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STATE OF NEW MEXICO

ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

APPLICATIONS OF AVANT OPERATING,
LLC FOR COMPULSORY POOLING AND
APPROVAL OF AN OVERLAPPING
NON-STANDARD HORIZONTAL SPACING
UNIT, LEA COUNTY, NEW MEXICO

Case Nos.
24632-24633

APPLICATIONS OF MAGNUM HUNTER
PRODUCTION, INC. FOR COMPULSORY
POOLING, LEA COUNTY, NEW MEXICO

Case Nos.
24756-24759
24913-24916

APPLICATIONS OF MRC PERMIAN
COMPANY FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO

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HEARING

DATE: Tuesday, November 5, 2024
TIME: 8:57 a.m.
BEFORE: Hearing Examiner Gregory A. Chakalian
LOCATION: Pecos Hall, Wendell Chino Building
1220 South Saint Francis Drive
Santa Fe, NM 87505
REPORTED BY: James Cogswell
JOB NO.: 6832695

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18 Sophia Guerra, Witness

19 John Harper, Witness

20 Shane Kelly, Witness

21 Clay Wooten, Witness

22 Andrew Parker, Witness

23 Tanner Schulz (by videoconference)

24 Dean McClure, Technical Examiner

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I N D E X (Cont'd)

ALSO PRESENT (Cont'd)

Freya Tschantz, Law Clerk

Madia Corral, Law Clerk

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E X H I B I T S

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P R O C E E D I N G S

THE HEARING EXAMINER: Good morning.
This is a contested hearing between three parties. We have Avant, we have Magnum, we have MRC Permian. All have competing applications for compulsory pooling and some have for approval of overlapping non-standard horizontal spacing units. We're going to start out with entries of appearance for each party. I'll call them in order of the pre-hearing order. Let's start out with Avant operating.

MR. HOLLIDAY: Mr. Examiner,
Ben Holliday for Avant Operating.

THE HEARING EXAMINER: And do you have co-counsel?

MR. HOLLIDAY: I do not.

THE HEARING EXAMINER: Okay. Good morning, Mr. Holliday. Who do we have here from Magnum Hunter?

MS. BRADFUTE: Mr. Hearing Examiner Jennifer Bradfute with Bradfute Sayer, PC on behalf of Magnum Hunter.

THE HEARING EXAMINER: And do you have co-counsel today?

MS. BRADFUTE: No, I don't. I have also entered an appearance for Marathon Oil Permian,

1 LLC.

2 THE HEARING EXAMINER: I'm sorry. Did
3 you say you entered an appearance on behalf of another
4 client?

5 MS. BRADFUTE: Yes.

6 THE HEARING EXAMINER: Okay. Who is
7 that?

8 MS. BRADFUTE: Marathon Oil Permian,
9 LLC.

10 THE HEARING EXAMINER: LLC. Okay.
11 Thank you.

12 MS. BRADFUTE: Yeah, you're welcome.

13 THE HEARING EXAMINER: Okay. And then,
14 we have MRC Permian.

15 MR. FELDEWERT: Good morning,
16 Mr. Examiner, Michael Feldewert at the Santa Fe office
17 of Holland and Hart. I'm also appearing and have
18 appeared in both the Cimarex/Magnum Hunter cases and
19 the Avant cases for Foran Oil Company.

20 THE HEARING EXAMINER: Would you say
21 that again?

22 MR. FELDEWERT: Foran Oil, F-O-R-A-N.

23 THE HEARING EXAMINER: Foran. Thank
24 you. I wasn't sure if you said for something.

25 MR. FELDEWERT: Oh, good point.

1 THE HEARING EXAMINER: Got it. Thank
2 you. Now do we have any other entries of appearance?

3 MS. BENNETT: Good morning,
4 Mr. Examiner. Deana Bennett on behalf of Franklin
5 Mountain Energy 3. And I entered an appearance only
6 in the MRC cases, which are case numbers 24760 to
7 24767. I don't intend to participate in the hearings
8 today, but I would request the opportunity to make a
9 brief statement on the record before the hearings
10 begin.

11 THE HEARING EXAMINER: Okay. All
12 right. We'll get to that. Thank you. Any other
13 issue of appearance?

14 MS. HATLEY: Good morning, Mr.
15 Examiner. Keri Hatley on behalf of ConocoPhillips.

16 THE HEARING EXAMINER: ConocoPhillips.
17 And what is the extent of your participation today?

18 MS. HATLEY: Entering appearance, but
19 monitoring only.

20 THE HEARING EXAMINER: Thank you very
21 much.

22 MS. HATLEY: Thank you, sir.

23 MR. VILLESCHAS: Good morning, sir.
24 Dylan Villescascas on behalf of NexGen Capital Resources,
25 LLC of Hinkle Shanor, LLP.

1 THE HEARING EXAMINER: I'm going to ask
2 you to spell everything you just said. What is your
3 name?

4 MR. VILLESCHAS: Yes, sir. It's Dylan.
5 That's D-Y-L-A-N. Last name Villescascas,
6 V-I-L-L-E-S-C-A-S. And that's Hinkle Shanor on behalf
7 of NexGen Capital Resources, LLC.

8 THE HEARING EXAMINER: Thank you. And
9 what is the scope of your participation today?

10 MR. VILLESCHAS: Just monitoring, sir.
11 We have a couple questions for one of the witnesses.

12 THE HEARING EXAMINER: Okay. Perfect.
13 Thank you.

14 MR. VILLESCHAS: Thank you.

15 THE HEARING EXAMINER: Okay. Okay.
16 That concludes the entries of appearance. I saw that
17 there were many late filings. And I'm not
18 discussing -- I'm not calling rebuttal exhibits, late
19 filings. But I think that there was also some
20 pre-hearing statements that were filed late. Are
21 there any objections to any of the filings at this
22 time, from any of the parties?

23 MS. BRADFUTE: Yes, Mr. Hearing
24 Examiner. Magnum Hunter did file an objection to
25 amended exhibits that was filed by Avant Operating

1 after the pre-hearing statement deadline. It was
2 their notice exhibit, which is a standard exhibit
3 that's expected to be filed by the parties timely.
4 And then, they filed a motion to amend their
5 applications the same day. And that happened on
6 Saturday. Previously Magnum Hunter had notified Avant
7 about this deficiency in its application back on
8 October 4th, nearly 30 days before this hearing.

9 And so, we raised that objection
10 because it is unfair to come in the Saturday before a
11 hearing on a Tuesday, to give your notice exhibits and
12 then claim that they should be entitled to amend their
13 application because notice was timely given on that
14 issue to the parties.

15 THE HEARING EXAMINER: All right. So
16 let's be specific. I want to write down what you're
17 objecting to. You're objecting to which specific
18 documents?

19 MS. BRADFUTE: The amended exhibits
20 filed by Avant Operating on November the 1st, I
21 believe.

22 THE HEARING EXAMINER: But which
23 exhibits are you objecting to?

24 MS. BRADFUTE: It is exhibit number --
25 It's their notice exhibit. I believe it's exhibit

1 number D, that their notice is. Let me pull this up.
2 Mr. Hearing examiner?

3 THE HEARING EXAMINER: Yeah, you have
4 time. Go ahead. And then, I'll go to you
5 Mr. Holliday.

6 MS. BRADFUTE: Yes. They note they
7 amended Exhibit D, as in David.

8 THE HEARING EXAMINER: Okay. And that
9 exhibit is titled what?

10 MS. BRADFUTE: That exhibit is titled,
11 Self-Affirmed Statement of Benjamin Holliday. And it
12 would've been copies, three copies of the certified
13 mail receipts and returns.

14 THE HEARING EXAMINER: And what
15 specifically about the notice are you objecting to?

16 MS. BRADFUTE: They had not filed any
17 mailing receipts or confirmations of mailing from the
18 original exhibit packet.

19 THE HEARING EXAMINER: Okay.
20 Mr. Holliday?

21 MR. HOLLIDAY: Yes. So we did file the
22 copies of the certified notice certificates. I took
23 over the case from prior counsel. And when we were
24 assembling, you know, there was a chart and there were
25 no copies. So as soon as I got them, I amended the

1 exhibits to include them. That's the extent of the
2 amendment to the exhibits. We didn't amend the
3 affidavit. We didn't amend anything like that. And
4 our original submittal actually had a chart of all the
5 notice parties in it. It just didn't have the date,
6 because I didn't have access to it at that time.

7 So as soon as we got it, we filed it.
8 Avant's position is that this is not unduly prejudiced
9 parties. There's no surprise here. It's no new facts
10 and evidence. And we think the exhibits should be
11 allowed to be amended.

12 MS. BRADFUTE: And Mr. Hearing
13 Examiner, if I may. The same day, they filed a motion
14 to amend their application, relying on the mailing
15 receipts in that exhibit that they had filed, their
16 chart was substantially different on the mailing
17 receipts. Their original chart in Exhibit D listed
18 the parties, listed the mailing addresses, but did not
19 confirm the date of mailing, or the receipt of the
20 mailing. The new chart gave the delivery information
21 for the first time, but it doesn't necessarily match
22 up with the mail receipts. So it's a very time
23 intensive process to look at the mail receipts and
24 actually see if the return mails match the chart.

25 THE HEARING EXAMINER: So Ms. Bradfute,

1 you're objecting to two parts of Avant's exhibits.
2 It's the amended Exhibit D. And it's also the motion
3 to amend the application?

4 MS. BRADFUTE: That is correct.

5 THE HEARING EXAMINER: Okay. And
6 Mr. Holliday, it's your motion to amend. What are you
7 asking?

8 MR. HOLLIDAY: When the applications
9 were filed, the overlapping spacing unit was
10 inadvertently omitted from that. We asked for leave
11 to file -- to amend to include that statement in the
12 application. All parties that should have been
13 noticed were noticed in actual notice. And we just
14 want to bring our application in line with best
15 practices, which is to list the overlapped unit.

16 THE HEARING EXAMINER: And
17 Mr. Holliday, is it your position that you don't need
18 to provide any additional notice to let's say, working
19 interest owners for your additional requests that was
20 left out of the application for that overlapping
21 spacing unit?

22 MR. HOLLIDAY: That's correct. All
23 parties entitled to notice, received notice.

24 THE HEARING EXAMINER: Received what
25 notice.

1 MR. HOLLIDAY: Notice of Avant's
2 development plans.

3 THE HEARING EXAMINER: Okay. So
4 instead of my asking as to all these questions, maybe
5 you could give me like a fuller answer when I ask the
6 question. I'm trying to find out -- you understand
7 the objection?

8 MR. HOLLIDAY: Sure.

9 THE HEARING EXAMINER: You amended your
10 application to add this additional ask to the
11 division. And I'm asking you, is it your position
12 that the working interest owners do not need
13 additional notice based on your amended application?

14 MR. HOLLIDAY: That's correct.

15 THE HEARING EXAMINER: Okay. And why?

16 MR. HOLLIDAY: This overlapping spacing
17 unit is in the second Bone Springs, and I believe it's
18 the east half, the northwest quarter of section 32.
19 So all interest owners in the entire second Bone
20 Spring were noticed by Avant as to the fact that they
21 were proposing two spacing units that would overlap
22 with that.

23 THE HEARING EXAMINER: Okay. I
24 understand. Okay. So Ms. Bradfute, your objection.
25 And should I take it, Mr. Feldewert and any other

1 party that you don't object to this motion to amend
2 the application and to this amended Exhibit D?

3 MR. FELDEWERT: We don't have a
4 position, Mr. Hearing Examiner.

5 THE HEARING EXAMINER: No position.

6 MR. FELDEWERT: Yeah.

7 THE HEARING EXAMINER: Okay. And so,
8 Mr. Bradfute, in your mind, if I did grant or sustain
9 your objection to this, how do you see it affecting
10 today's hearing?

11 MS. BRADFUTE: Well, it could have a
12 potential severe effect, because it is the mailing
13 notices. I will say, since Avant has represented that
14 their notice is complete, I do have a whole series of
15 questions lined up about the completeness of that
16 notice and whether or not it provided adequate notice
17 to the working interest owners in the Union State Com
18 well, which was not specifically referenced in any of
19 the notifications sent.

20 THE HEARING EXAMINER: Okay. So I
21 think Mr. Holliday said that -- or I think the
22 question is are you unfairly prejudiced by this? As
23 you know, the rules of evidence do not apply in the
24 administrative forum. In the administrative forum, I
25 can use them for guidance. And I am trying to

1 understand how you would be unfairly surprised if you
2 had a chart that showed who got notice, but you didn't
3 actually see the actual green slip or whatever you
4 want to call them. What did you amend in Exhibit D?

5 MR. HOLLIDAY: Two things. Well, one,
6 we previously -- we cleaned up the charts. We
7 actually reduced the amount of information.

8 THE HEARING EXAMINER: Okay.

9 MR. HOLLIDAY: We added the date that
10 notices were sent, and we added photocopies of the
11 green cards themselves.

12 THE HEARING EXAMINER: And that date
13 that the notice was sent would that not have been on
14 the letter?

15 MR. HOLLIDAY: It would've been, yes, I
16 believe.

17 THE HEARING EXAMINER: Was the letter
18 included in your exhibit packet?

19 MR. HOLLIDAY: We would've included a
20 copy of the notice letter; yes, sir. I believe so.
21 I'd have to look.

22 THE HEARING EXAMINER: Ms. Bradfute,
23 you're saying the letter was not included?

24 MS. BRADFUTE: No, the letter, the
25 notice letter itself is included. I think we can

1 cover it in questioning.

2 THE HEARING EXAMINER: Okay. Perfect.
3 So you're going to withdraw your objection?

4 MS. BRADFUTE: Yes. I'll withdraw the
5 objection.

6 THE HEARING EXAMINER: Excellent.
7 Okay. Mr. Feldewert.

8 MR. FELDEWERT: I think your question
9 was, does anyone have any objections to what's been
10 submitted? Cimarex filed a motion to submit what they
11 call rebuttal exhibits.

12 THE HEARING EXAMINER: Okay.

13 MR. FELDEWERT: That we received
14 yesterday evening.

15 THE HEARING EXAMINER: Okay.

16 MR. FELDEWERT: There are a few of
17 those proposed rebuttal exhibits that we do object to
18 on the grounds that there was no -- it should have
19 been anticipated. There was no surprise there,
20 etcetera.

21 THE HEARING EXAMINER: Okay.

22 MR. FELDEWERT: So when you're ready to
23 get to that, we can.

24 THE HEARING EXAMINER: Okay. Perfect.
25 And who's representing Cimarex?

1 MS. BRADFUTE: Mr. Hearing Examiner,
2 Magnum Hunter is Cimarex.

3 THE HEARING EXAMINER: I didn't know
4 that. Thank you.

5 MS. BRADFUTE: Yeah.

6 MR. FELDEWERT: And good clarification,
7 because I think I'm going to mess up throughout the
8 day. I keep trying to say Magnum Hunter. I put that
9 in our pre-hearing statement, but I default to
10 Cimarex.

11 THE HEARING EXAMINER: That's fine. So
12 Mr. Bradfute, you filed a motion to what?

13 MS. BRADFUTE: We filed rebuttal
14 exhibits. I wasn't quite sure what the format was of
15 parties, how they were filing them. So I did have a
16 motion in front of it to file the rebuttal exhibits.
17 My understanding is rebuttal exhibits are typically
18 filed by the parties.

19 THE HEARING EXAMINER: Correct. It
20 happens all the time. But a rebuttal case is narrowly
21 construed. And as Mr. Feldewert said, you do have to
22 show that you did not anticipate something in your
23 pre-hearing statement or your original exhibits, which
24 were due four business days before today's hearing.
25 But yes, you have wide latitude on what you file as a

1 rebuttal exhibit. As you can tell, there may be an
2 objection to your rebuttal exhibit based on the scope
3 of it. But we'll get to that as we go forward. We've
4 already got entrance of appearances for the
5 different --

6 MR. BRUCE: Mr. Examiner, this is
7 Jim Bruce. I was present and when I tried to enter
8 appearance my phone slipped into the muted category.
9 I don't know why.

10 THE HEARING EXAMINER: Well, Mr. Bruce,
11 if you want to participate, you're going to have to
12 come down here to the Pecos room, because that's the
13 way we do these contested hearings. We don't do them
14 virtually.

15 MR. BRUCE: Oh, okay.

16 THE HEARING EXAMINER: So are you
17 entering an appearance?

18 MR. BRUCE: I am entering an appearance
19 on behalf of Mewbourne Oil Company in the Avant and
20 Magnum Hunter cases only.

21 THE HEARING EXAMINER: Okay. And what
22 is the scope of your entry of appearance?

23 MR. BRUCE: So I didn't -- yeah, just
24 simple entry of appearance. I do not object to any
25 exhibits or testimony. And I will not be asking any

1 questions.

2 THE HEARING EXAMINER: Okay. So you're
3 more than welcome to appear virtually if you don't
4 really want to participate anything more than just
5 listening. So that's fine.

6 MS. KESSLER: Mr. Examiner, this is
7 Jordan Kessler with EOG Resources. I am also simply
8 monitoring this case remotely.

9 THE HEARING EXAMINER: Perfect. Thank
10 you, Ms. Kessler. Thank you, Mr. Bruce. Is there
11 anyone else? Okay. Not hearing any, let's discuss
12 some preliminary matters with the parties. There was
13 a question posed to the division last week by a party
14 on who's going to go first. That question is best
15 answered by the other parties. I'm going to remind
16 everyone here that in this administrative hearing,
17 each party has the burden of persuasion of their own
18 case. We have three competing applications. Each of
19 those parties has a burden of persuading the division
20 that their application should be granted and not
21 denied. That burden doesn't shift to any other party.
22 Okay. That being said, everyone has a case in chief.
23 Everyone has the opportunity to present a rebuttal
24 case at today's hearing. And everyone has a full and
25 fair opportunity to present their case. However, I'm

1 only allowed to accept relevant and reliable evidence
2 during this hearing, and I'll be doing that. So have
3 the parties decided who wants to go first?

4 MR. FELDEWERT: Yes.

5 THE HEARING EXAMINER: Good. Who?

6 MR. HOLLIDAY: Yes, we have. Avant
7 will go first.

8 THE HEARING EXAMINER: Avant will go
9 first?

10 MR. HOLLIDAY: Yes.

11 THE HEARING EXAMINER: Okay. And then
12 who will go second?

13 MR. FELDEWERT: MRC will go second.

14 THE HEARING EXAMINER: Okay. And that
15 means you, Ms. Bradfute is number three?

16 MS. BRADFUTE: Yes.

17 THE HEARING EXAMINER: For Cimarex/
18 Magnum Hunter. Okay. Very good. So Mr. Holliday, or
19 all the parties, if you make an opening statement,
20 what I want to hear is what are the issues in this
21 case from your perspective, obviously. I don't want
22 to hear stuff that we're going to hear from witnesses.
23 It's not necessary. But for myself and Mr. McClure,
24 who is our technical examiner -- good morning,
25 Mr. McClure.

1 MR. MCCLURE: Good morning.

2 THE HEARING EXAMINER: Mr. McClure,
3 have you reviewed all the information? Are you ready
4 to proceed?

5 MR. MCCLURE: Yes, I am, Mr. Hearing
6 Examiner.

7 THE HEARING EXAMINER: Okay. Thank you
8 Mr. McClure. Mr. Holliday, before we hear your
9 opening statement as to the issues in this case, why
10 don't we deal with your exhibits and see what we can
11 get entered through stipulation from the parties?

12 MR. HOLLIDAY: That'd be fine. Yes,
13 sir.

14 THE HEARING EXAMINER: All right.

15 MR. HOLLIDAY: And can I just real
16 briefly. Avant has a hard stop at five o'clock.
17 They've requested a commercial flight.

18 THE HEARING EXAMINER: That's fine. I
19 doubt anyone would argue with that. What time do the
20 parties want to take lunch?

21 MS. BRADFUTE: At noon, Mr. Examiner.

22 THE HEARING EXAMINER: Noon is fine.

23 MS. BRADFUTE: Okay.

24 MR. FELDEWERT: How long, hour?

25 THE HEARING EXAMINER: Hour is fine.

1 So noon. Noon to 1:00, will be lunch today. And
2 then, hard stop at five o'clock is fine. And then,
3 we'll come back tomorrow if we don't finish today.
4 Hopefully that won't be the case, but you never know.
5 And your witnesses can appear virtually if they need
6 to go home. That's understandable. That's not a
7 problem. Okay, Mr. Holliday, let's deal with your
8 exhibits. What did you file besides your pre-hearing
9 statement?

10 MR. HOLLIDAY: In addition to our
11 pre-hearing statement, we filed four sets of exhibits
12 A, B, C, and D. A are our land exhibits and it's
13 exhibits A1 through A15.

14 THE HEARING EXAMINER: Okay.

15 MR. HOLLIDAY: And then we filed our
16 geology exhibits in exhibit B. That would be B1
17 through B16.

18 THE HEARING EXAMINER: And it would be
19 helpful, Mr. Holliday, if you would tell me who your
20 expert is in land. And then, if they've been
21 qualified previously as an expert.

22 MR. HOLLIDAY: Yes. Our expert from
23 land today is Ms. Sophia Guerra. She has been
24 qualified by the division as an expert in land
25 matters.

1 THE HEARING EXAMINER: Okay.

2 MR. HOLLIDAY: As to our geology,
3 that's Mr. John Harper. He likewise has been
4 qualified before the division.

5 THE HEARING EXAMINER: Okay.

6 MR. HOLLIDAY: Moving to Exhibit C, we
7 have eight exhibits in Exhibit C, put forth by
8 Mr. Shane Kelly. He also has been accepted as an
9 expert for the division.

10 THE HEARING EXAMINER: In what field?

11 MR. HOLLIDAY: In petroleum
12 engineering.

13 THE HEARING EXAMINER: Okay.

14 MR. HOLLIDAY: This is myself, affirmed
15 statement and our notices.

16 THE HEARING EXAMINER: And Mr.
17 Holliday, you might as well just cut to the chase.
18 Did you send out your letters timely?

19 MR. HOLLIDAY: Yes.

20 THE HEARING EXAMINER: Okay. What was
21 the date that you sent out the letters?

22 MR. HOLLIDAY: I believe they were sent
23 on July 2nd.

24 THE HEARING EXAMINER: Oh, okay. And
25 what about your published notice?

1 MR. HOLLIDAY: The published notice,
2 you mean our newspaper publication notice? It was on
3 July 14th.

4 THE HEARING EXAMINER: Thank you. Were
5 there any other exhibits that you filed?

6 MR. HOLLIDAY: We filed a limited set
7 of rebuttal exhibits.

8 THE HEARING EXAMINER: Oh, you did file
9 rebuttal exhibits.

10 MR. HOLLIDAY: We did file exhibits.

11 THE HEARING EXAMINER: Why don't we
12 wait on the rebuttal exhibits --

13 MR. HOLLIDAY: That's fine

14 THE HEARING EXAMINER: -- for now. We
15 won't deal with rebuttals yet. We'll deal with that
16 after everyone presents their case in chief. So now D
17 was amended; right?

