MS. VANCE: All right. Thank you, Mr.  
25 Hearing Examiner.

1 MR CHAKALIAN: Thank you.

2 We are now calling Matador Production  
3 Company case numbers 23899, 900, 901, and 902. And  
4 yes, not 903 but 902.

5 Looks like Mr. Feldewert?

6 MS. VANCE: No, that's -- I'm taking  
7 his cases, Mr. Hearing Examiner.

8 MR CHAKALIAN: Ms. Vance. Thank you.  
9 And Ms. Vance, 903 is not your case. I think it's  
10 Spur Energy. Okay.

11 MS. VANCE: It is -- or, I'm sorry.  
12 No, that's not -- 903, actually that is mine, so I'll  
13 stay with you for one more case afterwards on here.

14 MR CHAKALIAN: Okay. Sounds good.  
15 Please proceed on these four cases.

16 MS. VANCE: Thank you, Mr. Hearing  
17 Examiner.

18 So again, in these cases similar to the  
19 previous four, Matador is seeking an extension order  
20 under -- or an amendment to the Division order for its  
21 Weinberger Fed Com wells and respectfully requesting  
22 an extension of time to commence drilling the initial  
23 wells under the orders.

24 We have Exhibit A which is a copy of  
25 the extension applications. Exhibit B is a copy of

1 the original orders. And then Exhibit C, affidavit of  
2 landman David Johns; again, he has previously  
3 testified before the Division and his credentials have  
4 been accepted as a matter of record.

5 He provides a -- this is another second  
6 extension for the same reasons. We are still waiting  
7 on federal permits, and he provided a more robust  
8 paragraph there to explain why.

9 We also included sub-exhibit C1 which  
10 is an updated pooling exhibit. Again, Matador was  
11 able to reach voluntary agreement with some of the  
12 parties, and one of the interest owners leased their  
13 interest, so those parties took their interest subject  
14 to the pooling order.

15 And lastly is a self-affirmed statement  
16 of notice, Exhibit D, with sample letters -- or a  
17 sample letter that was timely mailed on October 13,  
18 2023. And again, all those parties received the  
19 notice, so we did not include an NOP.

20 Unless there are any questions, I would  
21 ask that all exhibits and sub-exhibits be admitted  
22 into the record and these cases be taken under  
23 advisement.

24 MR CHAKALIAN: Ms. Vance, your exhibits  
25 are admitted into evidence.

1 Mr. McClure?

2 MR. MCCLURE: No questions, Mr. Hearing  
3 Examiner.

4 MR CHAKALIAN: Okay. Ms. Vance, let's  
5 move on to case number 23903.

6 MS. VANCE: All right. Give me one  
7 moment to just pull up my own copy of the hearing  
8 packet. Yes.

9 So Paula Vance for the Santa Fe office  
10 of Holland & Hart on behalf of Spur Energy Partners,  
11 LLC in this case. So in case number 23903, Spur is  
12 seeking to amend the existing Division order for its  
13 Baffin 10H well, 11H, 20H, 70H, and 71H. And we are  
14 pooling one additional party in this case.

15 In the hearing packet, we have included  
16 a copy of the application which is Exhibit A, and this  
17 following that we've got a copy of the original order,  
18 Exhibit B.

19 And following that we have a self-  
20 affirmed statement from landman David Johns which is  
21 Exhibit C. He has -- oh, I'm sorry. Not David Johns.  
22 Drew Oldis. Sorry about that. And he has previously  
23 testified before the Division, and his credentials  
24 have been accepted as a matter of record.

25 Under his -- or with his exhibits,

1 we've included three sub-exhibits, and that would be  
2 Exhibit C1, an updated pooling exhibit. You'll see in  
3 yellow are all of the parties that were originally  
4 pooled. And then the one new party that we're pooling  
5 is highlighted in green, and that is WPX Energy  
6 Permian LLC.

7 We've also included as Exhibit C2 a  
8 sample copy of the well proposal and AFEs. And  
9 Exhibit C3 is a chronology of contacts.

10 And then lastly is Exhibit D which is a  
11 self-affirmed statement of notice with sample letters  
12 that were timely mailed on October 13, 2023. And then  
13 also Exhibit E which is an affidavit of notice of  
14 publication which was timely published on October 17,  
15 2023.

16 And unless there are any questions, I  
17 would ask that all exhibits and sub-exhibits be  
18 admitted into the record in this case and that this  
19 case be taken under advisement by the Division at this  
20 time.

21 MR CHAKALIAN: Ms. Vance, your exhibits  
22 are admitted into evidence.

23 Mr. McClure?

24 MR. MCCLURE: No questions, Mr. Hearing  
25 Examiner.

1 MR CHAKALIAN: Okay. Let's move to  
2 case 23904, Permian Resources. And let's see if we  
3 have any -- yes, 23904 -- yes, I guess it stands  
4 alone.

5 Ms. Shaheen, Mr. Jones, Mr. Morgan?

6 MS. SHAHEEN: Thank you, Mr. Examiner.  
7 I'm actually going to introduce my colleague, Samantha  
8 Catalano, who will be presenting this case today. And  
9 I'll be here if there are any substantive questions  
10 that she may want some help with.

11 MR CHAKALIAN: Okay. Good morning.

12 MS. CATALANO: Good morning, Mr.  
13 Hearing Examiner.

14 MR CHAKALIAN: And Mr. Jones?

15 MR. JONES: Yeah, Blake Jones with  
16 Steptoe and Johnson moderating the cases on behalf of  
17 Northern Oil and Gas.

18 MR CHAKALIAN: And Mr. Morgan?

19 MR. MORGAN: Good morning, Mr.  
20 Examiner. Scott Morgan with Cavin & Ingram. We as  
21 well entered an appearance. Ms. Shaheen and I were in  
22 contact over the last week or so. I represent BCP  
23 Resources, and we're just confirming for the record  
24 that Permian Resources is not attempting to pull any  
25 interest that BCP may have in these lands at this

1 time.

2 MR CHAKALIAN: Okay, thank you.

3 So I understand then that there is no  
4 objection to proceeding by affidavit?

5 MR. MORGAN: No objection from us.

6 MR. JONES: Northern doesn't object.

7 MR CHAKALIAN: Okay, great. Please  
8 proceed.

9 MS. CATALANO: Thank you, Mr. Hearing  
10 Examiner. And again, I apologize, Samantha Catalano  
11 on behalf of Permian Resources. Thank you for bearing  
12 with me today.

13 In this matter, Permian Resources seeks  
14 to pool all uncommitted mineral interests in the  
15 Wolfcamp formation which is full name Gatuna Canyon  
16 Wolfcamp Pool Code 27191 in a standard 640-acre, more  
17 or less, horizontal spacing unit including proximity  
18 tracts which is comprised of the north half of  
19 Sections 35 and 36 in Township 19 South, Range 29  
20 East, in Eddy County, New Mexico.

21 Permian proposes to dedicate the  
22 spacing unit to the following two-mile wells. The  
23 first well, which is a proximity well, is Ironhorse  
24 35-36 Fed State #200H well to be horizontally drilled  
25 from an approximate surface hole location in Lot H of

1 Section 34 in Township 19 South, Range 29 East, to an  
2 approximate bottom hole location which is in the  
3 Section 36 of Township 19 South, Range 29 East.

4 Also, Ironhorse 35-36 Fed State #201H  
5 well to be horizontally drilled from an approximate  
6 surface hole location in Lot H of Section 34, Township  
7 19 South, Range 29 East, to an approximate bottom hole  
8 location in Section 36, Township 19 South, Range 29  
9 East.

10 The landman self-affirmed statement  
11 which is Exhibit A, and the C-102 forms, Exhibit A3,  
12 do show the first and last take points for these two  
13 wells. In this application we have submitted the  
14 self-affirmed statement of landman Mark Hajdik as  
15 Exhibit H -- excuse me, Exhibit A. Mark Hajdik has  
16 previously testified as an expert before the Division,  
17 and we have the usual landman's exhibits which are  
18 Exhibit A1 through Exhibit A5.

19 Next, we have the self-affirmed  
20 statement of geologist Christopher Canton who has also  
21 previously testified as an expert before the Division  
22 as Exhibit B. And we have the usual geologist's  
23 exhibits which are Exhibits B1 through B5.

24 And next in the packet we have the  
25 affirmation of notice as Exhibit C which was written

1 by my colleague Ms. Sharon Shaheen.

2 And then we have Exhibit A to the  
3 affirmation which lists the certified mailings of  
4 notice which were all mailed on October 13th. This  
5 exhibit does show that those parties that have  
6 received notice, it also shows that some notices are  
7 still pending receipt, and one letter was returned.  
8 However, we did timely publish notice. Therefore,  
9 everyone has received proper notice.

10 And Exhibit B to the affirmation shows  
11 that the affidavit of publication in the Carlsbad  
12 Current-Argus, which is again Exhibit B.

13 And if there are no questions, we would  
14 move to have all of the exhibits and sub-exhibits  
15 admitted in this case on the record, and we would  
16 request that you take the application under  
17 advisement.

18 MR CHAKALIAN: Ms. Catalano, your  
19 exhibits are admitted into evidence.

20 Mr. McClure?

21 MR. MCCLURE: Thank you, Mr. Hearing  
22 Examiner.

23 Ms. Catalano -- I apologize if I  
24 butchered your last name -- there's a disagreement  
25 between your pooling checklist and your C-102 for the

1 200H well. I'm going to assume the pooling checklist  
2 is correct since we're also attesting that this is a  
3 standard horizontal spacing unit and it would need to  
4 be correct rather than the C-102 for that to be true.  
5 Is that your understanding as well?

6 MS. CATALANO: I do believe that is a  
7 standard spacing unit, and I do apologize if there is  
8 an error. And I can certainly revise that and get  
9 that submitted within the next day or two if that  
10 would be acceptable.

11 MR. MCCLURE: Well, essentially what  
12 the difference is is in the pooling checklist. You're  
13 993 feet from the north line rather than C-102 you're  
14 990 feet from the north line. Do you know if it's the  
15 pooling checklist that's correct? Or is it the C-102  
16 that's correct?

17 I believe it is the pooling checklist  
18 that is correct, and I would just ask Ms. Shaheen if  
19 you are in agreement with me on that?

20 MR. MCCLURE: You're muted, Ms.  
21 Shaheen.

22 MS. SHAHEEN: Yes, I do agree with Ms.  
23 Catalano, and we're happy to provide a revised C-102.

24 MR. MCCLURE: Yes, we will need that If  
25 you want to submit a new packet with a revised C-102

1 for that 200H well.

2 No other questions, Mr. Hearing  
3 Examiner.

4 MR CHAKALIAN: Okay, then. Mr.  
5 McClure, what I'm understanding is that you're willing  
6 to take this under advisement as long as you have a  
7 revised exhibit packet with the corrected C-102; is  
8 that correct?

9 MR. MCCLURE: Yes. That is correct.

10 MR CHAKALIAN: All right, sounds good.

11 Ms. Shaheen or Ms. Catalano, how long  
12 will you need to revise that?

13 MS. CATALANO: I believe just by  
14 tomorrow would be sufficient if that's okay.

15 MS. SHAHEEN: Well, I'll just step in  
16 and say it's going to depend on the client. But as  
17 soon as we can get that from the client, we will file  
18 that with the entire packet as required.

19 MR CHAKALIAN: Ms. Shaheen, I need to  
20 set a reasonable deadline. Can you give me one?

21 MS. SHAHEEN: How about next Tuesday?  
22 Would that be --

23 MR CHAKALIAN: Perfect. That's  
24 perfect.

25 MS. SHAHEEN: Thank you.

1 MR CHAKALIAN: Taken under advisement  
2 with revised exhibit packet C-102.

3 Ms. Shaheen, what is the date of next  
4 Tuesday?

5 MS. SHAHEEN: November 7th.

6 MR CHAKALIAN: Thank you very much. So  
7 close of business November 7, and thank you very much.

8 MS. SHAHEEN: Thank you.

9 MR CHAKALIAN: I am now calling  
10 Franklin Mountain Energy 23905, 906. I believe we  
11 have Ms. Bennett?

12 MS. PENA: Actually, it's Ms. Pena,  
13 Yarithza Pena with Modrall Sperling on behalf of  
14 Franklin Mountain Energy 3 LLC.

15 MR CHAKALIAN: I wonder why I made a  
16 note that Ms. Bennett was representing Franklin  
17 Mountain. Was there a change?

18 MS. PENA: I'm also listed on the  
19 applications. I'm an associate here at Modrall  
20 Sperling with Ms. Bennett.

21 MR CHAKALIAN: Okay, very good. Thank  
22 you, Ms. Pena. I don't believe there's any party  
23 objecting to your proceeding by affidavit, so please  
24 continue.

25 MS. PENA: Thank you. In case number

1 23095, Frankin is seeking a compulsory pooling order  
2 in a proposed 319.68-acre Bone Spring horizontal  
3 spacing unit comprised of the east half east half of  
4 Section 33, Township 18 South, Range 35 East and Lot 1  
5 the southeast quarter, northeast quarter, and east-  
6 half southeast quarter of Section 4 in Township 19  
7 South, Range 35 East in Lea County.

8 And the spacing unit will be dedicated  
9 to the Alpha State Com 304H well. We have timely  
10 filed the standard set of exhibits which I will review  
11 quickly.

12 Exhibit A contains a compulsory pooling  
13 checklist. Exhibits B contain the affidavit of Don  
14 Johnson, the landman for Franklin, who has previously  
15 testified before the Division and his credentials have  
16 been accepted as a matter of record.

17 We have also included the application,  
18 the C-102, the least tract maps, the summary of  
19 contacts, the proposal letter and AFE as well as a  
20 pooled party list listed as Exhibit B7.

21 And Exhibit B8 includes the notice,  
22 declaration, and exhibits of Ms. Deana Bennett.

23 Exhibits C contain the affidavit of Ben  
24 Kessel, the geologist for Franklin, who has also  
25 previously testified before the Division and his

1 credentials have been accepted as a matter of record,  
2 as well as his usual standard geology exhibits, a  
3 locator map, well bore schematic, a structure map,  
4 cross-section reference map, stratigraphic cross-  
5 section and isopach, and also a regional stress  
6 orientation map.

7 At this point, I would ask that  
8 Exhibits A, B, and C and their sub-exhibits be  
9 admitted into the record in case number 23905 and that  
10 the case be taken under advisement. And I will stand  
11 for any questions that Division may have. Thank you.

12 MR CHAKALIAN: Okay. So Ms. Pena, your  
13 handling each case individually?

14 MS. PENA: Yes, I will be.

15 MR CHAKALIAN: Okay. All right. And  
16 you're saying that both -- that your expert witness  
17 has already been qualified?

18 MS. PENA: Both Don Johnson and Ben  
19 Kessel, yeah, the landman and geologist.

20 MR CHAKALIAN: Very good. Your  
21 exhibits are admitted into evidence.

22 Mr. McClure, do you have any questions  
23 for Ms. Pena?

24 MR. MCCLURE: Thank you, Mr. Hearing  
25 Examiner. More a comment, I guess, than a question.

1 Ms. Pena, on your pooling checklist  
2 we're missing the pool code. Your pool name is  
3 correct and your C-102 does have them both, but if we  
4 could please resubmit a new packet with that  
5 additional pool code added to your pooling checklist?  
6 The pool code would be 55610.

7 MS. PENA: Okay. Thank you, Mr.  
8 McClure. I do see that, and I apologize for that  
9 being missing. But we can absolutely submit a revised  
10 checklist with that code included today.

11 MR CHAKALIAN: Today?

12 MS. PENA: Yes.

13 MR CHAKALIAN: Okay. Then we will take  
14 this case under advisement as long as you comply with  
15 that request to resubmit your exhibit packet with the  
16 correct pool code on the C-102.

17 MS. PENA: Yes. On the checklist.

18 MR CHAKALIAN: Oh, thank you. On the  
19 checklist.

20 MS. PENA: Thank you.

21 MR CHAKALIAN: And Ms. Pena, 906,  
22 please?

23 MS. PENA: Yes. In case number 23906,  
24 Franklin seeks a compulsory pooling order in a 400-  
25 acre Bone Spring horizontal spacing unit comprised of

1 the east half southwest quarter of Section 24 and east  
2 half west half of Sections 25 and 36 in Township 19  
3 South, Range 35 East in Lea County.

4 I doublechecked the checklist for this  
5 one, and we do have the pool and pool code. And we  
6 have timely filed the standard set of exhibits,  
7 Exhibit A, B and the compulsory pooling checklist,  
8 Exhibits B containing the affidavit of Don Johnson,  
9 the landman who I previously said has also previously  
10 testified before the Division.

11 And his exhibits include the usual  
12 standard set with application, C-102, least tract map,  
13 summary of contacts, proposal letter and AFE, as well  
14 as a pooled parties list as B7.

15 B8 is included as a notice exhibits and  
16 declaration of Deana Bennett which shows that we  
17 timely published and also provided notice to all of  
18 our pooled parties.

19 And then Tab C includes the affidavit  
20 of Ben Kessel, the geologist for Franklin who has also  
21 testified before the Division, and his exhibits are  
22 included which include the locator map, well bore  
23 schematic, the structure map, cross section,  
24 stratigraphic and isopach, and regional stress  
25 overview exhibits.

1                   At this point, I would ask that  
2 Exhibits A, B, and C and their sub-exhibits be  
3 admitted into the record and that case number 23906 be  
4 taken under advisement. And I stand for any  
5 questions. Thank you.

6                   MR CHAKALIAN: You're welcome. Ms.  
7 Pena, you mentioned that your witnesses have  
8 previously testified before the Division. Are you  
9 also asserting that they have both been qualified as  
10 experts before the Division?

11                   MS. PENA: Mr. Hearing Examiner, both  
12 experts, Don Johnson and Ben Kessel, have also been  
13 qualified in their fields.

14                   MR CHAKALIAN: Okay. Thank you, Ms.  
15 Pena. Your exhibits are admitted into evidence.

16                   Mr. McClure?

17                   MR. MCCLURE: No questions here, Mr.  
18 Hearing Examiner.

19                   MR CHAKALIAN: Okay. This case will be  
20 taken under advisement.

21                   Ms. Pena, we are going to move to case  
22 number 23909, and we are going to have a different  
23 technical examiner for this case, Forty Acres.

24                   Ms. Hardy?

25                   MS. HARDY: Yes, Mr. Examiner. Dana

1 Hardy on behalf of Forty Acres Energy LLC.

2 MR CHAKALIAN: Okay, good. Please  
3 proceed.

4 MS. HARDY: Thank you. In this case,  
5 Forty Acres applies for certification of a positive  
6 production response for purposes of the recovered oil  
7 tax rate and also seeks to provide an update on the  
8 progress, production results, and expected plans of  
9 the West Eumont Secondary Recovery Project in  
10 accordance with the requirements of order number  
11 R14616.

12 Our exhibit packet includes the self-  
13 affirmed statement of Mr. Huxley Song who is also here  
14 and available to answer questions. His affidavit  
15 provides the application of proposed notice of hearing  
16 along with a presentation that includes the  
17 information regarding the engineering analysis and a  
18 positive production response.

19 Exhibit B is my self-affirmed notice  
20 affidavit which includes a chart of notice to the  
21 interested parties, the certified mail receipts and an  
22 affidavit of publication. And we did notify all of  
23 the parties to the original case in which order R14616  
24 was issued, so that's how we derived this notice list.

25 So with that, I would ask that our

1 exhibits be accepted into the record. And seeing Mr.  
2 Goetze there, I expect that he probably has questions  
3 for Mr. Song.

4 MR CHAKALIAN: But before we start with  
5 the questions, Ms. Hardy, I see that your witness has  
6 already been qualified as an expert in petroleum  
7 engineering by this division; is that correct?

8 MS. HARDY: That's correct.

9 MR CHAKALIAN: Okay, very good. Your  
10 exhibits are hereby admitted into evidence.

11 Mr. Goetze?

12 MR. GOETZE: Thank you, Examiner.

13 CROSS-EXAMINATION

14 BY MR. GOETZE:

15 Q Now, just two things. Mr. Song, just out of  
16 the best of your knowledge, when did injection  
17 commence in the project area?

18 A Around July 2018, Mr. Goetze.

19 Q Okay. Yes, sir?

20 A Yeah, I was just going to say, that is  
21 probably shown on -- I guess we don't have injection.  
22 I was going to reference a slide on our exhibits, but  
23 I don't think we show injection, we just show  
24 production.

25 Q Okay. Well, that's -- go ahead and --

1 request. I'll take a look into that as far as what's  
2 been reported. But I would ask for your charts that  
3 you have here for the production and the relationship  
4 between water, gas, and oil production and injection.  
5 Could you provide those in a full page as opposed to  
6 being an insert so that we can see it on a longer  
7 scale?

8 A Absolutely.

9 Q Okay. Other than that, we haven't been  
10 through one of these in a while, so we have gone  
11 through -- I've gone through the list. It seems that  
12 the content is all there. It is not contested. So at  
13 this point, we will go ahead and process your request  
14 and do what's needed. Otherwise, we'll reach out if  
15 we have any additional requests for information.

16 A Thank you, Mr. Goetze. I'll get the full-  
17 page slides to Ms. Hardy, and we'll get those sent off  
18 to you.

19 MR CHAKALIAN: Thank you.

20 So Ms. Hardy, in your own words, what  
21 is it that you will be filing?

22 MS. HARDY: It's my understanding that  
23 we will file -- I suppose we could submit them as  
24 supplemental exhibits if that's Mr. Goetze's  
25 preference. Or we could also email them to

1 Engineering, whatever Mr. Goetze would prefer.

2 MR CHAKALIAN: Ms. Hardy, I'm asking  
3 what is the document that you're actually going to be  
4 submitting as a supplemental exhibit?

5 MS. HARDY: I believe it would be the  
6 graphs that show production of oil, gas, and water on  
7 pages -- let's see, it looks like it's of the PDF page  
8 numbers pages 13, 14, 16, and 18. Is that correct,  
9 Mr. Goetze?

10 MR. GOETZE: That is correct, yes.

11 MR CHAKALIAN: Perfect.

12 Okay, Ms. Hardy. We will take --

13 MR. GOETZE: We can't see the small  
14 numbers. Excuse me.

15 MR CHAKALIAN: Okay, Ms. Hardy. We'll  
16 take this case under advisement with the caveat that  
17 you are going to file a supplemental exhibit with the  
18 graph of production as you have so stated.

