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

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

APPLICATION OF FRANKLIN MOUNTAIN ENERGY, LLC FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO.

CASE NOs. 20773, 20774, 20777

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

September 5, 2019

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
KATHLEEN MURPHY, TECHNICAL EXAMINER
DYLAN ROSE-COSS, TECHNICAL EXAMINER
DANA Z. DAVID, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner; Kathleen Murphy and Dylan Rose-Coss, Technical Examiners; and Dana Z. David, Legal Examiner, on Thursday, September 5, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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

APPEARANCES

FOR APPLICANT FRANKLIN MOUNTAIN ENERGY, LLC:

DEANA M. BENNETT, ESQ.
NICOLE RUSSELL, ESQ.
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.
500 4th Street, Northwest, Suite 1000
Albuquerque, New Mexico 87102
(505) 848-1800
deanab@modrall.com

FOR INTERESTED PARTY XTO ENERGY:

KAITLYN A. LUCK, ESQ.
HOLLAND & HART, LLP
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421
kluck@hollandhart.com

FOR INTERESTED PARTY BTA OIL PRODUCERS, LLC:
(Case Numbers 20773 and 20774)

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

INDEX

EXHIBITS OFFERED AND ADMITTED

(4:09 p.m.)

EXAMINER JONES: Let's call Cases 20773, 20774 and 20777, application of Franklin Mountain Energy, LLC for compulsory pooling in Lea County, New Mexico.

Call for appearances.

MS. BENNETT: Good afternoon. My name is Deana Bennett, and I'm with Modrall, Sperling. I'm here today with Nicole Russell also from Modrall, Sperling, and we represent Franklin Mountain Energy, LLC.

MS. LUCK: And Kaitlyn Luck, with the Santa Fe office of Holland & Hart, appearing in these three cases on behalf of XTO Energy.

MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe representing BTA Oil Producers, LLC in the first two cases, 773 and 774.

I have no witnesses.

EXAMINER JONES: But XTO is in all three of these cases?

MS. LUCK: That's correct. Yes.

EXAMINER JONES: Any other appearances?

Okay. Do you have witnesses?

MS. BENNETT: Yes. We have two witnesses.

EXAMINER JONES: Will the witnesses please

stand and the court reporter please swear the witnesses?

(Ms. Albrecht and Mr. Kessel sworn.)

MS. BENNETT: At this time I'd call my first witness, Ms. Shelly Albrecht.

SHELLY ALBRECHT,

after having been first duly sworn under oath, was questioned and testified as follows:

DIRECT EXAMINATION

BY MS. BENNETT:

Q. Good afternoon.

Will you please state your name for the record?

A. Shelly Albrecht.

Q. And for whom do you work and in what capacity?

A. Franklin Mountain Energy, LLC as operator and Franklin Mountain Energy 2, LLC as nonoperator. I'm the director of land.

Q. What are your responsibilities as the director of land?

A. I handle acquisitions, divestitures, trades, title review, title curative, owner relations. Pretty much any land function at Franklin Mountain, I handle.

Q. Franklin Mountain Energy, or FME, is a relatively new company to New Mexico, so I was wondering if you could just give a little bit of background about

FME, like when FME was formed, what sort of acreage FME has.

A. Sure. So the Franklin Mountain Energy entities were formed in August and September -- incorporated formally in August and September of 2018, so we're privately backed by a gentleman by the name of Paul Foster. Paul Foster is a New Mexico native, which is a big reason why we are now doing business in the state of New Mexico.

Our position is comprised of 9,500 net acres, and we have five operated wells. We acquired roughly half of our position from Fed lease sales and the other half through the last marketed package of OneEnergy Partners. And with that acquisition of OneEnergy Partners, we also have brought over some of the experts and personnel from that company who worked some of these assets and specifically the lands under these cases.

Q. Thank you.

Have you previously testified before the Division?

A. No, I have not.

Q. Let's talk a bit about your background then. Can you explain to the examiners your educational experience, where you went to college and when you

graduated?

A. Sure. So I went to the University of Oklahoma. I graduated with a bachelor's in business administration and energy management in 2006.

Q. And since 2006, have you been working in the industry?

A. Yes. Well, I've actually been working in the industry prior to graduating. I've been doing land work for approximately 14 years now. I've worked with big companies like BP down to our now 12-person company at Franklin Mountain. So I've seen various sizes of companies, various basins and various types and complexity of land work.

Q. And so you've worked for BP, Samson Resources, Newfield and Liberty. And for those companies, you were doing similar work -- similar to what you're doing for Franklin Mountain?

A. Yes.

Q. And would you say that over time, though, your responsibilities have grown as the complexities of the project have grown?

A. Absolutely.

Q. Are you a member of any professional organizations like AAPL or any other professional landman associations?

A. Yes, I am. So I'm an active member of the AAPL, the landman national association; the PBLA, the Permian Basin Landmen's Association; and the DAPL, the Denver Association of Petroleum Landmen.

Q. Have you testified before any other state regulatory agencies that are similar to the OCD?

A. Yes. I've done extensive work with the NDIC in North Dakota and the WOGCC in Wyoming.

Q. About how many times, if you had to guess, would you say you've testified before those two entities or other similar entities?

A. I've been involved in a multiple of cases contested and not. I would say I've testified in about 30 cases.

Q. Does your area of responsibility at FME include the area of Lea County in New Mexico?

A. Yes, it does.

Q. Are you familiar with the applications that have been filed in these three cases?

A. Yes, I am.

Q. Are you familiar with the status of the lands that is the subject of these three cases?

A. Yes, I am.

MS. BENNETT: At this time I'd like to tender Ms. Albrecht as an expert in petroleum land

matters.

EXAMINER JONES: Any objection?

MS. LUCK: No objection.

MR. BRUCE: No objection.

EXAMINER JONES: Are you downtown Denver, or are you --

THE WITNESS: We're actually in Cherry Creek. That's where our offices are.

EXAMINER JONES: Oh, that's right. I think you told us that earlier.

She's so qualified.

THE WITNESS: It's a five-and-a-half-hour drive.

EXAMINER JONES: Just take Colorado Boulevard on up, huh?

THE WITNESS: Yeah.

MS. BENNETT: Thank you.

Q. (BY MS. BENNETT) So before we start discussing these three applications in these three cases, let's briefly talk about FME's overall development plan. Have you prepared an exhibit that shows an overview of the development for these units that we're discussing today?

A. Yes, I have. Since -- well, due to the consolidated nature of these cases, we thought it would be helpful to help orient you by giving you an overview

of our development plans for all of Sections 4 and 9 of 24 South, 35 East. So that's the purpose of Exhibit 1.