18 MR. HOLLIDAY: Yes, D was the amended
19 exhibits.

20 THE HEARING EXAMINER: Now, did you
21 file an amended exhibit packet with a cover letter?

22 MR. HOLLIDAY: We did. Yes, sir.

23 THE HEARING EXAMINER: Good. So
24 amended exhibit packet contains all of the exhibits
25 from your initial exhibit packet, plus the amended D?

1 MR. HOLLIDAY: Correct.

2 THE HEARING EXAMINER: Okay. So Freya
3 can take out the original exhibit packet?

4 MR. HOLLIDAY: Correct.

5 THE HEARING EXAMINER: Okay. Great.
6 So I'll start with you Ms. Bradfute. Do you object to
7 Avant's amended exhibit packet?

8 MS. BRADFUTE: No, we do not.
9 Mr. Feldewert?

10 MR. FELDEWERT: No sir.

11 THE HEARING EXAMINER: Thank you.
12 Ms. Bennett?

13 MS. BENNETT: I haven't entered an
14 appearance in the Avant or --

15 THE HEARING EXAMINER: Okay. Good.

16 MS. BENNETT: -- even Hunter cases.
17 And I'm just waiting to make a brief statement on the
18 record about the MRC cases.

19 THE HEARING EXAMINER: Okay. Well, MRC
20 is going second. So it's going to take a little while
21 before we get there. Okay. -- virtual connectivity
22 interruption -- exhibit packet, which was filed when?

23 MR. HOLLIDAY: I believe it was filed
24 on Saturday. November -- it's on the calendar.
25 November 2nd.

1 THE HEARING EXAMINER: November 2nd.
2 Okay. So they're all entered into evidence by
3 stipulation. Okay. Let's take this one at a time.
4 We won't deal with anyone else's exhibits yet.
5 Mr. Holliday, what do you want from the division and
6 what are the issues that the parties were not able to
7 resolve?

8 (Avant Exhibits A through D were marked
9 for identification and received into
10 evidence.)

11 MR. HOLLIDAY: Sure. In this case,
12 Avant seeks two pooling orders for non-standard
13 1280-acre horizontal spacing units. The first would
14 be in case 24632 for the first and third sections of
15 the Bone Spring. For 24633, that's for the Wolfcamp
16 formation, same acreage. And that is sections 29 and
17 32. So the issues here, we have some surface issues,
18 some surface minimization issues, that we feel Avant's
19 plan more properly addresses. We have some
20 correlative rights issues and reasons for the
21 admittedly non-standard request to pull the first and
22 third Bone Springs. And we'll present plenty of
23 evidence on that today. Because we feel that that
24 best protects the correlative rights in that
25 formation. So the factors that we think weigh in

1 Avant's favor is that they have the largest working
2 interest control in both of the proposed units.
3 That's 47 percent in the Bone Spring and 45 percent in
4 the Wolfcamp. As opposed to that Magnum Hunter, on
5 the other hand, at least according to Avant's title,
6 and depending on whether a JOA applies, which we we'll
7 all discuss later.

8 Based on Avant's review of the title,
9 Magnum Hunter has somewhere between 8 to 17 percent in
10 the Bone Spring and 14 to 20 percent in the Wolfcamp.
11 And that's material, because based on those numbers,
12 Avant's working interest control is approximately
13 double or more, of Magnum Hunter's. The real issue in
14 this case, though, is the preferred orientation of the
15 wells.

16 THE HEARING EXAMINER: Is the what?

17 MR. HOLLIDAY: The preferred
18 orientation of the wells.

19 THE HEARING EXAMINER: Okay.

20 MR. HOLLIDAY: Avant and MRC have both
21 proposed standup 1280s adjacent to each other. As
22 Avant will demonstrate approximately 95 percent of the
23 wells drilled, and then, from 2016 forward in this
24 area are drilled north south. And we feel that that's
25 a material reason to grant or excuse me. The enhanced

1 well performance north to south versus east to west is
2 a reason, militating Avant's favor. Finally, Avant
3 proposes to drill more wells, at least under the
4 pooling order than Cimarex.

5 THE HEARING EXAMINER: And
6 Mr. Holliday, you said that both you and MRC Permian
7 are proposing the same north-south orientation?

8 MR. HOLLIDAY: Yes.

9 THE HEARING EXAMINER: Also the number
10 of wells will be the same between MRC and you?

11 MR. HOLLIDAY: Avant has included more
12 wells in its pooling applications.

13 THE HEARING EXAMINER: I see. Then why
14 were you not able to work out your issue? I mean, do
15 you still have issues with MRC or do your issues lie
16 solely with Cimarex?

17 MR. HOLLIDAY: Solely with Cimarex.
18 Oh, Avant and MRC's plans are aligned as far as I
19 understand.

20 THE HEARING EXAMINER: I see. Okay. I
21 see. That's good to know. All right. All right.
22 Are you done?

23 MR. HOLLIDAY: Yes, sir.

24 THE HEARING EXAMINER: Okay. Very
25 good. All your witnesses are here?

1 MR. HOLLIDAY: They are, yes, sir.

2 THE HEARING EXAMINER: Very good. So
3 do we have Ms. Guerrera, Mr. Haper, and Mr. Kelly?

4 MR. HOLLIDAY: Yeah.

5 THE HEARING EXAMINER: Okay. Great.
6 And I recognize all of you. Would you come on up to
7 the witness stand. Let's get you sworn in. Can you
8 turn on the mic please. And one at a time, would you
9 state your name and spell it for the record? Get up
10 close to the microphone here.

11 MR. KELLY: Shane Kelly, petroleum
12 engineer. S-H-A-N-E-K-E-L-L-Y.

13 MR. HARPER: John Harper, geology.
14 J-O-H-N-H-A-R-P-E-R.

15 THE HEARING EXAMINER: Thank you.

16 MS. GUERRA: Sophia Guerra.
17 S-O-P-H-I-A-G-U-E-R-R-A, and I'm land.

18 THE HEARING EXAMINER: Thank you.
19 Would you all raise your right hands? Do you swear or
20 affirm the testimony you're about to give is the
21 truth, the whole truth and nothing but the truth under
22 penalty of virtue? Thank you. Please be seated.
23 Mr. Holliday, all of your exhibits and their testimony
24 in written form has been admitted into evidence. We
25 don't need to go over it again.

1 MR. HOLLIDAY: Okay.

2 THE HEARING EXAMINER: I suspect that
3 the parties have cross-examination questions for the
4 witnesses? I see Ms. Bradfute is shaking her head.
5 Do you have questions, Mr. Feldewert?

6 MR. FELDEWERT: I'm going to let
7 Ms. Bradfute go first.

8 THE HEARING EXAMINER: Okay.

9 MR. FELDEWERT: And then, I may have
10 questions.

11 THE HEARING EXAMINER: You may have
12 questions?

13 MR. HOLLIDAY: Yes.

14 THE HEARING EXAMINER: All right. And
15 Ms. Bennett, will you have questions for any of these
16 three witnesses?

17 MS. BENNETT: No, I will not.

18 THE HEARING EXAMINER: Okay. Very
19 good. And those are the only parties that are here in
20 front of us today. So let's start with Ms. Guerrera.
21 Did I say that properly?

22 MS. GUERRA: Yeah.

23 THE HEARING EXAMINER: Okay. Would you
24 please have a seat at the witness stand, and make sure
25 the microphone is green.

1 MR. HOLLIDAY: Mr. Examiner, just a
2 point clarification.

3 THE HEARING EXAMINER: Yes.

4 MR. HOLLIDAY: Because we've already
5 admitted the exhibits into evidence, would you just
6 simply like me to have them affirm their testimony
7 today?

8 THE HEARING EXAMINER: That'd be great.

9 MR. HOLLIDAY: And just skip that whole
10 line?

11 THE HEARING EXAMINER: Yes. And see if
12 there's any -- normally what happens is the witness
13 will adopt their written testimony under oath. They
14 will make any corrections necessary, because a lot of
15 times there's corrections to be made. And then,
16 they'll stand for cross-examination. Is there
17 anything else you want to do while they're up here?
18 Okay. Very good. Mr. Holliday.

19 MR. HOLLIDAY: Excuse me. I do have
20 some questions for the witness's today.

21 THE HEARING EXAMINER: Okay.

22 WHEREUPON,

23 SOPHIA GUERRA,
24 called as a witness and previously sworn to tell the
25 truth, the whole truth, and nothing but the truth, was

1 examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. HOLLIDAY:

4 Q Okay. Good morning, Ms. Guerra.

5 A Good morning.

6 Q Could you please state your name again for
7 the record?

8 A Yes, my name is Sophia Guerra.

9 Q And by whom are you employed and what's your
10 capacity?

11 A I'm employed by Avant Operating, LLC and I'm
12 a senior landman.

13 Q Thank you. So your testimony in the
14 exhibits that have been previously admitted into
15 evidence. I just want to affirm that your testimony
16 is still true and correct?

17 A Correct.

18 Q And do you have any corrections or
19 modifications to the testimony that you submitted as
20 part of Exhibit A?

21 A I do not.

22 Q Okay. Thank you. So, Ms. Guerra, do you
23 adopt under oath today your previously filed testimony
24 exhibits and rebuttal exhibits?

25 A Yes.

1 Q Thank you. Okay. So Ms. Guerra, I want to
2 direct your attention to exhibit A2.

3 THE HEARING EXAMINER: You'll put it on
4 the screen?

5 MR. HOLLIDAY: I will put it on the
6 screen.

7 THE HEARING EXAMINER: Do you know how
8 to share your screen?

9 MR. HOLLIDAY: Give me one second.

10 MS. GUERRA: Mr. Hearing Examiner,
11 these are just the printed exhibits. Is it okay if I
12 look at them?

13 THE HEARING EXAMINER: Unless it's an
14 objection from a party, then I don't have a problem
15 with it. But if you do refer to something, if you do
16 look down and refer to something, because you're
17 supposed to be testifying from your personal
18 knowledge, state on the record that I'm looking at
19 exhibit so and so, to refresh my memory.

20 THE WITNESS: Sure.

21 THE HEARING EXAMINER: And then you can
22 testify from that.

23 A Okay, great.

24 MS. BRADFUTE: Mr. Hearing Examiner,
25 and may I reserve the ability to object if it looks

1 like she's reading from notes?

2 THE HEARING EXAMINER: Definitely.

3 MS. BRADFUTE: Okay. Thank you.

4 THE WITNESS: I can just -- I don't
5 need -- I can use the screen if it's easier.

6 THE HEARING EXAMINER: It's not a
7 problem. There's no objection at this point. So but
8 we are going to put it on the screen for you to make
9 it easier.

10 THE WITNESS: Okay.

11 MR. HOLLIDAY: Okay. I may need some
12 assistance to --

13 THE HEARING EXAMINER: Freya, would you
14 help? Thank you.

15 MS. TSCHANTZ: We just use teams.
16 You're locked into the meeting?

17 MR. HOLLIDAY: Yeah.

18 MS. TSCHANTZ: You just use share.

19 MR. HOLLIDAY: Okay.

20 MS. TSCHANTZ: Okay.

21 BY MR. HOLLIDAY:

22 Q Okay. I believe we have it. Okay,
23 Ms. Guerra, I'm going to direct your attention to
24 exhibit A2. And exhibit A2, I have my questions and
25 my exhibit now on the same screen.

1 THE HEARING EXAMINER: Which exhibit
2 are you showing?

3 MR. HOLLIDAY: I'm moving down to
4 Exhibit A2.

5 THE HEARING EXAMINER: A2?

6 MR. HOLLIDAY: Yeah.

7 THE HEARING EXAMINER: What's the title
8 of it?

9 MR. HOLLIDAY: Title is General
10 Location Map.

11 THE HEARING EXAMINER: Okay. Thank
12 you.

13 BY MR. HOLLIDAY:

14 Q Okay, Ms. Guerra, can you please tell me
15 what this slide represents?

16 A Exhibit A2 is a general location map that
17 displays Avant's proposed Daytona project, which is
18 highlighted in red, which covers township 18 south,
19 range 34, east sections 29 and 32. This map also
20 shows proposed projects from MRC, which is directly
21 east of our Daytona project shown in blue. And then,
22 it's Cimarex's laydown east west development plan in
23 the black box on the map.

24 Q Okay. Thank you. And so, if we move down
25 to exhibit A3, can you please summarize the

1 information on this exhibit?

2 A Yes. Exhibit A3 is the division's factors
3 which weigh in Avant's favor for our proposed Daytona
4 project. There are several different factors that
5 myself and my colleagues and Shane will touch on, but
6 I will discuss all matters related to land.

7 Q Okay. Thank you.

8 THE HEARING EXAMINER: Mr. Holliday,
9 you can make this bigger. If you go down to the right
10 part of your screen, you'll see a little plus down
11 there and it would be helpful I think for people
12 sitting in the gallery to be able to see this down
13 below. Go down. Down there at the bottom on the
14 right. You see the little plus and minus down on the
15 bottom. That definitely wasn't it.

16 MR. HOLLIDAY: Apologies. I do not see
17 the plus and minus.

18 THE HEARING EXAMINER: Can you help
19 him. Thank you.

20 MS. TSCHANTZ: It's this little button.

21 MR. HOLLIDAY: Oh, down here at the
22 very bottom. Yes, got you.

23 THE HEARING EXAMINER: Appreciate it.
24 Yeah, that helps. Thank you.

25 MR. HOLLIDAY: Would it be possible to

1 have Ms. Bradfute drive the exhibits, so that I could
2 access my questions?

3 MS. BRADFUTE: Sure.

4 THE HEARING EXAMINER: You can go in?

5 MS. BRADFUTE: Yeah, I don't mind.

6 THE HEARING EXAMINER: Thank you.

7 MS. BRADFUTE: Yeah.

8 MR. HOLLIDAY: I'm accustomed to having
9 two screens, not one.

10 THE HEARING EXAMINER: You do the best
11 you can.

12 MR. HOLLIDAY: Okay, I'm going to stop
13 sharing.

14 THE HEARING EXAMINER: Mr. Holliday,
15 you were --

16 MR. HOLLIDAY: Okay, so we have the
17 exhibits back up. Okay. So if we could skip ahead to
18 exhibit A9. And that's going to be on page 41 of the
19 exhibit.

20 BY MR. HOLLIDAY:

21 Q Okay. So this is the same plat.
22 Ms. Guerra, is it fair to say that the proposed
23 Daytona units are in an area where Avant's been and
24 will be active?

25 A Yes. Exhibit A9 shows again the same map

1 that we just discussed with the Daytona project
2 highlighted in red. But this map also shows in yellow
3 Avant's dedicated assets. So this part of Lea County
4 is very active for Avant Operating and we have been in
5 front of the division quite a few times to -- for such
6 pooling matters on -- on these lands. So very active.

7 Q Thank you.

8 MR. HOLLIDAY: And if we could go to
9 page 33, that's exhibit A4.

10 BY MR. HOLLIDAY:

11 Q So can you tell us what this slide
12 represents?

13 A Yes. Exhibit A4 is a timeline of events
14 that shows just some of the -- the main topics of
15 Avant's activity in order to get the Daytona project
16 into development. As you can see, we started working
17 on this project back in 2022. June 2022 was Avant's
18 first acquisition of lands within sections 29 and 32.
19 We soon after hired a broker. And then, as you can
20 see the timeline -- I won't go through every point and
21 and bore you all, but we have diligently pursued trade
22 discussions with Cimarex. We have proposed our
23 pooling applications and our wells. And at the end of
24 the timeline Q2 2025 is when a Avant hopefully will
25 drill the Daytona wells if a pooling order is granted.

1 Q Okay. Thank you.

2 A And in contrast, there are also points on
3 here of Cimarex's timeline of events. This isn't as
4 robust as -- as ours. And we do think that Cimarex
5 has been somewhat reactive to Avant, in this area.

6 Q Thank you. So now Avant's applying for a
7 non-standard unit in the Bone Spring and seeking the
8 pool only the first and the third bench of the Bone
9 Spring and leaving out the second Bone
10 Spring; is that correct?

11 A That is correct. Okay. So that's a little
12 different. Why is Avant taking this approach?

13 A We're taking this approach as -- as
14 Mr. Holliday just said, Avant is seeking to pool in
15 our Bone Spring application case number 24632, the
16 first Bone Spring and the third Bone Spring less than
17 accepting the second Bone Spring. This is due to
18 existing second Bone Spring development in section 29,
19 which is the northern section shown here on the map.
20 Due to that development it would be difficult to fully
21 develop all of the lands with two-mile development
22 plans due to that existing development. Avant does
23 have plans to drill one mile second Bone Spring wells
24 in section 32. And that is the reason we're applying
25 for this application today. So that once we drill

1 those one-mile second Bone Spring wells in section 32,
2 they won't be diluted by the ownership in section 29.

3 Q Are there surface considerations that go
4 into that request to pull the first and third as well?

5 A Yes. I believe one of the options that we
6 considered at one point was to pool just the first
7 Bone Spring in both sections 29 and 32. And then,
8 also pull -- pool just the third Bone Spring in
9 sections 29 and 32. However, it's our understanding
10 that this would require additional CTBs due to
11 commingling issues. And therefore, a bigger restraint
12 on surface resources.

13 MS. BRADFUTE: And Mr. Hearing
14 Examiner, I'm going to raise an objection. This
15 sounds like case in chief testimony that should have
16 been included in Ms. Guerra's written testimony. I'm
17 not sure if we're rehashing the written testimony
18 right now. But it does sound like it's going beyond
19 what was actually written and submitted.

20 THE HEARING EXAMINER: Mr. Holliday.

21 MR. HOLLIDAY: I believe the -- I'm
22 working from memory. But I believe the affidavit did
23 address this surface impact. The surface
24 minimization off Avant's --

25 THE HEARING EXAMINER: Did you find it

1 in the affidavit?

2 MR. HOLLIDAY: Yes.

3 THE HEARING EXAMINER: Or something
4 generally to put Ms. Bradfute on notice that this
5 would be further. And Ms. Bradfute in the future if
6 you want to object to testimony, would you please do
7 it before the witness answers the question because --

8 MS. BRADFUTE: Yes, I will. Yeah. And
9 I

10 THE HEARING EXAMINER: -- it's not
11 timely if you wait.

12 MS. BRADFUTE: Yes -- yes. Point of
13 order that I think I'm looking --

14 THE HEARING EXAMINER: Hold on. We're
15 still dealing with the objection. So I don't --

16 MS. BRADFUTE: Yeah. Thank you. Thank
17 you.

18 THE HEARING EXAMINER: You're welcome.

19 MR. HOLLIDAY: The written testimony is
20 in paragraph 27.

21 THE HEARING EXAMINER: Okay. Are you
22 showing it to us now?

23 MS. BRADFUTE: No. Which page of your
24 exhibit, then?

25 MR. HOLLIDAY: So that would be page 16

1 of the exhibit packet. If you go to paragraph 27.

2 THE HEARING EXAMINER: I see it. So
3 Mr. Holliday, the question you just asked was what?

4 MR. HOLLIDAY: How Avant's request for
5 a non-standard horizontal spacing unit pooling the
6 first and third Bone Spring reduces surface impact?

7 THE HEARING EXAMINER: Okay. And where
8 in paragraph 27 does it allude to this?

9 MR. HOLLIDAY: Paragraph 27A.

10 THE HEARING EXAMINER: Okay, and
11 Ms. Bradfute, would you like to review?

12 MS. BRADFUTE: Yes, I would. Thank
13 you.

14 THE HEARING EXAMINER: Yes, take your
15 time.

16 MS. BRADFUTE: The point of my
17 objection, Mr. Hearing Examiner is the testimony here
18 is stated. And there are additional words and color
19 being added through the verbal testimony here today.
20 I don't know what the procedure has been with the
21 division and how much latitude the division has been
22 giving witnesses to talk about what they put in their
23 affidavit in chief, to add slightly different
24 phrasing, slightly different color. And occasionally,
25 you know, it's just natural you would add a little

1 more information as you talk.

2 THE HEARING EXAMINER: So what is
3 specifically your objection to?

4 MS. BRADFUTE: The objection would be
5 to while they state their surface plans, they are not
6 specifically stating. They state -- they detail their
7 surface plans, but they're not drawing the connection
8 here in the written testimony as they are when they
9 talk about it, about the reductions to waste.

10 THE HEARING EXAMINER: Okay.
11 Mr. Holliday.

12 MR. HOLLIDAY: I believe as to this
13 specific point about the surface, if we go to A8, we
14 did include a plat of this.

15 THE HEARING EXAMINER: Okay. So
16 Ms. Bradfute, I do give the parties wide latitude when
17 it comes to their case in chief. I actually prefer,
18 you know, open-ended questions as opposed to leading
19 questions, Mr. Holliday. But again, the rules of
20 evidence are not in effect in the same way as in a
21 courtroom. However, what I'm hearing and seeing is
22 that Mr. Holliday is basically fleshing out what the
23 concepts here in the affidavit with the -- and making
24 a connection to the filed exhibits. So I'm going to
25 allow that.

1 MS. BRADFUTE: Okay.

2 THE HEARING EXAMINER: But I do
3 appreciate the objection. But again, make it timely
4 next time.

5 MS. BRADFUTE: Yeah. Thank you.

6 THE HEARING EXAMINER: Thank you. So
7 the objection's overruled. Mr. Holliday, did we get
8 an answer from the witness? Did she answer the
9 question?

10 MR. HOLLIDAY: I don't believe we did.

11 THE HEARING EXAMINER: I thought she
12 did and that's why I was saying that the objection was
13 not timely.

14 MR. HOLLIDAY: Okay.

15 THE HEARING EXAMINER: So let's move
16 on, Mr. Holliday.

17 MR. HOLLIDAY: Okay. So if we could
18 just go real quick to Exhibit A8.

19 MS. BRADFUTE: Mr. Holliday, could you
20 please provide that page?

21 MR. HOLLIDAY: Sorry. It's on page 40.

22 MS. BRADFUTE: Oh, 40.

23 BY MR. HOLLIDAY:

24 Q Okay. So, Ms. Guerra, does this exhibit A8
25 visually represent your prior testimony?

1 A Yes, Exhibit A8 specifically discusses the
2 CTBs. Just to broaden on my last answer, I did not
3 discuss the reason for Avant's application of a
4 non-standard unit. If we weren't going to apply for a
5 non-standard unit, we would therefore need four CTBs.
6 One for each 320-acre unit, which is just on the
7 normal building blocks. We would need four CTBs per
8 pooled formation.

9 So as I stated before, we would then need
10 four for the first Bone Spring, four for the third
11 Bone Spring and then four for the Wolfcamp, which we
12 haven't quite discussed yet. However, for
13 specifically the Bone Spring application, since we're
14 pooling the first and the third as a non-standard
15 unit, we therefore only need one CTB for this
16 particular non-standard unit.