19 MS. HARDY: Thank you very much.

20 MR CHAKALIAN: Thank you very much.

21 I am now calling 23910, Devon Energy  
22 Production 23911, 12, 13, 14. Mr. Savage?

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

25 MR CHAKALIAN: Good morning.

1 MR. SAVAGE: Good morning, Mr.  
2 Technical Examiner. Darin Savage with Abadie & Schill  
3 appearing on behalf of Devon Energy Production Company  
4 LLP.

5 MR CHAKALIAN: Please proceed.

6 MR. SAVAGE: Today we present cases  
7 23910 through 23914 by affidavit in consolidated form.  
8 These cases cover lands in Sections 1, 2, and 3,  
9 Township 21 South, Range 27 East, Eddy County, New  
10 Mexico. The landman Andy Bennett for the cases has  
11 testified before the Division and his credentials have  
12 been accepted and made a matter of record as well as  
13 has the geologist, Joe Dixon, who has also testified  
14 and his credentials have been accepted.

15 In case number 22910, Devon seeks an  
16 order pooling all uncommitted interests in the  
17 Wolfcamp formation designated as an oil pool  
18 underlying a standard 960-acre, more or less, spacing  
19 unit comprised of the south half of Sections 1, 2, and  
20 3. The note will be dedicated to three wells, and  
21 that's the Burton Flat 3-1 Fed State Com 624H, 626H,  
22 and 826H wells.

23 Orientation of the wells is laydown  
24 west to east. The 626H and 826H wells have standard  
25 locations, but the 624H well is unorthodox in

1 location, and Devon will be seeking administrative  
2 approval with the OCD for this nonstandard location on  
3 its well.

4 The location of 626H well qualifies as  
5 a proximity well, pooling in proximity tracts to  
6 create the larger 960-acre unit. Mr. Bennett's  
7 Exhibit A for case 23910 includes his landman  
8 statements, C-102s, ownership breakdown, the well  
9 proposal letter with AFEs, and the chronology of  
10 contacts showing good-faith negotiations.

11 Exhibit A2, the ownership exhibit --  
12 Mr. Hearing Examiner, this was submitted this past  
13 Tuesday meeting the deadline. However, yesterday  
14 Magnum Hunter Production Incorporated and Devon have  
15 reached a voluntary agreement, and therefore Devon  
16 will not be pooling Magnum Hunter.

17 With the Division's permission, Devon  
18 would like to file a revised Exhibit A2s, and this  
19 would be in all cases, 2390 through 2394 since Magnum  
20 owns in all those particular units showing Magnum  
21 Hunter as committed and removing it from the list of  
22 parties to be pooled.

23 MR CHAKALIAN: Okay. So Mr. Savage,  
24 you're saying that Exhibit A2 on each of these packets  
25 for the four cases will be revised?

1 MR. SAVAGE: That's correct, with --  
2 consent.

3 MR CHAKALIAN: And -- okay. And Ms.  
4 Bennett, are you here because you're representing this  
5 party?

6 MS. BENNETT: Yes, thank you, Mr.  
7 Examiner, and I apologize if I missed a call for other  
8 appearances in these cases. But I am in these cases  
9 on behalf of Magnum Hunter.

10 MR CHAKALIAN: You didn't miss  
11 anything, Ms. Bennett. Thank you. Okay, so you have  
12 no objection to this -- these cases proceeding by  
13 affidavit?

14 MS. BENNETT: No, no objection.

15 MR CHAKALIAN: Okay, very good.  
16 So Mr. Savage, when will you be  
17 revising A2?

18 MR. SAVAGE: I can do that by the close  
19 of business today.

20 MR CHAKALIAN: Okay, very good. Are  
21 you suggesting -- so this is a 95-page document. Is  
22 it just as easy for you to revise A2 within the  
23 original document and resubmit the document called  
24 "amended"?

25 MR. SAVAGE: We could do that. Would

1 that be part of a new hearing packet?

2 MR CHAKALIAN: New hearing packet? No,  
3 I don't think it'd be a new hearing packet.

4 MR. SAVAGE: Or an amended hearing  
5 packet?

6 MR CHAKALIAN: Yes.

7 MR. SAVAGE: Would that -- yes.

8 MR CHAKALIAN: Yes, as opposed to  
9 filing an amended Exhibit A2 by itself.

10 MR. SAVAGE: That'd be correct.

11 MR CHAKALIAN: Okay.

12 MR. SAVAGE: And there's one other item  
13 I need to -- I would like to address for an amendment,  
14 as well. And that'll be a little bit later here in  
15 the --

16 MR CHAKALIAN: Okay, that's fine. So  
17 you'll be amending it in two places?

18 MR. SAVAGE: That's correct.

19 MR CHAKALIAN: In each of the four  
20 cases it'll be the same amendment, the second  
21 amendment will be the same in all four, as well?

22 MR. SAVAGE: It will be -- no, it may  
23 just be select cases in that other one.

24 MR CHAKALIAN: Okay. All right, yes,  
25 then I would like you to do an amended packet for each

1 of the four cases. Anyway, please proceed.

2 MR. SAVAGE: Okay. Mr. Dixon's Exhibit  
3 B for this case includes his geology statement along  
4 with the five standard geology exhibits as stated by  
5 Mr. Dixon that show the potential for development.

6 Exhibit C provides a self-affirmed  
7 statement of notice for mailings, publication notice.  
8 All letter notices were timely sent, and all working  
9 interest owners were accounted for and received  
10 notice.

11 There are numerous overriding royalty  
12 interest owners. These parties received notice  
13 letters except for 14 which is a smaller number out of  
14 the larger group. And those letters are listed as in  
15 transit or forwarded, and two of the overriding  
16 royalty interest owners are unlocatable.

17 Then here's the issue with the need for  
18 an amendment. One record -- we have one record title  
19 owner in this that XTO Holdings LLC. Now, we  
20 inadvertently sent the notice letter to an old  
21 address, and I checked that this morning.

22 You know, we listed -- whenever we  
23 receive a returned undeliverable, we typically list  
24 them as unlocatable, but XTO is high profile and we  
25 checked their website, and it was an old address that

1 we had sent it to.

2 So a record title owner has a non-  
3 participating -- does not have a right to participate  
4 in a well. So all our working interest owners have  
5 received noticed. What I would like to do is I'd like  
6 to go ahead and just not pool this particular record  
7 title owner, and then Devon will do a Com agreement  
8 with them to ratify the unit.

9 We list record title owners --  
10 oftentimes when we can't find the record title owners  
11 or there's difficulty with negotiating with the record  
12 title owner -- we don't anticipate any difficulty with  
13 XTO because Devon and XTO have a good relationship.  
14 So we would like to just add an amendment, remove them  
15 from the pooling list, and that would be on the  
16 Exhibit A2 where they appear.

17 MR CHAKALIAN: And do we have a  
18 representative from XTO here?

19 MR. SAVAGE: I don't believe so.

20 MR CHAKALIAN: Okay. I just wanted to  
21 check.

22 MR. SAVAGE: Yeah, they would -- you  
23 know, their rights would be protected because they  
24 would not be pooled, and then Devon would have to  
25 reach out to them to --

1 MR CHAKALIAN: Just making sure, Mr.  
2 Savage.

3 MR. SAVAGE: Yes.

4 MR CHAKALIAN: Mr. McClure, how do you  
5 feel about that resolution for the -- for XTO?

6 MR. MCCLURE: I have no issues. You  
7 just want them to submit -- you're just referring to  
8 having them submit the taking them off the list,  
9 correct, is what we're referring to?

10 MR. SAVAGE: Yes.

11 MR CHAKALIAN: That is.

12 MR. MCCLURE: Yeah, I have no issue  
13 with that.

14 MR CHAKALIAN: Okay, very good.

15 Okay, so Mr. Savage, have you concluded  
16 your presentation for 23910?

17 MR. SAVAGE: That's correct.

18 MR CHAKALIAN: Okay. So your exhibits  
19 are admitted into evidence with the caveat that you  
20 are going to file by the close of business today a  
21 revised or amended exhibit packet for 23910 that's  
22 going to correct your Exhibit A2; and what is the  
23 other exhibit number we'll correct?

24 MR. SAVAGE: I believe the pooling list  
25 is going to be an Exhibit A2, as well, so it'll be

1 involving that particular exhibit.

2 MR CHAKALIAN: Very good.

3 Mr. McClure --

4 So your exhibits are admitted into  
5 evidence, and we are expecting by the close of  
6 business the amended exhibit A2 as part of an amended  
7 exhibit packet.

8 Mr. McClure, do you have any questions?

9 MR. MCCLURE: Yes, I do, Mr. Hearing  
10 Examiner. And it may affect submittals. The reason I  
11 say it is because for -- we're only addressing case  
12 23910 at the moment?

13 MR. SAVAGE: Yes.

14 MR. MCCLURE: Okay. For this  
15 particular case, my recommendation will actually be to  
16 continue it to give the Division more time to review.  
17 For context, there's a well listed here which I do not  
18 believe is in, or may not be within the Upper Wolfcamp  
19 and may not be within this pool. So this is another  
20 one of those that the vertical limit on the pooling  
21 checklist is going to need to be updated.

22 Potentially, though, what the Division  
23 may wish to do is contract the Upper Wolfcamp pool and  
24 instead expand a standard Wolfcamp pool into the area  
25 which would address it and allow all three wells to

1 co-exist in this same force pooling agreement or  
2 order.

3 But I'll need a little bit more time in  
4 order to review and make sure we don't have conflicts  
5 of existing wells.

6 MR CHAKALIAN: Mr. Savage, do you  
7 understand that?

8 MR. SAVAGE: I believe I do. So if I  
9 understand that correct, once the OCD makes a decision  
10 that there's a need to change, contract, or adjust,  
11 then we would have the opportunity to revise  
12 checklists and maybe the C-102s to accommodate that?

13 MR. MCCLURE: That's absolutely  
14 correct. Essentially, there's going to be two routes.  
15 Either one, one of these wells may have to be dropped  
16 off; or two, we're going to have to change the pool.

17 MR. SAVAGE: Yes, Mr. Hearing Examiner.  
18 I understand that.

19 MR CHAKALIAN: Okay, great.

20 So Mr. McClure, then we're not taking  
21 this case under advisement; is that correct?

22 MR. MCCLURE: That would be my  
23 recommendation, yes, would be to continue it.

24 MR CHAKALIAN: I'll abide by your  
25 recommendation, Mr. McClure. So, okay. And this

1 continuance, I'm trying to also determine whether Mr.  
2 Savage needs to file for a continuance, or are we  
3 continuing the case ourselves? Which is it, Mr.  
4 McClure?

5 MR. MCCLURE: I'm assuming we're  
6 continuing it ourselves, but I don't have any good  
7 recommendations into that regard. I don't know how  
8 we've done it in the past.

9 MR CHAKALIAN: Is the continuance  
10 because the information submitted is incomplete? Or  
11 is the continuance because of an internal question  
12 that we're trying to resolve?

13 MR. MCCLURE: The second one.

14 MR CHAKALIAN: I thought so. Okay.  
15 All right, so Mr. Savage, you won't  
16 have to continue this case on the portal. We'll do  
17 this --

18 When are we continuing it to, Mr.  
19 McClure?

20 MR. MCCLURE: I think the next hearing  
21 should be fine. I'll touch base with our District  
22 geologists. Either the beginning of next week or the  
23 end of this week.

24 MR CHAKALIAN: Mr. McClure, I believe  
25 November 16 is getting full now.

1 MR. MCCLURE: Oh, well, then the one  
2 after is fine, too. It don't matter to me.

3 MR CHAKALIAN: Yeah. So December 7  
4 then? Okay.

5 So Mr. Savage, this case, this hearing  
6 will be continued to the December 7 docket for you to  
7 submit by the close of business today the corrections  
8 in your exhibit packet and for the Division to discuss  
9 internally any issues it might have and notify you  
10 about those issues.

11 MR. SAVAGE: Okay. If I can ask one  
12 question? So I would submit an amended packet, but  
13 then I may also have to submit an additional amendment  
14 packet down the road --

15 MR CHAKALIAN: Possibly.

16 MR. SAVAGE: -- as well, right? And  
17 that's how we would proceed on that?

18 MR CHAKALIAN: Possibly, yes.

19 MR. SAVAGE: Okay. And do you want me  
20 to continue with the rest of the cases?

21 MR CHAKALIAN: I think so.

22 Mr. McClure, are you suggesting that  
23 the other three cases should also be continued to the  
24 December 7 docket for the same reason?

25 MR. MCCLURE: Mr. Hearing Examiner, I

1 would only recommend it for the next case, that being  
2 23911. The rest of them should be fine.

3 MR CHAKALIAN: Okay. So then instead  
4 of Mr. -- are there any other -- instead of Mr. Savage  
5 presenting 23911, do we have any corrections to that  
6 exhibit packet that he needs to file?

7 MR. MCCLURE: I mean, he may. I don't  
8 know if he has the XTO issue with that case or not. I  
9 guess I didn't catch that. But in regards to other  
10 things that I've seen in my review, I have nothing  
11 else other than the exact same issue as this current  
12 case.

13 MR CHAKALIAN: Okay. All right, so Mr.  
14 Savage, why don't you present your case in case number  
15 11, then I can admit your exhibits now, we'll get any  
16 corrections needed, and then we'll continue this  
17 hearing to December 7?

18 MR. SAVAGE: Okay. I will do that.  
19 Thank you.

20 MR CHAKALIAN: Please.

21 MR. SAVAGE: So next in case 23911?

22 MR CHAKALIAN: Yes.

23 MR. SAVAGE: Devon seeks an order  
24 pooling all uncommitted interests in the Wolfcamp  
25 formation designated as an oil pool underlying a

1 standard 960-acre, more or less, spacing unit  
2 comprised of Lots 9 through 16 of Sections 1, 2, and  
3 3. This unit will be dedicated to the Burton Flat 3-1  
4 Fed State Com 623H well. Orientation is laydown west  
5 to east, and all setback requirements under statewide  
6 rules are met for a standard location.

7 This well, 623H qualifies as a  
8 proximity well pooling in proximity tracts to create  
9 the final unit. Again, Mr. Bennett's Exhibit A for  
10 23911 includes a landman's statement, the C-102, the  
11 ownership breakdown, the well proposal letter with  
12 AFEs, and the chronology of contacts. Exhibit A2 will  
13 need to be amended in this for both Magnum Hunter and  
14 also for XTO.

15 Mr. Dixon's Exhibit B for this case  
16 includes his geology statement along with the five  
17 standard geology exhibits. And that would be  
18 basically that particular case if you want to take a  
19 pause there to -- with the exhibits.

20 MR CHAKALIAN: I will admit your  
21 exhibits into evidence with the caveat that this case  
22 is continued to November -- I'm sorry, to December 7  
23 docket to resolve our internal questions.

24 And you're not sure whether the XTO  
25 issue exists on this packet as well?

1 MR. SAVAGE: It does.

2 MR CHAKALIAN: Oh, it does? Okay. So  
3 you'll submit by the close of business an amended  
4 exhibit packet to correct that?

5 MR. SAVAGE: That's correct. And in  
6 both of those --

7 MR CHAKALIAN: All right --

8 MR. SAVAGE: Excuse me.

9 MR CHAKALIAN: Go ahead.

10 MR. SAVAGE: In both of those cases,  
11 those are Exhibits A, B, and C, and all sub-exhibits  
12 this time.

13 MR CHAKALIAN: Sorry, I didn't catch  
14 what you just said?

15 MR. SAVAGE: In both of those cases,  
16 those are Exhibits A, B, and C and all sub-exhibits  
17 for coordination.

18 MR CHAKALIAN: Yeah, I've already  
19 admitted them. Thank you.

20 MR. SAVAGE: You admitted them.  
21 Correct.

22 MS. BENNETT: Mr. Examiner?

23 MR CHAKALIAN: Yes.

24 MS. BENNETT: For the record, this is  
25 Deana Bennett from Mondrell Sperling, and I am in all

1 four of these cases on behalf of Magnum Hunter, just  
2 to clarify the record.

3 MR. SAVAGE: You want me to continue,  
4 Mr. Hearing Examiner?

5 MR CHAKALIAN: I was just taking notes,  
6 but please, 23912?

7 MR. SAVAGE: Okay, thank you. Devon  
8 seeks an order pooling all uncommitted interests in  
9 the Bone Spring formation designated as an oil pool  
10 underlying a standard 480-acre, more or less, spacing  
11 unit comprised of the south half south half of  
12 Sections 1, 2, and 3. This unit will be dedicated to  
13 the Burton Flat 3-1 Fed Com 399H well. Orientation of  
14 this well is also laydown west to east, and it is a  
15 standard location well.

16 Mr. Bennett's Exhibit A for case 23912  
17 includes his landman statement, the C-102, ownership  
18 breakdown, the well proposal letter with AFEs, and the  
19 chronology of contact.

20 Mr. Dixon's Exhibit B for this case  
21 includes his geology statement along with the five  
22 standard geology exhibits, and Exhibit C provides a  
23 self-affirmed statement of notice for mailing and  
24 publication notice. All letter notices were timely  
25 sent, and all working interest owners received notice

1 except for two at this point, Muleta LLC and J2  
2 Exploration, and those letters are listed as in  
3 transit, still in transit.

4 We have the issue of the XTO here as  
5 well, and then we have the overriding royalty interest  
6 owners, and these parties received notice letters  
7 except for 14, and those are listed in transit or  
8 forwarded, and two overriding royalty interest owners  
9 ae unlocatable. And publication notice was timely  
10 published.

11 And if you want me to stop there, I can  
12 ask for admissions of exhibits A, B, and C and all  
13 sub-exhibits at that point.

14 MR CHAKALIAN: I will admit your  
15 exhibits into evidence and turn to Mr. McClure for any  
16 questions.

17 MR. MCCLURE: No questions, Mr. Hearing  
18 Examiner.

19 MR CHAKALIAN: All right.

20 So Mr. Savage, in this case that ends  
21 in 12, we will take this case under advisement with  
22 the caveat that you are by the close of business today  
23 going to amend Exhibit A2 by submitting an amended  
24 exhibit packet?

25 MR. SAVAGE: Yes, sir. That would be

1 the case. Thank you.

2 MR CHAKALIAN: Okay. Then we'll move  
3 on to 13.

4 MR. SAVAGE: Okay. In this case, Devon  
5 seeks an order pooling all uncommitted interests in  
6 the Bone Spring formation designated as an oil pool  
7 underlying a standard form an 80-acre, more or less,  
8 spacing unit comprised of the north half south half of  
9 sections 1, 2, and 3. The unit will be dedicated to  
10 the Burton Flat 1-3 Fed State Com 337H well.  
11 Orientation of the well is laydown west to east and it  
12 is a standard location well.

13 Mr. Bennett's Exhibit A for case 23913  
14 includes his landman statement, the C-102, the  
15 ownership breakdown, the well proposal letter with  
16 AFEs, and the chronology of contacts.

17 Mr. Dixon's Exhibit B for this case  
18 includes his geology statement along with the five  
19 standard geology exhibits, and Exhibit C is the self-  
20 affirmed statement of notice for mailings and  
21 publications.

22 Again, all working interest owners  
23 received notice except we're still waiting on the two,  
24 Muleta LLC and J2 Exploration, and those letters are  
25 still in transit.

1           We have the issue with XTO in this one  
2 as a record title owner, and then all the overriding  
3 royalty interest owners received noticed except for 14  
4 who are still listed as in transit or forwarded and  
5 two overriding royalty interest owners are  
6 unlocatable. And publication was notice was timely.

7           And at this time, I ask that all  
8 exhibits in this particular case, Exhibits A, B, and C  
9 and sub-exhibits be admitted into the record.

10           MR CHAKALIAN: Mr. Savage, your  
11 exhibits are admitted into evidence with the caveat  
12 that you're going to correct your A2 exhibit in this  
13 case.

14           Mr. McClure, any questions in this  
15 case?

16           MR. MCCLURE: No questions, Mr. Hearing  
17 Examiner.

18           MR CHAKALIAN: Very good.

19           Mr. Savage, let's continue to your last  
20 case, number 14.

21           MR. SAVAGE: Okay. The last case,  
22 23914, Devon seeks an order pooling all uncommitted  
23 interests in the Bone Spring formation again  
24 designated as an oil pool underlying standard form a  
25 80-acre, more or less, spacing unit comprised of Lots

1 13 through 16 of Sections 1, 2, and 3.

2 This unit is dedicated to the Burton  
3 Flat 1-3 Fed State Com 335H well. Orientation is  
4 laydown west to east, and it is a standard location.

5 Mr. Bennett's Exhibit A for case 23914  
6 includes his landman statement, the C-102, the  
7 ownership breakdown, the well proposal with AFEs, and  
8 the chronology of contacts.

9 Mr. Dixon's Exhibit B for this case  
10 includes his geology statement along with the five  
11 standard geology exhibits.

12 And the Exhibit C provides a self-  
13 affirming statement of notice for mailings and  
14 publication notice. All letters and notices were  
15 timely sent, and all working interest owners received  
16 notice.

17 We have the XTO issue in here again  
18 that needs to be addressed, and there are -- all the  
19 overriding royalty interests received notice except  
20 for four. These letters are listed as in transit or  
21 forwarded, and we still have those two overriding  
22 royalty interest owners who are unlocatable. And  
23 publication notice was timely published to account for  
24 any contingencies in notice.

25 Mr. Bennett and Mr. Dixon affirm that

1 the approval of these five applications including this  
2 last one is in the best interest of conservation,  
3 protection of correlative rights, and prevention of  
4 delays and will prevent the drilling of unnecessary  
5 wells.

6 At this time, I move that exhibits for  
7 the last case, 23914, Exhibits A, B, and C and all  
8 sub-exhibits be admitted into the record, and I stand  
9 for any questions on this.

10 MR CHAKALIAN: Mr. Savage, your  
11 exhibits are admitted into evidence with the caveat  
12 that by the close of business today you will submit an  
13 amended exhibit packet correcting exhibit A2.