So on Exhibit 1, there are three snapshots. The first one covers -- it outlines our Bone Spring proration units we've proposed overlaid with the Wolfcamp. So the Bone Spring are going to be the pink outlines, the stand-up 320s north-south, and then the Wolfcamp will be the green lines, capturing the west half and the east half of Sections 4 and 9. You see some yellow shading. That indicates where Franklin Mountain entities have leasehold.

If you move right to that center snapshot, that's capturing our Bone Spring layout. So you can see each proration unit again in pink, and then we have dotted lines indicating the general proximity of the wellbores on each of those. So we have two wells that will be drilled and completed in the 1st Bone Spring, four wells in the 3rd Bone Spring. And those will be drilled along with the Wolfcamp wells that I'll go over in a minute from two pads generally centrally located on each half on the southern line of Section 9.

And then as far as case numbers, the west half-west half Bone Spring proration unit, that's associated with Case Number 20774. The east half of the west half Bone Spring case is 20777.

And then if you move over to the last snapshot capturing the Wolfcamp proration units, you'll also see the dotted lines indicating where we generally plan to have those wellbores. And there are three Wolfcamp wells that will be drilled and completed in the west half, and those are dedicated to Case Number 20773.

Q. Thank you.

With that background in mind then, let's turn to the specific applications that we're discussing for these three cases that we've consolidated. So behind Tab 2 are the applications for these three cases; is that right?

A. Yes.

Q. And so Tab 2A is the application for Case Number 20773, which are the three Wolfcamp wells; is that right?

A. Right.

Q. And what does FME seek in Case Number 20773?

A. So FME seeks to pool uncommitted mineral interests within the Wolfcamp horizontal -- or actually uncommitted leasehold interests in the Wolfcamp horizontal spacing unit underlying the west half of Sections 9 and 4 of 24 South, 35 East, Lea County, New Mexico. The spacing unit will be dedicated to the Ouray Fed Com 702H, Ouray Fed Com 703H, and the Georgetown Fed

Com 701H.

Q. And are there any depth severances in these proposed spacing units?

A. No.

Q. Let's turn to Tab 2B. Tab 2B is the application that was submitted in Case Number 20774; is that right?

A. That's correct.

Q. And could you -- this is one of the Bone Spring applications for the west half-west half?

A. Uh-huh. That's correct.

Q. And could you explain to the examiners what FME seeks under this applications?

A. So FME seeks to pool uncommitted working interest owners in the Bone Spring horizontal spacing unit underlying the west half-west half of Sections 4 and 9, 24 South, 35 East. The spacing unit will be dedicated to the Georgetown Fed Com 301H and the Georgetown Fed Com 601H.

Q. Are there any depth severances in the proposed Bone Spring spacing units of the west half-west half?

A. No, there are not.

Q. Let's turn to 2C then. And 2C is the exhibit in Case Number 20777, which is the east half-west half Bone Spring application; is that right?

A. Correct.

Q. And what does FME seek under this application?

A. FME seeks to pool all uncommitted working interests within the Bone Spring Formation underlying the east half-west half of Sections 4 and 9 of 24 South, 35 East. The spacing unit will be dedicated to the Ouray Fed Com 602H well.

Q. And are there any depth severances here in the east half-west half?

A. No, there are not.

Q. All right. Let's turn then to Tab 3. Exhibit 3 has the C-102s for all of the wells, right?

A. Yes.

Q. And we've designated the C-102s behind Tab A for the Wolfcamp wells and Tab B for the Bone Spring wells; is that right?

A. Yes.

Q. Let's start with Tab A then. And, again, the Tab A Wolfcamp wells correspond to Case Number 20773.

So has the Division identified a pool and pool code for these Wolfcamp wells?

A. Yes. So that's the WC-025-G-09-S253302D wildcat-Upper Wolfcamp Pool, which is pool code WC-98187.

Q. And I think that there might be a typo on our

outline there. I think it's actually S253502D, just to clarify the record.

A. Correct.

Q. I apologize for that.

So are these wells governed by the statewide horizontal pool rules?

A. Yes. They're on 40-acre building blocks.

Q. Okay. Let's talk first about the C-102 for the 701H well. It shows the surface-hole location and the bottom-hole location.

I'm sorry. Let's start with the 702. Sorry. I got it out of order. So let's start with the 702, since that's the first one in the packet. So same question: This shows the surface-hole location and the bottom-hole location, right?

A. Yes.

Q. Do you know what the proposed first take point is for this well?

A. Yes. So -- for the 702?

Q. Uh-huh.

A. The first take point is 794 feet from the south line and 1,337 feet from the west line of Section 9.

Q. And can you point to the -- on the plat here, it's a little hard to see where the proposed lateral is at, least for me it is.

A. Yes. It runs -- it looks like it's running right on the quarter line, but it's actually off of the quarter line in the west half -- well, between the east half and the west half of the west half of 4 and 9. So that well will be our proximity well. So we'll be drilling within the 330 feet.

Q. Okay. Great.

And so the C-102 for the 703H well is the next C-102 in the packet.

A. Uh-huh.

Q. And it's the same pool and pool code; is that right?

A. Yes.

Q. And do you have the first take point for that proposed well for the 703H well?

A. Yes. The first take point will be 572 feet from the south line, 2,247 feet from the west line of Section 9.

Q. Thank you.

And then finally we have the C-102 for the 701H well. Same pool and pool code?

A. Yes.

Q. How about the first take point for that well?

A. That one will be 523 feet from the south line and 358 feet from the west line of Section 9.

Q. Thank you.

Will these wells comply with the setback requirements in the statewide rules?

A. Yes, they will.

Q. Okay. Let's turn to the C-102s behind Tab B. These are the C-102s for all of the Bone Spring wells. Has the Division identified a pool and pool code for these wells?

A. Yes, they have.

Q. And what is the pool and pool code?

A. So that's the Ojo Chiso; Bone Spring Pool.

Q. And the pool code is 96553?

A. That's correct.

Q. And is this pool governed by the statewide rules as well?

A. Yes.

Q. Let's look at the C-102 for the 601H.

Sorry. Let's look at the C-102 for the 301H, which is the first one in the packet. It shows the surface-hole location and the bottom-hole location, right, but not the first take point?

A. Right.

Q. Do you have the first take point for that one?

A. I do. For the 301H, the first take point is 624 feet from the south line, 386 feet from the west

line of Section 9.

Q. Great.

And turning to the next page, page 18, that's the C-102 for the 601H well. What is the first take point for that well?