17 THE HEARING EXAMINER: Mr. Holliday,
18 what does CTB stand for?

19 MR. HOLLIDAY: I was just going to ask.

20 BY MR. HOLLIDAY:

21 Q Could you please state on the record what
22 "CTB" means?

23 A Apologies. Yes, CTB is a central tank
24 battery.

25 Q Thank you. Okay. So there's a surface

1 reason for seeking the non-standard unit, but there's
2 also a correlative rights issue in seeking the first
3 and third Bone Spring. Could you provide some more
4 detail for the record as to the correlative rights
5 issue and why pooling the first and third we feel is
6 necessary or Avant feels is necessary?

7 A Yes. We believe the way that we structured
8 our application by pooling the first and third Bone
9 Spring and less than accepting the second Bone Spring
10 is due to the existing one-mile development in section
11 29, which is currently producing from the second Bone
12 Spring. Avant has future development plans to drill
13 one mile second Bone Spring wells in the southern
14 section here in section 32. And therefore, if we
15 pooled the entire Bone Spring formation first, second,
16 and third, then the one-mile development in section 32
17 would be diluted by the ownership in section 29, which
18 we didn't think was fair and a cost correlative rights
19 issue.

20 Q Okay. Thank you. And so, the development
21 we've referred to or you've referred to in the second
22 Bone Spring, has Avant actually proposed those wells?

23 A We have proposed those wells. If my memory
24 is correct; I think it's in my affidavit, but I
25 believe it was on or around October 15th. We do plan

1 to submit a separate second Bone only pooling
2 application for section 32 once that 30 day time clock
3 runs out on our well proposals.

4 Q Okay. Thank you. And so, did Avant seek
5 guidance from the division about this first and third
6 pooling request prior to filing?

7 MS. BRADFUTE: Objection. That
8 information was not covered in Ms. Guerra's affidavit.

9 THE HEARING EXAMINER: Which
10 information?

11 MS. BRADFUTE: This question. There
12 was no information related --

13 THE HEARING EXAMINER: The question he
14 just asked?

15 MS. BRADFUTE: -- that would be
16 responsive to Mr. Holliday's question.

17 THE HEARING EXAMINER: The question he
18 just asked?

19 MS. BRADFUTE: That he just asked.

20 THE HEARING EXAMINER: She hasn't
21 answered?

22 MS. BRADFUTE: She has not answered,
23 yeah.

24 THE HEARING EXAMINER: Mr. Holliday.

25 MR. HOLLIDAY: Give me one second,

1 please. We did not address that in the affidavit.
2 Ms. Bradfute is correct.

3 THE HEARING EXAMINER: Okay. So I
4 sustain the objection. So would you remove the
5 question from the record, please? Okay. Thank you.
6 Mr. Holliday, please proceed.

7 MR. HOLLIDAY: Okay, thank you. If we
8 could move to Exhibit A10-B, which is on page 43.

9 BY MR. HOLLIDAY:

10 Q Just real quickly for the record,
11 Ms. Guerra, what does this plat plat represent, or
12 slide?

13 A Yes. So exhibit A10-B is a better visual
14 representation of our full development plan, which I
15 just spoke on. So as you can see on the map, we have
16 our originally proposed Bone Spring wells and Wolfcamp
17 wells, the Daytona 301H through 304H, 601H through
18 604H, and 006H through 009H. Those are the full
19 two-mile development which will be producing from both
20 sections 29 and 32. This map then shows in red the
21 four proposed second Bone Spring wells that will just
22 be one mile producing from section 32. So as you can
23 tell from this map, the red wells would be unduly
24 diluted by the section 29 ownership in the second Bone
25 Spring, if we had included it in the larger full Bone

1 Spring pooling application.

2 Q Thank you. And so in your opinion the
3 combined plans, the proposed wells in the second Bone
4 Spring plus the wells proposed in the current
5 application, would that fully develop the Bone Spring
6 formation, underlying two sections?

7 A Yes, it would.

8 Q Okay. Thank you.

9 MR. HOLLIDAY: If we could go back to
10 Exhibit A 7, to page 39.

11 BY MR. HOLLIDAY:

12 Q So just broadly, what does this slide
13 represent?

14 A Exhibit A7 is a gun-barrel view of Avant's
15 proposed wells along with Cimarex's proposed wells.
16 These are just the wells included in the pooling
17 applications. In red you can see Avant's proposed
18 wells. We have eight proposed wells in the Bone
19 Spring formation, four in the first Bone, four in the
20 third Bone. And then, additionally four in the
21 Wolfcamp formation, total of eight wells. Whereas
22 Cimarex in purple is only -- in their pooling
23 applications they have four wells in their Bone Spring
24 applications for separate applications.

25 And then, four wells in the Wolfcamp, which

1 is again four separate pooling applications. Again,
2 just to better orient, and and provide a visual in the
3 top right, in red, is showing the north south
4 development plan of Avant. And then, in kind of the
5 gray box is Cimarex's east west development plans.
6 You kind of see that overlap.

7 Q Thank you. And has Cimarex/Magnum Hunter
8 proposed additional wells outside of those in its
9 pooling applications?

10 A Not in their pooling application?

11 Q Not in their pooling, but they have proposed
12 them to Avant?

13 A In -- in their well proposals they do have
14 additional Bone Spring wells, which I believe would be
15 infill wells. But the number of wells that Cimarex
16 has in their application and is therefore required to
17 drill, is only the four Bone Spring wells shown here.

18 Q Okay. Thank you.

19 MR. HOLLIDAY: Okay. So let's move up
20 again to Exhibit A5-B, which is page 35.

21 BY MR. HOLLIDAY:

22 Q Can you tell me, Ms. Guerra, what this slide
23 represents?

24 A Yes. Exhibit A5-B is a lease tract map.
25 This shows Avant's proposed Daytona unit, which covers

1 again sections 29 and 32. To the right is each of our
2 tracks that are included in this unit, the state fed
3 or fee category, the lease numbers, and then the total
4 gross acres. This also more importantly shows in the
5 red slash, kind of looks a little more orange here.
6 But the red slash shows tracks in which Avant owes --
7 owns an interest or has committed parties. So as you
8 can see, all but three of the -- of the tracks Avant
9 has a committed interest.

10 Q Okay. Thank you.

11 MR. HOLLIDAY: So let's move down
12 slightly to A6-A, which should be the next one in
13 order and that'll be on page 36.

14 BY MR. HOLLIDAY:

15 Q What does this slide represent?

16 A A6-A is a summary of interests in our Bone
17 Spring application, which is case 24632. In total
18 Avant and Avant entities, which are Legion Production
19 Partners and Double Cabin Minerals, all three of the
20 Avant entities own a collective 37 percent working
21 interest in our proposed Daytona unit. Additionally,
22 we have about 10 percent working interest owners
23 committed through a Joint Operating Agreement to our
24 unit, which brings Avant and committed parties in our
25 proposed unit to 46.88 percent working interest.

1 Additionally, in red we see that Magnum
2 Hunter/Cimarex only owns an 8 percent working interest
3 in our proposed unit. And again, this is just for
4 the -- the Bone Spring unit.

5 Q Okay. Thank you. And there's been some
6 questions about title in this case. Is it your
7 testimony that the interest representatives on this
8 slide are correct; to the best of your knowledge?

9 A Yes.

10 Q Okay. So let's move then to I think it's
11 going to be our final issue. There's been some
12 discussion about a JOA that may or may not apply in
13 section 32. So has Magnum Hunter represented to Avant
14 that pursuant to a JOA it's interest in section 32 is
15 actually higher than what is represented on this
16 slide?

17 A Yes.

18 Q So when was the first time you heard about
19 this JOA?

20 A The JOA that we are referencing, and I do
21 think we have a exhibit which might be better suited
22 if we bring that up but -- or we can go to it later.

23 Q What exhibit? I'm sorry. Yes. Yeah,
24 Exhibit A15, that's page 96.

25 A So this is the JOA that Mr. Holliday is

1 referencing. It's a 1998 JOA covering the east half
2 section 32. Avant was first told about this JOA, I
3 believe in the middle of October, maybe October 15th
4 or so. And Cimarex/Magnum Hunter has alluded or
5 claimed that this JOA increases their working interest
6 in section 32 rather significantly. After many
7 requests, Avant was not provided a full copy of the
8 JOA. We were only provided signature pages, and then
9 the exhibit A.

10 This led to some confusion and uncertainty,
11 because we were not able to review if this JOA is
12 still valid, if there were potentially other parties.
13 So we were concerned and didn't want to apply this JOA
14 on the very limited information we had to our summary
15 of interest tab. This also just shows the -- if we
16 were to apply the JOA Cimarex still has a lower
17 working interest in our proposed unit than Avant.

18 Q Thank you. Okay. So actually this is the
19 last issue. Let's talk about the overlapping spacing
20 unit in the east half northwest quarter, the Union
21 State Com 001 well. So Avant filed a motion for leave
22 to file an amended application. Can you tell us why?

23 A Can you repeat that? Sorry.

24 Q Yeah. So Avant filed a motion for leave to
25 file an amended application that identifies this

1 spacing unit. Can you tell us why Avant did that?

2 A The amended application, my understanding
3 was to address the issue of the overlapping spacing
4 unit of the Union State Com well.

5 Q Thank you. And do you know who operates
6 that existing unit?

7 A Yes, I believe it's Rhombus Operating or
8 Rhombus Energy. One of the Rhombus entities.

9 Q And so, did Avant provide notice to all
10 parties entitled to notice of the overlap?

11 A Yes.

12 Q Okay. So if we could look at Exhibit A13,
13 that's page 91. And then, you can zoom in on the
14 second and third lines of that chart. Okay. So based
15 on this chart, is it correct to say that Avant had
16 many conversations or at least several conversations
17 with Rhombus going back to January of this year?

18 A Yes. I don't have the specific dates of
19 when we initially started contact, but the -- the
20 dates shown there are the date that the proposal
21 letter -- the Daytona proposal letters were sent to
22 Rhombus. I since sending the letters, had several
23 conversations with Rhombus regarding their ownership
24 in our proposed unit and they -- their operatorship of
25 the Union state Com well.

1 Q Okay. So in your opinion, would it be fair
2 to say that Rhombus, the operator, had actual notice
3 of the overlapping issue?

4 A Yes.

5 Q Okay. And has Rhombus objected in this
6 case?

7 A They have not.

8 Q Okay. So just my last question, just to be
9 clear on the record. While the original application
10 left out the overlapping information, all parties that
11 would've been entitled to notice did receive notice at
12 least as of July 2024?

13 A To the best of my knowledge, yes.

14 Q Okay. Thank you.

15 MR. HOLLIDAY: I have no further
16 questions and offer Ms. Guerra as a witness.

17 THE HEARING EXAMINER: Thank you.
18 Mr. Holliday, I have a question before we go to you,
19 Ms. Bradfute or you, Mr. Feldewert. I'm trying to
20 understand in this case how the overlapping
21 non-standard horizontal spacing unit improves the
22 chances of this application being granted. Now, I
23 remember the diagrams that Mr. Holliday and
24 Ms. Bradfute put on the screen showing that reduced
25 surface disruption. Explain how does it do that?

1 THE WITNESS: Specifically to Avant's
2 application?

3 THE HEARING EXAMINER: Yes.

4 THE WITNESS: Okay. So Avant has
5 applied for a non-standard unit 1200 -- 1,280 acres
6 total in sections 29 and 32, both the Bone Spring unit
7 and a Wolfcamp. It is our understanding that in order
8 to commingle minerals based on that amount of acreage,
9 you would need multiple CTBs. If you were to propose
10 on a not -- non-standard, a standard spacing unit,
11 which would be 320 acres across -- across the section
12 four separate units. Which is our understanding
13 unless you apply for commingling, which I do
14 understand can be somewhat of a lengthy process, we
15 would therefore need a separate CTB for each space and
16 unit.

17 And again, the the first Bone Spring
18 and third Bone Spring issue would again increase the
19 number of CTBs, if we were to separate those into
20 separate spacing units as well. So by our count, if
21 we were to not apply for a non-standard unit, we
22 would've needed 12 central tank batteries in order to
23 avoid commingling. However, by applying for the
24 non-standard unit, we are therefore reducing the
25 number of CTBs required.

1 THE HEARING EXAMINER: Okay. And I
2 think you also said it protects correlative rights.
3 How?

4 A Yes. So the correlative rights issue is
5 related specifically to our Bone Spring application.
6 We are applying for a first and third Bone Spring
7 application, less than accepting the second Bone
8 Spring. That's due to the existing second Bone Spring
9 development in just section 29. So then when Avant
10 would later drill our one mile second Bone Spring
11 wells in section 32, if we were relying on a full Bone
12 Spring application across both sections, those
13 one-mile wells would be diluted by the ownership in
14 section 29, which would be unduly fair to those
15 owners.

16 THE HEARING EXAMINER: And that
17 ownership in the second Bone Spring, is that that
18 Rhom? I don't know how to say their name.

19 A No, the -- the Rhombus State Com well is, I
20 believe, a Morrow well I could be wrong. I'm not sure
21 what formation it's -- it's -- but that's in just the
22 east half northwest. And it is a vertical well, not
23 a -- not a horizontal well.

24 THE HEARING EXAMINER: Okay. Thank you
25 Ms. Bradfute.

1 MS. BRADFUTE: Thank you.

2 CROSS-EXAMINATION

3 BY MS. BRADFUTE:

4 Q Do I pronounce your name Ms. Guerra?

5 A Yes. That's great.

6 Q Wonderful. Wonderful.

7 A It's different. Thank you.

8 Q That's okay. I am going to share my screen
9 and, you know, I'm so used to asking witnesses to turn
10 to an exhibit, but I will be doing the turning. So
11 bear with me if I refer to it wrong. Could you please
12 look at exhibit A9? And this is an exhibit you just
13 testified about; correct?

14 A Correct.

15 Q Okay. And what is the yellow shading on
16 this exhibit?

17 A The yellow shading is Avant's dedicated
18 assets within this area.

19 Q Okay. Great. And are these spacing units
20 that Avant would like to propose or plans to drill?

21 A I -- I believe so. I'd have to -- I think
22 that it's more showing acreage that we have an
23 interest in. And yes, I think it -- it would be fair
24 to say that at one point we may develop lands in
25 this -- in this matter.

1 Q And does it even include maybe some spacing
2 units that you've already proposed to develop?

3 A That is correct.

4 Q Okay. Great. I wanted to focus in this
5 area. Can you see my mouse moving around?

6 A Yes.

7 Q Okay. Looks like there's a lot of laydown
8 development right here, located pretty close to your
9 proposed Daytona wells; right?

10 A Correct.

11 Q Okay. So Avant is proposing east west wells
12 very close to its Daytona proposal?

13 A I don't -- you -- I'll -- I'll leave the
14 geology and reservoir reasonings up to my other
15 colleagues. But I do believe there are other factors
16 in that area of Lea County that would cause us to
17 develop that

18 Q Okay. But to answer the question that I
19 just asked, there are several east west spacing units
20 shown in Avant's plans here or map here that are just
21 right by -- in proximity in the area, where it showed
22 it was active. This is your active area; right,
23 nearby the Daytona project?

24 A Yes.

25 Q Okay.

1 THE HEARING EXAMINER: Hold on. Hold
2 on a second.

3 MS. BRADFUTE: Yeah.

4 THE HEARING EXAMINER: So,
5 Ms. Bradfute, when you ask a question, just ask one
6 question.

7 MS. BRADFUTE: Thank you. I realize.
8 Yeah, I apologize.

9 THE HEARING EXAMINER: I know what
10 you're doing, but just for the witness's benefit,
11 please just ask one question at a time. And instead
12 of using the word nearby or that, why don't you find
13 out from the witness how close it is?

14 MS. BRADFUTE: Okay. Yeah.
15 BY MS. BRADFUTE:

16 Q Approximately how close are these laydown
17 units shown in this exhibit from the Daytona spacing
18 unit proposed?

19 A It looks to be about six, an entire township
20 away, so several miles.

21 Q Okay. And Avant did present this area. The
22 purpose of this slide is Avant's recent activity
23 approximate to Daytona units; is that correct?

24 A That is correct.

25 Q So Avant would consider all of the spacing

1 units or yellow shaded areas to be included in
2 activity approximate to the Daytona units?

3 A I think, yes. However, I would like to just
4 expand on perhaps the -- the way activity is being
5 used. I don't believe -- as you can see this, the
6 sticks, the, the black lines are actual wells that we
7 have either permitted or drilled. So many of the
8 yellow spacing units that you are referencing to the
9 west do not have permitted or drilled wells. So it's
10 not necessarily activity and developed acreage that
11 Avant has --

12 Q Okay. And if you could see my cursor. Can
13 you see my cursor on the screen?

14 A Yes.

15 Q That does show some sticks going east to
16 west within a yellow shaded box; correct?

17 A Yes. However, many of the other units do
18 not.

19 Q Okay. So the other units may just be
20 proposed units or acreage that Avant shows activity
21 in?

22 A It shows acreage that Avant owns.
23 Incorrect.

24 Q Okay. Thank you. Thank you. I'm going to
25 move onto a different topic. In this case, why

1 couldn't Cimarex operate in section 32 and Avant
2 operate in section 29?

3 A I believe the -- our development plan has
4 accounted for two-mile -- two-mile wells drilled in
5 the first and third Bone Spring. I -- we could get to
6 a -- a timeline where I do believe that Avant's land
7 team has reached out to Cimarex's land team to try and
8 work on a trade. I don't know necessarily know the
9 specifics. But I don't believe Cimarex ever brought
10 that as an option to Avant.

11 Q From a land development perspective, is it
12 possible to develop one-mile wells in section 32 and
13 one mile wells in section 29?

14 A Yes. It -- from a -- it's possible.

15 Q Okay. Thank you. Avant included
16 information in your affidavit regarding depth
17 severances; is that correct?

18 A Yes.

19 Q Where are those depth severances located?

20 A I believe it's -- I'd have to look at the
21 affidavit, but believe it's between the first, second
22 and third Bone Spring is how it was broken out in our
23 affidavit.

24 Q And did you include any technical exhibits
25 that show where Avant is stating that depth severances

1 are actually located?

2 A I'd have to double check with our geologist,
3 but not in my exhibit packet, no.

4 Q Not in your exhibit packet. Okay. Thank
5 you. Is Avant claiming that ownership is uniform in
6 the first and third Bone Spring intervals in section
7 32?

8 A We are not claiming that, no.

9 Q Okay. So the ownership is diverse between
10 sections, or between the first Bone Spring and the
11 third Bone Spring intervals?

12 A Yes.

13 Q And what is diversity in ownership in these
14 intervals? What does that mean to you?

15 A It means that while there may be the same
16 owners that own in the first and third Bone Spring,
17 perhaps their working interest is different. Or there
18 may be owners that only own in the first Bone Spring,
19 or only own in the third Bone Spring.

20 Q Are there owners that only own in the first
21 Bone Spring or the third Bone Spring?

22 A I believe so.

23 Q Can you identify who those are?

24 A I would have to go and look at my notes, but
25 I believe there are a handful.

1 Q Okay. But you can't recall who they are?

2 A Not off the top of my head.

3 Q Okay. Has Avant engaged in communications
4 with those working interest owners to tell them that
5 they may own interest only in one of those intervals
6 that it's seeking to pool?

7 A Yes. If we go to the summary of contacts
8 that I have identified, my communication with owners,
9 we've discussed our development plans and our
10 application with many of the owners, if not the
11 majority.

12 Q Okay. And please bear with me. I'm going
13 to pull up your communications log. Okay. Can you
14 identify where you specified that you informed the
15 working interest owners impacted by the depth
16 severance, that they don't own an interest in one of
17 the formations you're seeking to pool, in this
18 non-standard unit?

19 A I may have alluded to a specific page. I'm
20 sorry. I meant more that this displays -- the summary
21 of contacts displays that I have had conversations
22 with many of the section 32 owners. I don't believe I
23 specifically put those conversations into my log
24 however. But you can see that there are many notes
25 here that state we discussed the development plan and

1 their ownership in the proposed unit.

2 Q Okay. But you can't identify which owners
3 only own in one of those two intervals; is that right?

4 A Sitting right here without any notes in
5 front of me, I don't have an exact list. And I would
6 not like to lie on the stand.

7 Q No. I completely understand. And you
8 didn't identify the owners that only own in one
9 interval in your affidavit; is that correct?

10 A That is correct.

11 Q Okay. And you don't have a summary or
12 documentation in your exhibit showing that you
13 actually communicated to those interest owners that
14 they did not own in all depths; is that right?

15 A Specifically to that question, correct.

16 Q Okay. How are you going to ensure that
17 those working interest owners are paid fairly
18 according to the differences in their ownership and
19 those respective intervals?

20 A Avant's current summary of interests and the
21 way that we have calculated our unit ownership is
22 based on blending the first and third Bone Spring
23 formation ownership. So we are allocating 50 percent
24 to the first Bone Spring and 50 percent to the third
25 Bone Spring.

1 Q Okay. So if you drill a well in the first
2 Bone Spring, how are you proposing expenses to all of
3 the working interest owners in the spacing unit?

4 A All Bone Spring wells drilled under our
5 proposed application, we'll share in both the costs
6 and revenue of each well.

7 Q Okay. And so if you propose a first Bone
8 Spring well to a working interest owner that does not
9 own any interest in the first Bone Spring interval,
10 are you asking them to pay expenses for that first
11 Bone Spring well?

12 A We aren't asking them to pay. However, they
13 will share in the revenue.

14 Q Even though they don't own any interest in
15 the first Bone Spring interval?

16 A I think this is a matter of all of our
17 pooling applications. So we often pool lands where,
18 for example, Cimarex's application is trying to pool
19 sections 32 and 33. And the section 32 owners don't
20 own across the whole section. So you're allocating
21 revenues and costs to each owner based on your pooling
22 application. So Avant is seeking to pool the first
23 and third Bone Spring, therefore, making it a cohesive
24 unit.

25 Q Have you received consent from those working

1 interest owners who don't own any interest in, let's
2 say, the first Bone Spring interval, to bear the
3 expense for those wells?

4 A I believe their consent would be when they
5 elect to participate in the wells.

6 Q Okay. And you said that you've identified
7 those working interest owners that you know there's an
8 interest difference, diversity and depths. Have you
9 sent a specific notice to them indicating that they're
10 going to bear costs related to development and
11 intervals that they don't own an interest in?

12 A I believe we've sent all of our well
13 proposals to the owners. And therefore, they all
14 received well proposals for first and third Bone
15 Spring Wells. So yes, I do think we have provided
16 those costs to those owners.

17 Q Do owners know about your proposed
18 allocation?

19 A I believe -- I believe so. We don't have --
20 we did send out a formal notice. But as stated in my
21 summary of contacts, we've spoken with a lot of owners
22 who've asked for their ownership in our Daytona unit.
23 And we have explained how we will allocate
24 appropriately.