14 And Mr. McClure, any questions on this  
15 case?

16 MR. MCCLURE: No questions, Mr. Hearing  
17 Examiner.

18 MR CHAKALIAN: Very good. Thank you,  
19 Mr. Savage.

20 MR. SAVAGE: Thank you.

21 MR CHAKALIAN: We are moving on to  
22 23922, Riley Permian Operating. Is it Mr. Parrot or  
23 Mr. Suezoz?

24 MR. SUAZO: It's actually Mr. Suazo,  
25 Mr. Hearing Examiner. I'm not sure if my camera is

1 working today or not, but if you can hear my I can  
2 proceed.

3 MR CHAKALIAN: I can hear you, and your  
4 camera's not working, so please proceed.

5 MR. SUAZO: Very good. Miguel Suazo  
6 with the Santa Fe office of Beatty and Wozniak  
7 representing Riley Permian Operating. Good morning.  
8 In this matter, Riley seeks orders extending for an  
9 additional year the obligation to commence drilling  
10 under division order number R-22632 which was entered  
11 on April 16, 2023, in case number 23346.

12 The subject order pooled all  
13 uncommitted interest owners in the Yeso formation  
14 underlying a standard 160-acre horizontal spacing unit  
15 in the south half of the north half of Section 15,  
16 Township 18 South, Range 26 East, Eddy County, New  
17 Mexico.

18 The initial proposed wells for the  
19 units are the Elm Fee Number 1H, Elm Fee Number 2H,  
20 Elm Fee Number 3H, and Elm Fee Number 4. Good cause  
21 exists for Riley's request for extension of time to  
22 commence drilling to April 16, 2025. Riley is  
23 currently engaged in negotiations on a new rig  
24 contract and is anticipating a delay in relocating  
25 this rig from Texas.

1           And exhibit packet was filed on Tuesday  
2 of this week and contains the application and relevant  
3 affidavits. Exhibit A is the application, Exhibit B  
4 is the affidavit of Riley's land witness, Mr. Mark  
5 Smith.

6           Mr. Smith has not previously testified  
7 before the Division but notes that he is familiar with  
8 this case including the related pooling application,  
9 pooling order, and reasons for Riley's extension  
10 requests.

11           Exhibit C is the notice affidavit  
12 showing this --

13           MR CHAKALIAN: Mr. Suazo?

14           MR. SUAZO: Yes, Mr. Examiner?

15           MR CHAKALIAN: Are you asking me to  
16 qualify him as an expert?

17           MR. SUAZO: I think in this case he can  
18 actually be qualified as a fact witness under the  
19 circumstances. But if you prefer that we qualify him  
20 as an expert witness, I can certainly submit a CV  
21 after this hearing.

22           MR CHAKALIAN: Okay. So there's no CV  
23 here. And why do you believe that he does not need to  
24 be an expert to testify in this matter?

25           MR. SUAZO: Simply because he's

1 familiar with, you know, all the reasons for the  
2 request of the extension which I don't believe  
3 requires expert testimony. But if you're of a  
4 different opinion, we can amend that.

5 MR CHAKALIAN: Well, not necessarily as  
6 a different opinion, but I want to understand the  
7 issue.

8 So it says here that he's employed as a  
9 senior landman. But you're not seeking to admit him  
10 or to qualify him as a landman because you believe  
11 that his testimony is lay testimony?

12 MR. SUAZO: Well, I think in this case,  
13 I mean, it can be, I think, for the purposes of  
14 seeking the extension. I don't know that his  
15 expertise in land as opposed to his knowledge of the  
16 reason for requesting the extension makes a material  
17 difference.

18 MR CHAKALIAN: But in paragraph 2 of  
19 the affidavit, it says "I ask that the division accept  
20 my credentials as those of an expert witness."

21 MR. SUAZO: Correct. And so, you know,  
22 it's really up to your discretion, Mr. Examiner. We  
23 can certainly submit a CV, which we did not, and  
24 qualify him as an expert. Or, we can proceed under  
25 the circumstances given the nature of this proceeding

1 as a non-expert.

2 MR CHAKALIAN: I want to take route A.  
3 Let's take a pause on this case and we can come back  
4 to it in a little bit. Why don't you file his CV and  
5 also email it to Marlene and myself. And I know  
6 there's no other party in this case, so --

7 MR. SUAZO: Correct.

8 MR CHAKALIAN: Right. So why don't you  
9 do that. We'll take a break on this case as you're --  
10 it looks like you have another case here, as well. Is  
11 that correct?

12 MR. SUAZO: Yes, Mr. Examiner. That is  
13 correct. It is 23923.

14 MR CHAKALIAN: Wasn't that dismissed?

15 MR. SUAZO: So yes, I mean, that's the  
16 only reason to raise it. We were going to ask for an  
17 extension on the same grounds as 23922; however, my  
18 client was able to get a rig in time, and so they  
19 filed a motion to dismiss.

20 MR CHAKALIAN: Okay. So that motion is  
21 granted. So we won't be hearing that today.

22 So we're going to take a break on  
23 23922, allow you some time to file the CV. How long  
24 do you think that'll take?

25 MR. SUAZO: Well, as soon as my client

1 can get it to me, Mr. Examiner, we can get it  
2 submitted, so I would expect we'd be able to do that  
3 today. I don't know if we'll be able to get it  
4 before, you know, the close of today's hearing or not,  
5 but we can endeavor to do that.

6 MR CHAKALIAN: Okay. Well -- okay,  
7 let's see. What we'll do is as soon as I get your  
8 email, I'll know that you have filed it through the  
9 portal. And if we're still conducting today's docket,  
10 then we'll hear -- prior to file for a continuance  
11 because the packet is not complete by my assessment.

12 MR. SUAZO: Understood. I will contact  
13 the client now and be on stand-by to be called again.  
14 If we can't get that today for whatever reason I'll  
15 let you know, and we can address the continuance at  
16 that time.

17 MR CHAKALIAN: Thank you, Mr. Suazo.

18 So we will move on to 23924, Chevron,  
19 and it looks like maybe Ms. Vance is -- yes, there we  
20 are.

21 Okay, Ms. Vance, is this case -- this  
22 stands by itself, doesn't it?

23 MS. VANCE: That's correct, Mr. Hearing  
24 Examiner.

25 MR CHAKALIAN: Okay, very good. And I

1 don't believe there's any other parties are there?

2 MS. VANCE: No, there are not.

3 MR CHAKALIAN: Okay, very good. Do you  
4 have a witness with you today?

5 MS. VANCE: I do. I have with me Ms.  
6 Devery. I don't think that hopefully she'll need to  
7 testify to anything, but I have asked her to be here  
8 in case there are any questions that come up that she  
9 may need to answer.

10 MR CHAKALIAN: Okay. Please proceed.

11 MS. VANCE: Thank you, Mr. Hearing  
12 Examiner. So in case 23924, Chevron is requesting to  
13 amend their existing order which is order number  
14 R-22488, and what we are requesting is to dismiss only  
15 the surface comingling authority under that order that  
16 was granted so that Chevron can expand the surface  
17 comingling authority under the existing administrative  
18 order PLC-887-A with its forthcoming administrative  
19 amendment application.

20 And I will note that I previously prior  
21 to filing this application, I did confer with Mr.  
22 McClure, and he is apprised of how we are approaching  
23 this case and the amendment for the surface  
24 comingling.

25 So Exhibit A is a copy of the

1 application that we filed. Exhibit B is the self-  
2 affirmed statement of Ms. Deirdre Devery who is a  
3 facilities engineer with Chevron. She has not  
4 previously testified before the Division, so we  
5 included a copy of her resume which is Exhibit B1.

6 Just to provide a few highlights and  
7 showcase her extensive experience as a facilities  
8 engineer, she has a bachelor's of engineering from the  
9 University of Cork in Ireland, a master's of  
10 engineering from Texas A&M.

11 And again, if you review her CV, she  
12 has extensive experience as a structural and project  
13 engineer working for Arup Consulting Engineers  
14 and -- Rail which she worked worldwide with both of  
15 those companies.

16 And she presently works with Chevron  
17 and has been with them since 2011 doing project and  
18 facilities engineering in providing planning  
19 advisement on large-scale projects related to oil and  
20 gas.

21 MR CHAKALIAN: Okay, Ms. Vance. Your  
22 witness is qualified as an exhibit by the division.  
23 Please proceed.

24 MS. VANCE: Okay. Thank you, Mr.  
25 Hearing Examiner.

1           So also included with her exhibits or  
2 her sub-exhibits we've included Exhibit B2, which is a  
3 copy of the order number R-22488. And also Exhibit B3  
4 is a copy of PLC-887-A. And then lastly, we have  
5 included Exhibit C which is a self-affirmed statement  
6 of notice with sample letters that were timely mailed  
7 on October 13, 2023. And Exhibit D which is an  
8 affidavit of notice of publication which was timely  
9 published on October 17, 2023.

10           And again, just to touch on the parties  
11 we provided notice to were the same parties originally  
12 noticed in the case related to order R-22488.

13           And unless there are any questions, I  
14 do -- well, let me back up. And one thing I wanted to  
15 note on the record, which we did put in the  
16 application and that I have had discussions with Mr.  
17 McClure, we are filing this application and  
18 simultaneously and concurrent -- separately but  
19 concurrently filing that amendment to the PLC  
20 administrative order for surface comingling which is  
21 forthcoming.

22           And we would ask that the Division not  
23 make a -- not dismiss the comingling authority under  
24 this order, under the order R-22488 until the  
25 administrative amendment application has been approved

1 under PLC-887-A. The concern is we just don't want to  
2 have any gap in surface comingling authority.

3 MR CHAKALIAN: So are you asking me for  
4 something, Ms. Vance? Or are you asking Mr. McClure  
5 for something? I'm not sure what you're asking.

6 MS. VANCE: I am not asking. I just  
7 wanted to make sure that that is on the record. I did  
8 speak with Mr. McClure about this, and it's been done  
9 -- the Division has done something similar in the past  
10 in situations like this, but essentially we just want  
11 to make sure that the order to dismiss is not issued  
12 before the approval for the surface comingling  
13 amendment.

14 MR CHAKALIAN: Okay. Are you finished  
15 with your presentation?

16 MS. VANCE: I am, Mr. Hearing Examiner.

17 MR CHAKALIAN: Okay. Your exhibits are  
18 admitted into evidence.

19 Mr. McClure?

20 MR. MCCLURE: I have no questions, Mr.  
21 Hearing Examiner.

22 MR CHAKALIAN: Okay.

23 So Ms. Vance, this case will be taken  
24 under advisement. And that is 23924.

25 MS. VANCE: Thank you, Mr. Hearing

1 Examiner.

2 Thank you, Mr. McClure.

3 MR CHAKALIAN: We're going to move on  
4 to 23925, Permian Resources. It looks like maybe Ms.  
5 -- okay, very good, Ms. McLean.

6 MS. MCLEAN: Hi, Jackie McLean, Hinkle  
7 Shanor on behalf of Permian Resources.

8 MR CHAKALIAN: And I believe we have  
9 Mr. Blake Jones with us?

10 MR. JONES: Yes, Mr. Hearing Examiner.  
11 Blake Jones with Steptoe & Johnson on behalf of  
12 Norther Oil and Gas.

13 MR CHAKALIAN: Okay. Mr. Jones, are  
14 you here just to monitor? Or are you objecting?

15 MR. JONES: Just to monitor. No  
16 objections.

17 MR CHAKALIAN: Very good.

18 Ms. McLean, would you like to  
19 proceeding by affidavit?

20 MS. MCLEAN: Yes, Mr. Examiner.

21 MR CHAKALIAN: Okay, please proceed.

22 MS. MCLEAN: Thank you.

23 In case number 23925, Permian Resources  
24 applies for an order pooling all uncommitted interests  
25 in the Wolfcamp formation underlying a 640-acre, more

1 or less, standard horizontal spacing unit comprised of  
2 the south half of sections 35 and 36, Township 19  
3 South, Range 29 East in Eddy County, New Mexico.

4 And Permian Resources intends to  
5 dedicate the unit to the Silver Bar 35-36 Fed State  
6 Com 202H and 203H wells. And this is a proximity  
7 tract unit with the Silver Bar 202H well being the  
8 defining well.

9 The exhibit packet submitted to the  
10 Division for case number 23935 contains Exhibit A, the  
11 land professional testimony of Mark Hajdik and related  
12 standard land exhibits including the plat of tracts,  
13 ownership interests, pooled parties, a well proposal  
14 letter, and a summary of communications.

15 Exhibit B, geology testimony of Chris  
16 Canton which includes a regional locator map, cross-  
17 section map, Bone Springs subsea structure maps,  
18 structural cross-section, a stratigraphic cross-  
19 section, and a gun barrel development plan.

20 And then Exhibit C, the notice  
21 testimony which includes a copy of the notice letter  
22 that was sent to the parties to be pooled, copies of  
23 the certified mailed green cards and white slip  
24 returns, and an affidavit of publication.

25 And unless there are questions, I ask

1 that Exhibits A, B, and C be admitted into the record  
2 in case number 23925 and that this case be taken under  
3 advisement.

4 MR CHAKALIAN: Ms. McLean, your  
5 exhibits are admitted into evidence.

6 Mr. McClure?

7 MR. MCCLURE: Yes, Mr. Hearing  
8 Examiner, thank you.

9 Ms. McLean?

10 MS. MCLEAN: Yes?

11 MR. MCCLURE: Oh, I'm sorry. What was  
12 that? Sorry, I coughed.

13 MS. MCLEAN: Oh, I just said, "Yes,"  
14 Mr. McClure.

15 MR. MCCLURE: Your pooling checklist  
16 indicates this is a standard spacing unit, and it  
17 identifies a proximity well. However, it also says  
18 it's within 330 feet of the quarter-quarter section  
19 line. But I guess my questions to you is upon what  
20 basis is it being within 330 feet that you make this  
21 statement, I guess?

22 MS. MCLEAN: You mean for the proximity  
23 tract well, the 202H well?

24 MR. MCCLURE: Correct.

25 MS. MCLEAN: Well, so first of all,

1 this is a 640-acre unit, and the 202H well is going to  
2 be -- I'm going to -- let me go to my little map here.  
3 If you look at the -- they are pages 12 and 13 of the  
4 exhibit packet; do you see those?

5 MR. MCCLURE: Yes, ma'am. I'm looking  
6 at the C-102 for the 202H.

7 MS. MCLEAN: Okay, great. So if you  
8 see page 13, it shows the 202H well which is at that  
9 bottom hole location is at 1650 from the south line  
10 which puts it within 330 of that line separating the  
11 south half south half and the north half south half.

12 And so they're seeking to combine that  
13 into one spacing unit.

14 MR. MCCLURE: I guess what I'm looking  
15 at on the C-102 is if it's assumed that it's a 1320-  
16 feet quarter-quarter, then you are at 330 feet and not  
17 within. Having said that, when looking at the C-102,  
18 it appears that perhaps what Permian Resources is  
19 stating here is that it's not a 320-foot quarter-  
20 quarter, but it's a 1,316 feet instead, which would  
21 place it within 330 feet.

22 MS. MCLEAN: That's what it --

23 MR. MCCLURE: Is that what your  
24 understanding is here?

25 MS. MCLEAN: That's what it looks like

1 here based on this C-102. That's correct.

2 MR. MCCLURE: Well, actually, now that  
3 I think about it again, actually that plat places it  
4 even further away if it's only 1,300 and because we're  
5 on the other side of it because it will be 1,650 minus  
6 1,316 which places it 344 feet, actually, now that I  
7 think about this a second time.

8 But regardless, that just reinforces, I  
9 guess, my question, is there a reason that we believe  
10 it's a proximity well still after discussing it just  
11 now?

12 MS. MCLEAN: Right. Maybe it's not.  
13 Maybe it should just be either -- maybe we could file  
14 for an irregular or non-standard --

15 MR. MCCLURE: -- unit?

16 MS. MCLEAN: Yeah, or two different.  
17 But I think we could also just check with the client,  
18 if you would allow us to, to double check that that  
19 C-102 is updated and correct. Because it's our  
20 understanding that it is supposed to be a proximity  
21 tract unit. So we would like the opportunity to be  
22 able to go back and confirm and resubmit that exhibit  
23 if necessary.

24 MR. MCCLURE: Well, I guess we kind of  
25 have two different routes, and I do not know what the

1 thought process is here.

2 My presumption is that if everything is  
3 correct within this application, then my speculation  
4 would be that Permian would wish to seek a NSP  
5 administratively. And if that is correct, then they  
6 will need to submit -- you will need to submit an  
7 updated pooling checklist indicating as such, or a new  
8 packet with the amended pooling checklist.

9 Now, if the stuff is incorrect as far  
10 as the feetages, then maybe it is a standard. And if  
11 that's the case, I guess we would have to submit a new  
12 pooling checklist with that being corrected as  
13 necessary as well as the C-102 as necessary.

14 MS. MCLEAN: Right. And so will you  
15 give us, you know, a day or so to confer with the  
16 client? And then if it is just simply submitting a  
17 new C-102, we can go ahead and do that. And then an  
18 administrative application for the NSP.

19 MR CHAKALIAN: So Ms. McLean, let's  
20 talk about this.

21 In one scenario, it's quite clear that  
22 this case should be dismissed. In the scenario you're  
23 now talking about, it sounds like the documents that  
24 have been submitted as exhibits are in some way  
25 incomplete or incorrect; is that right?

1 MS. MCLEAN: That's correct.

2 MR CHAKALIAN: Okay, very good. And  
3 you're saying to figure out which of those scenarios  
4 is factual, you would like to discuss this with your  
5 client?

6 MS. MCLEAN: That's correct. And I  
7 think we would, you know, prefer if it's okay with the  
8 hearing examiner and with Mr. McClure to just go ahead  
9 and continue this to the next docket. That way we can  
10 also have time to file the administrative application  
11 if necessary.

12 MR CHAKALIAN: Okay.

13 MS. MCLEAN: And kind of just sort  
14 things out with the client.

15 MR CHAKALIAN: Okay. Mr. McClure, I'm  
16 going to continue this not to the next docket because  
17 November 16 is getting full. I'm going to continue  
18 this to December 7. But it's, of course, Ms. McLean's  
19 responsibility to file a continuance through the  
20 portal to move this to December 7.

21 And that gives you even more time, Ms.  
22 McLean, to figure out which direction you want to go  
23 with this.

24 MS. MCLEAN: Okay. Thank you, Mr.  
25 Examiner.

1 MR CHAKALIAN: You're welcome. And Ms.  
2 McLean, if you do decide to dismiss this case because  
3 in fact it's an administrative process and not a  
4 hearing process, then please file a motion to dismiss  
5 when you realize that.

6 MS. MCLEAN: Yes. I think that it  
7 would end up being we would still have to proceed with  
8 the case and also file administratively.

9 MR CHAKALIAN: Okay. Well, we'll  
10 figure that as time goes on. But I'm going to show  
11 this continued to the December 7 docket as long as you  
12 file the proper continuance.

13 MS. MCLEAN: All right. Thank you, Mr.  
14 Examiner. We'll do that.

15 MR CHAKALIAN: Okay.

16 Mr. McClure, good catch.

17 Let's move on. We are going on to  
18 23926 through 23930. It looks like MRC Permian, and  
19 is it Mr. Feldewert?

20 MR. FELDEWERT: Yes, sir.

21 MR CHAKALIAN: Okay, very good. And do  
22 we have, is it Ms. Hardy?

23 MS. HARDY: Yes, Mr. Examiner. Dana  
24 Hardy on behalf of COG Operating and Concho Oil and  
25 Gas. I do not --

1 MR CHAKALIAN: Well, you just  
2 -- very good. Thank you.

3 MS. HARDY: We do not object to these  
4 cases proceeding by affidavit.

5 MR CHAKALIAN: You answered my question  
6 before I asked it. Thank you.

7 Mr. Feldewert, please proceed.

8 MR. FELDEWERT: So this particular sets  
9 of cases involve the Bone Spring formation. You'll  
10 see the next set involve the Wolfcamp formation but  
11 the same acreage. Okay?

12 MR CHAKALIAN: Okay.

13 MR. FELDEWERT: In this set of four  
14 cases, the company seeks to pool four stand-up  
15 horizontal spacing units in the Bone Spring formation  
16 underlying Sections 2 and 11 of 24 South, 33 East in  
17 Lea County with one of the spacing units in case 23930  
18 covering the east half of the east half extending into  
19 Section 14. Okay?

20 Each of these spacing units are limited  
21 in depth due to existing development and ownership  
22 differences in shallower intervals of this formation,  
23 and we describe in the application and in the exhibits  
24 the correlative stratigraphic interval that is being  
25 pooled.

1           We're also able to dismiss the request  
2 for approval of overlapping spacing units. You'll see  
3 Exhibit A1 in each case is a notice letter that was  
4 sent to all of the affected working interest owners  
5 for these overlapping spacing units. And the land  
6 statement confirms that no objections were received to  
7 the overlapping spacing units, so we're simply seeking  
8 pooling.

9           If I just go to the first set of  
10 exhibits recognizing they're all the essentially are  
11 all very similar, you'll see we had the land -- we  
12 have the application, compulsory pooling checklist,  
13 and then we have the land statement from Mr. Nick  
14 Weeks who has previously testified before the  
15 Division.

16           He notes the interval that's being  
17 pooled. He reflects in Exhibit A1 as the letter that  
18 was sent involving the overlapping spacing unit issues  
19 in each case.

20           Exhibit A2 in each case you'll see is  
21 the C-104. And Mr. McClure, you will note that they  
22 have actually filed two -- C-102s, I mean to say,  
23 C-102s for each well since there are two different  
24 Bone Springs spacing units involved.

25           And then they have allocated the pooled

1 acreage to each of the proposed -- or each of the  
2 spacing units -- or each of the pools that are at  
3 issue here for this spacing unit.

4 Exhibit A3 identifies the tracts.  
5 Exhibit A4 provides a list of the working interest  
6 owners being pooled as well as a longer list of the  
7 overriding royalty interest owners and record title  
8 owners that are being pooled.

9 Exhibit A5 is then the well proposal  
10 letter for this set of Bone Spring wells along with  
11 the AFE that Mr. Weeks addresses in his statement.  
12 And then Exhibit A6 is the chronology of contacts.

13 In each of these cases, you'll also see  
14 the self-affirmed statement of Liz Olson. She's a  
15 geologist with the company, and she submits the same  
16 exhibit and statement for all four cases because she  
17 did her analysis of the area.