A. The first take point for that one is 402 feet from the south line, 373 feet from the west line of Section 9.

Q. Thanks.

And then finally on page 19, we have the 602H C-102. What's the proposed first take point for this well?

A. That one will be 443 feet from the south line, 2,223 from the west line of Section 9.

Q. Thank you.

And will these wells comply with the setback requirements in the statewide rules?

A. Yes, they will.

Q. Thanks.

Okay. Let's turn to Exhibit 4. Exhibit 4 has two tabs, Tab A and Tab B, right?

A. That's correct.

Q. Tab A is your lease tract map showing the lease acreage, and then Tab B has the summary of interests; is that right?

A. Right.

Q. So let's start with Tab 4A. Can you briefly explain to the examiners what these three plats show?

A. So the three plats -- it's a lease tract map. It just shows you the boundaries of each leases within these two sections. The leases are distinct by the patterns that is on each one, and then they're also labeled. I'll note that these are all Fed-leased minerals. And then also one other thing to note is the red rectangles are just to depict the proposed proration units under this case.

Q. So this first tract map is for Case Number 20773. So it's the complete west half because that's what you're seeking for the Wolfcamp?

A. Correct.

Q. And then the next page, page 21, for 20774, is the west half-west half?

A. Correct, for the Bone Spring.

Q. For the Bone Spring.

And the next page, 22, shows the tract map for 20777, which is the east half-west half of Bone Spring?

A. Correct.

Q. Then let's look at Exhibit Tab B. So, again, there are three pages behind Tab B, one for each case,

showing a summary of the interests for each case?

A. Right. So these are just the interest breakdowns for each of the proration units. We captured the committed working interests in the top, uncommitted working interests, which include Chevron and XTO, towards the bottom. And we don't have any unleased mineral interests as previously noted.

I'll point out that on Case 20773 are combined between our entity interest in terms of working interest about 74 percent. If you look at the next one for Case 20774, it's essentially the exact same breakout, but the interests are a little bit different. Franklin Mountain's combined interests are of majority, approximately 62 percent of the entities combined.

Case Number 20777, much the same with slightly different interest and are combined working interests at about 60 percent.

Q. And in each of the three cases, you seek to pool the uncommitted working interest owners; is that right?

A. Yes.

Q. And for each of the three cases, it's Chevron and XTO?

A. That's correct.

Q. Have you been in negotiations and

communications with Chevron and XTO?

A. We have. We've been in lots of communication with them. We sent a whole well-proposal packet complete with AFEs and JOAs.

And XTO actually sent back elections to participate. They just have not sent us a JOA, which we're working through. There are just some last points, and we're kind of fine-tuning, but we're working towards an agreeable JOA.

And then with Chevron, we have not yet received elections back from them, but we have been working through the JOA, and we're down to just a couple of changes that we're working through.

Q. And so you're going to continue to have discussions with Chevron and XTO even after the hearing today?

A. That's correct.

Q. And if anything changes with respect to Chevron and XTO, you'll let me know, and I can alert the Division?

A. Yes.

Q. Let's turn then to Exhibit 5. Is Exhibit 5 -- does Exhibit 5 contain the proposal letters that you sent out to the working interest owners?

A. Yes, it does.

Q. And if you look at 5A, as an example, does the proposal letter show the surface-hole location, the bottom-hole location and then the approximate TVD?

A. It does. So the surface- and bottom-hole locations are identified in the Regarding section of the letter, which you'll see highlighted, and then the TVD is identified in the first paragraph of each well proposal letter.

Q. And then you've also included the estimate of costs associated with the drilling and the operation in the -- in the proposal letters itself?

A. That's correct.

Q. But then you also included an AFE with each proposal letter; is that right?

A. That's correct.

Q. And you sent out proposal letters to every working interest owner?

A. Yes.

Q. And you sent out separate proposals for each well?

A. Yes.

Q. So a working interest owner could elect well by well?

A. Yes.

Q. And so Tab 5 has examples of the proposal

letter that you sent out for each of the cases; is that right?

A. Yes. They're examples -- I think they're all Chevron examples, but the ones for XTO, who is the other uncommitted party, are identical, essentially.

Q. Great.

So then Exhibit 6 has the -- turning to Exhibit 6, it has the AFEs for all of the wells behind it, doesn't it?

A. Yes.

Q. On the AFEs -- again, these were included with the proposal letter?

A. They were. Uh-huh.

Q. So at the top of the AFE, it has the well name and well number. I've highlighted that for our purposes.

A. Yes. That's correct.

Q. And then at the bottom, I've also highlighted the total proposed costs.

A. Yes. That's correct.

MS. BENNETT: So rather than going through each AFE line by line, I think we will just summarize.

Q. (BY MS. BENNETT) And you can tell me if I'm wrong or not. So for the 701H well, the 702H well and the 703H well, those all have the same estimated costs;

is that right?

A. That's correct.

Q. And what are they?

A. They're all Wolfcamp wells, and our AFEs are the same. So that's $10,911,225.

Q. And how about the 301 and the 602 -- I'm sorry. The 301 has a slightly different AFE?

A. So the 301 is 10,416,225 total AFE costs.

Q. And then the 601 and 602, what are those proposed costs?

A. So those are for the 3rd Bone, and those are 10,561,225.

Q. Thank you.

A. Uh-huh.

Q. Have you seen the costs or AFEs for other horizontal wells drilled to this length and depth in this area of New Mexico?

A. Yes.

Q. Are the costs that FME is estimating -- in your opinion, are the costs of these wells similar to the costs of other horizontal wells drilled to this length and depth in this area of New Mexico?

A. Yes. They're similar.

Q. In your opinion, who should be appointed operator of these wells?

A. Franklin Mountain Energy.

Q. And do you have a recommendation for the amounts FME should be paid for supervision and administrative expenses?

A. Yes, 7,000 for drilling and 700 for producing rates.

Q. And are these amounts equivalent to those normally charged by other operators in this area for horizontal wells of this length and depth in this area?

A. Yes.

Q. Do you request that these rates be adjusted periodically as provided by the COPAS accounting procedure?

A. Yes.

Q. Do you -- or does FME request the maximum cost plus the 200 percent risk charge if any pooled working interest owner fails to pay the share of costs for drilling, completing and equipping the wells?

A. Yes.

Q. Are there -- there are also overriding royalty interests that FME is seeking to pool; is that right?

A. Yes.

Q. And some of those parties were notified of this hearing; is that right?

A. That's correct.

Q. And then there are other overriding royalty interest owners that your title -- for which the title work is still ongoing; is that right?