25 Q Okay. And do you know who the interest

1 owners are within the union well that you referenced
2 earlier? I believe it's the Union State Com well.

3 A I believe so. I -- again, I'd have to look
4 at my notes. But I think the -- when we sent out
5 notice to all parties within section 32, those owners
6 were included.

7 Q Okay. And so, what kind of communications
8 have you had, with those working interest owners?

9 A I believe -- specifically in the Union State
10 well?

11 Q Yes. Yeah.

12 A The communication I've had with the owners
13 in the Union State well, we sent a formal notice of
14 our proposed application. And then, there were
15 opportunities for those owners to reach out to our
16 attorneys. We also believe many of the owners in the
17 Union -- in the lands of the Union State well are
18 involved in this Daytona applications. So have
19 been -- either received well proposals or had an
20 opportunity to contact Avant for further questions.

21 Q Did you have any phone calls with those
22 working interest owners?

23 A I may have. They -- there is a summary of
24 contacts that would show if a phone call has been
25 made.

1 Q Okay. Can you look through the summary of
2 contacts and see if you see any phone calls that you
3 have with those working interest owners?

4 A As I stated previously, I don't know the
5 exact owners off the top of my head, sitting here on
6 the stand. So I -- I won't be able to point to a
7 specific owner.

8 Q Okay.

9 A Other than Rhombus, who is the operator of
10 the well.

11 Q Okay. Okay. So at this point in time, you
12 don't know if you've had communications with the
13 working interest owners and Union State Com?

14 A No. I wouldn't say at this -- I would say
15 this moment, me sitting on the stand unable to look
16 back through my emails and notes, I'm not able to
17 specifically identify those conversations.

18 Q Okay. And you would not know as you sit
19 here today whether or not you've told any of the
20 working interest owners in the Union State Com 1 well
21 about your proposed allocation method for diversity in
22 different intervals in the Bone Spring?

23 A Could you please repeat that?

24 Q Yeah. You would not know -- my
25 understanding is, since you can't identify those

1 working interest owners, whether or not you've had
2 communications with them about Avant's proposed
3 allocation method for production from the Daytona
4 wells?

5 A I cannot state whether I have or have not,
6 because I do not have that list of owners in front of
7 me. I apologize. That's as mentioned in the summary
8 of contacts. It shows all of our conversations with
9 owners, and that would've been covered. But I -- I
10 don't know the exact owners, as I've stated.

11 Q Okay.

12 A As I sit here on the stand.

13 Q Okay. And we might circle back and go
14 through individual owners. I'm going to represent to
15 you that several of those owners in the Union State
16 Com well are the owners with diversity and ownership
17 between the first Bone Spring interval and the third
18 Bone Spring interval. And so, we'll run through that
19 list in a minute, once we pull it up. I want to ask
20 you some other questions about the union State com
21 number 1 well. Why didn't Avant list this spacing
22 unit and the fact that Daytona wells would overlap
23 with this pre-existing spacing unit and its original
24 application?

25 A I believe it was just a mistake. I'd have

1 to speak with our prior counsel. We had a different
2 firm representing us when that original application
3 was filed. But I do know it was not intentionally
4 omitted.

5 Q Okay. And I'm going to turn to your Exhibit
6 A1, within your exhibit packet. Please bear with me.
7 Page 7. Thank you again.

8 A Okay.

9 Q Okay. In this application you do
10 specifically reference in paragraph 10 overlapping
11 wells; is that correct? And I'm going to pull up
12 paragraph 10.

13 A Okay. I'll wait. Okay. Yes, I do see in
14 paragraph 10 there are several wells listed that we
15 would be overlapping with our proposed application.

16 Q Okay. And the Union State Com number 1 well
17 is not included; right?

18 A Correct.

19 Q Okay. And is this the application that you
20 originally sent notification letters to when you
21 mailed out notice of your cases?

22 A I believe so, yes.

23 Q Did your notice letters specifically
24 reference the Union State Com number 1 well, and the
25 fact that the Daytona wells would overlap with the

1 spacing unit for the Union Com well?

2 A I would have to see a copy of the letter.
3 It was quite a few months ago.

4 Q Okay. And we'll pull that up. Okay. I'm
5 going to scroll through and give you a chance to read.

6 A Okay.

7 THE HEARING EXAMINER: Why don't you
8 tell her which exhibit.

9 BY MS. BRADFUTE:

10 Q This is Exhibit B1, sample notice letter.

11 THE HEARING EXAMINER: Thank you.

12 THE WITNESS: You can keep scrolling if
13 you'd like.

14 MS. BRADFUTE:

15 Q Thank you.

16 A You can keep going if there's more. Is that
17 the letter in its entirety?

18 Q Yes.

19 A Do you want to re-ask the question?

20 Q Yeah. Does this letter reference the Union
21 State Com number 1 well and the fact that the post
22 spacing units are going to overlap with that
23 pre-existing spacing unit?

24 A It does not.

25 Q Okay. And copies of your application were

1 attached to this notice letter; correct?

2 A To my knowledge, yes; correct.

3 Q Okay. Is this a copy of your application
4 that was attached to your notice letter?

5 A It appears to be.

6 Q Okay. And is this the same application that
7 we looked at a few moments ago in Exhibit A1?

8 A I believe so.

9 Q Okay. And as stated before, this does not
10 reference the Union State Com number 1 well; correct?

11 A Correct.

12 Q So was any specific notice sent out to
13 working interest owners in the Union State Com number
14 1 well about the overlapping spacing unit that's being
15 proposed?

16 A No, not a -- not a notice that mentions the
17 Union State Com well. However, I would like to state
18 just for everyone's benefit that our application does
19 show all of the lands and the formations that we
20 intend to pool, which therefore, they could surmise
21 that it was there. However, it should have been
22 included as we stated in our amended application.

23 Q Okay. But as we sit here today, there was
24 no specific notice of that issue, given to working
25 interest owners?

1 A No. The notice did not mention the Union
2 State Com overlapping spacing Unit, no.

3 Q Okay. I'm now going to turn back to those
4 working interest owners and your communications and
5 summary of contacts.

6 A Uh-huh.

7 Q Okay. First let's look for Mary H. Wilson.
8 Do you have noted contacts with Mary H. Wilson listed
9 on your summary of contacts?

10 A Can you please scroll? I'm not sure.
11 There's several pages.

12 Q Okay. And I believe I'm starting at the
13 bottom of your exhibit. And this is exhibit A13.

14 A You can keep scrolling. Yes. Yes, I do see
15 a line item from Mary H. Wilson, about halfway down on
16 this page.

17 Q Okay. And does that line item note any
18 specific conversations about the overlapping spacing
19 unit request with the Union State Com number 1 well?

20 A It does not mention any specific
21 conversations regarding the overlap.

22 Q Do you recall having a conversation with
23 Ms. Wilson that specifically discussed the overlapping
24 spacing unit?

25 A I do recall having a conversation as it

1 states here with the heirs of Mary H. Wilson, because
2 they stated they were going through a potentially
3 probate. And I explained the ownership that they own
4 in our proposed unit as well as our development plans.
5 I don't believe, based on this note, that we
6 specifically spoke about the overlapping spacing unit.

7 Q Okay. And next I want to look at
8 D&M Snelson. They are on here, as well?

9 A Yes, at the top of this page, I believe.

10 Q Okay. Did you have any conversations with
11 D&M Snelson?

12 A Per the note, it appears that we sent
13 multiple proposals and offer letters, but we were not
14 able to make contact with D&M Snelson. It appears
15 that the letters were delivered, however, it does not
16 appear we were able to have them contact us for
17 further questions.

18 Q Okay. So you would not have had a
19 conversation with them about the overlapping spacing
20 unit request?

21 A Correct.

22 Q Okay. Did you have a conversation with
23 Rhombus Operating or Rhombus Energy Company about the
24 overlapping spacing unit request for the Union State
25 Com number 1 well?

1 A Yes.

2 Q You did. Okay. And can you please look for
3 any communications with Schlagal Brothers?

4 A Oh, it looks on this page as well. Let's
5 see. It appears we answered several questions
6 regarding their working interest in the unit. Again,
7 we would have provided our full development plan,
8 their proposed working interest in the unit. I don't
9 believe per that note that we would mention the
10 overlapping spacing unit. But it's per -- it's
11 possible it came up.

12 Q Okay. But you can't remember, specifically
13 either way?

14 A No. I believe that was -- those
15 conversations were eight months ago.

16 Q Okay. And Olive Petroleum. Do you see any
17 communications with Olive Petroleum?

18 A The Olive Petroleum line is right above
19 Schlagal Brothers on that same page. It appears we
20 sent well proposals, and they were delivered.
21 However, we do not have any further contact with that
22 owner.

23 Q Okay. So they would not have received any
24 sort of notification about the overlapping spacing
25 unit; correct?

1 A They would've received notice of our
2 proposed unit and the lands that we are proposing to
3 pool. But it does not appear there was a specific
4 conversation.

5 Q Okay. And Foran Oil Company, can you look
6 and see if you had any conversations with Foran?

7 MR. HOLLIDAY: Objection. This line of
8 question is getting very repetitious. I mean, I'd
9 just like to know if we're going to go through every
10 owner, because many of these own less than 1 percent
11 in the --

12 MS. BRADFUTE: These are. That is the
13 last owner, Mr. Hearing Examiner.

14 THE HEARING EXAMINER: I think I'm
15 going to sustain the objection, because I think you've
16 made your point.

17 MS. BRADFUTE: Okay. Okay.

18 THE HEARING EXAMINER: Before we
19 continue with your cross- examination, do you have a
20 legal argument? Are you preparing a legal argument?

21 MS. BRADFUTE: Yes.

22 THE HEARING EXAMINER: I would think
23 you would be.

24 MS. BRADFUTE: Yes.

25 THE HEARING EXAMINER: Are you prepared

1 to make it now?

2 MS. BRADFUTE: I would prefer to put it
3 in writing, if that's okay.

4 THE HEARING EXAMINER: That's fine.

5 MS. BRADFUTE: Okay.

6 THE HEARING EXAMINER: So how do you
7 foresee this issue of notice proceeding?

8 MS. BRADFUTE: There are different ways
9 that parties can handle a notice deficiency. This
10 goes hand in hand though, with a depth severance
11 issue, which will be fleshed out.

12 THE HEARING EXAMINER: Okay.

13 MS. BRADFUTE: Throughout the course of
14 the case.

15 THE HEARING EXAMINER: Okay. So
16 there's different ways of handling it?

17 MS. BRADFUTE: Yes.

18 THE HEARING EXAMINER: And when do you
19 anticipate addressing those different ways?

20 MS. BRADFUTE: I think we'll address it
21 in Cimarex/Magnum Hunter's case in chief.

22 THE HEARING EXAMINER: Okay.

23 MS. BRADFUTE: Yes.

24 THE HEARING EXAMINER: Okay. All
25 right. Okay. Please proceed.

1 MS. BRADFUTE: Yeah. Thank you. Thank
2 you.

3 BY MS. BRADFUTE:

4 Q Were Joint Operating Agreements sent out to
5 the working interest owners that we just discussed?

6 A If -- if they requested a joint operating
7 agreement be sent, then yes, we would've sent one.

8 Q Okay. Do you remember sending a Joint
9 Operating Agreement to any of the working interest
10 owners we just went through?

11 A I can't recall specifically. I do
12 believe -- I do believe Foran Oil Company received one
13 if I -- if I'm not mistaken. But I'd have to -- we
14 didn't go over that owner, and I'd have to look
15 through my notes.

16 Q Okay. Okay. Well, and that objection was
17 sustained, so I'm not going to go into that issue.
18 Okay. I want to look at your list of ownership there.
19 There are a couple. Are you familiar with Avant's
20 owners, the working interest owners that you have
21 listed in the Daytona wells?

22 A Yes.

23 Q Okay. There are some owners that I did not
24 recognize names for. And so, I wanted to ask you,
25 generally, if you could tell us a little bit about

1 their ownership. The first owner that I wanted to ask
2 you about is The Fund for Animals. Do you know which
3 section The Fund for Animals owns a working interest
4 in?

5 A I believe it is section 32.

6 Q Okay. And do you know what document created
7 their interest?

8 A I'm going off my memory again, 'cause I am
9 sitting here today. But I do believe there might have
10 been a probate from Wanda Price, I believe is the
11 name. We don't have specific title in our exhibits.
12 So I don't believe there's a specific exhibit we could
13 point to.

14 Q Okay. Okay. Great. That does help provide
15 some clarity. Okay. And I'm going to move into
16 looking at the wells that you have talked about in
17 your affidavit. So I want to first look at Exhibit A
18 to your exhibit packet, which is your affidavit;
19 correct?

20 A Correct.

21 Q Okay. And I want to focus on paragraph
22 number 22. And actually, I think I want to go up.
23 Sorry, I apologize. I've got the wrong paragraph
24 number here. Okay. I want to focus on paragraph 22
25 and 23. And you testified about this in your direct

1 examination; correct?

2 A I believe so, yes.

3 Q Okay. In paragraph 23, does it state that
4 Magnum Hunter and Cimarex do not plan -- they have not
5 proposed to develop the first or third Bone Spring
6 intervals?

7 A The application does not specify wells.
8 That will target the first and third Bone Spring.

9 Q So is that a clarification to your testimony
10 in this affidavit?

11 A Is what I just said a clarification?

12 Q Yeah.

13 A Let me read paragraph 23.

14 Q Okay. Great.

15 A I -- I do see how perhaps this specific
16 wording could imply that Magnum Hunter is not
17 including the first and third Bone Spring in their
18 application. But I believe the intent behind this
19 paragraph was Avant's development plan. Therefore,
20 Avant's wells in our first and third Bone Spring
21 application are targeting four wells in the first Bone
22 Spring, four wells in the third Bone Spring. Whereas
23 Magnum Hunter is only proposing wells within, I
24 believe, it's the top of the second, but I'd have to
25 confirm the potential formation.

1 Q Okay. And I'm going to turn to some of your
2 colleague's exhibits. They have the gun-barrel
3 diagram. So let me pull that up and I'm going to look
4 at Exhibit B-2B. Is this one of Avant's exhibits that
5 was prepared by one of your colleagues?

6 A Yes.

7 Q Okay. Does this exhibit show Cimarex/Magnum
8 Hunter's full development plan that was proposed in
9 its proposal letters to a month?

10 A I would have to defer to the colleague to
11 make a specific exhibit, as it's a geology.

12 Q Okay. That sounds good. Did you receive the
13 proposal letter that was sent by Magnum Hunter to
14 Avant?

15 A Yes.

16 Q Did you review that proposal letter?

17 A I did.

18 Q Okay. How many wells do you recall being
19 listed and proposed within that proposal letter?

20 A I don't recall. I do know it was more than
21 the four included in the Bone Spring application.

22 Q Okay.

23 A However, I would just like to state that in
24 my prior testimony that I spoke of earlier, the only
25 wells that Cimarex is required to drill with their

1 Bone Spring application are the four that we have been
2 discussing.

3 Q Okay. And next, I want to turn to the
4 one-mile wells that Avant was discussing earlier in
5 section 32 in it's testimony. And I'm going to pull
6 up your Avant exhibit that you testified about earlier
7 with those. Okay. What I have turned to is Avant
8 Exhibit A10-B. Okay. This exhibit shows four
9 one-mile laterals that Avant has proposed to drill in
10 section 32; is that correct?

11 A That is correct.

12 Q And you previously testified about these
13 wells?

14 A I did.

15 Q Is Avant seeking to pool these wells in
16 either of its pending applications that we're hearing
17 today?

18 A No.

19 Q Okay. But you're asking the division to
20 consider testimony and evidence about these wealth
21 proposals?

22 A We were more just trying to explain the
23 reasoning why our application was written the way it
24 is, because we do realize that it's -- there's a
25 bigger picture that needed to be explained.

1 Q Okay. So similar to your testimony about
2 Cimarex not being obligated to drill wells that are
3 not subject to the pooling order, would it also be
4 true that Avant is not obligated to drill these
5 one-mile wells that it's showing in its exhibits?

6 A Yes.

7 Q Okay. I would like to know a little bit
8 more about these one-mile wells. Did Avant propose
9 five wells or four wells?

10 A At the time of well proposals, we did
11 propose five. However, we have amended our plan and
12 plan to send out revision letters that will state we
13 are only moving forward with four wells.

14 Q Okay. And when did you send the initial
15 well proposal letters for the five wells?

16 A I don't know. I don't believe I put that
17 exact date here, but I believe it was early October.

18 Q Okay. And when did Avant change its plans?

19 A Very recently.

20 Q Very recently. And has it sent those new
21 well proposal letters out to working interests about
22 these one-mile wells?

23 A No. As I just stated, we are working to
24 send out amended proposal letters.

25 Q And do you know where those wells will be

1 landed within the second Bone Spring interval?

2 A Do you mean a --

3 MR. HOLIDAY: Objection. That calls
4 for an answer that's more appropriate for John.

5 MS. BRADFUTE: I'll withdraw. That's
6 fine.

7 THE HEARING EXAMINER: Okay. Objection
8 sustained.

9 BY MS. BRADFUTE:

10 Q Okay. In your opinion, would these one-mile
11 laterals require separate facilities?

12 A Correct.

13 Q It would. Okay. And that would require
14 separate surface disturbance, right?

15 A Correct.

16 Q Has Avant included that separate surface
17 disturbance in its surface disturbance calculations
18 that you presented in your testimony here today?

19 A No, because as you pointed out earlier,
20 these four wells are not part of these cases.

21 Q Okay. If Avant's application is granted for
22 the Daytona wells, does that mean that the preferred
23 path forward is for Avant to develop these one-mile
24 laterals within section 32, for the second Bone
25 Spring?

1 A Can you repeat your question?

2 Q Yeah. I sure can. That one was -- I need
3 to rephrase that. So if Avant's applications are
4 granted for the Daytona wells that you've applied for,
5 is Avant's preferred path forward, then, to drill the
6 one-mile laterals in section 32?

7 A Do you mean as opposed to not drilling them
8 or -- yes, it would be our preferred plan once we have
9 a pooled application to go drill the -- the second
10 mile well -- the second Bone Spring wells.

11 Q So is it fair, since this seems part of an
12 entire plan for development of these sections, to
13 include the surface disturbances both for the one-mile
14 wells, and for the two-mile wells that you've
15 proposed?

16 A I don't believe so, because again we just
17 want to include the surface disturbance as to our
18 current application. The purpose of that exhibit was
19 to explain why we were applying for a non-standard
20 unit for our Bone Spring first and third, as well as
21 our Wolfcamp application. It did not take into
22 account these second Bone Spring one-mile wells.

23 Q But this additional surface disturbance
24 would be required to fully develop section 32;
25 correct?

1 A Correct.

2 Q Okay. And that's what we're here to discuss
3 today, is full development of section 32?

4 A We're here to discuss all of the competing
5 plans, which involves section 32.

6 Q Okay. Great. What is Avant's ownership in
7 these one-mile wells that it's proposed?

8 A I do not have that information in front of
9 me. It does not -- we don't have a summary of
10 interests for those wells, because they are not
11 included in these cases.

12 Q Okay. Have you looked at title for these
13 wells before you sent out the well proposals?

14 A Of course.

15 Q Okay. Do you recall if your ownership
16 percentage is less than 10 percent?

17 A It wouldn't -- it is not less than 10
18 percent, I don't believe. But I'd have to again look
19 at my notes, if you're asking me some questions that I
20 am unable to -- to answer as I sit here on this stand.

21 Q Okay. Okay. Where would Avant locate
22 facilities for these one-mile wells?

23 A Again, these wells are not part of the case.
24 So I do not know if we have fully plans that we can
25 share with the group today.

1 Q Okay. So it sounds like you don't have any
2 plans to share about these one-mile wells here today.

3 A That is not what I stated. I stated we are
4 not discussing these one-mile wells in case 24632 or
5 24633 as to our full development plan. We are happy
6 to discuss our CTB and full surface disturbance once
7 we apply for a pooling order for these four second
8 Bone Spring one-mile wells.

9 Q Okay. Is development of section 32 in the
10 second Bone Spring interval relevant to Magnum
11 Hunter's applications?

12 A I believe so, yeah.

13 Q Has Magnum Hunter applied to develop four
14 Bone Spring wells within the second Bone Spring
15 interval in its pooling applications?

16 A Can you please repeat the question?

17 Q Yeah. Has Magnum Hunter applied to develop
18 four second Bone Spring wells within its pooling
19 applications that are being heard in this hearing?

20 A I would have to double check with our
21 geology team. I can't recall exactly where the Bone
22 Spring wells that Magnum Hunter has proposed are --
23 are landing.

24 Q Okay. What kind of planning went into these
25 one-mile second Bone Spring laterals, before you sent

1 out the well proposal letters in early October?

2 A From a land perspective, which is all I can
3 answer as I am a landman, we had full title done on
4 both sections, extensive title through both brokers
5 and title attorneys, and then we sent out well
6 proposals to those appropriate parties.

7 Q What is Avant's ownership in section 32?

8 A As as it pertains to these wells?

9 Q In the Bone Spring interval, in general?

10 A I'd have to go look. We don't have that
11 split out in our summary of interests. We have a --
12 a -- the full rounded up unit interest.

13 Q Okay.

14 A So I'd have to look at my notes.

15 Q So you can't identify what it is. And when
16 did you first acquire interest in section 32 covering
17 the Bone Spring interval?

18 A I believe it was earlier this year, but I
19 would have to confirm.

20 Q Okay. Before sending out well proposals,
21 did you conduct any surface surveys in section 32, for
22 these one-mile laterals?

23 A I would have to discuss with my colleagues
24 as the landman does not handle the surface surveys for
25 well planning.

1 Q Okay. Does the landman handle surface land
2 work?

3 A Yes, the landman -- I -- I do handle surface
4 work. However, we have a full regulatory team that
5 handles any sort of surface disturbance.

6 Q And that's helpful, because it goes into my
7 next question. Have you performed any on sites out
8 there for these one-mile proposals?

9 A Again, I would have to confirm with them.
10 I'm not entirely sure.

11 Q Okay. And have you looked at where
12 pipelines would be installed for these wells within
13 section 32 for the one-mile wells?

14 MR. HOLLIDAY: Objection. This line of
15 questioning is more appropriate for our sub-surface
16 witnesses, which will be coming next. And they talk
17 about our midstream takeaway and pipeline capacity.

18 THE HEARING EXAMINER: Ms. Bradfute.

19 MS. BRADFUTE: Yeah, that's fine. We
20 can withdraw the question.

21 BY MS. BRADFUTE:

22 Q Going back to your Daytona proposals for
23 your application at hand. Did you own any interest in
24 the bottom hole location in section 32, before you
25 filed your applications for permit to drill with the

1 VLM?

2 A I don't know the exact date those were
3 filed, so I'd have to look at all of the dates of when
4 we acquired the section 32 acreage, to when those were
5 submitted.