18 And she provides you -- for you a  
19 location map showing the location of the spacing units  
20 in yellow. She identifies, she's got a structure map  
21 along with a cross-section, and the cross-section  
22 identifies the target intervals for the initial Bone  
23 Spring wells.

24 And then what's in addition here is  
25 Exhibit B4 in each case is a type log identifying the

1 pooled interval that is involved here.

2 I also then submit as Exhibit C my  
3 self-affirmed statement confirming that notice was  
4 sent to all the working interest owners and the other  
5 mineral interest owners that are being pooled in this  
6 case. Most of them received it. A couple of the  
7 items are still being delivered.

8 Therefore, in each case there is an  
9 affidavit of publication directed by name to the  
10 parties that are being pooled.

11 So for each of these four cases, I  
12 would move the admission of MRC Exhibits A through D  
13 along with the sub-exhibits and ask that all four  
14 cases be taken under advisement.

15 MR CHAKALIAN: Mr. Feldewert, your  
16 exhibits in all four cases are admitted into evidence.

17 Mr. McClure?

18 MR. MCCLURE: Thank you, Mr. Hearing  
19 Examiner.

20 Mr. Feldewert, we have the type log and  
21 the measured depth on that type log, but are you aware  
22 of what this is the equivalent of from the  
23 stratigraphic column in terms of is it the top of the  
24 Bone Springs sand, the top of the Bone Spring -- or,  
25 excuse me, let me back up.

1           Is it the top of the Bone Spring third  
2 sand, or is it the top of the Bone Spring third  
3 carbonate? Are you aware?

4           MR. FELDEWERT: It's in the lower part  
5 of the Bone Spring. I don't know if it correlates to  
6 a particular interval that is widely utilized by all  
7 the companies. I'm looking here at his land  
8 statement.

9           Yeah, he talks about going to the base  
10 of the Bone Spring. I'm trying to see if he's got any  
11 depiction that they use. Let me take a quick look at  
12 the well proposal letter.

13           I don't readily see one, Mr. McClure.  
14 I don't know if there is one. I think the type logs  
15 are probably our best indication, which is why we  
16 included it and of what is exactly being pooled here.

17           MR. MCCLURE: Yes, and I absolutely  
18 agree with that, Mr. Feldewert. It's just a matter  
19 that if we knew -- I mean, I'm sure they picked the  
20 top of something rather than just depth there, and  
21 it's simply a matter of just having something in the  
22 record to make it easier for our future reviewers.

23           Having said that, though, I don't see  
24 where it's deficient, and this is kind of what we're  
25 looking at. So just if we'd had it available it would

1 have been nice just to have it on the record for our  
2 future reviewers. But I think we should be fine  
3 there.

4 The issue, I guess, that is more  
5 problematic is it looks like we're looking at the same  
6 scenario as the case earlier today. I don't know if  
7 there's any missing documents submitted or if it's  
8 identified somehow within the packet, that being that  
9 we have a simple list of a summary of interests rather  
10 than specifically the forced pooled persons that is  
11 being requested of the Division to force pool.

12 MR. FELDEWERT: We have -- if you look  
13 at the -- I think either one of the PDFs, but Exhibit  
14 B4 in each case, the first page?

15 MR. MCCLURE: Uh-huh.

16 MR. FELDEWERT: it has a list of the  
17 interest of working interest owners being pooled. And  
18 then the second and third pages list the overriding --  
19 and fourth pages -- second and third pages list the  
20 overriding royalty interest owners that they pooled.

21 MR. MCCLURE: Now, Mr. Feldewert, on  
22 that same table is Matador's interest. Surely they're  
23 not force pooling themselves? So, I mean, this table  
24 in and of itself doesn't seem to be an indicator of  
25 the forced persons, I guess.

1 MR. FELDEWERT: Well, if I look at the  
2 table, you'll see that MRC Permian's interests are  
3 listed there as a line item that says "Voluntary  
4 joinder." Then there's a compulsory pooled  
5 percentage, and then that compulsory pooled percentage  
6 is broken down by the working interest owners within  
7 that compulsory pooled percentage.

8 So for example, I'm looking at page 23  
9 of the PDF for the first case which is Exhibit B4.

10 MR. MCCLURE: Now, using that logic  
11 that the indicator of the forced pooled persons is  
12 simply this interest percentage, is MRC not requesting  
13 to force pool overriding interest owners then?

14 MR. FELDEWERT: No, there's a second --

15 MR. MCCLURE: Because they're not  
16 included in that percentage; correct?

17 MR. FELDEWERT: So let's step back.  
18 That first page, Summary of Interest, deals with the  
19 working interest. Okay?

20 MR. MCCLURE: Uh-huh.

21 MR. FELDEWERT: The second and third  
22 page is as it says a summary of interests, and a  
23 description identifies them as overriding royalty  
24 interest owners, or record title owners. So this is a  
25 list we've always used, type of list we've always

1 used. What am I missing?

2 MR. MCCLURE: In prior cases that had  
3 this similar template, you had the landman's statement  
4 which specifically called out this table. I don't  
5 recall what the title was of the table, though. And  
6 this particular interest is definitely summary of  
7 interests is not indicative via this table alone, at  
8 least, that it is a forced pooling list.

9 MR. FELDEWERT: So if I go to the  
10 landman's statement, paragraph 9, he identifies and  
11 describes Exhibit A4 both in terms of a working --

12 MR. MCCLURE: And does he -- well, when  
13 it -- go ahead, Mr. Feldewert. Go ahead.

14 MR. FELDEWERT: Both in terms of the  
15 working interest as well as the list of overriding  
16 royalty interests and record title owners that MRC  
17 seeks to pool.

18 MR. MCCLURE: And what the difficulty  
19 is, and perhaps I failed to notice it the last time  
20 around, is clearly this is a incorrect statement  
21 because like I said before, they identify themselves  
22 in that exact same table which they're obviously not  
23 force pooling.

24 MR. FELDEWERT: Mr. McClure, I would  
25 have to respectfully disagree with that because if I

1 look at the table that he references, they have a gray  
2 line that says "compulsory pool" which is 42 -- I'm  
3 looking at the first case -- .791 et cetera  
4 percentage. Underneath that they have that percentage  
5 broken down by the working interest owners.

6 I fail to see why this does not  
7 identify the working interests that are being pooled.  
8 And you're correct, they would never have to pool  
9 themselves. They just show their percentage as well  
10 as those that are voluntarily joined in the  
11 percentages.

12 So the first three columns add up to  
13 100 percent, and the third column identifies the  
14 percentage to be compulsory pooled, and the remaining  
15 columns identify the interest owners and the  
16 percentage of interest within that which needs to be  
17 pooled.

18 MR. MCCLURE: Can you --

19 MR CHAKALIAN: Let me just interrupt --  
20 excuse me, let me interrupt for just a moment.

21 It's 12 o'clock, or it's a little after  
22 12 o'clock. Why don't we take a break until 1  
23 o'clock. That'll give everyone time to think about  
24 this and think of a way of either reframing it or  
25 correcting it if in fact it needs correction. Does

1 that sound like acceptable to the parties?

2 MR. FELDEWERT: That's fine. The only  
3 thing I would note is I have presented multiple cases  
4 with this same format for this company without any  
5 confusion.

6 MR CHAKALIAN: Okay. So noted. So we  
7 will come back at 1 o'clock to continue these cases  
8 that have been consolidated for an affidavit hearing.  
9 And thank you very much.

10 MR. FELDEWERT: Thank you.

11 MR CHAKALIAN: Thank you.

12 (Off the record.)

13 MR. MCCLURE: -- and a summary of the  
14 working interests. The different -- I guess it  
15 doesn't make a huge difference to the Division moving  
16 forward, although on this particular case in order to  
17 not be amending this exhibit, it'd likely be easier to  
18 submit a brand-new table.

19 I guess the only thing in my  
20 speculation would be that the difference here would be  
21 you'd be essentially just not including the committed  
22 interests is the only read difference. And then also  
23 identifying within the table itself that those are the  
24 persons being pooled rather than a table of interests.

25 MR. FELDEWERT: Well, I guess I remain

1 -- I'm sorry, I guess I remain confused, okay? The  
2 exhibit is described as Summary of Interests,  
3 referenced by the affiant or the statement. As MRC  
4 Permian's interest at 35.11 percent, if I look at the  
5 exhibits for the first case, compulsory pool is 42.79,  
6 and they're grayed. Okay?

7 Then we have a blue line that says  
8 under compulsory pool the interest owner in the  
9 description for that 42.79189 percent interest that's  
10 being pooled.

11 What's missing?

12 MR. MCCLURE: The reason that I'm  
13 stating, I guess, that you do have a complete  
14 application is coupling this with the landman's  
15 statement you are -- I am in agreement that you are  
16 correct. It does have the needed information.

17 What I'm now requesting of you is  
18 essentially to have an exhibit that could be a stand-  
19 alone tell us what the forced persons are without  
20 having to also include an earlier exhibit with the  
21 landman's statement. It's for an ease of review,  
22 essentially.

23 Mr. Feldewert, do you -- I guess, does  
24 that explain, I guess, what I'm looking for? Or I  
25 guess, what are you asking of me, I guess?

1                   MR. FELDEWERT: Well, I guess what  
2 would you want me to take out on Exhibit A4? Take out  
3 the MRC Permian line and take out the voluntary  
4 joinder line and then leave the remainder of the  
5 exhibit? Because that would be a list of working  
6 interest owners, and then the next two pages, which is  
7 the overriding owners. Is that what you want?

8                   MR. MCCLURE: In terms of a brand-new  
9 exhibit that would to be submitted to the Division,  
10 then I guess what the change would be is all the  
11 pooled persons would be listed, none of the not-pooled  
12 persons would be listed, and the table would be titled  
13 something along the lines of "pooled persons" or some  
14 sort of indication that that is the list of pooled  
15 persons.

16                   What you have here, and you're going to  
17 want to keep having this obviously, is a summary of  
18 interests.

19                   MR. FELDEWERT: Well, every single  
20 party listed on here is being pooled.

21                   MR. MCCLURE: Well, that's incorrect.  
22 I mean, you have persons on here that's not being  
23 pooled on this table, and it's also not indicative  
24 that this is the pooled persons.

25                   The big issue, I guess, that comes down

1 to this is compulsory pooling is primarily made for  
2 working interest owners. You also include overriding  
3 royalty interest owners here and possibly record title  
4 owners. I don't recall, I guess -- overriding.

5 MR. FELDEWERT: They're all being  
6 pooled.

7 MR. MCCLURE: Yes, you -- MRC is  
8 requesting that, I agree with you, based upon the  
9 landman's statement. Based upon Exhibit 4 here, it  
10 doesn't tell you that. It tells you all the interest  
11 owners. It doesn't tell you who's being pooled.

12 We can speculate all day long looking  
13 at just this exhibit who MRC wishes to pool, but it  
14 doesn't outright tell you that.

15 If you go back to, you know, what the  
16 actual thought process is behind compulsory pooling,  
17 then common sense would dictate the uncommitted  
18 interest owners is who MRC is requesting. It wouldn't  
19 necessarily indicate anything but overriding royalty  
20 interest owners or record title owners.

21 MR. FELDEWERT: Let's put that aside,  
22 okay? If I go to -- all right. So the problem I  
23 have, Mr. McClure, is now if I go to the compulsory  
24 pooling checklist, there is a line item that says  
25 "pooled parties" including ownership type.

1                   And we have listed Exhibit A4 because  
2 it shows all of the parties to be pooled and their  
3 ownership type.

4                   MR. MCCLURE: I'm going back to your  
5 pooling checklist, and it identifies Exhibit A4.  
6 Having said that, this -- that compulsory pooling  
7 checklist without your landman's statement I would  
8 definitely say that it's inaccurate, I guess. Reason  
9 being that you can't use a common-sense argument that  
10 the overriding royalty interest owners are being force  
11 pooled.

12                  MR. FELDEWERT: They are being forced  
13 pooled because we don't have a contractual arrangement  
14 bringing them into the spacing unit. There's no  
15 authority under the contract, so they have to be  
16 pooled.

17                  MR. MCCLURE: Well, I --

18                  MR. FELDEWERT: That's why you have  
19 ownership type in that line, I'm assuming. Right? It  
20 says "pooled parties including ownership type"; that  
21 means there's more than one type.

22                  MR. MCCLURE: Well, I suppose the  
23 challenge I'd have for you is to look in the  
24 administrative code and tell me -- direct me, I guess,  
25 to where we are referring to overriding royalty

1 interest owners and record title owners. But I think  
2 that's probably a discussion that's a little bit  
3 broader than this particular -- or these particular  
4 cases.

5 MR. FELDEWERT: Mr. McClure, as you  
6 know, parties routinely have on their pooling list  
7 overriding royalty interest owners and record title  
8 owners because they are part of the mineral estate  
9 that is being pooled.

10 MR. MCCLURE: I agree that that is  
11 absolutely correct, and it is the Division's policy to  
12 go ahead and do so. But where I disagree is that it's  
13 a common sense determining, I guess, that that is what  
14 an operator is requesting when they give us a list of  
15 interest owners.

16 MR CHAKALIAN: All right, I'm going to  
17 step in now as the hearing examiner. I believe the  
18 back-and-forth has sort of come to an impasse.

19 I understand Mr. Feldewert's argument.  
20 I understand Mr. McClure's argument. And Mr.  
21 Feldewert, what we're asking you to do at this point  
22 is to file an exhibit A7. Please list it as Pooled  
23 Persons and list all the people or interest owners  
24 that are being pooled by each of these applications.

25 MR. FELDEWERT: Shall I include their

1 ownership title?

2 MR. CHAKALIAN: Mr. McClure?

3 MR. MCCLURE: Yes, I would. That would  
4 be correct.

5 MR. CHAKALIAN: Yes, please.

6 MR. FELDEWERT: And is there any  
7 particular font or color? Now I'm being facetious.  
8 Let's just drop that last comment. Now I'm being  
9 facetious.

10 MR. CHAKALIAN: I know you are, and  
11 that's why I'm not going to answer it.

12 MR. FELDEWERT: Okay.

13 MR. CHAKALIAN: Give me a deadline that  
14 you can submit these?

15 MR. FELDEWERT: I'll get that done  
16 tomorrow.

17 MR. CHAKALIAN: Okay. Thank you.

18 MR. FELDEWERT: It's very simple.

19 MR. CHAKALIAN: All right. We're going  
20 to take all four of these cases under advisement as  
21 soon as we receive your Exhibit A7 in each of the  
22 four.

23 MR. FELDEWERT: Okay.

24 MR. CHAKALIAN: So let's move on to  
25 your next cases, Mr. Feldewert. It looks like 23931,

1 32, 33, and 34.

2 MR. FELDEWERT: Yes, sir. Michael  
3 Feldewert for the applicant MRC Permian Company.

4 MR. CHAKALIAN: Thank you.

5 And Ms. Hardy?

6 MS. HARDY: Yes, Mr. Examiner. Dana  
7 Hardy for COG Operating and Concho Oil and Gas.

8 MR. CHAKALIAN: And are you monitoring  
9 or objecting?

10 MS. HARDY: I do not object these cases  
11 going forward by affidavit.

12 MR. CHAKALIAN: Thank you, Ms. Hardy.  
13 Mr. Feldewert, please proceed.

14 MR. FELDEWERT: Okay. These are  
15 similar to the last set of cases except they seek to  
16 pool a specific interval within the Wolfcamp formation  
17 under sections 2 and 11 of 24 South, 33 East; but  
18 again, the last case, 23934, includes in the pooled  
19 acreage the east half of the east half of Section 14.

20 The applications and the exhibits all  
21 demonstrate that it is limited to a particular depth  
22 interval within the Wolfcamp formation a correlative  
23 stratigraphic interval that is described in the  
24 exhibits and in the application and in the checklist.

25 We're once again able to dismiss the

1 request for approval of overlapping spacing units  
2 because as reflected in Exhibit A1 for each of these  
3 cases, notice was sent to all the affected working  
4 interest owners and no objection was received.

5 As we saw in the prior case, there is a  
6 -- we have submitted in each case package the pooling  
7 application checklist and then the filed application.  
8 We have the self-affirmed statement of Nick Weeks, who  
9 is a landman who provides not only overlapping spacing  
10 unit letter but a C-102 for each of these wells. And  
11 since there's only a single pool, there is just one C-  
12 102 for each case.

13 He also then provides a list -- I guess  
14 we'll have an argument here -- of the pooled interest  
15 owners in this case which includes again a set of  
16 working interest owners, a set of overriding royalty  
17 interest owners, and a record title owner, a sample of  
18 the well proposal letter and the AFE that was sent to  
19 the working interest owners, and then a summary of  
20 communication to all of the pool for working interest  
21 owners.

22 We then have a self-affirmed statement  
23 of Liz Olson. She's a geologist with the company who  
24 has previously testified, and she provides her  
25 location map, the structure map, the stratigraphic

1 cross-section, and then again a type log which  
2 identifies on Exhibit B4 a limited depth of the  
3 Wolfcamp formation that is being pooled by the  
4 company.

5 Exhibit C is a self-affirmed statement  
6 from myself providing the status of the certified  
7 mailings to all of the parties that are being pooled,  
8 and an Exhibit D as in David which is an affidavit of  
9 publication directed by name again to all of the  
10 parties that are being pooled in these cases.

11 So with that, I would submit MRC  
12 Exhibits A, B, C, and D in each of these four cases  
13 and ask that all four cases be taken under advisement.

14 MR. CHAKALIAN: Okay, Mr. Feldewert.  
15 Your exhibits are admitted into evidence in all four  
16 cases.

17 Mr. McClure?

18 MR. MCCLURE: Thank you, Mr. Hearing  
19 Examiner.

20 Mr. Feldewert, I don't have a question  
21 on the pool, but on the pooling checklist we have an  
22 upper Wolfcamp pool identified, but it appears that  
23 what MRC is requesting to be pooled would actually be  
24 the lower Wolfcamp. I guess my question would be are  
25 you in agreement with that assessment?

1                   MR. FELDEWERT: My -- I had the company  
2 check with the Division's district office about this,  
3 and they said this was the pool. Do you have  
4 different information?

5                   MR. MCCLURE: I was going to say I have  
6 an email into Paul currently to find out what what the  
7 lower Wolfcamp pool is. I don't know, I guess, the  
8 details of that communication, but the pool you have  
9 listed, essentially anything after the semi-colon  
10 there, is the typical nomenclature that identifies the  
11 formation, and it outright identifies the upper  
12 Wolfcamp.

13                   MR. FELDEWERT: Right. And I had the  
14 same question, which is why I had the company reach  
15 out and ascertain whether this is the pool or not, and  
16 this is what they were told.

17                   MR. MCCLURE: Well, coming down to your  
18 Exhibit B3 on our page 35 of 44, what appears to be  
19 identified there would be the lower Wolfcamp. This is  
20 also supported with your pooling checklist that  
21 identifies a measured depth with a type log and states  
22 it's pooling to the base of the Wolfcamp. That  
23 clearly cannot be the upper Wolfcamp, I guess.

24                   MR. FELDEWERT: Do you know the depth  
25 at which the upper Wolfcamp pool extends to?

1 MR. MCCLURE: Unfortunately, it's very  
2 difficult, I guess, to have an exact depth. I guess  
3 apparently there's some sort of deviation from  
4 different areas of the basin. Having said that,  
5 though, clearly the upper Wolfcamp doesn't go to the  
6 base of the Wolfcamp, though.

7 MR. FELDEWERT: Well, I don't know, Mr.  
8 McClure, because as operators we have no control over  
9 the pools. There's not been any notice that I'm aware  
10 of of what the depth is to this upper Wolfcamp pool.  
11 All we can do is go by what the Division's district  
12 office tells us.

13 MR. MCCLURE: Exactly. So -- and I'm  
14 not holding MRC or yourself to fault here. I mean,  
15 I'm hoping I didn't imply as such.

16 MR. FELDEWERT: It's okay.

17 MR. MCCLURE: Where I'm trying to move  
18 forward from here is as soon as I know the correct  
19 pool code to include here, I'd just like you to update  
20 what is in the pooling checklist, essentially.

21 And I haven't received an email back  
22 yet, but I should by the end of the day, which I can  
23 then provide that to you.

24 MR. FELDEWERT: Okay.

25 MR. CHAKALIAN: Okay. So Mr. McClure,

1 can we take these under advisement with that caveat  
2 that you may find that this is in the lower Wolfcamp  
3 and not the upper and that the checklist will be  
4 amended possibly?

5 MR. MCCLURE: I believe exactly so, and  
6 that the checklist will be amended because it needs to  
7 have a different pool.

8 But other than that, I mean, the  
9 application is, you know, I mean, everything's fine.  
10 It's just that one single line as a upper Wolfcamp  
11 pool identified, and it won't be that pool.

12 MR. CHAKALIAN: And that's the -- and  
13 to your understanding, that's the applicant's  
14 responsibility to correct that?

15 MR. MCCLURE: Yes. I mean, we  
16 definitely don't have a policy of going in and  
17 changing their pooling checklists, I guess, so yeah, I  
18 suppose it would be.

19 MR. CHAKALIAN: Mr. Feldewert, were you  
20 going to say something?

21 MR. FELDEWERT: Yes. I said that was a  
22 good question, because obviously we can't control  
23 that.

24 MR. MCCLURE: No, that's right.

25 MR. FELDEWERT: And secondly, I don't

1 want to have any further -- any unnecessary delay  
2 here. Do I need to do the same submission of a --  
3 what -- something that would be titled a table of  
4 pooled parties?

5 MR. CHAKALIAN: I thought -- this  
6 already has it. I thought I saw that.

7 MR. FELDEWERT: It has the same exhibit  
8 A4 that we've always used in all the other pooling  
9 cases.

10 MR. CHAKALIAN: And this one here is  
11 called "Pooled Mineral Interest Owners," not "Pooled  
12 Parties." Yes, please submit an Exhibit A7 in these  
13 four cases as you are in the other four.

14 MR. FELDEWERT: Okay.

15 MR. CHAKALIAN: Thank you. We will  
16 take these under advisement.

17 MR. FELDEWERT: Thank you very much.

18 MR. CHAKALIAN: Thank you, sir.

19 We will move on. Let's see.

20 Mr. Examiner?

21 MR. CHAKALIAN: Yes?

22 MS. HARDY: I'm sorry to interrupt. I  
23 wanted to raise an issue on case number 23925 which  
24 Ms. McLean presented regarding Permian Resources.