A. That's correct.

Q. And do you anticipate having that title work done in the next week or so?

A. Yeah. I should have it by tomorrow, and we will supplement with notification on those additional overrides if there are any identified.

Q. And is the reason that the title work is taking a little bit longer -- and it's only for Section 4 -- or Section --

A. Section 4. Uh-huh.

Q. And so you had a full title opinion for Section 9?

A. Uh-huh.

Q. But is the reason it's taking a little longer because there was a quiet title action that was taking place, and it has only recently been resolved?

A. It was dropped, yeah. There was a title lawsuit involving some parties, and it seemed to have been dismissed. So we will get the title opinion finalized as soon as we can.

Q. But you did provide to me notice -- or addresses for the overriding royalty interest owners

that you knew of at the time of the application --

A. Right.

Q. -- at the time we filed the application.

Is FME requesting that it be allowed a period of one year between when the wells are drilled and when the first well is completed under the order?

A. Yes.

Q. Do you have any time constraints on your development plan?

A. We do. So we're a small company, and our development plans are right now predicated on the approval of this order. We're hoping to get started as soon as our Fed permits are approved, which we anticipate being by December. So to the extent an order could be approved so we can prosecute that drilling program, we would appreciate it.

Q. And when we spoke of the size of the company and your drilling plans, you mentioned something to me that I thought was pretty compelling, which is that this isn't a situation where you can just move around rigs and trade -- you know, trade -- internally trade acreage for other development plans. You have sort of a set schedule, as a smaller company, of what you need to accomplish first and that's this unit?

A. That's correct. We don't have other options

prepared at this time to -- as alternatives.

Q. And so you're hopeful that the timing of this order or the order in these three cases and the other two cases will correspond with or maybe precede the order -- or the approval you get from the BLM?

A. That's correct.

Q. And you've already been in discussions with BLM, right?

A. That's correct.

Q. And so -- and earlier we were talking about the efforts that you've undertaken with BLM, and I understand you've already done an on-site?

A. Yes. We've done on-sites. Those have been approved. We are working through the EA. I'm not an expert in this area, but we've completed chalkers [sic] one and two, which our regulatory -- head of regulatory considers significant. And so we are on track to get those approvals, and they're encouraged to get those by the end of this year.

Q. Thank you.

Were Exhibits 1 through 6 prepared by you or under your supervision or compiled from company business records?

A. Yes, they were.

MS. BENNETT: At this time I would like to

move to have Exhibits 1 through 6 be admitted into the record.

EXAMINER JONES: 1 through 6, any objection?

MS. LUCK: No objection.

MR. BRUCE: No objection.

EXAMINER JONES: 1 through 6 are admitted.

(Franklin Mountain Energy, LLC Exhibit Numbers 1 through 6 are offered and admitted into evidence.)

MS. BENNETT: Thank you.

I don't have any further questions for Ms. Albrecht.

EXAMINER JONES: How about Exhibit 10?

MS. BENNETT: I'll be discussing Exhibit 10 separately.

EXAMINER JONES: Okay.

MR. BRUCE: No questions.

MS. LUCK: I have no questions.

CROSS-EXAMINATION

BY EXAMINER MURPHY:

Q. Forgive me. My blood sugar is low. But B5 -- 5B, the letter to the working interests for the nonconsent risk penalties, is it 300 percent?

A. So in the JOA, it's 300 percent because in the

rules and regs here, it's cost plus a 200 percent penalty, which we consider 300 percent over -- if you consider the costs that you recoup. So that's what -- most operators are putting 300 percent in the JOAs for that reason.

Q. But in the application, it's 200 for the risk plus the --

A. 200 on top of the cost recoupment.

Q. Thank you.

EXAMINER COSS: I do not have any questions.

CROSS-EXAMINATION

BY EXAMINER JONES:

Q. Well, we can't let her off that easy.

EXAMINER MURPHY: You better because it's 4:40.

EXAMINER JONES: Oh, yeah. I forgot about that.

(Laughter.)

Q. (BY EXAMINER JONES) Are there any changes from your applications as far as number of wells? The same wells you've got in your applications are for each case; is that correct? And there's been no -- like, sometimes people drop wells out like COG is doing now, you know. They're dropping some wells.

MS. BENNETT: No. The wells that are in the application are the wells that we're seeking the order for today.

THE WITNESS: Correct.

Q. (BY EXAMINER JONES) And you're going to take a federal permit?

A. Yes, which we're working through.

Q. You're going to have to get a federal permit to drill.

So basically it seems the west half is pretty consistent owners, is that right, I mean across the whole west half? Just difference in the percentages?

A. Yeah. There is different ownership in the leases, but it's not all that complicated. It's nice because it's all Fed, big, blocky leases.

Q. So some overrides are poolable but others aren't that you've found so far; is that correct?

A. We haven't come across any that aren't poolable.

Q. Okay. I might have been spacing out and thinking of another case, actually.

But we're just talking west half of two sections, Upper Wolfcamp. We know that's for sure. Is there any ownership differences in the entire Wolfcamp

that you know about?

A. No. I think the -- the severances are way deeper.

Q. Okay. And your effort to obtain joinder is --

EXAMINER JONES: Is there a track record in here of that, or she just talks about it?

MS. BENNETT: (Indicating.)

EXAMINER JONES: It's already been discussed.

MS. BENNETT: It has. Uh-huh.

Q. (BY EXAMINER JONES) So the Wolfcamp has got the proximity tracts, but the Bone Spring, you're splitting those.

A. Correct.

Q. You didn't want to create one Bone Spring?

A. From a land perspective, I would have preferred that. My geologist did not think that was appropriate for well placement.

Q. Okay. Okay.

A. And he overrides me from that perspective, as far as what makes sense for the reservoir.

Q. Okay.

EXAMINER JONES: And, Jim, I wrote down "BTA," but you meant Bean Family --

MR. BRUCE: BTA.

EXAMINER JONES: You did mean BTA. BTA is not listed here.

MR. BRUCE: They just reached an agreement with Franklin Mountain in the last couple of days. I just came for the exhibits basically.

EXAMINER JONES: Crossed their T's and dotted their I's.

THE WITNESS: We just closed on Tuesday when we got back from the holiday. So --

Q. (BY EXAMINER JONES) But you are proposing a JOA to Chevron, right?

A. Uh-huh.

Q. They're not -- they countered the terms of the JOA? Is that sometimes what happens?

A. There are always negotiations, especially when it's a big company like Chevron. They have a very standardized approach to things, so we're working through kind of their standard feedback on JOAs. And some of it we've been able to accept -- I mean, the majority, we've been able to accept, but there are a couple of things that didn't make sense to us relative to marketing and some other things. It is actually just two -- two issues that we're working through.