6 Q Okay.

7 MS. BRADFUTE: And I believe that
8 concludes all of the questions that I have for this
9 witness. Thank you.

10 MR. FELDEWERT: Yes. I have a few. Do
11 you want to take a break, or do you want me to just go
12 ahead and proceed?

13 THE HEARING EXAMINER: Would you like
14 to take a break?

15 MR. FELDEWERT: Yes.

16 THE HEARING EXAMINER: Let's take a
17 five-minute break. We're in recess until 10:42.
18 Thank you.

19 (Off the record.)

20 THE HEARING EXAMINER: It is 10:44 a.m.
21 We're back on the record. Mr. Feldewert.
22 Cross-Examination.

23 MR. FELDEWERT: Thank you.

24 //

25 //

CROSS-EXAMINATION

BY MR. FELDEWERT:

Q Good morning, Ms. Guerra. I'm looking at your Exhibit A2, okay, which I have up here on screen. I'm curious. I look at the box in blue, is the MRC proposed standup spacing unit, and I see three black lines. Do you see that?

A I do.

Q What does that represent?

A Just to be clear, are you referencing the three black lines in the southern section

Q It would be in section 33?

A Yes.

Q What do those represent?

A To my knowledge, they are well sticks is what we call them. Either -- I believe -- I didn't personally make this map, but I believe they're either active or permitted wells.

Q Okay. Do you know who permitted those, because we're not aware of these. That's why I'm asking you.

A Oh, I -- I do not.

Q Okay. All right. There was a discussion about this area and Cimarex's counsel had her cursor over here towards the Eddy County line and said it was

1 pretty close; right? Do you remember that?

2 A I do. I do remember that, from testimony.

3 Q Okay. And if I count over about each square
4 would be a mile; right?

5 Q Correct.

6 Q So if I count it's one, two, three, four,
7 five, six, seven, eight, and then we can probably
8 continue over. So it's anywhere from 8 to what, 15
9 miles away?

10 A Correct.

11 Q Okay. I know you're a land person, but if
12 you're looking at development 8 to 15 miles away, is
13 that far enough that you're going to check with your
14 geologist to see if there's any relevant changes in
15 that area before planning a well?

16 A Certainly. It is, like you said, not in my
17 wheelhouse, but that would be certainly something we
18 would discuss with our geologist.

19 Q And would one of the concerns be whether
20 there's any changes in the stress orientation?

21 A Yes.

22 Q And then you would check with your reservoir
23 engineer to see if there's any changes in the
24 reservoir?

25 A Certainly.

1 Q Okay. You mentioned there was a long
2 discussion about ownership being diverse in section
3 32. Okay. First of all, and I know you may not have
4 looked at this, but my understanding is that diversity
5 of ownership is limited to section 32. It does not
6 involve acreage that it seeks to pool over there in
7 33; correct?

8 A I -- I don't have any knowledge of section
9 33.

10 Q Okay. But to your knowledge that diversity
11 of ownership is in the Bone Spring in section 32?

12 A To my knowledge, I do know there are
13 diversity of ownership in section 32; correct.

14 Q And so, that is implicated by your standup
15 application and then the Cimarex competing laydown
16 application?

17 A Correct.

18 Q Okay. Are you aware that when you have
19 various -- when you have ownership depth severances,
20 okay, that you must either have an agreement with all
21 the affected owners on --

22 MS. BRADFUTE: Objection.

23 BY MR. FELDEWERT:

24 Q -- form of allocation?

25 THE HEARING EXAMINER: What is the

1 objection?

2 MS. BRADFUTE: The objection is asking
3 to assume facts that aren't in evidence.

4 THE HEARING EXAMINER: You know this is
5 not your witness.

6 MS. BRADFUTE: Yeah. Yeah. Good
7 point.

8 MR. FELDEWERT: It's based on the fact
9 that there's a diversity of ownership in section 32.

10 MS. BRADFUTE: And it is --

11 THE HEARING EXAMINER: Let's deal with
12 the fact that it's not her witness.

13 MS. BRADFUTE: Yeah. First deal with
14 that. Then I have a second objection.

15 THE HEARING EXAMINER: I'm sorry. What
16 did you say?

17 MS. BRADFUTE: That I have a second
18 objection.

19 THE HEARING EXAMINER: Second
20 objection.

21 MS. BRADFUTE: Yes.

22 THE HEARING EXAMINER: Okay. So first
23 of all, you objected to the question asked to this
24 witness. On cross-examination with this witness, it
25 is Mr. Holliday's witness. So I'm going to deny it

1 based on it's not your witness.

2 MS. BRADFUTE: Witness. That's fair.

3 THE HEARING EXAMINER: So what is your
4 second objection?

5 MS. BRADFUTE: Second objection is
6 Mr. Feldewert started to say, "Are you aware that
7 there is a rule?" I am not aware of any such rule.
8 So I'd like to know the legal foundation of
9 Mr. Feldewert's question before he asks it or makes
10 some sort of statement in the record that there is a
11 rule out there.

12 THE HEARING EXAMINER: Okay. But
13 again, this is not your witness. So it's really up to
14 Mr. Holliday to object if he doesn't like a question
15 or feels that it's improper in some way. So I have to
16 overrule that objection as well, Ms. Bradfute.
17 Mr. Feldewert.

18 BY MR. FELDEWERT:

19 Q So as a land person, when you have a
20 diversity of ownership, okay, is one way to deal with
21 that is you reach an agreement with all of the
22 affected owners on an allocation to account for the
23 diversity of ownership?

24 A I am not entirely certain if there is a rule
25 that ties back to that.

1 Q Is that one option though for dealing with
2 the diversity of ownership?

3 A Correct.

4 Q Okay. And would another option be then, if
5 you can't reach an agreement with all the affected
6 owners, to pool separately. You pool an interval for
7 one set of owners, and then you separately pool the
8 interval for a second set of owners. That's another
9 option; right?

10 A I believe that's an option.

11 Q Okay. And normally, are you aware that the
12 division itself does not pool in a circumstance or
13 operators attempting to impose some kind of an
14 allocation formula on all of the affected owners? Are
15 you aware of that?

16 A Could you repeat that again, sir?

17 Q Are you aware that the division does not
18 pool using proposed allocation formulas that have not
19 been agreed upon by all the parties?

20 A I'm not aware of the exact ruling as to how
21 that occurs.

22 Q Okay. Are you aware that under the statute
23 that pooling is required to be allocated on a straight
24 acreage basis, funds and expenses, et cetera?

25 A Again, I -- I would have to look at the

1 exact ruling for the wording.

2 Q Okay. If you go to the checklist that we
3 all get to fill out, have you ever looked at one of
4 these?

5 A I have.

6 Q Okay. You're aware that one of the things
7 that the division asked for is whether they are
8 pooling this vertical extent? Do you see that?

9 A I do see that in -- on the screen.

10 Q Okay. And then further down, they asked for
11 whether there are depth severances, and if so, provide
12 a description.

13 A I see that.

14 Q Okay. And I'm going to submit to you that
15 the reason they do that is because if there's a depth
16 severance, they want to know whether you're going to
17 ask to pool a specific interval or whether you have an
18 agreement with all the parties. Okay? Now, Cimarex's
19 counsel made a big issue about how your application
20 does not seek to deal with the depth severance. Do
21 you remember that?

22 A I do remember that question.

23 Q Okay. Have you looked at Cimarex's pooling
24 applications?

25 A I have. There were several.

1 Q Or did you notice that their pooling
2 applications do not discuss a depth severance?

3 A I did notice that.

4 Q And did you notice that they don't -- none
5 of there applications seek a particular allocation
6 formula, to deal with the depth severance?

7 A If my memory serves me, I don't believe
8 that's addressed in their application.

9 Q And that instead, they seek to pull the
10 entire Bone Spring formation even though there's
11 ownership depth severances therein?

12 A Correct.

13 Q Okay. Finally, there was a discussion about
14 the pooling of the second Bone Spring sand in the
15 acreage involved in your application. Okay. And they
16 seemed to have some concerns about the fact that your
17 application did not specifically, in the application,
18 require the drilling of wells in the second Bone
19 Spring sand; remember that?

20 A Correct.

21 Q Okay. Are you aware that under a pooling
22 order that a pooled party can propose drilling of
23 wells in an interval if it's part of the pooling
24 order?

25 A Will you repeat that? Sorry.

1 Q That a non-operator, party that's subject to
2 a pooling order, can itself propose to drill a well in
3 a particular interval at a particular length?

4 A Yes, I am aware. That's a -- that's a
5 possibility.

6 Q And that if your standup pooling orders
7 granted that Cimarex could propose an overlapping
8 spacing unit to deal with the second Bone Spring sand;
9 correct?

10 A Correct.

11 Q Okay.

12 MR. FELDEWERT: That's all the
13 questions I have. Thank you.

14 THE HEARING EXAMINER: Thank you. Do
15 we have Ms. Bennett still here? No, she just wanted
16 to make a statement at the beginning of someone else's
17 case. Okay. Mr. McClure.

18 MR. MCCLURE: Mr. Hearing Examiner, I
19 can barely hear you. Your mic --

20 THE HEARING EXAMINER: Sorry, my mic
21 was off. I apologize. Mr. McClure, do you have any
22 questions for this witness?

23 MR. MCCLURE: Yes, I do.

24 THE HEARING EXAMINER: Please.

25 MR. MCCLURE: How do I pronounce your

1 last name?

2 THE WITNESS: Guerra.

3 MR. MCLURE: Ms. Guerra, if I can
4 direct you to your application within your exhibit
5 packet. I think it is page 25.

6 THE WITNESS: Yes, it's -- would one of
7 the counsel please pull that up, perhaps. Page 25, I
8 believe.

9 MS. MCCLURE: That is correct; ma'am.
10 I'll make -- I'll make sure I'm on the right exhibit.
11 I -- I guess actually, page 27 of the supplemental
12 exhibit packet or amended. Excuse me. I might be
13 lying to you about where it's located at, I guess.

14 THE HEARING EXAMINER: Mr. Holliday.

15 MR. MCCLURE: Never mind. I was not,
16 excuse me. Paragraph 8, and that's page 27. Yeah,
17 can you scroll up just a little bit. Now, there is
18 reference to the post allocation here and I believe
19 Ms. Bradfute touched upon it. Is there any more
20 detail within your application packet in regards to
21 the proposed allocation beyond what's here?

22 THE WITNESS: No, there is not.

23 MR. MCCLURE: Okay. Thank you.

24 Mr. Hearing Examiner, if I'd like to make requests for
25 additional information, should I do it as a part of

1 the questioning or just wait till later?

2 THE HEARING EXAMINER: I'd rather you
3 wait. Let's wait until the close of the case in
4 chief.

5 MR. MCCLURE: Okay. Very good. Thank
6 you, Mr. Hearing Examiner. Now, earlier you
7 referenced -- can you restate, I guess, the reason
8 that Avant wishes to include both Bone Spring one and
9 Boan Spring three within this application?

10 A Yes, I can -- I can certainly further
11 explain. There are existing second Bone Spring wells
12 located in Section 29. I believe these are actually
13 further described in paragraph 10 of this affidavit.
14 Due to the existing second Bone production, Avant
15 would like to seek a pooling application of the first
16 Bone Spring and third Bone Spring, less than accepting
17 the second Bone Spring, so as to not interfere with
18 the second Bone Spring wells in section 29 when Avant
19 further develops section 32 in the second Bone Spring.
20 It's to protect the correlative rights of the Bone
21 Spring owners once we drill the second bone in section
22 32.

23 MR. MCCLURE: Or I guess, let me
24 restate my question. I -- I guess my specific
25 question is in regards to why Bone Spring two is

1 excluded. My question is why did Avant not provide
2 two different cases, one for Bone Spring one, and one
3 for the Bone Spring three?

4 THE WITNESS: Oh, certainly. The
5 reason for that is due to the central tank battery and
6 commingling issues. It's our understanding, if we
7 were to get a separate first Bone Spring and separate
8 third Bone Spring non-standard unit, we would
9 therefore need twice as many central tank batteries to
10 avoid commingling between the various pooling
11 applications and, therefore, various commutivation
12 agreements.

13 MR. MCCLURE: And in lieu of doing
14 that, Avant is proposing an allocation between Bone
15 Spring one and Bone Spring three owners; correct?

16 THE WITNESS: Correct.

17 MR. MCCLURE: Do you believe that
18 measuring the production versus allocating the
19 production is more accurate?

20 THE WITNESS: I don't know the answer
21 to that. I think a -- a measuring question would --
22 might be better suited for one of my colleagues.

23 MR. MCCLURE: And let me ask a
24 different question. Do you believe it's more
25 protective of correlative rights if the more accurate

1 way of determining production is used?

2 THE WITNESS: Will you repeat that? I
3 think I -- I missed a word in your question.

4 MR. MCCLURE: Oh. And also, do you
5 believe that it is more protective of relevant rights
6 to use the more accurate means of determining
7 production between the Bone Spring one and Bone Spring
8 three?

9 THE WITNESS: I'm not sure if the
10 more -- if we can be argued what the more accurate
11 method would be. So I'm not entirely sure how to
12 fully answer your question.

13 MR. MCCLURE: I guess regardless of
14 which means of decoding production you believe is more
15 accurate, would you agree that being more accurate
16 would be more protective of correlative rights?

17 A I -- I believe yes, more accurate would be
18 better. However, there are other issues at play such
19 as surface disturbance and additional costs for all
20 parties once you have additional Central Tank
21 Batteries.

22 MR. MCCLURE: Okay. Thank you, ma'am.
23 If I may direct your attention to, I have page 41
24 dotted here. Yes, I believe that's correct. The
25 yellow -- the yellow highlighted boxes on this map, do

1 those represent actual Pooling cases or is this simply
2 land in which Avant pooled an interest in?

3 THE WITNESS: The latter. This is
4 land -- in yellow is land that Avant owns an interest
5 in. They are not active -- all active or approved
6 pooling cases.

7 MR. MCCLURE: Okay. So even though
8 some of those seem to be orientated in a laid out
9 position, is that indicative that Avant would wish to
10 drill in a laid out position?

11 THE WITNESS: Not necessarily. I think
12 that there are many factors that go into our
13 orientation and our proposed development and many of
14 the lands in yellow shown on this map are simply lands
15 in which we own an interest and will one day,
16 hopefully develop. But they are not our final
17 development plans by no means.

18 MR. MCCLURE: Thank you. Additionally,
19 do you know if these are within the Bone? Do you know
20 that if any proposed projects would be within the Bone
21 Spring and Wolfcamp, based purely off this map?

22 THE WITNESS: Could you rephrase the
23 question?

24 MR. MCCLURE: Is there any indication
25 as to what formations Avant holds interest in?

1 THE WITNESS: On this particular map,
2 no. There are -- there's no indication of which
3 formation Avant owns. It would simply be an interest
4 in those lands.

5 MR. MCCLURE: If I may direct your
6 attention to page 94. I believe this is part of your
7 exhibit. It is in -- or actually, excuse me, page 96.
8 I apologize. I got the old page number to the new
9 one. And that's exhibit A15. This is referencing the
10 1998 JOA?

11 THE WITNESS: Yes, that's correct.

12 MR. MCCLURE: There is reference here
13 as to the difference in ownership that would
14 potentially make to Magnum Hunter/Cimarex. My
15 question to you, whether this JOA is applied or not,
16 does that make a difference to the amount of interest
17 that Avant either owns or has committed?

18 THE WITNESS: It does not change
19 Avant's ownership in the unit, no.

20 MR. MCCLURE: Does it change the
21 committed insurance that you have to sign JOAs for?

22 THE WITNESS: I don't believe so, no.
23 I believe it only affects Cimarex as to their
24 ownership in each each -- each unit.

25 MR. MCCLURE: And this would be due to

1 working interest owners that are potentially signed on
2 to this 1998 JOA; is that correct?

3 A Correct. This JOA that we have not been
4 able to fully review, we were only provided snippets
5 appears to only be between two parties. And Avant --
6 Avant's title sees several other parties in those
7 lands. So it would apply to a handful of working
8 interest owners, but we have not been able to verify
9 the validity of the JOA.

10 MR. MCCLURE: And of the working
11 interest owners that you're aware of, have any of them
12 committed to Avant's proposal here?

13 THE WITNESS: No, they have not.

14 MR. MCCLURE: Was the notice
15 spreadsheet for the notice of public -- or Affidavit
16 of Publication, were those put together by yourself or
17 under your guidance, or was that done by Mr. Holliday
18 and your attorneys?

19 THE WITNESS: Just to clarify, do you
20 mean the specific tables or the -- the information
21 contained within them?

22 MR. MCCLURE: The specific tables and
23 then the inclusion of the Affidavit of Publication in
24 this packet?

25 THE WITNESS: Those were prepared by

1 our counsel, Mr. Holliday.,

2 MR. MCCLURE: Mr. Hearing examiner --

3 THE WITNESS: Sorry. I just wanted --

4 I just wanted to clarify. It was provided by our

5 previous counsel. I -- I apologize. Not

6 Mr. Holliday, but the prior firm that we used.

7 MR. MCCLURE: Mr. Hearing Examiner, do

8 you want me to direct some questions to Mr. Holliday

9 at this point, or wait until later?

10 THE HEARING EXAMINER: I think you can

11 ask Mr. Holliday questions. And it's his case in

12 chief. And if they're within his personal knowledge

13 you can.

14 MR. MCCLURE: I'm sorry. I didn't hear
15 you, Mr. Hearing Examiner?

16 THE HEARING EXAMINER: Yes, by all
17 means.

18 MR. MCCLURE: Mr. Holliday, on this

19 page that you have actually brought up here, it

20 appears that the affidavit of publication, while the

21 newspaper clipping may have been folded over. Do you

22 see what I'm referring to?

23 MR. HOLLIDAY: Would that be at the --

24 I don't. Oh, yes, about two thirds of the way down.

25 Yes.

1 MR. MCCLURE: Yes, sir. Can you
2 confirm for me that this is the -- the correct
3 affidavit publication for this case verbally here.
4 I'm going to end up wanting the actual affidavit of
5 the full affidavit publication clipping later on, but
6 I just wonder if you could verbally confirm for me
7 that this is, in fact the Affidavit of Publication for
8 this case?

9 MR. HOLLIDAY: So I don't have personal
10 knowledge, this is the actual affidavit. This was
11 provided by prior counsel. That being said, I have no
12 reason to suspect that it's not.

13 MR. MCCLURE: Okay. Thank you sir. I
14 have -- I have no further questions. Thank you
15 Mr. Hearing Officer.

16 THE HEARING EXAMINER: Thanks,
17 Mr. McClure. We're going to return to you,
18 Mr. Holliday for any redirect on the specific
19 questions that were asked by Ms. Bradfute,
20 Mr. Feldewert, and, of course, Mr. McClure.

21 MR. HOLLIDAY: Okay. Thank you. I
22 just have a couple.

23 MR. HOLLIDAY: If we could go back to
24 Exhibit A2, which is on page 31.

25 //

1 REDIRECT EXAMINATION

2 BY MR. HOLLIDAY:

3 Q So, Ms. Guerra, I just want to clear up for
4 the record that western acreage is representative
5 solely of tracked outlines in which Avant owns an
6 interest and not proposed development plans; correct?

7 A Correct.

8 Q Okay.

9 MR. HOLLIDAY: If we could go to
10 Exhibit A13, page 89.

11 MS. BRADFUTE: I'm sorry. Which page,
12 again?

13 MR. HOLLIDAY: 89. Thank you. If you
14 could skip forward, one more page, forward.

15 MS. BRADFUTE: Forward. Oh, thank you.

16 BY MR. HOLLIDAY:

17 Q Yeah. Okay. So we spoke about a lot of
18 these owners in your cross-examination. But I just
19 wanted to confirm that you did have actual
20 conversations with many of these owners and not just
21 notice letters; is that correct?

22 A That is correct.

23 Q Okay. And those conversations are all
24 listed on this chart; correct?

25 A That is correct.

1 Q Okay. And based on your communication with
2 Rhombus, and again Rhombus broadly. I know they have
3 multiple entities. Were they actually aware of the
4 overlapping issue?

5 A I believe so, yes. Because we presented our
6 development plan and discussed that well, in
7 particular, at length. So yes, they were aware of
8 that. Our proposed plan did up overlapping with their
9 Union State Com well.

10 Q Okay. So do I understand it correctly that
11 when the second Bone Spring one-mile proposed wells
12 are developed, that would increase the surface
13 disturbance from two central tank batteries, three
14 under Avant's plan; is that correct?

15 A Can you say that one more time? Sorry.

16 Q If Avant were to develop the second Bone
17 Spring or when Avant will develop the second Bone
18 Spring separately with its one-mile laterals, would
19 that increase the surface disturbance from the current
20 planned two Central Tank Batteries to three?

21 A Yes; correct.

22 Q And just last question, and just a broad
23 question. Is your testimony that Avant would seek to
24 allocate on the most accurate basis possible?

25 A Yes, Avant would like to.

1 Q Thank you.

2 MR. HOLIDAY: That's all my questions.

3 THE HEARING EXAMINER: Ms. Bradfute,
4 cross-examination on those three questions?

5 MS. BRADFUTE: No, not at this time.

6 THE HEARING EXAMINER: Mr. Feldewert?

7 MR. FELDEWERT: No, sir.

8 THE HEARING EXAMINER: Mr. McClure?

9 MR. MCCLURE: Mr. Hearing Examiner, I
10 do not.

11 THE HEARING EXAMINER: Okay.
12 Mr. Holliday, would you like to call your next
13 witness?

14 MR. HOLLIDAY: Yes. For our second
15 witness, we'd like to call Mr. John Harper.

16 JOHN HARPER,
17 called as a witness and previously sworn to tell the
18 truth, the whole truth, and nothing but the truth, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. HOLLIDAY:

22 Q Good morning Mr. Harper. Could you please
23 state your full name for the record?

24 A John Harper.

25 Q And who are you employed by and what is your

1 position?

2 A Avant Operating. I'm a -- my title is a
3 senior vice president of assets and exploration, but I
4 manage our geology department.

5 Q Okay. And so your exhibits have all been
6 admitted into the record. Do you adopt adopt those,
7 your prior testimony, and those exhibits under oath
8 today?

9 A I do.

10 Q Okay. Thank you. All right. Do you have
11 any corrections or modifications to the testimony that
12 you've submitted previously?

13 A No, I don't.

14 BY MR. HOLLIDAY:

15 Q All right.

16 MR. HOLLIDAY: So we're going to go to
17 Exhibit B, and specifically B1, which is on page 104.

18 BY MR. HOLLIDAY:

19 Q Mr. Harper, what does this slide represent?

20 A So B1 is a general regional locator map
21 showing the Daytona project inside the northern
22 Delaware Basin in reference in proximity to the San
23 Simon channel, the northwest shelf and the Captain
24 Reef outline in addition to the potash outline.