25 MR. CHAKALIAN: Yes?

1 MS. HARDY: That is case number 84 on  
2 the docket worksheet.

3 MR. CHAKALIAN: Yes?

4 MS. HARDY: There was a question from  
5 Mr. McClure about the C-102 and whether the well  
6 qualified as a proximity tract well. And I've  
7 confirmed with Permian Resources that they will submit  
8 an amended C-102 and we can submit a corrected  
9 checklist by next week.

10 And so I'm wondering if instead of  
11 continuing that case to December 7th we could just do  
12 that and have the case taken under advisement? I  
13 believe that this similar situation happened with one  
14 of the cases that Ms. Shaheen was presenting also for  
15 Permian Resources.

16 MR. CHAKALIAN: We continued this case  
17 -- hold on one second. Give me a minute, Ms. Hardy.  
18 Let me finish making notes on the cases we just  
19 completed before --

20 MS. HARDY: Sure. Thank you.

21 MR. CHAKALIAN: -- before I -- and then  
22 I'll re-call that case. Hold on one second.

23 MS. HARDY: Okay. Thank you.

24 MR. CHAKALIAN: Ms. Hardy, I'm looking  
25 at my notes, and let me go to Mr. McClure first.

1                   Mr. McClure, you've heard what Ms.  
2 Hardy is suggesting. Do you have any thoughts about  
3 that?

4                   MR. MCCLURE: In regards as to whether  
5 we should go ahead and take it under advisement or to  
6 continue? I would -- I believe in your discretion.

7                   I guess my thoughts on what it sounds  
8 like she's suggesting is they would submit it with an  
9 amended pooling checklist changing the location of one  
10 of their wells and then submit the accordingly C-102  
11 with a changed position which then allows them to  
12 bring it in as a standard horizontal spacing unit.

13                   So in regards to that, yeah, I mean,  
14 that part of it seems straightforward. They wouldn't  
15 have to worry about submitting an NSP or updating any  
16 other part of it.

17                   I don't know if that answers your  
18 questions, Mr. Hearing Examiner.

19                   MR. CHAKALIAN: Well, it begins to.  
20 The issues you had with this case and why we continued  
21 it and why I wrote that the applicant needs to  
22 determine how to proceed, it seemed like there were  
23 two very different paths forward that one path might  
24 be to dismiss the case all together.

25                   MR. MCCLURE: Well, I'm wondering if

1 there might have been a little bit of confusion there  
2 because it wouldn't have been to dismiss the case, it  
3 would have been to have a concurrent administrative  
4 application. They would have to ask for the NSP  
5 approval.

6 MR. CHAKALIAN: Absolutely.

7 MR. MCCLURE: And that would just be  
8 like another approval which they need before the, or  
9 in addition to the hearing order, I guess.

10 MR. CHAKALIAN: I see. Okay. And I  
11 think Ms. McLean's right to correct me there when I  
12 said dismiss, I think she tried to say what you just  
13 said.

14 But now from what you're hearing from  
15 Ms. Hardy, they would not need to file a separate  
16 administrative application?

17 MR. MCCLURE: From what she said, that  
18 would be correct. Also, if maybe -- I don't know if  
19 it would help you, I guess, in the decision, but I  
20 guess the difference between this case and Ms.  
21 Shaheen's case from earlier where they had to do  
22 something similar is in Ms. Shaheen's case the pooling  
23 checklist actually does have the correct location of  
24 the well.

25 It's the C-102 was in error, and there

1 was just a conflicting information in their packet  
2 which they needed to correct.

3           Wherein in this case, it seems that the  
4 applicant is planning to move the well in order to  
5 make it a standard. I wouldn't necessarily lean one  
6 way or the other, I guess, but just to draw a  
7 comparison between the two cases.

8           MS. HARDY: Just to be clear, or to  
9 raise one issue is, you know, it's a minor change.  
10 The well is exactly 330 feet from the quarter-quarter  
11 line, and it needs to be less than 330 feet. So it  
12 could be moved a couple of feet, so it's not a matter  
13 of a major change in the well with application.

14           In fact, the application of notice  
15 wouldn't need to be changed at all. It's just a  
16 matter of really submitting an updated C-102 and  
17 checklist.

18           MR. CHAKALIAN: So Ms. Hardy, what I'm  
19 hearing you're saying is that you believe this case  
20 could be taken under advisement with the correction of  
21 those two documents?

22           MS. HARDY: Exactly.

23           MR. CHAKALIAN: And the exact -- and  
24 the specific corrections to the two documents is what?

25           MS. HARDY: Amending the location of

1 the well that's currently designated as the proximity  
2 tract well so that it's within 330 feet of the  
3 quarter-quarter line instead of exactly 330 feet.

4 MR. CHAKALIAN: Okay. So that's one  
5 correction. And does that go on the checklist or on  
6 the application?

7 MS. HARDY: It's on the checklist and  
8 on the C-102.

9 MR. CHAKALIAN: Okay. And what is the  
10 other change?

11 MS. HARDY: That's it, I believe.

12 MR. CHAKALIAN: Okay. Mr. McClure, is  
13 that the only change that would need to be made?

14 MR. MCCLURE: Well, it is the only  
15 change but it has to be done in two places.

16 MR. CHAKALIAN: Right.

17 MR. MCCLURE: So it's the pooling  
18 checklist and in the C-102, also. That was the reason  
19 for the mentioning two documents, I guess. I  
20 apologize if there was confusion there.

21 MR. CHAKALIAN: So Ms. Hardy, what you  
22 are suggesting is basically to file amended exhibits  
23 for the checklist and the C-102?

24 MS. HARDY: That's correct.

25 MR. CHAKALIAN: And when could you do

1 that?

2 MS. HARDY: I can do that by next  
3 Tuesday, possibly sooner.

4 MR. CHAKALIAN: So November 7?

5 MS. HARDY: Yes.

6 MR. CHAKALIAN: Okay. Mr. McClure,  
7 with that -- with those two exhibits being amended, do  
8 you have any questions about that case?

9 MR. MCCLURE: No, I do not, Mr.  
10 Hearing Examiner.

11 MR. CHAKALIAN: So then are you saying  
12 we can take it under advisement?

13 MR. MCCLURE: Yeah, I mean, I wouldn't  
14 have any heartburn over doing so.

15 MR. CHAKALIAN: Okay. Amended exhibits  
16 filed by November 7, C-102 and checklist.

17 Okay, Ms. Hardy. We will take this  
18 case --

19 MS. HARDY: Thank you --

20 MR. CHAKALIAN: I will change the  
21 outcome of the hearing to be taken under advisement  
22 with the stipulation that you will file by November  
23 7th two amended exhibits.

24 And I think what the better practice  
25 would be just to file an amended exhibit packet.

1 MS. HARDY: Sure, we can do that.

2 MR. CHAKALIAN: Maybe with a cover page  
3 saying that you are amending these two because of this  
4 reason to make it really easy for the reviewer to know  
5 why you did what you did.

6 Now, I don't remember whether I  
7 admitted the exhibits. I don't remember when we  
8 stopped the hearing, so I'm going to again admit the  
9 exhibits into evidence.

10 I've already asked Mr. McClure if he  
11 has any additional questions, and he said no. So that  
12 case will be resolved once you've filed that amended  
13 exhibit packet.

14 MS. HARDY: Great. Thank you very  
15 much, and I apologize for disrupting the flow of the  
16 hearing. I appreciate the time.

17 MR. CHAKALIAN: Thank you.

18 So I'm now calling XTO Permian 23935.

19 MS. VANCE: Good afternoon, Mr. Hearing  
20 Examiner. Paula Vance with the Santa Fe office of  
21 Holland & Hart on behalf of XTO Permian Operating LLC.

22 MR. CHAKALIAN: Welcome. Do we have  
23 any other parties interested in this case? I don't  
24 see any. You're proceeding by affidavit?

25 MS. VANCE: That is correct.

1 MR. CHAKALIAN: Okay, please.

2 MS. VANCE: So in case number 23935,  
3 XTO seeks to expand the geographic area of the James  
4 Ranch unit by 2,400 acres of land. The unit currently  
5 exists -- or consists of 28,318.09 acres of federal,  
6 state, and fee lands in Eddy County. And this  
7 expansion will increase the acreage of the unit to  
8 approximately 30,718.09 acres.

9 In this case, we have provided a copy  
10 of the application as well as the self-affirmed  
11 statements of landman Joshua Prastic and geologist  
12 Aaron Basil, both of whom have previously testified  
13 before the Division and their credentials have been  
14 accepted as a matter of record.

15 Mr. Prastic's self-affirmed statement  
16 is Exhibit B which is followed by Exhibit B1 which is  
17 order R-279-B which encompasses the unit order plus  
18 the expansion that they recently did in 2017.

19 And then this is followed by Exhibit B2  
20 which is the BLM preliminary approval letter for the  
21 expansion.

22 Exhibit B3 is the state land office  
23 preliminary approval for the expansion.

24 And then Exhibit B4 is a plat map which  
25 if you go to it you can see that the unit is outlined

1 in blue and then expansion acreage is outlined in red.  
2 And this expansion along with the unit includes all  
3 vertical -- the full vertical extent.

4 Mr. Basil's self-affirmed statement is  
5 Exhibit C which is followed by Exhibit C1, a  
6 development plan. Exhibit C2 is a subsea structure  
7 for the Bone Spring. Exhibit C3 is a subsea structure  
8 for the Wolfcamp.

9 Exhibit C4 is a cross-section map from  
10 A-to-A prime with a structural cross-section. That  
11 cross-section map is up there in the right-hand  
12 corner, and then below is the structural cross-  
13 section. And that A-to-A prime goes from west to  
14 east.

15 And then Exhibit C5 is a cross-section  
16 map B-to-B prime. Again, it's up in the upper right-  
17 hand corner, and below is a structural cross-section,  
18 and that goes from north to south on that cross-  
19 section.

20 In these cases, Mr. Basil did not  
21 observe any faulting, pinch-outs, or other geologic  
22 impediments to horizontal drilling wells in the  
23 expansion area.

24 And then lastly, Exhibit E is a self-  
25 affirmed statement of notice with sample letters that

1 were timely mailed out on October 13, 2023.

2 And then Exhibit F is an affidavit of  
3 notice of publication that was timely filed on October  
4 17, 2023.

5 And unless there are any questions, I  
6 would ask that the exhibits and sub-exhibits be  
7 admitted into the record and this case be taken under  
8 advisement at this time.

9 MR. CHAKALIAN: Ms. Vance, your  
10 exhibits are admitted into evidence.

11 Mr. McClure?

12 MR. MCCLURE: Thank you, Mr. Hearing  
13 Examiner.

14 Ms. Vance, just to confirm, there's no  
15 changes being made to the vertical limit from the  
16 current unit; correct?

17 MS. VANCE: That's correct. The unit  
18 includes all vertical limits, and this doesn't change  
19 that. The acreage would include the same.

20 MR. MCCLURE: And in regards to a  
21 description of the tracts being added?

22 MS. VANCE: Yes. I will -- if you go  
23 to Exhibit A? And I will --

24 MR. MCCLURE: You don't know what that  
25 page number is, do you?

1 MS. VANCE: Yes. If you go to page 5  
2 of the exhibits?

3 MR. MCCLURE: I was way too low. Well,  
4 I -- okay, let me slow down.

5 In the past, we've typically had as a  
6 thing that's being added to that unit agreement, is  
7 there not typically a list of each individual tract  
8 and the actual, like, what its status is, what its  
9 lease is? Is that -- was that not a part of the  
10 current submittal to the BLM and the state land  
11 office? I'm just not seeing it here, I guess.

12 MS. VANCE: I believe it is, and if  
13 you're looking for the lease and identification of the  
14 leases, if you go to Exhibit B4?

15 MR. MCCLURE: A tract map -- or a map  
16 here? Go ahead.

17 MS. VANCE: On page 26 of the exhibit  
18 packet, you will see the lease numbers for the entire  
19 unit, and in addition the lease numbers for the  
20 expansion.

21 MR. MCCLURE: And the expansion is what  
22 we have highlighted in red? It's in two separate  
23 areas here; is that correct?

24 MS. VANCE: That's correct.

25 MR. MCCLURE: Now, there should also be

1 a -- I mean, I don't think it's included in this  
2 packet, or it might be and I'm just missing it.

3 But like where it has like one of those  
4 is listed as 56, for instance, it's like two little  
5 areas there listed as 56, there should be like a  
6 correlating table that's a part of the unit agreement,  
7 I guess, that's being submitted to the BLM. What I'd  
8 like to see, I guess, is that table.

9 MS. VANCE: Okay.

10 MR. MCCLURE: It's not something that  
11 has to be created. It's something that should already  
12 be a part of the record submitted to the BLM.

13 MS. VANCE: That's correct. I believe  
14 that I've got a copy of that in the -- in what was  
15 submitted to the BLM, and I can follow up with XTO to  
16 provide that to the Division.

17 MR. MCCLURE: Okay. Thank you. No  
18 further questions. Thank you, Ms. Vance.

19 Thank you, Mr. Hearing Examiner.

20 MR. CHAKALIAN: So Ms. Vance, what is  
21 it that you are still going to provide to us?

22 MS. VANCE: I believe what Mr. McClure  
23 is asking for is a correlation based on the leases  
24 what the interests are for those particular leases or  
25 tracts.

1 Is that correct, Mr. McClure?

2 MR. MCCLURE: Yes, Ms. Vance. That's  
3 an apt description of what that table provides. Yes.

4 MR. CHAKALIAN: Mr. Mr. McClure --

5 MS. VANCE: And we could just provide  
6 -- sorry, Mr. Hearing Examiner.

7 MR. CHAKALIAN: Mr. McClure, do you  
8 want that submitted as a separate exhibit?

9 MR. MCCLURE: I do think that would  
10 likely be appropriate, Mr. Hearing Examiner.

11 MR. CHAKALIAN: Okay.

12 So Ms. Vance, what will you label it?

13 MS. VANCE: I can label it as a tract  
14 map or a lease breakdown or something to that.

15 MR. CHAKALIAN: I'm sorry. What will  
16 you mark it?

17 MS. VANCE: I will mark it as  
18 supplemental -- or how about Exhibit B5 to include --

19 MR. CHAKALIAN: Perfect. B as in boy  
20 5?

21 MS. VANCE: That's correct.

22 MR. CHAKALIAN: Very good. Okay.

23 Then Mr. McClure, we'll take this case  
24 under advisement with the caveat that we need that  
25 supplemental Exhibit B5?

1 MR. MCCLURE: I'm on board with that.

2 MR. CHAKALIAN: Ms. Vance, when can you  
3 submit that?

4 MS. VANCE: I can probably submit by  
5 the end of next week if that works?

6 MR. CHAKALIAN: It does. Let's set a  
7 date so that we're clear. What date?

8 MS. VANCE: The 10th, though I  
9 probably will get it submitted before then. But just  
10 in case.

11 MR. CHAKALIAN: November 10 it is.  
12 Okay. Thank you, Ms. Vance.

13 Let's move on to 23939 and 23940.

14 MS. VANCE: That is going to be myself,  
15 Paula Vance with the Santa Fe office of Holland & Hart  
16 on behalf of Chevron USA Inc.

17 MR. CHAKALIAN: Good.

18 And do we have any other parties? No?  
19 Okay. So we're proceeding by affidavit. Please  
20 proceed, Ms. Vance.

21 MS. VANCE: That's correct.

22 So in these cases, Chevron seeks to  
23 pool the uncommitted interests within the Wolfcamp  
24 formation, and that's the Purple Sage Wolfcamp pool  
25 code 98220. And this is underlying acreage all in

1 Township 26 South, Range 27 East, Eddy County, New  
2 Mexico.

3 Specifically in case number 23939,  
4 Chevron is seeking to pool the uncommitted interests  
5 in a standard 640-acre spacing unit comprised of the  
6 east half of Sections 16 and 21 and initially dedicate  
7 this spacing unit to the proposed FEW 16 21 Federal  
8 Com 426H, 427H, 428H, and 429H.

9 And then in case 23940, Chevron seeks  
10 to pool the uncommitted interests in a standard 640-  
11 acre spacing unit comprised of the west half of  
12 Sections 16 and 21 and initially dedicate this spacing  
13 unit to the Rye One 16 21 Federal Com 422H, 423H,  
14 424H, and 425H.

15 In this case, we have provided the  
16 compulsory pooling checklists as well as the self-  
17 affirmed statements of landman Greg Pazer and  
18 geologist Eric Surratt.

19 Mr. Pazer has previously testified  
20 before the Division, and his credentials have been  
21 accepted as a matter of record.

22 However, Mr. Surratt has not previously  
23 testified and therefore we provided a copy of his  
24 resume which is Exhibit D1. I don't know if you want  
25 me to give a brief on his background, but we did

1 include his resume.

2 He has a bachelor's and master's in  
3 geology and has various certifications related to his  
4 field and has been with Chevron working as a  
5 development and performance geologist since 2021.

6 Based on his --

7 MR. CHAKALIAN: Let me just --

8 MS. VANCE: Sure.

9 MR. CHAKALIAN: Let me just take a  
10 quick look at it. It's in both cases?

11 MS. VANCE: Yes, it is, Mr. Hearing  
12 Examiner.

13 MR. CHAKALIAN: All right. Do you have  
14 a page number?

15 MS. VANCE: Yes. If you go to page 22?

16 MR. CHAKALIAN: I see it. Okay, Ms.  
17 Vance. Your witness, Mr. Eric Surratt, is hereby  
18 qualified to testify as an expert in the science of  
19 geology.

20 MS. VANCE: Thank you, Mr. Hearing  
21 Examiner.

22 So in Mr. Pazer's self-affirmed  
23 statement is Exhibit C which includes sub-exhibits C1  
24 which are the C-102s, and C2, a land tract map and  
25 ownership breakdown. In these cases, we are only

1 pooling the overriding royalty interests and the  
2 record title which if you scroll down you will see  
3 that we made note of that in the exhibits by stating  
4 the overrides that we are seeking to pool and listing  
5 them out and also the record title interests that we  
6 are seeking to pool again where we've listed them out.

7 This is followed by Mr. Surratt's self-  
8 affirmed statement which is Exhibit D and includes  
9 sub-exhibits D1, his resume; D2, a locator map; D3, a  
10 subsea structure map; D4, a cross-section map; D5, a  
11 well log cross-section that's been flattened on top of  
12 the Wolfcamp.

13 In these cases, Mr. Surratt did not  
14 observe any faulting, pinch-outs, or other geologic  
15 impediments to drilling these proposed horizontal  
16 wells.

17 And then lastly is Exhibit E, a self-  
18 affirmed statement of notice with sample letters that  
19 were timely mailed on October 13, 2023.

20 And Exhibit F, a notice of publication,  
21 affidavit of notice of publication which was timely  
22 published on October 17, 2023.

23 And unless there are any questions, I  
24 would ask that all exhibits and sub-exhibits be  
25 admitted into the record and that these cases be taken

1 under advisement at this time.

2 MR. CHAKALIAN: Ms. Vance, your  
3 exhibits are admitted into evidence.

4 Mr. McClure?

5 MR. MCCLURE: No questions, Mr. Hearing  
6 Examiner.

7 MR. CHAKALIAN: Okay. The Division  
8 will take these under advisement, Ms. Vance.

9 MS. VANCE: Thank you, Mr. Hearing  
10 Examiner.

11 Thank you, Mr. McClure.

12 MR. CHAKALIAN: Thank you.

13 MS. VANCE: Have a good afternoon.

14 MR. CHAKALIAN: You, too. Thank you.  
15 I'm calling 23619, Franklin Mountain  
16 Energy, 23620.

17 Ms. Bennett?

18 MS. BENNETT: Good afternoon. Deana  
19 Bennett on behalf of Franklin Mountain Energy LLC --

20 MR. CHAKALIAN: Thank you. And I see  
21 Mr. Feldewert representing another party.

22 MR. FELDEWERT: That'd be -- yes, that  
23 would be COG Operating LLC.

24 MR. CHAKALIAN: Thank you. Are there  
25 any objections to proceeding by affidavit?

1 MR. FELDEWERT: No, sir.

2 MR. CHAKALIAN: Okay, very good.

3 Ms. Bennett?

4 MR. FELDEWERT: Although I take  
5 particular interest in their summary of interests.

6 MR. CHAKALIAN: I knew you would. Yes,  
7 I knew you would, sir.

8 Okay, Ms. Bennett?

9 MS. BENNETT: Thank you. And I would  
10 like to reserve five minutes after these two cases are  
11 done to just revisit an earlier decision that the  
12 Division made on the Marathon Decimus case.

13 MR. CHAKALIAN: Okay.

14 MS. BENNETT: And so I would appreciate  
15 just five minutes after these two cases.

16 But moving to these two cases. Yes, in  
17 these two cases, Franklin Mountain Energy is seeking  
18 orders, compulsory pooling, uncommitted mineral  
19 interests in a 280-acre, more or less -- in two 280-  
20 acre, more or less, spacing units.

21 And I have included in the exhibit  
22 packet the compulsory pooling checklist in each case,  
23 and then Tab B is the self-affirmed declaration of Don  
24 Johnson, Franklin Mountain Energy's land professional  
25 who's previously testified before the division and his

1 credentials have been accepted as a matter of record.

2 And behind his -- behind Tab B are the  
3 usual suite of exhibits including my notice affidavit.  
4 Tab C is the self-affirmed declaration of Ben Kessel  
5 who's the geologist at Franklin Mountain Energy, and  
6 he's previously testified before the Division, and his  
7 credentials have been accepted as a matter of record.

8 And behind each of those -- behind his  
9 tab we've included the usual suite of geology  
10 exhibits.

11 And in preparation for this afternoon's  
12 hearing on these two matters, I realized that I had  
13 not included a list of pooled parties. And I have  
14 subsequently emailed a list of pooled parties to the  
15 Division and filed that list through the portal, and  
16 it has been served on counsel -- on COG's counsel.

17 And so I would ask that that  
18 supplemental exhibit that I filed, the list of pooled  
19 parties be included as a curative for these two cases.

20 And with that, I would ask that these  
21 two cases, the exhibits in both cases, 23619 and 23620  
22 be admitted into the record including the curative  
23 that I filed earlier today and that these cases be  
24 taken under advisement.