Q. What about the land -- the surface land issues? Have you gotten the well pads already leased or --

A. So Jal Public Library Trust owns the surface, and we have progressed our -- we've had ongoing discussions with them. We have a meeting slated for September 17th where our C.O., David Ramsden-Wood, who is here, and our head of regulatory and surface landman will be meeting with them to try to come to an agreement. They have our proposed agreement, term sheet, and we're just -- we don't anticipate there being any issues, working that out, especially given the time frame. We have some time, but we are diligently pursuing an agreement with them right now.

Q. Okay.

EXAMINER JONES: Dana, do you have anything?

EXAMINER DAVID: No.

EXAMINER JONES: Anything else?

Thank you very much.

MS. BENNETT: At this time I'd like to call my second witness, Mr. Ben Kessel.

BEN KESSEL,

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

DIRECT EXAMINATION

BY MS. BENNETT:

Q. Good afternoon.

A. Good afternoon.

Q. Will you please state your name for the record?

A. My name is Ben Kessel.

Q. And for whom do you work?

A. Franklin Mountain Energy.

Q. In what capacity?

A. I'm the director of geology.

Q. What are your responsibilities as the director of geology?

A. I do all the geologic correlations, mapping, data loading, QC, offset operator well, just reconnaissance, basically all things geology.

Q. Have you previously testified before the Oil Conservation Division?

A. No, I have not.

Q. Okay. Let's talk a little bit about your background then. Can you explain to the examiners where you went to school and what sort of degrees you obtained?

A. Yeah. I went to school at the University of Wisconsin, Oshkosh, and received a bachelor's degree in geology. And then I did my master's research at Utah State University, and I obtained a master's degree in geology as well.

Q. When did you get your master's degree?

A. That was in 2005.

Q. And have you been working as a geologist since 2005?

A. Yeah. Right after in school in 2005, I started with Anadarko Petroleum. I worked for Anadarko for ten-and-a-half years doing a variety of operations, development and also exploration roles in the Rockies.

And then in 2017, I started with Resolute Energy Corporation, working the Wolfcamp play in Reeves County, Texas, and I worked with them for two years. And then I started with Franklin Mountain in March of this year.

Q. Are you a member of any professional organizations?

A. Yes. I'm a member of AAPG, Rocky Mountain SEPM, and the West Texas Geological Society.

Q. Does your area of responsibility at FME include the area of Lea County in New Mexico?

A. Yes, it does.

Q. Are you familiar with the applications that FME filed in these cases?

A. Yes.

Q. Are you familiar with the status of the lands that are the subject of these applications?

A. Yes.

Q. Are you familiar with the drilling plans of these wells?

A. Yes.

Q. Have you conducted a geologic study of the area embracing the proposed spacing units for these wells?

A. Yes, I did.

MS. BENNETT: At this time I'd like to tender Mr. Kessel as an expert in petroleum geology.

EXAMINER JONES: How do you spell your last name?

THE WITNESS: K-E-S-S-E-L.

EXAMINER JONES: Any objection?

MR. BRUCE: No, sir.

MS. LUCK: No objections.

EXAMINER JONES: Mr. Kessel's so qualified.

MS. BENNETT: Thank you.

Just to orient the examiners, Mr. Kessel prepared three sets of slides, one for each case, and so those slides are behind Tab 7, Tab 8 and Tab 9. Those are the tabs we'll be talking about. And each tab identifies, right behind the tab, the case number that it applies to. So, for example, Exhibit 7 contains the geology exhibits for Case Number 20773 and identifies the three wells and the formation.

Q. (BY MS. BENNETT) So let's start with Exhibit 7.

And as I just mentioned, those are the geology slides that you prepared for 20773, the Wolfcamp wells?

A. Yes.

Q. Behind the first page of Exhibit 7, on page 44, is a structure map. And I think what I'll let you do is, if you don't mind, you can talk about the exhibits at your pace and just turn page by page as you're comfortable. And if there are any questions, I'll ask you the questions as we need.

A. Sounds great.

So the first map is a structure map showing the top of the Wolfcamp subsea TVD. We've got the FME acreage in yellow. The development or the spacing unit area is shown in green, with the proposed Wolfcamp laterals outlined in red-dashed lines, and the numbers correspond over in the key to the well names. Also shown in the background are the contours for the regional structure at the top of the Wolfcamp. The wells shown -- the wells shown on the map are the wells that were used to construct the structure contour map.

In general, the spacing unit in question shows kind of a gentle updip to the north and to the east at about 1.2 degrees or so, also showing offsetting surface locations in the green circles of recent Wolfcamp tests in the area. And there are no structural

impediments, faults or pinch-outs that are -- that I've observed.

Q. Backing up one second, you said that the FME area is shown in yellow.

A. Yes.

Q. So there are two different types of yellow that unfortunately don't show up on here very well, right?

A. Yeah. They didn't show up.

Q. So the yellow that is more geometric shaped is the FME leases, and the yellow that's more organic is part of the contour map; is that right?

A. That's correct.

Q. Okay. Great.

All right. Let's turn to the next page.

A. The next page is a -- is the map showing the Wolfcamp cross section from A to A prime and the wells that encompass that cross section.

Q. And those are the wells that you identified to use -- to create your cross section that we will review on the next page; is that right?

A. Yes.

Q. And in your opinion, are the wells that you chose representative of the Wolfcamp --

A. Yes.

Q. -- in this area?

A. Yes.

Q. And, again, this gives you the orientation of the proposed spacing unit with respect to the cross-reference wells?

A. Correct.

Q. All right. Let's turn to the next page, which is the cross section.

A. So this is cross section A to A prime as previously depicted on the previous slide. It's showing -- each well is showing a triple combo where we have it, encompassing the gamma ray, resistivity and density neutron. The cross section is hung on the top of the Wolfcamp -- the datum on the top of the Wolfcamp. The producing interval of the Upper Wolfcamp is highlighted in green. And I'm also showing the position at the bottom with the arrow of the cross-section wells where our proposed lateral locations fall between. And overall we see a slight thinning of the Wolfcamp from west to east and a gradual increase of carbonate solution as we move west to east.

Q. And you used seven wells total for your -- to create your cross section; is that right?

A. That's correct.

Q. And the producing interval is highlighted in green, but also it has the words "Producing Interval" on

the right-hand side of the column?