25 Q Okay. Thank you.

1 MR. HOLLIDAY: And so if we can go next
2 to B2, which is just one page down. And so we have
3 exhibits B2, A, B, and C.

4 BY MR. HOLLIDAY:

5 Q Could you just walk us through what these
6 exhibits demonstrate?

7 A Exhibit B2-A is Avant's Daytona development
8 plan showing four wells targeting the first Bone
9 Spring sands, two-mile laterals, four wells, targeting
10 the third Bone Spring sand, as two-mile laterals. It
11 also shows the four existing horizontal two-mile or
12 second Bone Spring sand wells in section 29, colored
13 in green. It also shows the four one-mile second Bone
14 Spring sand wells that Avant has proposed and is
15 pooling in section 32, in yellow. And then, also our
16 Wolfcamp wells, down below.

17 Q Okay. Thank you. And if you could just
18 walk us through the competing development plans that
19 have been offered in this case.

20 Q Sure. If you go to B2-B, this shows
21 Cimarex's four wells they are pooling the 2BS in the
22 upper second sand. And then it also shows the
23 additional infill or later proposed wells in the
24 first -- more additional wells in the second sand,
25 third Bone Spring sand and the Wolfcamp wells. And

1 again, the map in the top right shows their laydown
2 orientation. So, and then B2-C is just showing
3 Matador's adjacent, also north south oriented --
4 oriented to the Bone Spring wells and Wolfcamp wells.

5 Q So but for the total number of wells in the
6 various applications, is it fair to say that Avant and
7 MRC's development plans are aligned?

8 A That is correct.

9 Q Okay. So let's move down now to exhibit B3,
10 which should be the next slide in order. We've heard
11 a little bit about stress orientation previously.
12 What does this slide demonstrate?

13 A So this is a -- an image taken from a wildly
14 accepted article, Snee and Zoback in 2018. It's
15 looking at stress measurements or in this case, the
16 maximum horizontal stress in the Permian Basin. Those
17 measurements are denoted by the black lines. So this
18 just shows basically how stress has been measured and
19 rotates across the Permian Basin. In the black lines,
20 it shows the Delaware Basin west and Delaware Basin
21 east. And then, there are roughly -- rough location
22 of the Delaware project, or Daytona prospect and the
23 yellow line kind of up there close to that -- that
24 east west data mark right there.

25 So in my opinion, I would say that stress in

1 this area, obviously in the Delaware Basin rotates
2 from approximately north south in northwest Eddy to
3 kind of southeast across the Delaware Basin in a
4 clockwise rotation. I believe that the publication
5 shows that in this area the maximum horizontal stress
6 is greater than 45 degrees, which would suggest the
7 preferred orientation be north to south, like Avant
8 and Matador are present.

9 Q Thank you. Okay. That takes care of
10 several other questions.

11 MR. HOLLIDAY: Can we move to B4,
12 please? Okay.

13 BY MR. HOLLIDAY:

14 Q So now let's just go B4 through B16. Could
15 you just walk us through the remainder of your
16 exhibits?

17 A Yeah, they're pretty straightforward. B4 is
18 just a cross -- cross-section locator map showing
19 again our Daytona unit in 1834 oriented north south.
20 It shows three type logs that make up our type
21 section. And this map shows all vertical wells and
22 all horizontal wells drill in this area. You can see
23 the vast majority of all horizontal wells in this area
24 have been developed in the north south rotation, both
25 post and present day. Again, we prefer that

1 orientation.

2 The next couple of slides really just goes
3 through first Bone Spring sand, in this case a
4 stratigraphically honk cross section type section, a
5 structurally honk type section showing our target
6 interval and how consistent it is for north to south.
7 Same thing for the third Bone Spring sand, and for the
8 Wolfcamp. It also shows associated structure maps and
9 isopach maps per proposed target interval.

10 Q Okay. Thank you. And so just to clarify
11 for the record, there are two exhibit packets, 24632,
12 limited to the Bone Spring. And 24633, which cover
13 the Wolfcamp. So this same presentation for the
14 Wolfcamp would be available in 24633; correct?

15 A That is correct.

16 Q Okay. Thank you. So have you had an
17 opportunity to review Magnum Hunter's exhibits?

18 A Yes.

19 Q Okay. Are there any specific slides from
20 Magnum Hunter's initial exhibits?

21 MS. BRADFUTE: Objection. Magnum
22 Hunter's exhibits have not yet been entered into
23 evidence.

24 THE HEARING EXAMINER: All right.
25 Let's think about this for a moment. Mr. Holliday,

1 your response.

2 MR. HOLLIDAY: I could attempt to
3 rephrase the question. Or I could repose the question
4 later.

5 THE HEARING EXAMINER: Why don't you
6 answer the question. What is your response to her
7 objection? You're asking --

8 MR. HOLLIDAY: Correct. They have not.
9 I'm just thinking this through mechanically. They
10 haven't been introduced into evidence yet. We have
11 reviewed them. He has personal knowledge of them.
12 And so, I think it would be appropriate for him to
13 speak to him.

14 THE HEARING EXAMINER: I understand.
15 Okay. I think maybe what would make this a lot more
16 efficient of a process. Since I understand the
17 objection, and I do understand the objection, why
18 don't we do this. Instead of recalling all these
19 witnesses again to --

20 MS. BRADFUTE: Yes.

21 THE HEARING EXAMINER: -- go over
22 things that everyone knows what's going to be
23 presented, why don't we deal with your exhibits now?
24 We'll deal with Mr. Feldewert's exhibits now. And
25 then, we won't have this problem. Okay. All right.

1 So let's take a break for a moment, Mr. Holliday. I
2 apologize for the interruption in flow.

3 Okay. Ms. Bradfute, what exhibits do
4 you have for admission today through stipulation?

5 MS. BRADFUTE: Yes. Thank you
6 Mr. Hearing Examiner. Magnum Hunter has exhibits A,
7 B, C, D, E, and F. Exhibit A is its land exhibit with
8 an affidavit from its landman and it has attachments,
9 A1 through A15.

10 THE HEARING EXAMINER: Has the landman
11 been accepted as an expert?

12 MS. BRADFUTE: Yes, she has.

13 THE HEARING EXAMINER: What's her name?

14 MS. BRADFUTE: Bella Sykes. Isabella
15 Sykes.

16 THE HEARING EXAMINER: S-I-K-E-S?

17 MS. BRADFUTE: Yes.

18 THE HEARING EXAMINER: Okay. Next?

19 MS. BRADFUTE: Yes. Exhibit B is an
20 affidavit from Magnum hunter's geologist along with
21 attachments, B1 through B10. And Magnum Hunter's
22 geologist, Staci Frey. Staci Frey has been accepted
23 as an expert by the division.

24 THE HEARING EXAMINER: Thank you.

25 MS. BRADFUTE: Exhibit C is an

1 affidavit by Cimarex's facilities engineer and it has
2 at attachment C1 through C6. And Cimarex's facilities
3 engineer, Calvin Boyle has been accepted as an expert
4 witness in facilities engineering matters.

5 THE HEARING EXAMINER: Thank you.

6 MS. BRADFUTE: And exhibit D is a
7 affidavit from Cimarex's petroleum engineering expert,
8 Eddie Behm. And Eddie Behm has been accepted as an
9 expert by the division.

10 THE HEARING EXAMINER: Okay.

11 MS. BRADFUTE: It has attachments D1
12 through D12.

13 THE HEARING EXAMINER: Okay.

14 MS. BRADFUTE: Exhibit E is the notice
15 affidavit for Magnum Hunter's Bone Spring cases. It
16 has attachments E1 through E4. And exhibit F is the
17 notice exhibit with my affidavit for the Wolfcamp
18 cases. And it has attachments F1 through F4.

19 THE HEARING EXAMINER: So I'm confused.
20 So are you not the author of Exhibit E?

21 MS. BRADFUTE: I apologize. That was
22 an omission in my statement. I am also the author of
23 Exhibit E.

24 THE HEARING EXAMINER: Thank you. I
25 just wanted some clarification because I'm not looking

1 at them as we go through this. So would you like to
2 admit all of these into evidence?

3 MS. BRADFUTE: Yes, Mr. Hearing
4 Examiner.

5 THE HEARING EXAMINER: And did you have
6 any amended exhibits?

7 MS. BRADFUTE: No amended exhibits.

8 THE HEARING EXAMINER: Okay. Perfect.
9 Mr. Holliday, any objection?

10 MR. HOLLIDAY: There's no objections to
11 the initial exhibits.

12 THE HEARING EXAMINER: Perfect.
13 Mr. Feldewert?

14 MR. FELDEWERT: No objection to these
15 exhibits.

16 THE HEARING EXAMINER: Wonderful. And
17 I don't think any other party has an objection and I
18 don't see Ms. Bennett. So Ms. Bradfute, all of your
19 exhibits are admitted into evidence by stipulation.

20 (Magnum Hunter/Cimarex Exhibits A
21 through F were marked and received into
22 evidence.)

23 MS. BRADFUTE: Thank you.

24 THE HEARING EXAMINER: Mr. Feldewert.

25 MR. FELDEWERT: Thank you.

1 MR. FELDEWERT: Mr. Examiner, MRC has
2 submitted the compulsory pool checklist and then the
3 applications. We have our Exhibit A, which is the
4 self-affirmed statement of Clay Wooten, who's a
5 petroleum landman who has previously testified before
6 this division. And he has some sub exhibits
7 associated with that. Exhibit B is a self-affirmed
8 affidavit statement of Andrew Parker, a petroleum
9 geologist who has previously testified before this
10 division. Exhibit C is a self-affirmed statement of
11 Tanner Schultz, who is a petroleum engineer, who has
12 also previously testified before this division.
13 Exhibit D is in the notice affidavit for these cases.
14 MRC Exhibit E is the Affidavit of Publication. And
15 then MRC exhibit F is a Magnum Hunter notice letter
16 that I added to our exhibit package. Those are the
17 exhibits that we seek to admit at this time.

18 THE HEARING EXAMINER: Okay. So once
19 again, exhibit F, I didn't quite catch you. Was it a
20 notice letter from Magnum Hunter?

21 MR. FELDEWERT: Yes.

22 MR. FELDEWERT: It has created some
23 confusion.

24 THE HEARING EXAMINER: I see. Okay.
25 Let me just write that down. Okay. Mr. Holliday, any

1 objections to any of these exhibits?

2 MR. HOLLIDAY: No objections.

3 THE HEARING EXAMINER: Ms. Bradfute.

4 MS. BRADFUTE: No objections.

5 THE HEARING EXAMINER: Your exhibits,
6 Mr. Feldewert, are all admitted into evidence.

7 (MRC Exhibits A through F were marked
8 for identification and received into
9 evidence.)

10 MR. FELDEWERT: Thank you.

11 THE HEARING EXAMINER: Ah, I see
12 Ms. Bennett is with us.

13 MS. BENNETT: Yes, thank you. Franklin
14 Mountain Energy does not have an objection to the
15 admission of MRC's exhibits. But the brief statement
16 that I would like to make does pertain to their
17 exhibits. So now is the right time to do that. I'm
18 happy to do it now or I'm happy to wait.

19 THE HEARING EXAMINER: I wanted to hear
20 from you at the beginning of their case in chief. Now
21 are you waiting to do this before you go back to
22 Albuquerque?

23 MS. BENNETT: Yes, I am.

24 THE HEARING EXAMINER: Okay. Why don't
25 you make your statement now, Ms. Bennett.

1 MS. BENNETT: Thank you. So as I
2 mentioned, I entered an appearance on behalf of FME 3
3 only in the MRC cases. And that is to preserve FME
4 3's Franklin Mountain Energy's interest in those
5 cases. And the reason I entered an appearance, and
6 the reason for my brief statement today is that it's
7 FME's position that MRC has incorrectly identified
8 ConocoPhillips as an owner of an 80-acre tract that in
9 Franklin Mountain Energy's position, Franklin Mountain
10 actually owns that 88 retract. So --

11 THE HEARING EXAMINER: Okay. Hold on.
12 Hold on. So let me just make sure I understand you.
13 So you're not arguing on behalf of ConocoPhillips.
14 You're arguing on behalf of your client.

15 MS. BENNETT: That's right.

16 THE HEARING EXAMINER: That an interest
17 in one of their exhibits is misappropriated to
18 ConocoPhillips, where in fact, it's your interest.

19 MS. BENNETT: That's Franklin Mountain
20 Energy's position, yes. That it should be shown as
21 Franklin Mountain Energy's interest, but instead it's
22 shown as ConocoPhillips.

23 THE HEARING EXAMINER: Okay. Please
24 proceed.

25 MS. BENNETT: And so, it's Franklin

1 Mountain Energy's concern is that MRC is not
2 acknowledging Franklin's interest in that 80 acre
3 tract.

4 THE HEARING EXAMINER: Do you have an
5 exhibit number since they've all been admitted now.

6 MS. BENNETT: Yes. Well, it's on page
7 99 of MRC's exhibit packet, which --

8 THE HEARING EXAMINER: Do you have an
9 exhibit number? Or Mr. Feldewert, can you help us out
10 with an exhibit number?

11 MR. FELDEWERT: Give me one second.

12 THE HEARING EXAMINER: So you're not
13 objecting Ms. Bennett, you're just clarifying?.

14 MS. BENNETT: Well, yes. I'm not
15 objecting. And what I just want to make sure is that
16 by not raising this. There's no suggestion or
17 inference that FME acquiesced to somehow this interest
18 being attributed to Conoco as opposed to FME 3.

19 THE HEARING EXAMINER: Okay. So let's
20 just get this up on the screen for a moment.
21 Ms. Bennett, do you know what it looks like when you
22 see it?

23 MS. BENNETT: Yes, that's it.

24 THE HEARING EXAMINER: That is it
25 there. Mr. Feldewert, what exhibit number is this?

1 MR. FELDEWERT: Did I bring this up?
2 Good job.

3 THE HEARING EXAMINER: Well, someone.

4 MS. BENNETT: You did.

5 MR. FELDEWERT: So give me a minute.
6 Let me get back to where the exhibit is identified.
7 It's part of the land exhibit. Looks like it's A2.

8 THE HEARING EXAMINER: A2.

9 MR. FELDEWERT: MRC Exhibit A2. I
10 believe we're referencing Page 99.

11 MS. BENNETT: Yes, page 99.

12 THE HEARING EXAMINER: Okay.
13 Ms. Bennett.

14 MS. BENNETT: Thank you. And so,
15 Ms. Bradfute, if you don't mind turning to page 100.
16 So you see there at the top of page 100, it identifies
17 tract one as being owned or held by ConocoPhillips and
18 that's an 80-acre tract. And that's the tract that
19 Franklin Mountain Energy 3 believes should be credited
20 to Franklin Mountain Energy 3 and not ConocoPhillips.
21 And title disputes are outside of the division's
22 jurisdiction. And so, what Franklin Mountain Energy 3
23 is doing is just preserving its right and not being
24 subject to any sort of argument, or inference, or
25 suggestion, that it acquiesced in any way to the

1 validity of the exhibits, while not wanting to
2 challenge the exhibits before the division.

3 THE HEARING EXAMINER: Okay. Is there
4 anything else?

5 MS. BENNETT: No. Thank you.

6 THE HEARING EXAMINER: Before you
7 leave, Mr. Feldewert, do you have any response to
8 that?

9 MR. FELDEWERT: My understanding,
10 Mr. Examiner, is that it's involves an issue over
11 whether a term assignment has expired.

12 THE HEARING EXAMINER: Okay. Which
13 Ms. Bennett correctly notes that the division does not
14 get into those types of issues. I also believe that
15 that issue involving Franklin Mountain is identified
16 in footnotes, an asterisk on page 110 of our exhibits.

17 THE HEARING EXAMINER: Can you pull
18 that up, Ms. Bradfute, 110. Let's just take a look at
19 that footnote. I see. Ms. Bennett, do you see this?

20 MS. BENNETT: I do.

21 THE HEARING EXAMINER: And does that
22 acknowledge your potential ownership in that tract?

23 MS. BENNETT: It acknowledges the
24 potential for a title dispute, but I would say that
25 FME 3 is not being pooled in this case.

1 THE HEARING EXAMINER: Okay. And so,
2 if the title dispute is resolved in FME 3's favor,
3 then FME 3 would need to be pooled.

4 THE HEARING EXAMINER: Okay.

5 MS. BENNETT: If you look at the pooled
6 party list, Franklin Mountain Energy 3 is not listed
7 as a pooled party.

8 THE HEARING EXAMINER: But it would be
9 if the title dispute ends up in your favor.

10 MS. BENNETT: In my opinion, and this
11 is just right on the spot thinking, I think MRC would
12 have to come back in and pool Franklin Mountain
13 Energy.

14 THE HEARING EXAMINER: I see.

15 MR. FELDEWERT: I disagree with that.

16 THE HEARING EXAMINER: Okay.

17 MR. FELDEWERT: I think that with
18 reference --

19 MS. BENNETT: We don't need to resolve
20 that today.

21 THE HEARING EXAMINER: Right. I got
22 you.

23 MR. FELDEWERT: I just want to say I
24 disagree with that.

25 THE HEARING EXAMINER: Sure.

1 MR. FELDEWERT: We've referenced the
2 issue. We've identified the party we believe has the
3 title. So I disagree with her characterization. They
4 got notice. They were here today. They made their
5 point.

6 THE HEARING EXAMINER: Agreed.
7 Ms. Bennett, thank you. Is there anything else?

8 MS. BENNETT: No. Thank you.

9 THE HEARING EXAMINER: Okay. Well
10 thank you for hanging in there.

11 MS. BENNETT: Thank you so much.

12 THE HEARING EXAMINER: Yes. Okay. So
13 we have admitted all the exhibits that have been
14 supplied to the division from all three parties. Now,
15 Mr. Holliday, no Ms. Bradfute, was it your question or
16 was it, I've forgotten, was it Mr. Holliday's
17 question?

18 MS. BRADFUTE: Mr. Hearing Examiner, I
19 have raised the objection about the exhibits not being
20 in evidence. We've resolved that.

21 THE HEARING EXAMINER: Right. We have
22 resolved it. So you were asking Mr. Holliday?

23 MR. HOLLIDAY: So I was going to ask a
24 couple questions about --

25 THE HEARING EXAMINER: Please, go

1 ahead.

2 MR. HOLLIDAY: -- Magnum Hunter
3 exhibits. If we could go to the Magnum Hunter
4 exhibits B2. And I'm sorry I don't have the page
5 number. It's page 190.

6 THE WITNESS: Okay.

7 MR. HOLLIDAY: Okay. Thank you.

8 BY MR. HOLLIDAY:

9 Q Mr. Harper, do you have any specific
10 concerns with Cimarex's Exhibit B2?

11 A Yes. I would say I disagree with their
12 interpolated stress direction. They filled in the
13 blank around the subject lands with their red arrows.

14 Q okay. And what in your opinion should be
15 represented by the data?

16 A I think there's closer data if you look just
17 to the right of the yellow star specific lands are
18 kind of inferred. There's obviously a data point that
19 they are excluding their interpolation.

20 Q Thank you. If we could just move down one
21 slide to B3. Do you have any specific concerns about
22 the data representative on this slide?

23 A I do. I would say, you know, this is
24 obviously private data. So I -- I don't know what
25 kind of seismometers monitors they use, or what kind

1 of genre, or anything about the data they actually
2 acquired. So there's some concerns about the data
3 quality. Using focal mechanisms to indicate or infer
4 stress orientation is a little not reliable. There
5 are many articles that say there needs to be, you
6 know, many different focal mechanisms, many different
7 faults used to base on the focal mechanisms. And even
8 then, you know, the reliability of using focal
9 mechanisms as a stress orientation rather than a slip
10 plane, is unreliable in terms of indicating modern day
11 horizontal maximum stress.

12 Q Thank you. Outside of B2 and B3, was there
13 anything else about Magnum Hunter's proposed
14 development plan that you would like to add or
15 discuss?

16 A I mean, other than the fact, you know,
17 obviously the east west orientation and its relation
18 to the maximum horizontal stress is not ideal and
19 could create subsurface waste. It also could create
20 surface waste by taking two operators north south
21 development plans and negating them for one person's
22 development plan -- one company's development plan.
23 And obviously, you know, Magnum Hunter has inferring
24 that the yellow acreage on this map is their acreage.
25 And I would be curious as to why they would not just

1 go north south as well.

2 Q In your opinion, is there any advantage to
3 drilling multiple formations at once as opposed to
4 coming back drilling again as it appears that Magnum
5 Hunter has proposed?

6 A Sure. I think there is some -- some
7 validity to that, as well. I mean, drilling one bench
8 at a time as Magnum Hunter has proposed could create
9 surface waste in terms of expanding pads to
10 incorporate future well sites, expanding their CTP
11 potentially or pipes in the ground. It'd be --
12 it's -- it's a prudent way to develop these prolific
13 benches to develop them at once, both in the
14 subservice and of surface stents to minimize risk.

15 Q And if you were to develop them sequentially
16 as opposed to at one time, would you have any concerns
17 about depletion?

18 A There could be some depletion aspects of it.
19 You know, whenever you drill in this case, say they
20 drill the second Bone Spring sand, you know, they have
21 eight different second Bone Spring proposals for that
22 they're pooling. You know, when -- when they come
23 back in, or if they come back in, they would most
24 likely have to shut in or come back in and drill the
25 first bone or the wells they're not currently pooling.

1 There would be a shut out in time where they would
2 have to drill and complete the existing production,
3 bringing those wells back online. I don't know
4 their -- their artificial lead. That's -- I'll defer
5 to their own experts in that sense. But there is some
6 concerns about depletion, due to shutting wells in and
7 bringing it back online.

8 Q Yeah. Thank you. So last question I have.
9 Just based on your geologic study of the development
10 area, what's your opinion as this as to the superior
11 development plan for the acreage in question?

12 A Well, there's no map up anymore. But
13 basically, as the wells in this area, you know, 95-ish
14 plus percent of the wells -- horizontal wells in this
15 area have developed it north south, such as Avant and
16 MRC are proposing to, I would say both from a existing
17 development and from a subsurface development, both
18 the north south orientation is the most effective and
19 efficient, prudent way to develop this unit and MRC's
20 unit.

21 Q Okay. Thank you.

22 MR. HOLLIDAY: No further questions for
23 Mr. Harper, offer the witness.

24 THE HEARING EXAMINER: Ms. Bradfute.

25 MS. BRADFUTE: Thank you.

CROSS-EXAMINATION

BY MS. BRADFUTE:

Q Good morning Mr. Harper. And please bear with me, I'm just pulling up the exhibits to share. I wanted to first focus on exhibit B2-B. And you you testified earlier about this exhibit; correct?

A That's correct.

Q I just noted that over here in the red box it states that Cimarex total pool dwells are four Bone Spring wells and four Wolfcamp wells; is that right?

A My understanding the pooling order applications, that is correct. They're -- you guys are proposing four Bone Spring wells and four Wolfcamp wells, combined cases.