25 MR. CHAKALIAN: Thank you, Ms. Bennet.

1 Mr. Feldewert, any objections?

2 MR. FELDEWERT: No, sir.

3 MR. CHAKALIAN: Okay. Your exhibits  
4 including your supplemental exhibit filed today at  
5 noon are admitted into evidence.

6 And Mr. McClure, any questions?

7 MR. MCCLURE: I have no questions on  
8 these cases, Mr. Hearing Examiner.

9 MR. CHAKALIAN: Then these two cases  
10 will be taken under advisement.

11 And your argument, Ms. Bennett?

12 MS. BENNETT: Thank you. I'd like to  
13 revert back to case number 23755, which was the  
14 Marathon Decimus case heard earlier today.

15 MR. CHAKALIAN: Okay. Let me finish my  
16 notes. Give me one moment.

17 MS. BENNETT: Okay. Certainly.

18 MR. CHAKALIAN: Okay.

19 MS. BENNETT: Thank you. That case  
20 feels like ancient history at this point, but in that  
21 case, I had filed the -- I mean, I had in my -- during  
22 my best efforts, I had intended to include the list of  
23 the pooled parties, and the document I have on my side  
24 shows that we did include the list of the pooled  
25 parties.

1           And I also understand that there was an  
2 issue with the compulsory pooling checklist that I put  
3 oil instead of gas, and it had some material cut off.  
4 But -- and the Division determined that that case  
5 needed to be continued to satisfy those conditions.

6           But most recently in the MRC Permian  
7 cases, the Division allowed MRC Permian the  
8 opportunity to cure the notice party list without  
9 continuing the cases, and I would just ask for that  
10 same leeway.

11           I can submit something. I actually  
12 have already filed an amended exhibit packet  
13 correcting these three -- those three items. I  
14 corrected the cut-off scan, the oil versus gas.

15           And I double-clicked and triple-clicked  
16 before I hit submit on the OCD's e-permitting, and the  
17 version that I submitted did have the pooled party  
18 list. And I'm happy to email that also to the hearing  
19 examiner and to Mr. McClure right now.

20           I have an email prepared to send to  
21 you. I just wanted to wait until I had your  
22 permission to send it.

23           MR. CHAKALIAN: Okay. All right, I'm  
24 looking at your filing of today at one o'clock. Just  
25 give me a moment to look through it.

1                   Mr. McClure, do you want to also look  
2 through it to make sure that this addresses your  
3 issues?

4                   MR. MCCLURE: Yes, I certainly will  
5 look at it right now.

6                   MR. CHAKALIAN: Ms. Bennett, what page  
7 is Exhibit B3 on? I found it.

8                   MS. BENNETT: Okay.

9                   MR. CHAKALIAN: Okay. So Ms. Bennett,  
10 the problem originally was that your page numbers went  
11 from -- and I'm not looking at the original filing --  
12 it went from something like 21, 22, 25, 26.

13                   Now it doesn't do that anymore. It  
14 continues through without missing any pages, and I do  
15 see your parties to be pooled two-page document here.

16                   Mr. McClure, do you see the corrected  
17 documents that you need to see?

18                   MR. MCCLURE: That is correct, Mr.  
19 Hearing Examiner. It looks like the pooling checklist  
20 is handled.

21                   MR. CHAKALIAN: Okay.

22                   So Ms. Bennett, in my mind the cases  
23 were different, and we allowed Mr. Feldewert to  
24 proceed differently because his exhibit packet wasn't  
25 literally missing pages, whereas yours was.

1           You've corrected that now, so we'll  
2 make a one-time exception that we will take this under  
3 advisement now and that you have cured all the errors  
4 in your original filing.

5           MS. BENNETT: Thank you very much.

6           MR. CHAKALIAN: You're welcome.

7           Okay. So let me make notes there as  
8 well.

9           Okay. We are now calling cases 23708,  
10 23709. Do I have Mr. Bruce?

11          MR. BRUCE: Yes, sir. And before --

12          MR. CHAKALIAN: Do I have Mr. Savage?

13          Hold on, Mr. Bruce.

14          Do I have Mr. Savage?

15          MR. SAVAGE: Yes.

16          MR. CHAKALIAN: Yes, I see that I have  
17 you now.

18          Mr. Ryan, are you there?

19          Mr. Ryan?

20          Mr. Savage, am I correct that Mr. Ryan  
21 is representing a party in this case?

22          MR. SAVAGE: Mr. Ryan? No, I don't see  
23 him listed. There's a Mr. Samaniego also.

24          MR. CHAKALIAN: I haven't called him  
25 yet. I was still trying to --

1 MR. BRUCE: Ms. Ryan is representing  
2 COG Energy. I think they entered an appearance simply  
3 to protect their rights.

4 MR. CHAKALIAN: Okay. Well, I was  
5 hoping that they'd be here with us.

6 MR. BRUCE: Yes.

7 MR. CHAKALIAN: Okay. So is it  
8 Elizabeth Ryan? Okay. Well, we don't have Ms. Ryan.  
9 Mr. Samaniego, do we have you?

10 MR. SAMANIEGO: Yes, I'm here, Mr.  
11 Examiner.

12 MR. CHAKALIAN: Okay, wonderful. I'm  
13 not sure how to proceed without Ms. Ryan, though.

14 MR. BRUCE: Mr. Examiner, if I could --

15 MR. CHAKALIAN: Yes, please.

16 MR. BRUCE: -- there is a Spur case  
17 from earlier in the day that Mr. Rankin is putting on,  
18 and since this case may take a while, I offered to him  
19 the chance to put that case on first since --

20 MR. CHAKALIAN: Okay. All right.

21 MR. BRUCE: -- and maybe I can go ahead  
22 and try to get Ms. Ryan on the line. Okay?

23 MR. CHAKALIAN: That's great. Thank  
24 you, that's a good suggestion.

25 So I'm calling 23828, Spur Energy.

1 Mr. Rankin and Ms. Shaheen?

2 MR. RANKIN: Good morning -- or  
3 afternoon, Mr. Hearing Examiner. Adam Rankin on  
4 behalf of the applicants in this case appearing with  
5 the Santa Fe office of Holland & Hart.

6 MR. CHAKALIAN: Okay.

7 And Ms. Shaheen? Or someone  
8 representing -- is it Longfellow Energy?

9 MR. RANKIN: That's correct. That's  
10 the party.

11 MR. CHAKALIAN: That's what I thought,  
12 but I don't see opposing counsel. And they did file  
13 an objection, unless they've withdrawn their  
14 objection, Mr. Rankin?

15 MR. RANKIN: They have now, Mr.  
16 Examiner, filed their withdrawal as of this morning.  
17 Mr. McGuinness, Ms. Shaheen's paralegal, filed the  
18 withdrawal at 9:17 this morning.

19 MR. CHAKALIAN: Okay. So then is it  
20 your understanding that we can continue since there  
21 are no opposing parties?

22 MR. RANKIN: Yes, Mr. Examiner. We had  
23 entered into an agreement with Longfellow to dismiss a  
24 portion of our application that's addressed in  
25 Longfellow's withdrawal of their objection, and it's

1 also addressed in our amended pre-hearing statement  
2 and in our testimony, as well.

3 MR. CHAKALIAN: Okay. Let me just read  
4 the withdrawal. I found it, so hold on, with the  
5 understanding that the applicant will be dismissing  
6 its request to extend the time for drilling the wells.

7 So Mr. Rankin, with that change, does  
8 your application reflect that change now?

9 MR. RANKIN: Mr. Examiner, the  
10 application doesn't. We're just dropping it from the  
11 application so the testimony and the record will  
12 reflect it. Yes.

13 MR. CHAKALIAN: The record will reflect  
14 it through the exhibits that you filed on the 31st?

15 MR. RANKIN: Correct. And the  
16 testimony, correct.

17 MR. CHAKALIAN: And the testimony?  
18 Okay. All right. So Mr. Rankin, please proceed.

19 MR. RANKIN: Thank you, Mr. Examiner.

20 Mr. Examiner, on the 31st on Tuesday we  
21 filed an exhibit packet for this case identifying the  
22 elements that we're seeking here.

23 As filed, originally the application  
24 sought to amend the existing order R-22385 to update  
25 the initial wells to extend the drilling deadline and

1 to pool additional parties.

2 In light of our agreement with  
3 Longfellow, Spur has agreed to drop the request to  
4 extend the drilling deadline. We were able to do  
5 that, Mr. Examiner, because as you'll see in the  
6 testimony, Spur was able to commence drilling of the  
7 wells under the order, so no longer requires an  
8 extension of its deadline.

9 We originally requested the extension  
10 because it was uncertain at the time we filed the  
11 application whether it would be able to get the  
12 spudding rigs out to location to meet the deadlines.

13 But it has been accomplished, and those  
14 wells have all been spudded, and so we have met the  
15 requirements of the pooling order and are able to drop  
16 that from our request.

17 MR. CHAKALIAN: Can I ask you, Mr.  
18 Rankin, to point to an exhibit that states that you  
19 are not -- or where in your exhibits does it show that  
20 you're not seeking an extension to drill?

21 MR. RANKIN: Under Exhibit B, Mr.  
22 Examiner. The two places the record will reflect  
23 that. Number one is the amended pre-hearing statement  
24 that we filed also on Tuesday the 31st.

25 The other place that identifies it is

1 in Exhibit B. Starting at the paragraph 3 and 4,  
2 you'll see that we address specifically in paragraph 4  
3 that Spur indicates it states that it's dropping the  
4 requested relief from the application -- for the  
5 extension of time.

6 MR. CHAKALIAN: I see it. All right,  
7 thank you. Please proceed.

8 MR. RANKIN: Yeah. So Mr. Examiner, in  
9 the exhibit packet we've included the original order  
10 that originally compulsory pooled this acreage under  
11 order number R-22385. Also attached included with the  
12 application is our -- with the exhibit packet is our  
13 application.

14 Exhibit A is a compulsory pooling  
15 application checklist which is essentially updated  
16 because it identifies the new -- the wells --  
17 essentially the wells went through a name change.  
18 Spur dropped one well from its list of initial wells  
19 and made one change to a well location. Otherwise,  
20 the wells are the same except for the names.

21 Exhibit B is a self-affirmed statement  
22 of Mr. Drew Oldis. He's a landman for Spur, and he's  
23 previously testified before the Division and had his  
24 credentials accepted. In fact, he testified earlier  
25 today by affidavit.

1 Attached to his statement in which he  
2 explains the relief requested as well as, as we just  
3 discussed, the agreement to drop the extension request  
4 from the application, attached to his affidavit are  
5 Exhibits B1 which is the land plat in ownership  
6 reflecting the owners who have previously been pooled  
7 under the original order, as well as the additional  
8 parties that Spur has identified that require  
9 compulsory pooling.

10 The original owners who were pooled are  
11 highlighted in yellow. The additional parties who  
12 require pooling are highlighted in green. Some of  
13 those owners that we seek to pool here in this case  
14 and add to the terms of the order are working  
15 interests. There's one working interest owner, and  
16 the others are overrides.

17 Also attached to Mr. Oldis' statement  
18 is Exhibit B2 that are the C-102s for the wells that  
19 are proposed to be the initial wells under this  
20 amendment. They identified the well locations,  
21 footages, and pool and pool code information regarding  
22 applicable here.

23 Exhibit B3 are the well proposals and  
24 AFEs that were sent to each of the parties as well as  
25 the parties who were previously pooled identifying the

1 updated plans, wells, and the AFE costs for each of  
2 the initial proposed wells.

3 Spur Exhibit B4 is a chronology of  
4 contacts, and this was for the one working interest  
5 owner that they're seeking to add to the pooling order  
6 here because all the other parties that were already  
7 been pooled and reflecting that they had made contact  
8 with the party. I think it's the -- I forget the name  
9 of the company. It's Bright -- something Bright.

10 But they had reached -- had been able  
11 to contact them and have been in discussions but have  
12 not yet been able to reach agreement.

13 Exhibit C is a copy of the affidavit of  
14 notice reflecting that we provided notice to each of  
15 the additional parties that we're seeking to pool as  
16 well as all the original parties under the pooling  
17 order.

18 And that is attached as Exhibit C along  
19 with the status of the certified mailings to each of  
20 those parties.

21 Exhibit D is an affidavit of  
22 publication reflecting that we have published in a  
23 newspaper of general circulation within the county the  
24 notice of this hearing and the application identifying  
25 each of the parties affected by name.

1 I think I've covered everything, Mr.  
2 Examiner. As I mentioned, the changes to the wells  
3 were essentially the well names. One of the wells was  
4 dropped, and one of the wells shifted the quarter  
5 sections or the -- quarter sections slightly, so those  
6 are the only changes to the wells.

7 I mentioned previously, as well, the  
8 wells have all commenced drilling. They've each been  
9 spudded, and so we have complied with the underlying  
10 order deadline, and now, therefore, only request that  
11 we add the additional parties to the pooling order and  
12 that we change the names in accord with the updated  
13 compulsory pooling checklist that we provided.

14 MR. CHAKALIAN: Okay. Mr. Rankin, your  
15 exhibits are admitted into evidence. I have one  
16 question before I turn to Mr. McClure for his  
17 questions.

18 You mentioned earlier that you filed an  
19 amended -- hold on a minute --

20 MR. RANKIN: Pre-hearing statement.

21 MR. CHAKALIAN: And I don't see it.

22 MR. RANKIN: Okay. I will double check  
23 with my assistant and make sure it was filed. I  
24 believe it was filed, but if it isn't showing in the  
25 record, I'll make sure that it is filed today.

1 MR. CHAKALIAN: In this case, just to  
2 be very clear with you, we have your original  
3 application on 9/6? These dates are usually off by  
4 one day. We have your -- well, not your, we have Ms.  
5 Shaheen's objection filed shortly thereafter. We have  
6 a unopposed motion for continuance filed by yourself,  
7 and that was on 10/2. Then we have your exhibit list  
8 on 10/31 and the withdrawal of objection today.

9 So it's not here.

10 MR. RANKIN: Okay.

11 MR. CHAKALIAN: So if you would please  
12 re-file it, that will clear it up for me.

13 MR. RANKIN: Will do that.

14 MR. CHAKALIAN: Okay. Can you do that  
15 by the end of today?

16 MR. RANKIN: We will.

17 MR. CHAKALIAN: Okay. Very good.

18 Mr. McClure?

19 MR. MCCLURE: Thank you, Mr. Hearing  
20 Examiner.

21 Mr. Rankin, your newly amended pooling  
22 checklist -- let me scrolled back up just to make sure  
23 I'm -- that is the one that appears on page 15 of 77  
24 on our imaging? Does that look like that's correct  
25 for you?

1 MR. RANKIN: Yeah, it's marked as  
2 Exhibit A.

3 MR. MCCLURE: Yes, absolutely, as in  
4 the bottom right label there. Okay.

5 MR. RANKIN: Yes.

6 MR. MCCLURE: On this pooling  
7 checklist, we have a drilling supervision and  
8 production supervision rates of 7,000 and 700; but in  
9 the --

10 MR. RANKIN: Mr. -- I'll short-circuit  
11 there real quick because we're not seeking to change  
12 that. It's already been adopted in the order, so I'm  
13 just regurgitating what's in the order.

14 MR. MCCLURE: Okay. So the 7,000 and  
15 -- yeah, because that is what was in the order. So  
16 that 7,000 and 700 is what you're seeking here then;  
17 correct?

18 MR. RANKIN: Yeah, we're not changing  
19 that at all.

20 MR. MCCLURE: Okay, thank you. The  
21 only reason for some confusion is it looks like the  
22 election of letter that went out has a different  
23 amount in it. But if you --

24 MR. RANKIN: Yeah, just to be clear on  
25 that, sometimes with the proposing under the JOA has

1 different values than what the Division typically  
2 approves, and so that's why sometimes there's a  
3 difference there.

4 MR. MCCLURE: Okay, thank you. So then  
5 as far as the AFEs, just the names change, but are all  
6 the AFEs the same as initially then?

7 MR. RANKIN: Because it's been some  
8 time, I believe the costs are reflective of the  
9 current costs, current estimated costs.

10 Or, you know, I think when these were  
11 sent out, they were the estimated costs. Of course,  
12 they've been in the process of being drilled and so  
13 those costs are going to become actual reasonable  
14 costs once it's completed.

15 MR. MCCLURE: Oh yeah, of course. And  
16 now that the extension of time is taken off, I don't  
17 think I have any other questions. Thank you, Mr.  
18 Rankin.

19 Thank you, Mr. Hearing Examiner.

20 MR. CHAKALIAN: Thank you, Mr. McClure.

21 Mr. Rankin, we'll take this case under  
22 advisement with the caveat that you'll file the  
23 amended pre-hearing statement by the close of business  
24 today.

25 MR. RANKIN: Thank you, Mr. Examiner.

1 I don't know if I said so, but I ask that Exhibits A  
2 through D be accepted into the record. Thank you for  
3 --

4 MR. CHAKALIAN: I will -- if I haven't  
5 already, I will admit your exhibits into evidence. I  
6 think I said that before I asked my question to you  
7 about the pre-hearing statement, but they're certainly  
8 admitted at this point.

9 MR. RANKIN: Thank you.

10 MR. CHAKALIAN: Thank you --

11 MR. RANKIN: We'll probably --

12 MR. CHAKALIAN: Sorry?

13 MR. RANKIN: Yeah, we'll file the  
14 amended pre-hearing statement.

15 MR. CHAKALIAN: Thank you, sir.

16 I'm going to re-call 23708, 23709,  
17 Mewbourne Oil compulsory pooling case. Do we have Ms.  
18 Ryan? I think we do.

19 MS. RYAN: Yes, sir, Mr. Examiner.  
20 Thank you.

21 MR. CHAKALIAN: Okay, wonderful. I  
22 didn't want to proceed without you.

23 So Mr. Bruce, I need to deal with a  
24 motion that came in yesterday, which I hope you were  
25 served with, as were the other parties.

1 MR. BRUCE: Yes.

2 MR. CHAKALIAN: Okay. Very good. So  
3 we'll deal with that motion first before we proceed.

4 Mr. Samaniego?

5 MR. SAMANIEGO: Yes, Mr. Examiner.

6 MR. CHAKALIAN: Okay. Very good. Mr.  
7 Samaniego, I reviewed the transcript from our, I think  
8 it was September 7 docket hearing, and during that  
9 exchange between you and I, I ordered you to file  
10 evidence that you are a working interest owner in this  
11 pool. Have you done so?

12 MR. SAMANIEGO: The evidence is in the  
13 OCD's records of the filings that Oxy has made for  
14 production reporting. So the Division already has  
15 those records.

16 MR. CHAKALIAN: No, Mr. Samaniego, I'm  
17 not referring to something that we already have. I'm  
18 referring to something that you were required to  
19 submit to us.

20 MR. SAMANIEGO: I submitted you the  
21 lease agreement -- or actually, Bruce submitted those,  
22 and I'm going to go ahead and use his filings of that  
23 lease agreement as evidence of the termination of the  
24 lease.

25 MR. CHAKALIAN: So, Mr. Samaniego, you

1 have willingly refused to comply with an order from  
2 the hearing examiner?

3 MR. SAMANIEGO: I did not. Bruce sent  
4 it, and it was acknowledged, and I'm going to go ahead  
5 and use that as evidence. Since it's already been  
6 submitted, I'm going to use that as evidence for the  
7 termination of the Oxy lease.

8 MR. CHAKALIAN: Okay, Mr. Samaniego.  
9 I'm not going to accept that as evidence that you are  
10 a working interest owner in this pool. So I don't  
11 have evidence that you are a party in this proceeding.

12 I also see that you did not comply with  
13 the pre-hearing order in this case. Paragraph 4 of  
14 the pre-hearing order says "The parties shall file  
15 with a pre-hearing statement required under the rule  
16 the following information." And you didn't file  
17 anything in this case. Is that correct?

18 MR. SAMANIEGO: That's why I filed a  
19 motion to get an attorney. Under 1915.4-14(c), a  
20 party has a right to participate through an attorney,  
21 and I'm utilizing my right that I need to be  
22 represented by attorneys.

23 But because there are so few oil and  
24 gas attorneys in New Mexico, and even fewer of them  
25 that participate in the hearing process, it's been

1 somewhat tedious, and I need more time to be able to  
2 obtain representation in this complex matter.

3 MR. CHAKALIAN: But Mr. Samaniego, two  
4 months ago on September 7 you realized that you were a  
5 potential party to this, and you waited until  
6 yesterday to file a motion for continuance?

7 MR. SAMANIEGO: I thought I had an  
8 attorney, and it turns out it fell through. But I've  
9 contacted, I mean, over 40 attorneys trying to get --  
10 trying to hire an attorney to take on this matter.

11 And every attorney that attends these  
12 hearings, I've contacted them all. They all know my  
13 name. I've contacted every one of those firms to get  
14 assistance in this matter, and for some reason, all  
15 those law firms have conflicts of interests, which is  
16 definitely concerning.

17 And the few oil companies that are  
18 obtaining all these poolings have apparently hired all  
19 these law firms and has created a monopoly and  
20 conflict of interest on small parties like myself.

21 MR. CHAKALIAN: Okay. I understand  
22 your concern.

23 Mr. Bruce, what happens --

24 Mr. Samaniego, I'm asking Mr. Bruce a  
25 question now. I've listened to what you've said, and

1 I'll give you another opportunity in a moment. But  
2 I'm asking for clarification.

3 Mr. Bruce, if Mr. Samaniego does  
4 establish in the future that he does have a working  
5 interest in this pool, how will this hearing today and  
6 this application affect him?

7 MR. BRUCE: Well, since Mewbourne is  
8 not seeking to force pool him, it will not affect him  
9 at all. If he does establish that, Mewbourne would  
10 have to come back and either reach a voluntary  
11 agreement with him or would have to pool him at that  
12 time. So he would be completely unaffected.

13 MR. CHAKALIAN: Okay.

14 Mr. Savage, what is your assessment?

15 MR. SAVAGE: I agree with Mr. Bruce on  
16 that.

17 MR. CHAKALIAN: Okay.

18 Ms. Ryan?

19 MS. RYAN: No objection.

20 MR. CHAKALIAN: I'm not asking if you  
21 object.

22 MS. RYAN: Oh, sorry.

23 MR. CHAKALIAN: I'm asking for your  
24 assessment.

25 MS. RYAN: We are -- we're just

1 monitoring this case. We defer to Mewbourne on it.