A. Yes.

Q. All right. Let's turn to the next page then, which is the gross interval isochore, if you can explain this to the examiners.

A. The map is a gross interval isochore from the top of the Wolfcamp to the Wolfcamp B, again showing the thickness of the Upper Wolfcamp interval. The blocky yellow acreage in Sections 9 and 4 are the FME acreage. And, again, the spacing unit is shown in the green outline, and the red lines are proposed laterals in the Wolfcamp.

What you can see from the map is that the thickness of the Wolfcamp, it thins as we move to the east. And I should also mention that the control wells for this map are shown. Also, the green circles are offsetting Wolfcamp lateral surface-hole locations, offset tests, and the proposed wells target a similar Wolfcamp thickness as successful offset laterals.

Q. All right. The next slide is the net porosity height slide that you had prepared. And can you explain to the examiners what this slide -- what conclusions you've drawn from this slide?

A. Sure. The net porosity height is kind of the sum of the porosity in the Wolfcamp from the top of the

Wolfcamp into the Wolfcamp B. The control wells are shown on -- on -- on the map as well. And what we can see from that is that the overall net porosity height of the Wolfcamp -- Upper Wolfcamp thins as you move to the east. But referencing the offset lateral Wolfcamp tests, the proposed laterals from Franklin Mountain are in a similar net porosity height as offsetting laterals.

Q. And so this slide -- when you compare the -- your calculations to the successful offset laterals, you see a comparable net porosity height?

A. That's correct.

Q. In your opinion, what is the preferred well orientation in this area?

A. North to south or south to north.

Q. And why is that?

A. That's based on the regional stresses. The SHmax that's been mapped is pretty much east-west, and we want to be perpendicular to that.

Q. Based on your geologic study of this area, in your opinion, are there any impediments to a horizontal well in the Wolfcamp Formation?

A. No.

Q. In your opinion, do you anticipate that each quarter-quarter section will be productive in the Wolfcamp?

A. Yes.

Q. In your opinion, do you anticipate that each tract quarter-quarter section will contribute approximately equally to production from the wells?

A. Yes.

Q. Great.

Let's turn to Tab 8. And Exhibit 8 has two subtabs, Tab A and Tab B; is that right?

A. Yes.

Q. And that's because there is a 1st Bone Spring and a 3rd Bone Spring well?

A. That's correct.

Q. And so -- and we're going to start with the 601H well; is that right?

A. Yes.

Q. And is that the 3rd Bone Spring?

A. That is the 3rd Bone Spring.

Q. Okay. Great. Yes. Please take it away.

A. The map is again showing the Franklin Mountain acreage in yellow. The spacing unit outline is shown in pink, and then the blue line represents the 3rd Bone Spring Sand lateral. Contours in the background are controlled by the wells you see on the map, and the contours are at the top of the 3rd Bone Spring Sand. We see a very similar structure as in the Wolfcamp map

where we see a relatively gentle updip to the north structural pattern.

I'm also showing the offset 3rd Bone Spring lateral surface-hole locations in the orange squares. Again, these are offsets that have tested the 3rd Bone Spring sands that have successfully tested those 3rd Bone Spring Sand.

Q. When you look at this slide and based on your study, do you see anything that's -- that would structurally interfere with the proposed well, any pinch-outs or faulting?

A. No, no pinch-outs and no faulting.

Q. Great.

Did you prepare a cross section of the logs to determine a relative thickness and porosity in the Bone Spring Formation in this area?

A. Yes, I did.

Q. And are those cross section -- are the wells that you used for the cross section identified on page 49?

A. Yes, they are.

Q. And they were from C to C prime?

A. Yes, they were.

Q. Are those the same wells that you used for the Wolfcamp cross section?

A. Yes.

Q. But in your opinion, are these wells -- these cross sections or these wells also indicative or representative of the Bone Spring Formation in this area?

A. Yes, they are.

Q. Okay. Let's turn then to the next page. And what is that?

A. This is a stratigraphic cross section datumed on the Wolfcamp, the top of the Wolfcamp, showing the 3rd Bone Spring Sand. Highlighted in green, the producing interval. Each well again encompasses a triple combo of gamma ray, resistivity and then density -- neutron density porosity and neutron porosity. Overall, you see the producing interval thin as you move to the west.

The location of the Georgetown Fed Com 601H, our proposed lateral, is shown at the bottom with the arrow showing where it is relative to the cross-section wells.

Q. And based on your review, although it thins a little, it's overall fairly consistent?

A. Yeah. Yes, it is.

Q. Let's look at the next page, which is the gross interval isochore map. Can you explain to the examiners

the conclusions that you've drawn from this map -- or this slide?

A. Yes. This is from the top of the 3rd Bone Spring Sand to the top of the Wolfcamp, gross interval isochore representing the thickness of the 3rd Bone Spring Sand. As you look to the east, the 3rd Bone Spring Sand thins. We've again got the laterals -- the offsetting laterals from 3rd Bone Spring tests in the orange squares. Our proposed lateral will target a similar 3rd Bone Spring Sand thickness as offsetting laterals.

Q. And then let's look page 52. Is that the net porosity height calculation for the Upper -- I'm sorry -- the 3rd Bone Spring well?

A. Yes. So.

This is a net porosity height for the lower part of the 3rd Bone Spring. It shows a very similar pattern as seen before as we move to the east and to the north. The Lower 3rd Bone Spring, it thins and you reduce the net porosity height as you move to the east. The offsetting 3rd Bone Spring Sand laterals are also shown, and the proposed Franklin Mountain 3rd Bone Spring Sand lateral targets a similar net porosity height in the Bone Spring.

Q. Great. Thank you.

Let's look at the exhibits behind B. Are those the same similar sides to what we just looked at for the 601, but these are for the 301H.

A. Yes.

Q. And so what's the first slide that we have in the packet?

A. So the first slide is a structure map on the top of the 1st Bone Spring Sand, similar acreage color and also development spacing unit outline color. The lateral is shown -- our proposed lateral is shown with a dashed orange line. And then we've also got the offsetting 1st Bone Spring lateral just to the north of us. And the structure follows a very similar pattern as you move updip to the north and to the east.

Q. And there is nothing that you identified or that is shown structurally that would interfere with the contributions of the acreage to the proposed well?

A. No. I see no faults or no stratigraphic pinch-outs.

Q. Thank you.

Did you prepare a cross section of logs to determine the relative thickness and porosity of the Bone Spring Formation for this well?

A. Yes, I did.

Q. Are the logs that you identified or that you

chose to use for your cross section on page 54?