Q Should the Wolfcamp wells shown on this diagram also have been highlighted in red as pooling?

A This exhibit B2-B is referencing case number 24632, which I believe is the Bone Spring pooling order.

Q Okay. So is there a similar exhibit in your Wolfcamp exhibits just showing the Wolfcamp wells highlighted in red?

A Yes, ma'am. That's the inverse of this.

Q Okay. In the interest of time, I'm not going to pull that up so we're not flipping between

1 two different documents. But your testimony is that
2 it's the inverse of this. There's no other changes.
3 It's just the Wolfcamp wells highlighted in red?

4 A Without looking at the exhibit, I don't
5 believe that's the case.

6 Q Okay. I also believe that's the case. I
7 just wanted clarification on that point. Mr. Harper,
8 do your exhibits contain your geologic study for the
9 case?

10 A Geologic study in what sense?

11 Q Is this the full geologic study that you
12 performed for cases 24632 and 24633?

13 A These are the exhibits I put together for
14 these -- these cases, yes.

15 Q Okay. And your exhibits are complete?
16 That's your testimony today?

17 A Yes.

18 Q Okay. So you're not claiming to introduce
19 any new or additional geologic information into these
20 cases; right?

21 A Not at this time.

22 Q Okay. I'm going to turn to Avant Exhibit
23 B3. And can you, you know, tell us again where you
24 got this map, this diagram from?

25 A It's an image from the article from 2018

1 Lund Snee and Zoback. I believe all three parties
2 referenced this image.

3 Q Yeah. And so, this image is just taken
4 straight from that paper. You're not adding any new
5 data points on it?

6 A No, I -- I just had the box that represents
7 the -- the Daytona and then the text box of my stress
8 orientation interpretation.

9 Q Okay. And did you use this exact same image
10 in the exhibits for case 24633, your Wolfcamp
11 application?

12 A I believe so, yes.

13 Q Okay. And this map is taken from a public
14 paper that's just out there in the public. Anybody
15 can reference these data points; right?

16 A That's correct.

17 Q Okay. Are you familiar with the data used
18 for creation of the Lund Snee and Zoback paper to
19 create this map?

20 A I was not part of this publication, but I --
21 I've referenced the article.

22 Q Yeah. Do you have access to the underlying
23 data points that the scientists used to put together
24 the paper?

25 A I have not looked at these data points, no.

1 Q Okay. Thank you. And is this map the basis
2 for your conclusion that orientation of the wells in
3 the subject land should be north and south?

4 A Can you repeat the question?

5 Q Yeah. Is this map the basis for your
6 conclusion that the orientation of wells in the
7 subject land should be north and south?

8 A I would say it's a strong addition to my
9 basis. The other developed plans over the past couple
10 of decades in this area are also a basis for keeping
11 the orientation north south here.

12 Q Okay. And those were looking at the wells
13 identified in Avant's reservoir engineer's exhibits?

14 A I also referenced them in, I think, exhibit
15 B4, just the activity.

16 Q Okay. In that activity map. So those wells
17 and the map from the Lund Snee and Zoback paper in
18 2018, this is the basis of your conclusions; correct?

19 A I would say that's fair.

20 Q Okay. Great. And then I want to go back to
21 Exhibit B3. Approximately how far away are the
22 subject lands from the data points that are shown here
23 on this map, that are referenced in the Lund Snee and
24 Zoback paper?

25 A It's hard to tell without having a different

1 scale to -- to reference this. But I would say the --
2 the black horizontal stress measurements to the west
3 are in Eddy County that kind of trickle into Lea
4 County. And then the -- the other data point just to
5 the east is in Lea County.

6 Q Okay. And do you have any kind of
7 approximate distance at all?

8 A I would say eight plus miles.

9 Q Eight plus miles. Could it be any further
10 than eight plus miles?

11 A It definitely could be.

12 Q Okay.

13 A I would say it's -- it's a good distance
14 away. So I would refer to the closer data point just
15 to the east.

16 Q Okay. And how close is the data point to
17 the east?

18 A Closer than the west?

19 Q Closer than the west, approximate?

20 A I would say it's approximately closer than
21 the data points to the west.

22 Q Okay.

23 MS. BRADFUTE: That's it. Thank you.

24 MR. FELDEWERT: If I may share. Give
25 me one minute. There we go.

CROSS-EXAMINATION

BY MR. FELDEWERT:

Q Good morning, Mr. Harper.

A Good morning.

Q I see that this is your Exhibit B4; is that right?

A Yes, sir.

Q Okay. I see that you chose this as a study area or depiction area?

A Yeah.

Q Is it your opinion that this area that you've shown here has similar geologic characteristics?

A Yes, sir.

Q And similar stress orientations?

A Yes, sir. I see that to be fair.

Q Okay. Can you explain why a majority of the wells in this area by operators have been, I'd say a vast majority, drilled in a standup fashion?

A You know, I can't speak to why at their time. You know these -- some of these wells are pretty old, 2012, 2014. I can't speak to as to why they inferred to go this direction. I would say that they were probably a geologist or scientists on their teams that would recommend going north south, based on

1 what data they have at the time. And what -- based on
2 what orientation, whether it be from stress or
3 sediment flow. Regardless, I think the preferred
4 orientation would be north south.

5 Q Okay. You referenced that Zoback study.

6 A Yes, sir.

7 Q Okay. That Zoback study and that map that
8 is associated with it, had that been an article that's
9 been peer reviewed to your knowledge?

10 A To my knowledge, yes.

11 Q Okay. It's been around for -- for a while?

12 A Yes, sir.

13 Q Okay. Is that article and the stress
14 orientation shown there used widely by geologists in
15 the basin?

16 A I would say yes. I mean, I've used it in
17 contested hearing cases in the past over the years.
18 Like I said earlier, I think all three parties
19 referenced it, to some degree. So I would say it's
20 pretty unanimously accepted.

21 Q A reliable source of stress orientation?

22 A Yes, I would say so.

23 Q Okay. If I look at your exhibit A9 that
24 Avant's put together, and I realize this isn't your
25 exhibit, but you're familiar with this?

1 A I am.

2 Q Okay. We see the area where the Avant
3 Daytona wells are. And then, of course, the Matador
4 or or Bobby Pickard right next door. And when you
5 look at that, you see that the existing and proposed
6 wells are almost all standup; right.

7 A I would definitely agree with that.

8 Q Okay. But then as we move west here, and we
9 get closer to this Eddy County line, there seems to be
10 a change in the orientation; right? In my opinion it
11 looks like it's mixed; is that correct?

12 A I would say it's -- it's mixed. I would say
13 it's probably closer to be more east west than north
14 south. But I -- I think it's fair to say it's a mix o
15 of horizontal development.

16 Q Okay. And do you have an opinion as to why
17 that's the case? Why operators over there start using
18 laydown or standup?

19 A Yeah, I think if you go back to the stress
20 article from Snee and Zoback, and I think the -- the
21 horizontal stress measurements that I was referring to
22 earlier being mostly in Eddy County that trickle into
23 Lea County line, that would probably be around
24 approximately close to this location suggesting that
25 east west or north south could be developed here

1 versus more prudent operations should be more north
2 south to the east, closer towards a greater than 45
3 degree stress orientation.

4 Q Okay. So looking at this data, this actual
5 data that we have, is it your opinion that standup
6 wells will more efficiently and effectively develop
7 the acreage that's at issue here?

8 A In the Daytona and my figure grid?

9 Q Yes.

10 A I would agree that standup orientation
11 drilling north south would be the most effective way
12 to develop this -- these benches horizontally
13 regarding waste.

14 Q And if someone decided to try to drill
15 standup in this area, do you believe that there would
16 be a less recovery, and therefore a waste of
17 resources?

18 A From a subsurface and surface aspect, yes.
19 You would be displacing two other operator's
20 development of these laterals. And for the
21 ineffectiveness of an east west orientation in a north
22 south common area, yes.

23 Q Okay.

24 MR. FELDEWERT: That's all the
25 questions I have. Thank you

1 THE HEARING EXAMINER: Mr. McClure.

2 MR. MCLURE: Mr. Hearing Examiner, I do
3 not have any questions for this witness.

4 THE HEARING EXAMINER: Okay.

5 Mr. Holliday, any redirect based on Ms. Bradfute's
6 questions?

7 MR. HOLLIDAY: I do not.

8 THE HEARING EXAMINER: Do you want to
9 call you next witness? Actually, you know, it's 11:48
10 now. Instead of starting with your next witness, let's
11 go to the lunch 10 minutes early and come back at 10
12 minutes to 1:00. We'll get back on the record at
13 12:50 p.m. Thank you.

14 (Off the record.)

15 THE HEARING EXAMINER: Welcome back.
16 It is 12:50 p.m. on election day, November 5th, 2024.
17 I know everyone's mind is probably somewhere else
18 today, but we're here. And we have Mr. Shane Kelly,
19 petroleum engineer reservoir expert. Mr. Holliday,
20 your direct examination.

21 SHANE KELLY,
22 called as a witness and previously sworn to tell the
23 truth, the whole truth, and nothing but the truth, was
24 examined and testified as follows:

25 MR. HOLLIDAY: Okay. Thank you.

DIRECT EXAMINATION

BY MR. HOLLIDAY:

Q Thank you. Good afternoon Mr. Kelly. So, Mr. Kelly, your testimony and exhibits, they've previously been admitted into evidence. I just wanted to affirm for the record that your testimony provided in those exhibits in your affidavit is still true and correct?

A Yes, it is.

Q Thank you. And do you have any corrections or modifications to the submitted testimony?

A No, I do not.

Q Okay. Thank you. So, Mr. Kelly, do you adopt under oath today your previously filed testimony exhibits?

A Yes, I do.

Q Okay. Thank you.

MR. HOLLIDAY: If we could move first to exhibit C1-A, which is on page 120.

MS. BRADFUTE: I apologize. I'm connecting to the team's meeting. Okay.

MR. HOLLIDAY. We'll just pause for a second.

MS. BRADFUTE: I am joining now. There we go. Okay. Okay. There you go.

1 MR. HOLLIDAY: Thank you. So we're
2 going to start with page 125. Okay. Thank you.

3 BY MR. HOLLIDAY:

4 Q Mr. Kelly, I want to direct your attention
5 to this exhibit. Could you please provide a broad
6 overview of Avant's proposed development for sections
7 29 and 32?

8 A Yeah, as shown in this slide here, you know,
9 we plan on developing first and foremost the -- the
10 first Bone and third Bone, and Wolfcamp together as
11 there already is some depletion in the second Bone
12 Spring. So we do plan on coming in and producing all
13 three of those targets at the same time within the
14 first year of pooling, whether it's in one or two
15 packages.

16 Q Okay. Thank you.

17 A And so, just to reiterate what you just
18 said, so your plan is to fully develop the Bone Spring
19 and the Wolfcamp formation, underlying these two
20 sections?

21 A Correct.

22 Q Okay.

23 MR. HOLLIDAY: Let's move to exhibits
24 C2, which it should be page 127.

25 //

1 BY MR. HOLLIDAY:

2 Q So I'll represent to you that C2 is a first
3 Bone Spring type curve and that C3 is the third Bone
4 Spring type curve slide. Can you walk us through
5 these exhibits?

6 A Yeah, this is just typical type curve slide
7 showing what we expect out of the first Bone in this
8 area. And showing that it's a proven and -- and
9 highly productive target. Avant has produced some
10 first Bone Springs just off this south east map, but
11 those have not thrown into this type curve as the --
12 we tried to pool it in the more like-minded geology
13 wells that have been recently drilled. As you can see
14 there is one large outlier in the Perla Negra, which
15 clearly wasn't used in the type curve. But we believe
16 this is a highly productive and -- and good target in
17 the area.

18 Q Okay. And would the same apply also for
19 the -- I mean, we could go to the Wolfcamp slide if we
20 need to in the 24633 exhibits, but would the same
21 productivity apply to the Wolfcamp as well?

22 A Correct. There -- believe the next slide is
23 a third Bone slide unless it got moved into the wrong
24 exhibit packet.

25 Q Oh, okay. I'm sorry. I thought you had

1 spoke to the third Bone Spring. Can you tell us what
2 this slide represents?

3 A Same thing, it's a typical curve slide. I
4 think the only difference here is the Skydweller well
5 is actually one of the most northern most third Bones
6 in the basin. And Avant was actually the ones that
7 drilled and operated that well until we later sold
8 that acreage about two months into production. So
9 we're very familiar with the area. We've produced in
10 this area recently. And we believe the third one was
11 also a very productive and target in the area.

12 Q Okay. Thank you.

13 MR. HOLLIDAY: So can we move to
14 Exhibit C4, which is page 129. Okay.

15 BY MR. HOLLIDAY:

16 Q Okay. So we've heard testimony previously
17 from Mr. Harper that the further orientation is north
18 south. What's your opinion on the preferred well
19 orientation in this area?

20 A Yeah, I'm -- you know, I agree with the
21 geomechanics in the area. It does look like north --
22 north south is the preferred orientation. We highly
23 believe that. A lot of the production in the area has
24 supported that including, you know, an old -- an old
25 test. This is from 2012 to 2015. I use this data set

1 because they are drilled within a few years of each
2 other, which means they have pretty similar targeting,
3 pretty similar frac designs. As we know now, we have
4 a much better frac design in 2024. So production is
5 quite a bit larger than these old wells. But as a
6 like for like comparison, this is a pretty good data
7 set.

8 All of these wells are either -- are in the
9 third Bone and are either east west or north south.
10 And as you can see the east west wells have struggled
11 quite mildly. So a 52 percent reduction is pretty
12 massive underperformance. So by allowing this Daytona
13 area to go east west, I think there would create a lot
14 of waste in that unit versus the north south
15 development pattern.

16 Q Yes. Thank you.

17 MR. HOLLIDAY: If we could move next to
18 C5. It's on page 130.

19 BY MR. HOLLIDAY:

20 Q Can you please walk us through this exhibit?

21 A Yeah, I think this is a pretty clear
22 indicative sign that north south is the preferred
23 development and out of 95 percent of the development
24 since 2016 has continued this north-south trend in
25 this immediate area of Daytona. There are a few east

1 west wells that are a couple of outliers that are new,
2 and that's purely based on the way their anchorage is
3 shaped out. I believe we don't really have well
4 results on those just yet. So we can't really cite
5 how a new frac would do from east west in the area.
6 But I think most operators would agree with Matador
7 and Avant with how we should develop this area, which
8 is north south.

9 Q And just to be clear to paraphrase the data
10 that's here, that's 95 percent of the development from
11 2016 forward has been north to south; is that correct?

12 A That is correct.

13 Q And so, are you familiar with MRC's
14 development plan adjacent to the proposed Daytona
15 units?

16 A Yeah, I believe so.

17 Q And does that development plan align with
18 Avant?

19 A It does. They also plan on going north,
20 south, just off of to the east of us.

21 Q Okay.

22 MR. HOLLIDAY: So if we could move to
23 Exhibit C6 through C8.

24 BY MR. HOLLIDAY:

25 Q These talk about Avant's midstream and

1 takeaway capacities in the area. Can you walk us
2 through these slides?

3 A Yeah, these slides are just showing how our
4 company is laid out and -- and where the midstream
5 providers are actually coming through our acreage.
6 Avant operates solely in this area. This is where
7 mainly all of our acreage is. That's where we've had
8 two rigs for over a year. So we have put in place
9 separate marketing deals to accomplish our -- our
10 drill program of two rigs going forward. It's been a
11 long, long road of a couple years of planning for
12 these different units, and now we're finally there.
13 We have all three streams set up that we're going to
14 be on pipe, mitigate any kind of flaring risk, any
15 kind of trucking risk for oil. And we've actually --
16 we've actually installed our own recycle pods to
17 handle all of the water so that we are allowed to go
18 out there and drill bigger packages where some other
19 companies might be a little bit limited on takeaway
20 capacity, so.

21 Q Thank you. And so, based on your review of
22 Magnum Hunter's exhibits that they've filed in this
23 case, do you believe that they have sufficient
24 takeaway capacity to develop all benches within the
25 Bone Spring and Wolfcamp?

1 A I can't speak to that. I'm not sure what
2 exactly they have set up. I do know the area is quite
3 tight in a lot of areas and it's a very tough area to
4 operate in if you have not planned for multiple years.
5 So I don't know where -- exactly where they're at in
6 the process on that. I'm not going to speculate on
7 their behalf.

8 Q Okay. That's fair. And I guess I'd ask the
9 same question about Avant's takeaway capacity. Does
10 Avant have sufficient takeaway capacity based on your
11 testimony in these slides to fully develop the Bone
12 Spring Wolfcamp as proposed?

13 A Yes, we do. And it comes with penalties on
14 the third-party gatherers if they do not get to our
15 locations on time. So they are very incentivized to
16 be there when we are ready to produce.

17 Q Perfect. Thank you.

18 MR. HOLLIDAY: I have no further
19 questions for now. Also I'll offer Mr. Kelly as a
20 witness.

21 THE HEARING EXAMINER: Ms. Bradfute.

22 MS. BRADFUTE: Thank you.

23 CROSS-EXAMINATION

24 BY MS. BRADFUTE:

25 Q Good afternoon. How are you?

1 A Good. Good, how are you?

2 Q Good. Okay. So I want to go back to C1-A.
3 Here you testified that Avant would be drilling 12
4 wells. Is it Avant's plan to drill all 12 wells at
5 the same time?

6 A It's up in the air right now. I think we'll
7 either do all 12 at once, or we'll do them in two
8 packages, six and six.

9 Q Okay. So if you do them in two packages,
10 what would the timing be?

11 A We usually like to come back within six
12 months.

13 Q Within six months.

14 A To offset depletion risk.

15 Q Okay. So you would drill six at month one,
16 wait six months, come in with your second package with
17 the other six wells?

18 A Yeah, we'll usually wait about four months
19 to start drilling so that we turn them online within
20 six months.

21 Q Turning them online within six months of one
22 another. And has Avant ever brought on two six well
23 packages within four months of one another before?

24 A Yes.

25 Q Okay. What spacing units was that done in?

1 A We did that down in Cutbow just recently,
2 which is just southwest of Daytona, probably 10 miles,
3 I want to say roughly 10 miles.

4 Q Okay. And just out of curiosity, I don't
5 know one way or another, were those drilling units
6 east, west or north south?

7 A They were north south.

8 Q Okay. Okay. Has Avant ever brought on 12
9 wells together as one set?

10 A We have brought on -- we are bringing on 16
11 wells in the next 15 days.

12 Q And that'll be the first time?

13 A That would be the largest we've done.

14 Q That'll be the largest you've done. Have
15 you brought on 12 to 16 wells together at one time,
16 frequently? Or is that the first time you've done it
17 ever in your history?

18 A No, not in my career. I've done it multiple
19 times in my career. This is the first time with
20 Avant, where we had enough of an acreage, but isn't
21 enough midstream in place to do that. Like I said,
22 it's been a long road to get that midstream in place.
23 And now that we do, we are moving to larger package
24 development, which will often be between 8 and 12.

25 Q Okay. So it sounds like something

1 historical for the company?

2 A Yes.

3 Q Okay. Could you please turn, or I will turn
4 to exhibit C1-B. Does this exhibit depict all of
5 Magnum Hunter's wells that have been proposed to Avant
6 that you're aware of?

7 A I -- I think that I'm aware of. I think
8 this is what -- what I've been told by land and the
9 proposal lease.

10 Q Okay. And this exhibit shows a total of 20
11 wells; is that correct?

12 A Yes, it does look like that.

13 Q Okay. Great. And it does show development
14 within the first Bone Spring and the third Bone
15 Spring; is that correct?

16 A That is correct.

17 Q Okay. Avant has also proposed four one-mile
18 wells in section 32. And it sent well proposals to
19 Magnum Hunter; is that correct?

20 A I believe so.

21 Q Okay. Were you involved in those proposals?

22 A No, I'm not usually involved in the proposal
23 process.

24 Q Okay. What is Avant's process in approving
25 wells that it proposes before it sends out a well

1 proposal?

2 A Usually I work with a geologist, and we
3 determine a development plan. And the land department
4 actually puts the proposals together.

5 Q Were you involved in the development plan
6 for the one-mile wells?

7 A I wasn't.

8 Q Okay. And is Avant planning to drill four
9 one-mile wells or five one-mile wells in this
10 development plan?

11 A We are shifting to four in the area.

12 Q Okay. But those proposal letters haven't
13 been sent out as your landman testified?

14 A I believe so, yeah; correct.

15 Q Are the wells going to be staggered?

16 A Yeah, we're going to have a bit of an offset
17 between the first Bone and the third Bone, which I
18 believe was on our stack lateral. I think you can see
19 it.

20 Q And for the second Bone Spring one-mile
21 wells, are those wells going to be staggered as well?

22 A I'm sorry. I thought that's what you were
23 asking previously. What was your first question?

24 Q Oh, okay. You had mentioned the first Bone
25 and the third Bone, so.

1 A I'm sorry. No, the first Bone and third
2 Bone will be a little offset but not staggered in the
3 traditional sample. We usually build in about a rule
4 of 50 feet of -- of stagger there.

5 Q Okay. And what are the names for those
6 one-mile proposed wells?

7 A I think it's the Daytona 32 State Com 501
8 through 505, as you you probably have it.

9 Q Okay. Is it okay if I keep on referring to
10 them as the one-mile wells? It's a little shorter.

11 A Yeah, that's fine.

12 Q Okay.

13 A That's fair.

14 Q That sounds good. As part of the
15 development planning process, did you look at where
16 facilities would be located for the one-mile wells?

17 A Usually, our geologist picks up the land.
18 He works closely with the regulatory department to
19 figure out where we can build facilities in this area.
20 It's a -- it's a tough land situation up here.
21 There's not a lot of usable land. So you got to keep
22 things convinced.

23 Q So you would agree that the surface is
24 challenging in section 32?

25 A Yeah, I would agree with that.

1 Q Okay. What kind of planning has been done
2 so far for these one-mile wells?

3 A Quite a bit. As far as I know, we're --
4 we're most of the way there. A lot of the pipeline
5 has been staked, platted. We've got those locations
6 ready to go. I'm not sure exactly where the staking
7 process on the facility goes. I know it is state
8 land, so it's not required to have an onsite. So I
9 think we're -- we're pretty close on the third tools.

10 Q And have you performed wildlife surveys to
11 your knowledge? Has a company performed them?

12 A Unfortunately, I can't testify to that. I'm
13 not sure on that.

14 Q Okay. Are you familiar that there is dunes
15 stagebrush lizard habitat on the section of 30, on the
16 surface of section 32?

17 A I assume, like most of New Mexico there is.

18 Q Okay. But it doesn't sound like a lot of
19 research on that issue's been done.

20 A On that specific section, it's not my
21 expertise.

22 Q Okay. Is there another Avant witness who
23 might have knowledge about that issue?

24 A Possibly our geologist, John Harper, but I
25 can't speak for him. I'm not sure if he knows the

1 exact answer.