2 MR. CHAKALIAN: Okay.

3 Mr. Samaniego, as you've just heard  
4 from two very highly qualified attorneys who are not  
5 giving you advice, this pooling case, this application  
6 will not affect your working interest if in fact you  
7 do have one.

8 If you do establish a working interest,  
9 you can approach Mewbourne and see if they want to  
10 negotiate with you. Or you can file something that  
11 requires a new hearing to force pool your interest.

12 But at this point, you've shown nothing  
13 to establish a working interest in this pool, and your  
14 interests are not being pooled by this case. Do you  
15 understand?

16 MR. SAMANIEGO: If I may, I'd like to  
17 also add to leave the case open so that I can go ahead  
18 and submit what I believe as the evidence for this  
19 case since -- if I may.

20 MR. CHAKALIAN: Okay, I'll take that  
21 under advisement, Mr. Samaniego. But we're going to  
22 proceed with this case.

23 May I ask, Mr. Savage and Ms. -- well,  
24 Ms. Ryan, you've already said that you have no  
25 objection to this case moving forward? Is it by

1 affidavit?

2 MS. RYAN: Correct. That's my  
3 understanding. No objection to the proceeding, and  
4 we're just monitoring today.

5 MR. CHAKALIAN: Very good.

6 Mr. Savage?

7 MR. SAVAGE: No objection to that, but  
8 I ask the hearing examiner to address the one issue  
9 that we --

10 MR. CHAKALIAN: Yes, is that the  
11 exhibit that you filed?

12 MR. SAVAGE: That's correct.

13 MR. CHAKALIAN: Okay, very good. I  
14 think we've addressed -- well, let's address it on the  
15 record now. Let me go to the case.

16 MR. SAMANIEGO: Before you call this on  
17 the record, I'd like to also add a further request of  
18 special provision with respect to the American's  
19 existing permits in the Wolfcamp and to hereby grant  
20 American right to infill drill its own wells using its  
21 existing permits in the Wolfcamp 70-2-17 afford to the  
22 owner of each property in the pool an opportunity to  
23 produce his just and equitable share of the oil and  
24 gas. I'd like to just --

25 MR. CHAKALIAN: And Mr. Samaniego,

1 that's the last time you're going to interrupt me. If  
2 you speak out of turn again, I'm going to ask Marlene  
3 to mute your phone. So please don't interrupt me  
4 again. I'll call on you when I need your input.

5 Mr. Savage, I see a conditional  
6 withdrawal of objection filed I think it was  
7 yesterday, and you conditionally withdraw based on  
8 Exhibits A1 being introduced into this case and taken  
9 as evidence in this case; is that correct?

10 MR. SAVAGE: We would like to add  
11 Exhibit A1 as a special provision to the pooling  
12 orders that will be issued. That is our request. And  
13 as I understand, and Mr. Bruce can confirm this, that  
14 there is no objection on Mewbourne's part regarding  
15 that.

16 MR. CHAKALIAN: Okay. And can you  
17 define for me "special provision"?

18 MR. SAVAGE: Well, in the pooling  
19 checklist, there's an entry where it asks if there are  
20 any applicable special provisions. You'll see a lot  
21 of requests for differences on cash calls, for  
22 example. Other people may have other concerns where  
23 they would place a provision.

24 We have a current dispute over a term  
25 assignment. Adjudication of a title issue, as you

1 know, is outside the jurisdiction and scope of the  
2 OCD. But what is within, what we believe is within  
3 the jurisdiction is deciding what to pool and who to  
4 pool. And we would like to reserve and protect that  
5 interest, potential interest under the term assignment  
6 and preserve the election at a later date should the  
7 term assignment be resolved in Cimarex's favor, for  
8 example.

9 MR. CHAKALIAN: Okay. I'm looking at  
10 Mr. Bruce's compulsory pooling application checklist  
11 in his exhibit packet. You said that somewhere in  
12 here mention this special provision?

13 MR. SAVAGE: It would be -- so as I  
14 understand this, how this would work, so the  
15 compulsory pooling checklist would be attached to the  
16 order issued, and then this Exhibit A1 -- and that  
17 would be Exhibit A, and then Exhibit A1 would be  
18 attached as well.

19 MR. CHAKALIAN: Okay.

20 MR. SAVAGE: And then there would have  
21 to be some kind of notation within that entry of the  
22 compulsory pooling -- and I don't believe there is at  
23 this time.

24 MR. CHAKALIAN: Okay.

25 MR. SAVAGE: But there would be some

1 kind of entry that says "Special provisions, see  
2 Exhibit A1, attached" or something like that.

3 MR. CHAKALIAN: Mr. Bruce?

4 MR. BRUCE: Yes, Mr. Examiner. Yeah,  
5 first of all, there's a title dispute and Mewbourne  
6 has no disagreement with that provision. When I filed  
7 the exhibits I didn't have Mr. Savage's final version  
8 of that provision.

9 I would be glad after the hearing, give  
10 me a few days, there is a -- Mr. Savage said there is  
11 a line item there about special provisions. I could  
12 revise the pooling checklist to put that provision in  
13 there. And what it --

14 MR. CHAKALIAN: I see it right on the  
15 last page of the checklist, I see on page 5 of 34.

16 And Mr. Savage, you can look at this as  
17 well. It does say "special provisions and  
18 stipulations" right above the certification. Is that  
19 what you're talking about?

20 MR. SAVAGE: That is correct.

21 MR. BRUCE: Yes, sir.

22 MR. CHAKALIAN: All right. Go ahead,  
23 Mr. Bruce.

24 MR. BRUCE: So again, this is a, you  
25 know, kind of a quiet title deal, and they're either

1 going to have to come to terms, or there could  
2 potentially be a legal action to determine -- and I  
3 won't go into the details about it, about the validity  
4 of the term assignment.

5 But Mewbourne just wants to move  
6 forward with the pooling so that it can get its -- get  
7 these wells going to be drilled shortly.

8 MR. CHAKALIAN: Okay. All right. Very  
9 good.

10 Mr. Savage, your special provision  
11 Exhibit A1 is admitted into evidence.

12 And Mr. Bruce, I will give you -- when  
13 do you say that you can file an amended checklist to  
14 add this special provision?

15 MR. BRUCE: Tomorrow morning, and I  
16 would simply ask Mr. Savage to send me that special  
17 provision in words so I can copy it into my pooling  
18 checklist.

19 MR. CHAKALIAN: Perfect. All right,  
20 Mr. Bruce, we will continue with the idea that you are  
21 going to file an amended checklist. So do you want to  
22 proceed by affidavit?

23 MR. BRUCE: Yes, I would. And just so  
24 you know, I do have my three witnesses on -- for the  
25 hearing just in case any questions come up.

1 MR. CHAKALIAN: Okay. And Mr. -- and  
2 Mr. -- now, let me ask you a question. I don't  
3 believe that Mr. Samaniego is a party, interested  
4 person. Would he be able to ask witnesses cross-  
5 examination questions?

6 MR. BRUCE: Mr. Examiner, that's out of  
7 the practice of the Division -- to ask a question.

8 MR. CHAKALIAN: Okay, very good.  
9 Mr. Savage, do you see it the same way?

10 MR. SAVAGE: I have no objection on  
11 that.

12 MR. CHAKALIAN: Okay. Very good.  
13 And Ms. Ryan?

14 MS. RYAN: No objection.

15 MR. CHAKALIAN: Okay.

16 Mr. Samaniego, when the witnesses  
17 testify, you will have the opportunity to cross-  
18 examine them within the scope of their direct  
19 testimony. Do you understand?

20 MR. SAMANIEGO: Yes, Mr. Examiner.  
21 Thank you.

22 MR. CHAKALIAN: Okay. Very good.  
23 You're welcome, sir.

24 Okay, Mr. Bruce, would you please put  
25 on your case?

1 MR. BRUCE: Yes. And I don't know if  
2 you want to swear in the witnesses first or just have  
3 me run through the affidavits first?

4 MR. CHAKALIAN: Let's run through the  
5 affidavits and let's see whether I need to swear them  
6 in. If there's cross-examination, then I will swear  
7 them in.

8 MR. BRUCE: Okay. Well, in both cases  
9 once again the basic documents are essentially the  
10 same. Exhibit 1 is the pooling checklist for each  
11 case. Exhibit 2 is the landman's affidavit with the  
12 usual C-102s, plats proposal letter, AFEs, pretty much  
13 -- and again, the pooling checklist will be revised.

14 The one thing I would point out in the  
15 landman's affidavit, Exhibit 2E is the lease at issue  
16 that Mr. Samaniego has claimed is terminated.

17 And the landman, Mr. Collins, if you  
18 would look at Exhibit 2, the verified statement of  
19 Carson Collins in Exhibit L -- or, excuse me,  
20 paragraph 2L he refers to this that Mewbourne's title  
21 work shows that American only owns a royalty interest  
22 under that lease.

23 Mr. Samaniego has claimed that the  
24 lease is terminated, but he can't, as we discussed at  
25 the hearing a couple of months ago, he can't

1 unilaterally terminate the lease. And Oxy has  
2 informed Mewbourne that the lease has been kept in  
3 effect either by production or by the payment of shut-  
4 in royalties. So that's where that goes.

5 Exhibit 3 is the geologist's affidavit  
6 which contains the usual structure map, cross-section,  
7 production table, and horizontal survey calculations.  
8 I will get into productions more in a little detail  
9 under the engineer's affidavit.

10 But the geologist's affidavit shows  
11 that this area is susceptible to drilling via  
12 horizontal drilling plans, and that the zone being  
13 pooled is continuous across the well units.

14 Exhibit 4 is the affidavit of Gavin  
15 Edington, the engineer from Mewbourne. I think there  
16 is -- he does discuss --

17 MR. CHAKALIAN: Mr. Bruce?

18 MR. BRUCE: Yes?

19 MR. CHAKALIAN: It says for Mr. Gavin  
20 Edington that he has not been qualified. Is there a  
21 CV here for me to qualify him?

22 MR. BRUCE: Oh, boy. You know what,  
23 Mr. Examiner. Let me see here. You know, Mr.  
24 Examiner, if I could have him sworn in and I will have  
25 him state his qualifications?

1 MR. CHAKALIAN: Of course. We can  
2 proceed that way, it's not a problem. I just wanted  
3 to bring that up.

4 MR. BRUCE: Okay. And we can do it  
5 now, or I can run through the affidavit first.

6 MR. CHAKALIAN: Just run through  
7 whatever you need to. We'll bring him on and get him  
8 qualified if he satisfies that.

9 MR. BRUCE: Okay. Looking at these,  
10 Mr. Samaniego mentioned these wells, Exhibits 4A and  
11 4B are APDs he obtained for two vertical wells. The  
12 4A is for a Bone Spring and Wolfcamp vertical test.  
13 Exhibit 4B is for a separate Bone Spring vertical  
14 test.

15 As I said, as far as Mewbourne has  
16 testified, Mr. Samaniego, or American Energy I should  
17 say, does not have a working interest, so I don't  
18 believe that it was proper for them to file for an  
19 APD, and Mewbourne will deal with that later.

20 But if you look at Exhibit 4C, and I  
21 don't have a page number on this, this is part 2 of  
22 the exhibit packages I filed. You look at that, and  
23 Mr. Edington has a production plat that shows you the  
24 production from both horizontal and vertical wells in  
25 this area.

1                   And that you can see that while the  
2 horizontal wells are quite nice and economical, the  
3 vertical wells are -- to say they're marginal is an  
4 understatement. And no one should be drilling  
5 vertical-horizontal-vertical Bone Spring or Wolfcamp  
6 wells in this area. And he also contains an economics  
7 analysis that shows that that is the case.

8                   And then Exhibit 5 with its subparts is  
9 my notice letter to the interest owners. And Exhibit  
10 5A is the original notice letter, then I sent Exhibit  
11 5B, a second notice letter because the original letter  
12 to Magnum Hunter came back unreturned.

13                   So, and then there's Exhibit 7, the  
14 affidavit of publication which shows that all of the  
15 people who did not return the green cards have been  
16 notified by -- constructively by publications. And  
17 then Exhibit 8 is the application and proposed notice  
18 in each case.

19                   And so I would move the admission of  
20 Exhibits 1 through 8 plus their subparts, and then  
21 turn the witnesses over or turn the matters over to  
22 the other participants.

23                   MR. CHAKALIAN: Well, we still have to  
24 qualify your expert, sir. So I'm going to admit --  
25 let's do the qualification first before I admit

1 anything into evidence. I think that's the best way  
2 to go.

3 MR. BRUCE: Sure.

4 MR. CHAKALIAN: So would you have your  
5 witness turn his camera on and participate with us?

6 MR. BRUCE: Mr. Edington, could you do  
7 that, please?

8 MR. CHAKALIAN: I do see someone.

9 Mr. Edington, are you wearing a bow  
10 tie? No, you're not. Okay. It's hard to see you.  
11 It's very small. Okay, would you raise your right  
12 hand, please?

13 Do you swear or affirm that the  
14 testimony you're about to give is the truth, the whole  
15 truth, and nothing but the truth?

16 I think you're muted, sir. No, now  
17 you're muted, so you weren't muted before but I  
18 couldn't hear you.

19 MR. EDINGTON: Sorry about that. I do.

20 MR. CHAKALIAN: Okay, good. I can hear  
21 you and see you now.

22 Okay. Mr. Bruce, do you want to ask  
23 questions to your witness now?

24 MR. BRUCE: Yes, sir.

25 DIRECT EXAMINATION

1 BY MR. BRUCE:

2 Q Mr. Edington, who do you work for and in  
3 what capacity?

4 A I work for Mewbourne Oil Company as a  
5 reservoir engineer in our Midland, Texas, office.

6 Q Have you previously testified before the  
7 Division?

8 A I have not.

9 Q Could you summarize your educational and  
10 employment background for the examiner?

11 A Yes, sir. I attended the University of  
12 Oklahoma and got a bachelor of science degree in  
13 petroleum engineering in 2015, and I've worked for  
14 Mewbourne in various roles since that point in time.  
15 I've worked as a reservoir engineer in  
16 Midland since April of 2019.

17 Q And are you familiar with the engineering  
18 matters related to these applications?

19 A I am.

20 MR. BRUCE: Mr. Examiner, I tender Mr.  
21 Edington as an expert petroleum engineer.

22 MR. CHAKALIAN: Mr. Savage or Ms. Ryan,  
23 any objection?

24 Ms. Ryan, it's not possible to hear  
25 you. Maybe you can improve the quality of your

1 microphone?

2 MS. RYAN: Can you hear me now?

3 MR. CHAKALIAN: Yes.

4 MS. RYAN: No objection.

5 MR. CHAKALIAN: Mr. Savage?

6 MR. SAVAGE: No objection.

7 MR. CHAKALIAN: Okay. I admit your  
8 witness as an expert in the field of petroleum  
9 engineering, Mr. Bruce.

10 MR. BRUCE: Thank you, sir.

11 And then I would just ask Mr. Edington  
12 one question.

13 BY MR. BRUCE:

14 Q Do you adapt your affidavit and the exhibits  
15 attached to it as your testimony today?

16 A I do.

17 MR. BRUCE: And with that, Mr.  
18 Examiner, I turn over the witness.

19 MR. CHAKALIAN: Okay. Since we have  
20 the witness here and sworn in, are there any  
21 corrections to your affidavit or your file testimony,  
22 sir?

23 Can you hear me?

24 THE WITNESS: Yes, sir, I can hear you.  
25 No, I don't have any corrections.

1 MR. CHAKALIAN: Okay. I didn't hear  
2 your answer. Thank you.

3 Okay, Mr. Bruce. I am admitting your  
4 Exhibits 1 through 8 and its subparts into evidence in  
5 this case.

6 And Mr. -- we don't have the landman  
7 sworn in. Let's get --

8 Mr. Samaniego, do you want to cross-  
9 examine any of these witnesses?

10 MR. SAMANIEGO: Not at this time.

11 MR. CHAKALIAN: Okay.

12 Mr. McClure, do you have any questions  
13 for either Mr. Bruce or the witnesses because we can  
14 get the other two sworn in if you like?

15 MR. MCCLURE: I do have some questions  
16 for Mr. Bruce. I suspect that he'll be able to answer  
17 my questions and that he won't need any of his  
18 experts. But I'd leave it to his discretion, I guess,  
19 if he wants to re-direct them.

20 MR. CHAKALIAN: Go ahead, Mr. McClure.

21 MR. MCCLURE: Oh, I apologize.

22 MR. BRUCE: Fire away.

23 MR. MCCLURE: Yeah, okay. Thank you,  
24 Mr. Hearing Examiner.

25 Mr. Bruce, I guess just to make sure

1 that I have a complete understanding of what we're  
2 kind of looking at. The dispute, I'm not interested  
3 in the details of for this picture. I have the  
4 oversight or the high level view of what's going on  
5 between Magnum Hunter and Mewbourne.

6 Essentially, we're talking about a  
7 lease agreement that's dated in 2019 and it's just a  
8 question of whether that's terminated or not or still  
9 in effect; correct?

10 MR. BRUCE: That is correct.

11 MR. MCCLURE: Okay. Does Magnum Hunter  
12 have interest other than this disputed interest?

13 MR. BRUCE: I believe so, and if  
14 necessary I can get the landman on, but I think there  
15 are certain interests that are subject to this term  
16 assignment and others that are not in dispute, so that  
17 we do seek to force pool Magnum Hunter independent of  
18 that term assignment.

19 MR. MCCLURE: And so you're confident  
20 to say yes, then; is that correct? Or did you want to  
21 bring on your landman?

22 MR. BRUCE: Yes, I just got a text from  
23 my client saying yeah, I was correct. Magnum Hunter  
24 gave that term assignment to Mewbourne, and that's  
25 that issue, but there are other interests Magnum

1 Hunter owns that are subject to pooling regardless of  
2 the term assignment.

3 MR. MCCLURE: Okay. Thank you, sir.  
4 Of the 36 -- essentially 36.1 percent interest that's  
5 being pooled or being requested to be force pooled  
6 here, does that not include the disputed interest?

7 MR. BRUCE: That would include the  
8 disputed interest.

9 MR. MCCLURE: So they --

10 MR. BRUCE: And -- go ahead.

11 MR. MCCLURE: Oh, the only question I  
12 was going to say, so then Mewbourne is requesting to  
13 force pool the Magnum Hunter interest which you're in  
14 dispute of; is that correct?

15 MR. BRUCE: Well, and I'll let Mr.  
16 Savage say that. We're force pooling Magnum Hunter,  
17 but if it turns out that that term assignment as to a  
18 limited portion of its interest is not valid, that  
19 would not be force pooled. We would have to come back  
20 or reach agreement with them.

21 MR. MCCLURE: So what that sounds like  
22 to me is that you're not force pooling them because  
23 you'd have to come back and force pool them at a later  
24 date if it turns out that they are the interest  
25 owners; is that correct?

1 MR. BRUCE: Well, we're force pooling  
2 them, but if the final title termination is in favor  
3 of Magnum Hunter on that term assignment, they would  
4 not -- their residual working interests under that  
5 term assignment would not be pooled. But the other  
6 interests they have would be.

7 MR. MCCLURE: Okay. Yeah, I mean,  
8 that's -- I guess that's what I'm trying to get at.  
9 Based off what you just described there, it sounds  
10 like it would be accurate to say that this 36.1  
11 percent does not include the disputed interest. Is  
12 that your understanding as well? Or is this number  
13 wrong then if you're not asking to force pool the  
14 disputed interest?

15 MR. BRUCE: Well, the -- oh, and I must  
16 say it's not that 36 point, it's the 63 percent-plus  
17 that is listed under Mewbourne's -- Mewbourne, et al.  
18 That includes that Magnum Hunter interest.

19 MR. MCCLURE: Okay, thank you, Mr.  
20 Bruce. That's exactly, I guess, what I was trying to  
21 get at.

22 MR. BRUCE: Yeah.

23 MR. MCCLURE: Long question strong, I  
24 guess. Yeah, that's the answer I was looking for.

25 MR. BRUCE: Yeah, it's listed under

1 Mewbourne, but if it turns out Mewbourne doesn't own  
2 that interest, it means that Mewbourne wouldn't own  
3 it. I don't know the exact percentage, but a couple  
4 of -- a few percent less than what is shown on that  
5 ownership list.

6 MR. MCCLURE: I thank you.

7 Mr. Hearing Examiner, am I allowed to  
8 ask Mr. Savage if he's in concurrence with that as  
9 well?

10 MR. CHAKALIAN: Definitely.

11 MR. MCCLURE: I guess as to repeat it,  
12 you're in agreement with that as well, Mr. Savage, in  
13 as that disputed interest is not included in this 36.1  
14 percent?

15 MR. SAVAGE: Yeah, if I can just  
16 elaborate a little bit. So that -- the lease is under  
17 the term assignment. If I remember right, they  
18 account for somewhere between 5 and 8 percent  
19 depending on who is looking at it and interpreting it.

20 That would be listed -- that should be  
21 listed under Mewbourne's claim to the working  
22 interest. On the special provision, I did put a  
23 footnote that talks about authority of the OCD based  
24 on some past orders.

25 And it looks like to me that the OCD,

1 they can accept -- in the pooling procedure, they can  
2 adjudicate title and make a determination about  
3 ownership, but they can accept a good-faith claim of  
4 the ownership made by the applicant. And that's  
5 basically what we're doing in this is Mewbourne is  
6 making a claim because they believe that the term  
7 assignment is still in place.

8 We believe that the term assignment has  
9 expired, so the only interest being pooled is what  
10 they claim holding that claim for that working  
11 interest. And if there's any -- if it's determined  
12 later that the term assignment is expired or  
13 terminated, any reversionary interest would not be  
14 pooled.

15 There would be no -- or if it happens  
16 to be expired at the current time and that's  
17 adjudicated in district court or by another agency  
18 that has authority to determine title or agreement of  
19 the parties, that interest would not be pooled. That  
20 then, that would determine that Magnum Hunter owns,  
21 and Magnum Hunter would have a right to an election at  
22 a later date under the pooling order.

23 MR. MCCLURE: Thank you, Mr. Savage.

24 And Mr. Bruce, you're also in agreement  
25 that essentially you'd have to come back and re-force

1 pool Magnum Hunter for this disputed interest;  
2 correct? If the dispute were to be they have that  
3 interest?