A. Yes, they are.

Q. Do you consider those wells to be representative of the Bone Spring Formation in this area?

A. Yes, I do. And I included a well to the north in Section 28, to bring in a well to the north to try and characterize that northern lateral and show the similarities between the north and what we're proposing in the Bone Spring Sand.

Q. Great.

Let's turn then to the next page. Is that the cross section you prepared based on the logs in those wells?

A. Yes, it is.

Q. What does it show you about the producing interval for the 301H well?

A. So this cross section is a stratigraphic cross section on the 1st Bone Spring Sand interval. I datumed it on a marker in the middle or the part of the 1st Bone Spring, so that's where it's flattened. And the pay zone for the producing interval is highlighted green at the lower part of the lower half of the 1st Bone Spring Sand. The position of the Georgetown Fed Com 301H is Franklin Mountain's proposed lateral shown with the

arrow, and really we see a very consistent thickness and consistent reservoir in the 1st Bone Spring.

Q. Great.

So let's turn to the next page, page 56, and can you explain to the examiners what page 56 is and everything on that page?

A. Page 56 is the gross interval isochore map for the 1st Bone Spring Sand, and it shows again -- their control wells are shown, and it shows a relatively uniform thickness in the 3rd Bone Spring across the area.

Q. And did you prepare a net porosity height for this well?

A. Yes, I did.

Q. And is that on page 57?

A. Yes, it is. And, again, we're looking at a net porosity height for just the lower part of the 1st Bone Spring. And on that shows that the net porosity height decreases as you move to the east, but our -- or FME's proposed 1st Bone Spring lateral targets a similar 1st Bone Spring net porosity -- offsetting lateral.

Q. Great.

Let's turn now to Exhibit Number 9. Is Exhibit 9 the study that you prepared for the Bone Spring well in Case Number 20777, 603H well?

A. Yes, it is.

Q. And can you walk us through the exhibits that you prepared for this well?

A. This is a structure contour map of the top of the 3rd Bone Spring Sand showing the Franklin Mountain Energy acreage in yellow. The development area for the Ouray Fed Com 602H is shown in pink. The proposed lateral in the 3rd Bone Spring is shown in blue. And, again, the offset 3rd Bone Spring Sand laterals are shown -- surface-hole locations are shown in orange. Structurally, we're seeing a very similar structural regime as we move upsect [sic] or updip as you move to the north at about 1.2 degrees.

Q. And, again, there is nothing shown on this slide of your study that would interfere with the contributions of the acreage to the well?

A. No faults and no stratigraphic pinch-outs.

Q. And when you say development area -- on your slides, it says "Development Area," but that's a spacing unit proposed for the east half-west half, right?

A. Yes.

Q. Let's look at the next page, page 59. Does page 59 identify the wells that you used to prepare your cross section?

A. Yes, it does.

Q. In your opinion, are those, the wells that you chose, representative of the Bone Spring Formation in this area?

A. Yes.

Q. And that runs from C to C prime?

A. Yes, it does.

Q. If you look at page 68, is that the cross section that you prepared?

A. Yes, it is.

Q. Could you describe your conclusions based on the cross section that you prepared?

A. Yes. A very similar cross section, as we've seen from the other 3rd Bone Spring wells, a stratigraphic cross section datumed on the top of the Wolfcamp. The 3rd Bone Spring Sand interval is highlighted as a producing interval in green, showing a triple combo, gamma ray, resistivity and density neutron log, also highlighting where the Ouray Fed Com 602H or Franklin Mountain's proposed 3rd Bone Spring Sand lateral falls on the cross section. And overall, we see a slight thinning of the 3rd Bone Spring Sand as we move to the east, but still the lower part of the target intervals remain relatively consistent.

Q. Thank you.

The next page, page 61, is the gross

interval isochore map that you prepared for this well; is that right?

A. Yes.

Q. And what conclusions have you drawn from the study that you put into this slide?

A. The 3rd Bone Spring Sand thins as you move to the east, but the proposed Franklin Mountain 3rd Bone Spring lateral targets a very similar 3rd Bone Spring Sand thickness as a successful offset lateral well.

Q. And finally, did you prepare a net porosity height slide for this well also?

A. Yes.

Q. And what did you conclude about this well's net porosity height?

A. As we've seen before, the net porosity height, the Lower 3rd Bone Spring thins as you move to the north and to the east, but the Franklin Mountain proposed 3rd Bone Spring lateral targets a similar 3rd Bone Spring net porosity height as the offset well.

Q. Thank you.

Let's talk about your overall conclusions now about the Bone Spring based on the exhibits we just went through. In your opinion, what is the -- is there a difference in the proposed well orientation for the 3rd Bone Spring?

A. No.

Q. North-south or --

A. North-south or south-north.

Q. Based on the geologic study of the area, in your opinion, are there any impediments to a horizontal well in either of the Bone Spring Formations?

A. No.

Q. In your opinion, do you anticipate that each quarter-quarter section will be productive in both Bone Spring Formations?

A. Yes.

Q. In your opinion, do you anticipate that each tract quarter-quarter section will contribute approximately equally to the production from the wells?

A. Yes.

Q. In your opinion, would the granting of FME's three applications be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

Q. Were Exhibits 7 through 9 prepared by you or compiled under your direction and supervision?

A. Yes, they were.

MS. BENNETT: At this time I'd like to move that Exhibits 7 through 9 be admitted.

EXAMINER JONES: Exhibits 7 through 9 are admitted.

MS. BENNETT: Thank you.

(Franklin Mountain Energy, LLC Exhibit Numbers 7 through 9 are offered and admitted into evidence.)

MS. BENNETT: I have no further questions at this time.

EXAMINER JONES: Okay.

MS. LUCK: I don't have any questions.

EXAMINER JONES: Any questions?

EXAMINER MURPHY: No questions.

CROSS-EXAMINATION

BY EXAMINER COSS:

Q. So I guess I'm curious. Do you describe like where in the basin are we? I know structurally but depositionally. The reason I ask is because I notice a lot of these Bone Spring contours, they seem to be dipping to the southeast, but you have these dipping primarily to the south, why that might be the case.

A. Yeah, if I'm understanding your question -- well, I guess I can describe where we are first. We're near the central carbonate -- or central basin carbonate platform.

Q. We're pretty far to the east?

A. We're pretty far to the east, yeah. We're getting closer to the edges but still in the abyssal plane, kind of, depositional reservoir rock for the reservoir facies.

Q. And is that something that's pretty sporadic here, the Wolfcamp and the Bone Spring dipping more to the south instead of the southeast? Is that common for the area?