4 MR. BRUCE: Yes, or reach voluntary  
5 agreement.

6 MR. MCCLURE: Yeah, absolutely. That's  
7 always an option.

8 MR. BRUCE: Yes. And I think, Mr.  
9 McClure, you'll agree a lot of these companies, title  
10 is getting so messed up, not only my clients but many  
11 others are coming back and reopening or seeking to  
12 amend orders because people keep popping up in the  
13 chain of title.

14 It's just the way it goes these days.  
15 The title gets more difficult by the month out here,  
16 so that's what happens.

17 MR. CHAKALIAN: Okay --

18 MR. MCCLURE: Yeah, I would agree if --

19 MR. CHAKALIAN: Okay, Mr. McClure. Are  
20 there any other questions?

21 MR. MCCLURE: I do have more questions,  
22 I'm sorry, Mr. Hearing Examiner, I'll get to.

23 The question that I guess I have, and  
24 it's kind of related kind of to what Mr. Savage, the  
25 very last bit of what Mr. Savage brought up, that is

1 the ability for Magnum Hunter, Cimarex, whatever, to  
2 elect to participate.

3 And under a voluntary agreement that's  
4 one thing, but is it the parties' positions that by  
5 putting this in the order, the Division is enforcing  
6 that? That they're going to be, let's say, five years  
7 from now the dispute is settled, is Magnum Hunter  
8 going to be able to come in and participate after the  
9 wells have already been producing for three or four  
10 years?

11 MR. BRUCE: Well, yeah, I think that's  
12 just the natural order of things.

13 MR. MCCLURE: Okay. Good. And I  
14 guess, Mr. Bruce, is it the parties' positions that if  
15 Mewbourne were to change their mind later that it  
16 would be up to the Division to enforce that?

17 MR. BRUCE: Oh, I don't know that the  
18 Division would have to take any action. I think it  
19 would be up to the parties whether by voluntary  
20 agreement or litigation. So that's my opinion,  
21 anyway.

22 MR. MCCLURE: Are you of the same  
23 opinion, Mr. Savage?

24 MR. SAVAGE: Well, if Mewbourne decided  
25 that it was expired, then I think that, you know, they

1 would agree, you know, that they were able to do that,  
2 and I think they would reach a voluntary agreement.

3 But I agree that this provision does  
4 five years from now, if it, you know, if it's  
5 litigated and it turns out that Magnum Hunter owns the  
6 interest and had owned it at the time of this hearing,  
7 then yes, I think that under the language of this  
8 agreement that the OCD would have the authority to  
9 enforce an election if the other party did not want to  
10 allow that.

11 And I think that's appropriate under  
12 the OCD's authority. I think it's appropriate to do  
13 that. I mean, it would be -- it's a variation of  
14 coming back and pooling working interests that you've  
15 discovered.

16 And, you know, and I don't know how the  
17 OCD might want to approach that. They might want to  
18 do it as an amendment to the pooling order, or they  
19 may want to do that as a separate pooling order.

20 The language says, it says "the pooling  
21 order" in the stipulation at the last sentence, so I  
22 guess that could be interpreted as a new pooling  
23 order, "the pooling order," or it could be interpreted  
24 as the pooling order that's issued from this hearing.

25 MR. MCCLURE: And Mr. Bruce, do you

1 agree that if it doesn't have the authority to  
2 stipulate as such?

3 MR. BRUCE: Yes. I think Cimarex just  
4 wants to preserve its rights to make a well election  
5 at whatever time title is determined.

6 MR. MCCLURE: Do you perceive that we  
7 would need to add an additional ordering paragraph?  
8 Because it seems like that would likely disagree as  
9 far as typical ordering paragraphs.

10 MR. BRUCE: Yeah, you're probably  
11 right, Mr. McClure. But either way, it's going to  
12 take some subsequent action, and so whatever the  
13 Division would like Mr. Savage and I to do, we will  
14 take care of. And if you needed a special provision  
15 in this order, we could work out, Mr. Savage and I  
16 could work out a provision.

17 MR. MCCLURE: Okay. Thank you, Mr.  
18 Bruce.

19 Mr. Hearing Examiner, I have no other  
20 questions. But I do seriously consider Mr. Bruce's  
21 recommendation that if we add an extra ordering  
22 paragraph that perhaps the parties should participate  
23 in that, I guess.

24 MR. CHAKALIAN: So are you then  
25 requesting that the checklist and the special

1 provision, the wording that goes in the special  
2 provision be the negotiated condition?

3 MR. MCCLURE: No --

4 MR. BRUCE: Well, I would --

5 MR. MCCLURE: Oh, go ahead, Mr. Bruce.

6 MR. BRUCE: Excuse me, no, you go  
7 ahead.

8 MR. MCCLURE: Or, I don't know what he  
9 was asking, I guess.

10 Essentially what I'm getting, Mr.  
11 Hearing Examiner, is they're allowed to add the  
12 special provision in the checklist, but I believe  
13 there's an ordering paragraph within the -- pooling  
14 orders which stipulate when parties can elect to  
15 participate, and I believe that this special provision  
16 would be in conflict with that ordering paragraph.

17 So I would imagine that we may need to  
18 add an extra ordering paragraph to address that unless  
19 I guess we feel that the special provision is enough  
20 to take care of it itself.

21 MR. CHAKALIAN: Mr. Savage?

22 MR. SAVAGE: Well, the special  
23 provision only addresses the interest that Mewbourne  
24 claims under the term assignment, and I believe that  
25 that interest would be the interest that's subjected

1 to the election clause.

2 And then if it turns out -- and any  
3 other interest would not be pooled, and if it turns  
4 out that Magnum Hunter owns interest, that interest  
5 would not be subjected to the election provision in  
6 the order and you would have an opportunity for  
7 another election.

8 But I do agree that there's some  
9 ambiguity there, and there might be a need to clarify  
10 that with some additional language.

11 MR. CHAKALIAN: Okay. So when I  
12 admitted Exhibit A1 that you offered, are you now  
13 saying that you need to revise that?

14 MR. SAVAGE: Well, I mean, the Exhibit  
15 A1 I believe stands on its own. The OCD would have  
16 discretion to customize the election provision to  
17 accommodate the A1. But we -- Mr. Bruce and I would  
18 also be willing to craft some language and suggestions  
19 for the OCD to include.

20 And, you know, you can do that kind of  
21 sua sponte, the OCD could, and add that additional  
22 language. Or I could revise that Exhibit A1 and add  
23 language, as well.

24 MR. CHAKALIAN: Okay.

25 Mr. McClure, do you have a preference?

1 MR. MCCLURE: My preference would be to  
2 add an extra ordering paragraph in the order itself,  
3 is what my preference would be.

4 MR. CHAKALIAN: Okay.

5 How long will it take for the parties  
6 to craft that paragraph that Mr. McClure is referring  
7 to?

8 MR. SAVAGE: Mr. Bruce, a couple days?

9 MR. BRUCE: If -- I don't think it  
10 would take long because I don't think it would be as  
11 long as the exhibit.

12 MR. SAVAGE: Okay.

13 MR. BRUCE: And I would think once  
14 again, Mr. Examiner, as within some of the other cases  
15 that were put on today, by next Friday just to -- I  
16 think a paragraph could be -- just to clear it up.

17 MR. CHAKALIAN: Okay. So we're going  
18 to say November 10. So we're going to have a  
19 deadline.

20 And Mr. Bruce, the -- so you're already  
21 amending the checklist to show the special provision.  
22 Now, we also need by November 10 -- now, that's by  
23 November 3rd. And then you're going to have -- what  
24 are you submitting by November 10?

25 MR. BRUCE: Just a short paragraph

1 specifying what would happen depending on who wins out  
2 in the end.

3 MR. CHAKALIAN: And Mr. McClure, you  
4 called that a what?

5 MR. MCCLURE: Just another ordering  
6 paragraph to add to below our current participating  
7 election paragraph.

8 I mean, they would just have a  
9 recommended one, then of course our director would be  
10 the ultimate decider on signing it into effect, of  
11 course.

12 MR. CHAKALIAN: Okay. I have it noted.  
13 Okay, so at this point are we going to take these  
14 under advisement, Mr. McClure?

15 MR. MCCLURE: I'm fine with it, Mr.  
16 Hearing Examiner, if you are.

17 MR. CHAKALIAN: Okay, fine.

18 So Mr. Bruce, Mr. Savage, Ms. Ryah, Mr.  
19 Samaniego, at this point we're taking these two cases  
20 under advisement with the provision that we receive an  
21 amended checklist to show the special provision  
22 demonstrated in Exhibit A1 by November 3rd, and a  
23 special ordering paragraph to determine what happens  
24 with the working interest depending on who wins the  
25 dispute. Is that correct?

1 MR. MCCLURE: Are you asking me, Mr.  
2 Hearing Examiner?

3 MR. BRUCE: That's how I understanding  
4 it.

5 MR. CHAKALIAN: I'm asking the parties  
6 I just mentioned.

7 Mr. Bruce, is that correct?

8 MR. BRUCE: Yeah. I will file new  
9 pooling checklists tomorrow morning, and then a week  
10 from tomorrow Mr. Savage and I can perhaps meet at a  
11 bar and argue over the provision and get one drafted  
12 up -- proposed provision for the Division to consider.  
13 And I think we can make it quite simple.

14 MR. CHAKALIAN: All right. And you  
15 will file that by November 10?

16 MR. BRUCE: Correct, sir.

17 MR. CHAKALIAN: Okay. All right, and  
18 let the record reflect that Mr. Bruce did have all  
19 three of his witnesses here available for cross-  
20 examination, and none of the parties took -- or  
21 interested people took advantage of that opportunity  
22 at this time.

23 Is there anything else from anyone  
24 before we close the hearing in this matter?

25 MR. SAMANIEGO: Yes, I got a question

1 for I believe it was Bruce. He stated that Oxy states  
2 that they've been making shut-in payments and rental  
3 payments, and that's brought forth and that's hearsay  
4 because there has been no evidence provided to Oxy to  
5 state those facts.

6 MR. CHAKALIAN: Okay. Mr. Samaniego,  
7 Mr. Bruce is not a witness here. There are three  
8 people here that are witnesses, and as Mr. Bruce  
9 pointed out to you, one of his witnesses in his  
10 affidavit stated that fact.

11 Mr. Bruce, which witness stated that  
12 fact?

13 MR. BRUCE: The landman, Mr. Carson  
14 Collins.

15 MR. CHAKALIAN: Okay. And do we have  
16 him here?

17 MR. BRUCE: He should be.

18 MR. CHAKALIAN: Are you leaning over,  
19 sir?

20 MR. COLLINS: Sir, I'm here.

21 MR. CHAKALIAN: That is you. Okay.  
22 Would you raise your right hand, please?

23 MR. COLLINS: Yes, sir.

24 MR. CHAKALIAN: Do you swear or affirm  
25 that the testimony you're about to give is the truth,

1 the whole truth, and nothing but the truth?

2 MR. COLLINS: I do.

3 MR. CHAKALIAN: Thank you, sir.

4 Okay, Mr. Samaniego, you had a cross-  
5 examination question. Now, you're not testifying  
6 because you're not a witness, sir, but if you have a  
7 question for this witness based on his testimony and  
8 his affidavit, please ask it.

9 MR. SAMANIEGO: Is it my turn to speak?

10 MR. CHAKALIAN: Yes, sir. I asked you  
11 to ask a question based on the affidavit filed in this  
12 case by this witness.

13 MR. SAMANIEGO: Okay.

14 CROSS-EXAMINATION

15 BY MR. SAMANIEGO:

16 Q Mr. Collins, you stated that Oxy made  
17 statements to you that they paid rental payments and  
18 shut-in payments; did they provide you with evidence  
19 of these -- of this?

20 A I have correspondence in the form of emails  
21 stating those facts.

22 Q And what were the facts that were presented  
23 to you?

24 A I asked the questions of the validity of the  
25 lease governing the interest that I understand that

1 you own. And it was conveyed to me that the interest  
2 that you own was still under lease and had been  
3 maintained by payments or production or payments of  
4 shut-in royalties.

5 Q And were they presented to you by certified  
6 mail, stated check stubs? I mean, other than just a  
7 stated conveyance, how were they presented as evidence  
8 to you to recognize that their lease was still valid?

9 A I only have correspondence and evidence  
10 through email.

11 Q Okay. So other than email, there's no  
12 stated documentation of certified mail or check stubs  
13 stating that I've been paid?

14 A The only correspondence, the only dealing  
15 with the validity of the lease that I've received has  
16 been corresponded to me through email.

17 MR. SAMANIEGO: Okay. So yeah, I'm  
18 going to say to dismiss Oxy's claim of having a valid  
19 lease by not providing proof of evidence of such  
20 payments being made.

21 MR. CHAKALIAN: Mr. Samaniego, as a  
22 hearing examiner, the rules of evidence have -- the  
23 rules of evidence are not in full force in an  
24 administrative hearing.

25 That being said, there is evidence even

1 if it is hearsay, hearsay is acceptable in an  
2 administrative hearing, to substantiate what this  
3 gentleman is saying because he is under oath and he  
4 has answered your question.

5 I have no countervailing evidence to  
6 show that what he's saying is not correct.

7 MR. SAMANIEGO: I'm under oath, and I'm  
8 swearing that I haven't been paid shut-in payments or  
9 payments of any kind by Oxy.

10 MR. CHAKALIAN: Okay. So Mr.  
11 Samaniego, you've had lots of time to present evidence  
12 to be prepared for this hearing. You're not under  
13 oath, sir. You're not a witness here. And so --

14 MR. SAMANIEGO: I just wanted to be on  
15 record that I'm stating the fact.

16 MR. CHAKALIAN: Okay. Very good.

17 Okay, these cases are taken under  
18 advisement based on what I've already said.

19 And so we're going to call the last  
20 case in the docket today. We're going to re-call  
21 23922. Do we have Mr. Suazo?

22 MR. SAMANIEGO: I wasn't able to get on  
23 the case to -- on the case that I was just involved  
24 in, 23708, 23709. I just want my further request for  
25 the special provision with respect to American's

1 existing permits that I want to be able to under 7217  
2 afford my ownership in each property and the pool  
3 opportunity to produce as just an equitable share of  
4 the oil and gas through my existing permits in the  
5 Wolfcamp.

6 MR. CHAKALIAN: Okay. Thank you, Mr.  
7 Samaniego. I have now moved on to a new case.

8 Mr. Suazo, I see that you filed  
9 something?

10 MR. SUAZO: Yes, Mr. Hearing Examiner.  
11 We are able to get the resume, the CV of our witness,  
12 Mark Smith so that he could be recognized as an expert  
13 witness in this matter.

14 MR. CHAKALIAN: Okay. Let me pull it  
15 up here. Okay, notice of supplemental exhibit -- let  
16 me read this. So let's see.

17 And what are you seeking -- what field  
18 are you seeking to qualify this witness as?

19 MR. SUAZO: Just an expert witness  
20 aware of the facts necessitating an extension of time  
21 to commence drilling wells that were authorized by a  
22 prior Division order.

23 MR. CHAKALIAN: Okay. That's not what  
24 I'm asking. What specific field are you seeking to  
25 qualify this witness as an expert in?

1 MR. SUAZO: Well, as a professional  
2 landman.

3 MR. CHAKALIAN: As a landman? Okay. I  
4 do see sufficient experience, education, and  
5 specialized knowledge to qualify this witness as a  
6 landman. Have you marked this as an exhibit?

7 MR. SUAZO: I did not make the  
8 submission, Mr. Examiner. I'm not sure. It's in our  
9 application as Exhibit B.

10 MR. CHAKALIAN: It's in your  
11 application as Exhibit E. Let me see what you're  
12 talking about. I have -- let me go back to your  
13 filing, your exhibit list. Your packet, your table of  
14 contents contains Exhibits A through D. So I don't  
15 see an E on your table of contents.

16 MR. SUAZO: I said Exhibit B. B as in  
17 boy.

18 MR. CHAKALIAN: B. Affidavit of Mark  
19 Smith, landman. Okay. So let me go back to your  
20 exhibit.

21 Okay. So here it talks about an  
22 attached supplemental Exhibit B. Okay. I have  
23 admitted Mr. Smith as an expert landman, so please  
24 proceed with your case by affidavit.

25 MR. SUAZO: Sure. So taking from the

1 top, Exhibit A is the application. Exhibit B is the  
2 affidavit of Riley's land witness, Mr. Mark Smith.  
3 Exhibit C is the notice of affidavit showing that the  
4 notice letters were mailed to the interested parties.  
5 And immediately after the copy of the letter are the  
6 certified mailing receipts showing delivery to  
7 numerous interested parties. And Exhibit D is the  
8 affidavit of publication in the Carlsbad Current-  
9 Argus.

10 And with that, that's the end of our  
11 exhibits. I'd like to request that the exhibits be  
12 admitted into the record and the matter be taken under  
13 advisement.

14 MR. CHAKALIAN: Okay. Mr. Suazo, we  
15 have a notary. Ah-hah. Okay. Your affidavit is  
16 notarized, which cures the problem that I saw in your  
17 affidavit. So I am admitting your exhibits into  
18 evidence including your supplemental Exhibit B that  
19 you just filed a few minutes ago.

20 Mr. McClure, do you have any questions  
21 for Mr. Suazo?

22 MR. MCCLURE: No questions, Mr. Hearing  
23 Examiner.

24 MR. CHAKALIAN: Excellent. Then Mr.  
25 Suazo, we will take this case under advisement; 23922

1 is hereby concluded. Thank you very much.

2 MR. SUAZO: Thank you, Mr. Hearing  
3 Examiner.

4 And that concludes today's hearings.

5 MR. SAMANIEGO: Mr. Hearing Examiner,  
6 before you conclude, I got -- I just submitted the  
7 evidence of the lease agreement in -- what's the case  
8 -- 23708 and 23709, and 9, I just submitted that in  
9 evidence, and I want that to be in the record for my  
10 evidence of the lease being terminated.

11 MR. CHAKALIAN: Hold on, Mr. Samaniego.  
12 I'm not finished taking my notes on the case I was  
13 just working on.

14 MR. SAMANIEGO: Yes, sir.

15 MR. CHAKALIAN: Okay. Now, are you  
16 asking me to re-call this case?

17 MR. SAMANIEGO: You left the case open.  
18 That way I could submit the evidence.

19 MR. CHAKALIAN: No, sir. I didn't  
20 leave it open. I closed the case when it was  
21 finished. Are you asking me to reopen it?

22 MR. SAMANIEGO: Yes, sir.

23 MR. CHAKALIAN: Okay. Based on what?

24 MR. SAMANIEGO: On the evidence  
25 provided on the lease agreement --

1 MR. CHAKALIAN: What lease agreement --

2 MR. SAMANIEGO: and --

3 MR. CHAKALIAN: Mr. Samaniego, if I  
4 start to speak, I'd like you to stop.

5 What least agreement are you talking  
6 about?

7 MR. SAMANIEGO: I submitted to Marlene  
8 the lease agreement between -- the original lease  
9 agreement back in 1976.

10 MR. CHAKALIAN: 1973?

11 MR. SAMANIEGO: Yes, sir.

12 MR. CHAKALIAN: Okay. Very good.  
13 Marlene did send me a copy of the document that you  
14 emailed to her, and how is this document relevant to  
15 today's hearing?

16 MR. SAMANIEGO: Because there is a  
17 lease agreement standards that are -- with condition  
18 and provisions that have to be followed by the lessee.  
19 Oxy's old gas well had a five-year primary term that  
20 expired, a secondary term that has run its course, and  
21 by its own provisions of the lease has now forfeited  
22 and terminated on the account of Oxy's own failure to  
23 comply with the lease agreement standards of producing  
24 in paying quantities, payment of rentals, and shut-in  
25 payments stated on the lease.

1                   Therefore the lessee --

2                   MR. CHAKALIAN:   Okay.   Mr. Samaniego,  
3                   there is evidence in the record put on by Mr. Bruce  
4                   through his live witness who you have an opportunity  
5                   to cross-examine that they have maintained the lease  
6                   with you by either paying shut-in or production  
7                   royalties to you and that you are solely a royalty  
8                   interest owner, and you do not have a working interest  
9                   as you are saying you do.

10                   Now, this document for whatever it's  
11                   worth comes in after this hearing has concluded, and  
12                   it violates the rules that we have to conduct  
13                   hearings.

14                   If you look at 19.15.4, it specifically  
15                   has in here rules when you have evidence that you have  
16                   to submit it in a timely fashion, and you have to note  
17                   your objections to evidence in a timely fashion.   And  
18                   you haven't done that.

19                   Moreover, you have never provided to me  
20                   evidence that you are a working interest owner in this  
21                   pool.   So I'm denying the admission of this late filed  
22                   document into this case.   Your interests, as you have  
23                   heard, will not be pooled.

24                   And depending on what happens in the  
25                   future, you might have a different result.   But for

1 now, your interests are not being pooled.

2 MR. SAMANIEGO: But my interests are  
3 also not being recognized by hearsay from Oxy that had  
4 that -- upon the cross-examination of the witness by  
5 his own statements, there has been no documentation of  
6 evidence provided by Oxy stating those statements of  
7 Oyx's.

8 MR. CHAKALIAN: Okay. But Mr.  
9 Samaniego, as I've already told you, hearsay evidence  
10 is admissible in an administrative hearing, and there  
11 are rules --

12 MR. SAMANIEGO: That's perjury --

13 MR. CHAKALIAN: Now, see, once again,  
14 sir, you're arguing with me, and it's not going to  
15 help you. I'm not going to decide in your favor  
16 because you interrupt me. That's not going to work on  
17 your behalf, sir.

18 So there are rules to abide by, and  
19 you've not abided by any of them. So I'm not  
20 admitting this into evidence at this time, and this  
21 case is closed and taken under advisement, and today's  
22 hearings are concluded.

23 So thank you for your participation.  
24 I'm going to sign off now.

25 MR. SAMANIEGO: I will be filing an

1 appeal on this so that it can be re-heard. Hello?

2 (Whereupon, the meeting concluded at

3 4:09 p.m.)

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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  
tate of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, REBECCA CAMERON, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



REBECCA CAMERON

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[dal - deirdre]

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[imaging - interest]

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