A. I think that's pretty common for this area. It's maybe more of a localized feature.

Q. Okay. It would be local.

And I notice that you point out it keeps thinning to the east, and it's thickening to the west.

A. Yeah.

Q. Would you say that wells get better to the west or to the east or --

A. Yes. Yes. West is generally better.

Q. And then -- what was the last question I had?

Can you describe the attributes used in porosity height?

A. Sure. Porosity height is based upon two criteria. First of all, a gamma ray -- a normalized gamma ray signature of 60 or higher on the API scale and then porosity of 6 percent or greater. And so that's the flag, and then it sums it up throughout the Wolfcamp

and the Bone Spring.

Q. Okay. That's what I wanted to know. Is it fairly continuous, the sections that are above 6, or will it jump above and below 6?

A. It's fairly continuous. Our targets are in the upper -- upper -- within the upper part of the Upper Wolfcamp and then the middle part of the Upper Wolfcamp, and those particular units are continuous. As you move maybe 3 miles to the east, it starts to all turn into carbonate as you get closer to the platform. But we're -- it's consistent in our proposed spacing units.

Q. I believe that's all I wanted to know. Thank you.

CROSS-EXAMINATION

BY EXAMINER JONES:

Q. Density, porosity, is that what you're talking about?

A. Yes.

Q. I don't have any more questions.

CROSS-EXAMINATION

BY EXAMINER DAVID:

Q. Nothing from the lawyer --

A. Sure.

Q. -- but, anyway, the geologist in me: I'm just kind of curious about your choice of cross sections

because it looks like you have -- the cross section you did was kind of along strike and then it -- want to go perpendicular to strike. While you could have pulled into the north, you didn't. I was just kind of curious about what you're -- in one of the cross sections, you did use that northern well.

A. Yeah.

Q. So I was curious what your thought process was for that.

A. Well, the cross section where I used the northern well, we only had -- we have an offsetting lateral to the north, and so I wanted to show the geologic changes relative to that, since we weren't offset to the south by any production. And in the -- in the Wolfcamp in the 3rd Bone Spring, since we have tests both north and south of us, I decided to use a dip cross section to show the changes as you move to the east across the section and the relative consistency in the target facies.

Q. So are you saying that wouldn't have been appropriate for all three wells or --

A. No. I don't -- I don't think so. I think the consistency in the 1st Bone Spring, it's more -- it's more laterally consistent across the broader area, which is why I made that cross section a little bit different

on the trajectory.

Q. Okay. Thanks.

A. Sure.

MS. BENNETT: Thank you.

At this time I'd like to talk about Exhibit 10.

EXAMINER JONES: Okay.

MS. BENNETT: Exhibit 10 is my notice affidavit, and Exhibit 10 has the names and addresses of the parties to whom we sent notice. That's on page 64. Page 65 is our version of the green cards, which shows the status of the mailings, and as you'll see, there was one to the BLM that is marked "to be returned," which is not unusual. And I've included -- the first affidavit is for Cases 20773 and 20777. They have the same parties. And the second affidavit is for Case 20774. As I mentioned earlier -- or as we discussed earlier -- oh, I'm sorry. I'll also say that we published, and we publish as a matter of course out of an abundance of caution, in case mail is delivered. And so we published for all three of these cases, and publication was done on August 23rd, 2019. And, again, the only party that did not receive notice of the parties that I sent notice to was the BLM. And the BLM is identified in the publication.

But that doesn't -- but there are some overrides that we didn't know about at the time that I sent out the notice letters, and those overrides will be identified -- to the extent that they need notice, they'll be identified over the next week. And so what I'd like to do is continue -- request a continuance of this case -- these three cases to October 17th, the next continuance docket to allow us to perfect the notice in those cases or to the extent we need to. And then I would come back on October 17th and address any final notice issues.

(Franklin Mountain Energy, LLC Exhibit Number 10 is offered into evidence.)

EXAMINER JONES: Not September? The end of September?

MS. BENNETT: Well, I would prefer -- well, we don't have time. Today's the 5th. If we have to notice folks, I don't have time to provide the 20-day notice by the next September docket.

EXAMINER JONES: You don't know if you're going to need to yet.

MS. BENNETT: Yes. I would prefer the September docket, the 19th, or October 5th, but I know I'm asking --

EXAMINER JONES: I think I can use my

discretion as the -- as the -- as the examiner to continue to the last -- second docket in October for these three cases, but I think you can do it.

MS. BENNETT: To the October 17th docket?

EXAMINER JONES: If that's what you think you can get it done by then.

MS. BENNETT: Yes. I think we can have it done by October 5th, but I don't think -- or October 3rd, but I don't think that the Division would allow me to go forward on October 3rd since that's the new-case docket.

EXAMINER JONES: Yeah. Yeah. I didn't get permission for that yet.

MS. BENNETT: I'd like to request October 17th.

EXAMINER JONES: Yeah. I can do it as the examiner, but we can't -- we're under -- we've got our marching orders.

Is that the same issue for these other two cases?

MS. BENNETT: Yes, it is.

EXAMINER JONES: Okay. And now that they're not being actively -- you could almost -- I don't know if they're going to be actively opposed --

MS. LUCK: (Indicating.)

EXAMINER JONES: -- you could possibly do an affidavit submittal at that time or at least bring the land person or something.

MS. BENNETT: For the October 17th hearing?

EXAMINER JONES: Yeah.

MS. BENNETT: Okay.

EXAMINER JONES: Personally, I like to have the land person, but then, again, I don't think I'm going to be here in October (laughter).

EXAMINER MURPHY: I'll be here.

MS. BENNETT: The doors will be open.

EXAMINER JONES: The doors will be open. We've got some great people taking over. So --

Is that what you two understand as our orders?

I can continue all six -- five cases to the October 17th docket.

MS. BENNETT: I wanted to ask that Exhibit Number 10 be admitted into the record and that these cases be, I guess, continued to the September 17th docket for notice purpose.

EXAMINER MURPHY: October 17th.

EXAMINER JONES: Exhibit 10, as it stands now, is admitted --

MS. BENNETT: Yes.

EXAMINER JONES: -- but you'll do a --
MS. BENNETT: I'll supplement.
EXAMINER JONES: -- supplement exhibit?
MS. BENNETT: Thank you.
(Case Numbers 20773, 20774 and 20777 conclude, 5:17 p.m.)

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

CERTIFICATE OF COURT REPORTER

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

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

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

DATED THIS 1st day of October 2019.

MARY C. HANKINS, CCR, RPR
Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
Paul Baca Professional Court Reporters