2 Q Okay. I did not imagine that the geologist
3 would be in charge of wildlife compliance.

4 A We are a small shop. We do a lot of
5 different things.

6 Q Okay. And in this case your geologist --
7 well, that's -- I will go back to that. That's not a
8 question for you. I apologize. Strike that. Okay.
9 So I want to go back to exhibit B4, which is one of
10 Avant's geology exhibits. In this exhibit, your
11 geologist testified that this was the area of review
12 that he used as a basis for his study; is that
13 correct?

14 A I'm not sure which study he was referring
15 to, but I'm sure it was used for something, yes.

16 Q Okay. And he testified during Matador's
17 cross-examination that the geology throughout this
18 area was consistent. Do you remember that testimony?

19 A Yeah, I do remember that testimony.

20 Q Okay. So it's Avant's position that the
21 geology in this area is fairly consistent; correct?

22 A I'm not a geologist.

23 Q Okay. But that was the testimony earlier?

24 A Yes, it was.

25 Q Okay. Are you familiar with Avant's Ghost

1 and Grey Wind well proposals?

2 A Not really. I don't think we -- I have not
3 looked at those in a long time.

4 Q Okay.

5 A So I'm not that familiar.

6 Q Okay. Do those sound like well proposals?
7 Does this sound like well names that Avant has
8 proposed?

9 A Yeah, those are well -- they're wells by
10 Avant.

11 Q Okay. And would you know which sections
12 those wells were proposed to be drilled in?

13 A I'm looking at this map. I think it's 29,
14 28, or is it 27? You know what, no, not from this map
15 alone.

16 Q Okay. Okay. Then I will save some of these
17 questions for a different witness. Are you familiar
18 with Avant's Lone Wolf, Alpha Wolf, Crazy Wolf, or
19 Warhawk proposals?

20 A Yes.

21 Q Okay. So you are familiar with those?

22 A Yes.

23 Q Do you know approximately where those well
24 proposals are located?

25 A Approximately, it should be right on the

1 edge of this map.

2 Q Okay.

3 A I think it might be hidden underneath this
4 text box.

5 Q Okay. So they'd be located approximately
6 underneath the text box, the legend there?

7 A I think so, yes.

8 Q Okay. And how are those wells proposed to
9 be oriented, east west?

10 A Correct; east west.

11 Q Okay. So those are east west wells, located
12 within this area, which Avant has testified as
13 geologically constant, consistent throughout the area'
14 correct?

15 A Geologically consistent and geomechanically
16 consistent are two very different things.

17 Q Okay.

18 A And what you're talking about is the latter.

19 Q So unpack that for me, because your
20 geologist said the geology throughout this area was
21 relatively consistent. That was the testimony
22 earlier; right?

23 A Correct.

24 Q Okay. So are you saying that the
25 geomechanics of drilling from east to west in this

1 section would be more difficult?

2 A They are different. As he testified
3 earlier, the stress is rotating clockwise. As you
4 move west, the preferred orientation shifts from north
5 south to east west. And Alpha Wolf, Crazy Wolf, Lone
6 Wolf, that's an area where we believe it's very close
7 to being 50/50 on whether you go north, south, east,
8 west. The way the units worked out we decided to go
9 east west there.

10 Q Okay. Let's take a look at your exhibit.
11 Well, actually let me go back. So is it Avant's
12 interpretation of the geomechanics in this area that
13 the stress orientation changes somewhere within 19
14 south, 33 east and 18 south, 33 east?

15 A I mean it's constantly changing. So again,
16 I'm not the one that you should ask that question.

17 Q Okay. Okay. I'm going to go back to
18 Exhibit A9. Please bear with me. 49. Thank you.
19 Okay. Are Avant's Lone Wolf, Alpha Wolf, Crazy Wolf,
20 Warhawk and Air King Wells actual well proposals. Are
21 they DSUs that you've proposed?

22 A Yes, we're drilling Alpha Wolf right now.

23 Q Okay, so they are actually spacing units
24 that are being drilled, some of them?

25 A Correct.

1 Q Okay. Are they depicted? Are those spacing
2 units shown on this map, that was included?

3 A Yes.

4 Q Okay. Were you here for Avant's landman's
5 testimony earlier?

6 A Yes, I was.

7 Q And she testified she didn't know if this
8 was just acreage that Avant owned or were or actual
9 spacing units; right?

10 A Correct.

11 Q So your testimony clarifies that these are
12 actually laid down spacing units included within this
13 map; right?

14 A Some of them. Some of them are not 100
15 percent but a lot of them off to the west are, you
16 know, not our partners. We don't have any say. They
17 were already previously set up but I'd say most of
18 them are -- are in this, yeah.

19 Q Okay. So in general there's a lot of laid
20 down development depicted in this map exhibit; right?

21 A As we move west, sure.

22 Q Yeah. I am going to move back to Exhibit
23 B4. Please bear with me. And I think that I know the
24 answer to this question, but I just want to be clear.
25 In your opinion, does this area have the same stress

1 orientation as the Turnpike development area or the
2 Daytona development area?

3 A Not the entire map, no.

4 Q Not the entire map. And so the stress
5 orientation for the analogs for the wells that you've
6 depicted on this map might differ?

7 A Yeah.

8 Q Okay. I am going to go back to your Exhibit
9 C1, and now I'm going to turn to walking through some
10 of your technical exhibits. So in C1, and actually
11 I'm going to go to C2. I apologize. There's a typo
12 here.

13 A Okay.

14 Q What kind of filtering did you do when you
15 were looking for your analogs in this study?

16 A Of course, we start with formation, looking
17 at one as the first Bone Spring wells. Second,
18 there's usually some type of year cutoff or frac
19 design cutoff. As vintages get older and older,
20 obviously they're less relevant. There's only so much
21 filtering you can do up in this area. The first one
22 there's not a ton of results, so we use a lot of our
23 experience from the south and we bring that up to the
24 north to create a type curve. So there's a lot of
25 past experience put in this, but then there's also

1 the -- the recent low results in the media era which
2 has shown in that upper rights map.

3 Q Okay. And what dates did you use for
4 filtering here?

5 A I believe this one was 2018 Jan.

6 Q Okay. And did you set any additional
7 filters besides the production date information?

8 A No, I don't think so on this group.

9 Q Okay. Moving into C3, did you use any
10 additional filters when setting these analogs?

11 A I think I'd go back a little bit further in
12 the years just 'cause again, the third bump is not
13 widely produced up in this area. Doesn't mean it's
14 not productive obviously. So again, I try to keep a
15 pretty tight area around Daytona to get the most
16 accurate result, as the third bone is pretty variable
17 up to the north. So as my geologist said, it does
18 change a little bit.

19 Q Okay.

20 A Pretty quick.

21 Q Okay. So the reservoir there, would the
22 stress orientation change as you go further to the
23 north?

24 A As you go straight north?

25 Q Yeah.

1 A No, I think the -- the stretch of
2 orientation should remain decently consistent, because
3 you're right against the shelf edge. You only have a
4 couple miles, and then you're out of the basin.

5 Q Okay. And then I think I'm missing one. No
6 I'm not missing one exhibit there. Okay. Okay. And
7 C4, here, I don't see -- this doesn't look like it
8 studies analogs; is that correct?

9 A I'm sorry, I didn't hear you.

10 Q This exhibit doesn't look like it's
11 comparing analogs; is that correct?

12 A No, this is comparing east versus west in
13 similar conditions. As similar as I could find in a
14 immediate area that should have a relatively similar
15 stress profile.

16 Q Okay. And so I want to go back to these
17 wells listed in C2 and C3. Did you study the frac
18 designs used for these wells?

19 A Yes.

20 Q Okay. Did these wells use similar pounds of
21 pressure in their frac design?

22 A I'm assuming you mean pounds per foot?

23 Q Yeah, pounds per foot. Thank you.

24 A For the most part. There might be a couple
25 outliers on the bottom end that are a little bit

1 older. But again that's where I have to use my own
2 personal knowledge. Like I said, we have some first
3 Bone wells just off this map, so they're very recent.
4 They were produced in less than eight months. So we
5 have a good idea of how this is going to perform. But
6 they should be relatively similar in terms of pounds
7 per foot. Okay.

8 Q And your study did not include any wells
9 with a first production date between 2012 and 2015;
10 correct?

11 A No.

12 Q Yeah. In your opinion, did frac design
13 significantly change from 2010 to 2018?

14 A Of course.

15 Q Yeah.

16 A Yes.

17 Q Can you explain what some of those big
18 developments were?

19 A A shift in pretty much everything you could
20 imagine. Rate, what you're pumping, pounds per foot,
21 switching from gel to slip wire was one of the biggest
22 advancements in frack technology over the last 10
23 years. Cluster spacing was probably the second
24 biggest stage lengths of change. I mean, literally
25 every single thing has changed, which is why I tried

1 to keep my other study, like, for, like, keeping the
2 same 2012 to 2015 wells.

3 Q Okay. Okay.

4 A If there was a 18 to 24 study like that, I
5 would do it but there's -- people that just aren't
6 drilling east west this time.

7 Q And does frac design significantly impact
8 production that can come from a well?

9 A Yes, of course.

10 Q Yeah. Is it one of the largest variables in
11 what can change production from a well?

12 A Yeah, I would say so.

13 Q Okay. So comparing frac designs from a 2012
14 well could result in really low production values
15 compared to a well drilled in 2018?

16 A Of course. I would never do that.

17 Q Okay. Okay. Let's look at these wells
18 included in Exhibit C4 that you included for -- you
19 say you looked at a couple laydown wells, right, for
20 this exhibit?

21 A Yeah. I believe there's six or seven.

22 Q Six or seven laydown wells. And where are
23 those located?

24 A About three miles east of Daytona.

25 Q Okay. About three miles east. So you did

1 not move west. You decided to move east, for picking
2 your analogs that you used in this study?

3 A Again, this was the only area for a life
4 flag study with enough wells to compare east west
5 production versus north south production with a
6 similar frac design. As you stated, and I agreed to
7 earlier, I don't want to compare 2012 wells to the
8 wells that are being drilled today. That doesn't make
9 sense. Production is completely different.

10 Q Is the geology analogous to the east?

11 MR. HOLLIDAY: Objection. This is a
12 reservoir engineering expert. Ms. Bradfute's had
13 plenty of opportunity to speak to our geologist.

14 MS. BRADFUTE: You know, and honestly
15 this is his exhibit that he put together, Mr. Hearing
16 Examiner. And it's his analogs that he picked for
17 this exhibit. I would not have asked the geologist
18 about the reservoir engineer's exhibit.

19 THE HEARING EXAMINER: Okay.
20 Mr. Kelly, you put this exhibit together?

21 THE WITNESS: I did. With the help of
22 my geologist, obviously.

23 THE HEARING EXAMINER: I'll leave it to
24 you if you feel like you can answer the question
25 accurately, then you answer it. If you can't answer

1 it, say you don't know, we'll move on.

2 THE WITNESS: I'll refer to my
3 geologist.

4 THE HEARING EXAMINER: But she hasn't
5 asked the question yet.

6 THE WITNESS: All right.

7 BY MS. BRADFUTE:

8 Q Okay. Mr. Kelly, did you confer with your
9 your geologist in creating slide C4?

10 A Yes, I did.

11 Q Okay. And did he provide you information
12 about the geology in the analog wells, that you used
13 for your study in this slide?

14 A Yes, he did.

15 Q Okay. And what did he tell you about the
16 geology to the east of the Daytona spacing unit?

17 MR. HOLLIDAY: I'm going to reiterate
18 the same objection. This is calling for number one,
19 that's hearsay, because he is asking what someone else
20 said. And number two, that is a question that is
21 appropriate for our geology expert.

22 MS. BRADFUTE: Well, can I just --

23 THE HEARING EXAMINER: Hold on,
24 Ms. Bradfute. First of all, Mr. Holliday, as you
25 know, hearsay is admissible in an administrative

1 hearing but that was a nice try. But Ms. Bradfute,
2 where are you going with this line of questioning,
3 because he's not the geologist. So where are you
4 going with this?

5 MS. BRADFUTE: You know, the geology to
6 the east of these spacing units is different. I could
7 recall the geologist and ask him these questions,
8 maybe that would be more advisable.

9 MS. BRADFUTE: Yeah, let me do that.

10 THE HEARING EXAMINER: So can we just
11 focus on questions where he's the expert? Because
12 otherwise his opinion is really not worth anything to
13 our technical examiners.

14 MS. BRADFUTE: Okay. Absolutely.
15 Thank you for that.

16 BY MS. BRADFUTE:

17 Q Okay. In looking at C4, as you move to the
18 south, in your opinion does production from those
19 wells tend to improve?

20 A Yes.

21 MS. BRADFUTE: And that concludes my
22 questions. Thank you so much.

23 THE WITNESS: Sure.

24 THE HEARING EXAMINER: Mr. Feldewert.

25 MR. FELDEWERT: If you can drive, I can

1 probably use what you did.

2 MS. BRADFUTE: Yeah.

3 MR. FELDEWERT: Leave it up there.

4 CROSS-EXAMINATION

5 BY MR. FELDEWERT:

6 Q So, Mr. Kelly, I'm looking at this Avant
7 Exhibit C4.

8 A Okay.

9 Q Now, if I'm understanding it, the wells that
10 you compared are to the east shown in red?

11 A Yes, red and green.

12 THE HEARING EXAMINER: Mr. Feldewert,
13 your microphone.

14 MR. FELDEWERT: Oh, I'm sorry. Thank
15 you.

16 BY MR. FELDEWERT:

17 Q In the study areas that show up here on C4,
18 if I'm looking at it correctly, this is roughly within
19 two miles of Matador's proposed standup unit?

20 A That's correct.

21 Q Okay. So in that area, looking in that
22 area, is that a similar geology situation?

23 A It's a similar geology situation between the
24 wells I looked at. Again, I'm not going to testify as
25 to if it's similar to Daytona. We're going to leave

1 that to the geologist.

2 Q Okay. Similar stress orientations in the
3 area that you looked at?

4 A Yeah, that I've seen.

5 Q Okay. And would you expect, based on your
6 understanding, that stress orientation that you looked
7 at would be similar to where your Daytona well and
8 MRC, Bobby Pickard wells are going to be?

9 A My opinion, it should be pretty close, yes.

10 Q Okay. If the stress orientation in this
11 area was 45 degrees as suggested by Cimarex, would you
12 see this what you called massive reduction in
13 performance?

14 A No.

15 Q Okay. Is that then, because of this hard
16 data, that's why you've proposed a standup spacing
17 unit; right?

18 A That is correct.

19 Q And in fact you've then, according to this
20 exhibit, likewise seek to develop a standup spacing
21 unit right next door with your Speedmaster Unit?

22 A Correct? Actually we have two units, and we
23 already have approved permits and pooling on Royal
24 Oak. And we will be drilling that early next year,
25 so.

1 Q So based on his hard data, you determined
2 that standup units were necessary to prevent waste?

3 A Correct.

4 Q Okay. And so in your opinion, if you drill
5 laydown units in this area, is there going to be waste
6 of resources?

7 A Yes. Okay.

8 MR. FELDEWERT: Then if I go to C5. If
9 you could bring that up. Thank you. C5.

10 MS. BRADFUTE: This is not C5? Oh,
11 hold on.

12 MR. FELDEWERT: I can share it if I
13 need to.

14 MS. BRADFUTE: Oh, it's up there Mike.
15 It lagged.

16 MR. FELDEWERT: Okay. Great. Thank
17 you. Thank you.

18 BY MR. FELDEWERT:

19 Q When I look at the orientation represented
20 on this map, it appears that I think you say at least
21 since 20, 95 percent of the wells and those operators
22 agree that standup orientation is necessary to prevent
23 waste?

24 Q That is correct.

25 A Okay. Now to be fair, if I go back to

1 Exhibit B4, I think you talked about that a little bit
2 with counsel.

3 MR. FELDEWERT: B4, B as in boy. There
4 we go. There is a lag.

5 MS. BRADFUTE: Yeah, there's a delay.

6 MR. FELDEWERT: Okay. Got it.

7 BY MR. FELDEWERT:

8 Q You see where your text box is down there on
9 the left, left-hand side?

10 A Yes.

11 Q Okay. You mentioned that that's an area
12 that it would appear, the orient, the stress
13 orientation starts to change?

14 A Correct. I mean, like I said, it's
15 constantly changing as we move through the basin of
16 the west and --

17 Q To the west.

18 A Yeah. As we get to -- to that area near
19 Eddy County, it starts to get closer or almost dead on
20 45 degrees in our opinion.

21 Q Okay, and that's what roughly one, two,
22 three, four, five, six, seven, eight miles away or
23 more?

24 A Yeah, that's correct.

25 Q Okay. But then when I look at the wells,

1 and showing on here in 18 south, 34 east and the wells
2 in 19 south, 34 east, we see a consistent standup
3 orientation; right?

4 A That's correct.

5 Q Okay. And that's what you talked about.
6 You believe that's the same stress orientation that
7 drove those standup wells, extends northward?

8 A Correct.

9 Q Okay. Because you said it was what up
10 against the --

11 A Basin edge there that -- actually the black
12 line on this -- on this map is where we feel like the
13 basin edge is.

14 Q Okay. Got it. Okay. And in your opinion
15 as a expert in petroleum engineering is the type of
16 evidence that you presented and that's depicted on
17 here in terms of orientation and the degradation, is
18 that the type of information that dictates the
19 orientation of the wells?

20 A Yes, it does.

21 Q And does that as an expert, indicate to you,
22 that in order to prevent waste in the subject area,
23 the area we're at, that you need to have standup
24 orientation?

25 A I Do.

1 Q Okay.

2 MR. FELDEWERT: Thank you. That's all
3 the questions.

4 THE HEARING EXAMINER: Mr. McClure.

5 MR. MCCLURE: Thank you, Mr. Hearing
6 Examiner. I do have a few questions for Mr. Kelly.
7 Mr. Kelly, if I can direct your attention to page 129,
8 your exhibit C4. I guess, sir, on this, I mean, a lot
9 of my questions, I guess, have been somewhat covered.
10 But I just prefer to have a clean understanding what
11 we're looking at here. In your map that's on the
12 right-hand side. The green wells depicted there is
13 the north south that was used in creating that graph
14 on the left, is that correct?

15 THE WITNESS: That is correct.

16 UNASSIGNED: And then, the red wells is
17 the wells that were used in creating that red line in
18 the graft to the left, correct?

19 THE WITNESS: That is correct.

20 MR. MCCLURE: And I believe you've
21 already spoken to this, but confirm all the wells used
22 here was drilled between 2012 and 2015?

23 THE WITNESS: Yes, that is correct.

24 MR. MCCLURE: And that's including both
25 the north south and east west wells?

1 THE WITNESS: Yes sir, that's correct.

2 MR. MCCLURE: Okay. I don't know if
3 you have it broke down anywhere here in the exhibits,
4 but are you aware of whether those six north south
5 wells that are north of the east west wells -- are you
6 aware of whether their production is less or more than
7 the north south wells to the southern area there?

8 THE WITNESS: They are on the -- on the
9 left side, yeah. Then the southern most wells? Yeah,
10 those would be on the bottom end of production.

11 MR. MCCLURE: Do you know how they
12 compare to percentage wise?

13 THE WITNESS: I apologize. I do not,
14 off the top of my head.

15 MR. MCCLURE: Now, when you were
16 referencing the sub wells in your comparison, are you
17 referencing, like, those eight wells that's clear to
18 the southern end of that map, or are you talking about
19 the ones near the east west wells?

20 THE WITNESS: I'd say the ones on the
21 southern end of the map there.

22 MR. MCCLURE: Are the ones on the
23 southern end of the map significant or -- so the
24 production is greater in the map in the wells to the
25 southern end than in the north south in the middle; is

1 that correct?

2 THE WITNESS: I think -- yeah, I would
3 say that's correct.

4 MR. MCCLURE: But you're unsure as to
5 a, like, percentage, I guess?

6 MR. KELLY: Yeah. I apologize. I
7 don't -- I don't have that percentage between the --
8 the north and the south on the top of my head here.

9 UNASSIGNED: Do you have a list of all
10 these welds, the weldings and API numbers that was
11 used? Is that broke out anywhere here?

12 THE WITNESS: Not in the exhibit
13 packet. I -- we can add it in if -- if needed.

14 MR. MCCLURE: That part will be one
15 thing I -- I ask you to include. But we'll -- we'll
16 get to that at the -- whatever the hearing examiner
17 feels is most appropriate. I thank you Mr. Kelly.
18 Thank you, Mr. Hearing Examiner. I have no further
19 questions.

20 THE HEARING EXAMINER: Mr. Holliday, is
21 there any redirect for this witness?

22 MR. HOLLIDAY: No sir.

23 THE HEARING EXAMINER: All right.
24 Thank you. You may be excused. Let's recall
25 Mr. Harper, please. Ms. Bradfute.

1 MS. BRADFUTE: Thank you Mr. Examiner.

2 THE HEARING EXAMINER: You're still
3 under oath, Mr. Harper.

4 THE WITNESS: Excuse me.

5 THE HEARING EXAMINER: You're still
6 under oath?

7 THE WITNESS: Oh, yes.

8 RECROSS EXAMINATION

9 BY MS. BRADFUTE:

10 Q Thank you, Mr. Harper. If you could please
11 look at Avant's Exhibit C4. Is this an exhibit that
12 you helped AVOs reservoir engineer put together?

13 A Yes.

14 Q And I'd like to focus on the geology going
15 to the east of the Daytona and Turnpike spacing units.
16 Did you study the geology underlying the spacing unit
17 shown in this slide, underlying the well shown?

18 A Yes, underlying the well shown in this area,
19 yes.

20 Q Okay. Okay. And was this area geologically
21 consistent with the area that you studied in your
22 exhibits included under Exhibit B?

23 A No, the geology changes significantly across
24 the basin.

25 Q Okay.

1 A Miles -- 10 miles, two miles.

2 Q Okay.

3 A I used this well set, because I thought this
4 well set at the appropriate geological components that
5 represent the Daytona prospect.

6 Q Okay. And earlier, during cross-examination
7 with MRC's counsel, you did discuss an area of review
8 that you had put together. Let me pull up the
9 exhibit, Exhibit B4. Do you remember that testimony?

10 A Yes.

11 Q And did you testify that this area was
12 geologically consistent, that you had studied?

13 A Relatively, yes.

14 Q Relatively. Okay. I want to make sure I
15 understand your testimony consistently between your
16 study that you put together and Mr. Kelly's study that
17 we just looked at. So this study, you're saying it's
18 relatively geologically consistent with the spacing
19 unit that you've proposed; right?

20 A This exhibit is a cross-section locator map
21 showing the type wells is used in the -- in the
22 proceeding slides. It also shows the activity in the
23 area for horizontal and vertical development. The
24 relatively geology, both structurally and
25 stratigraphically in this area is representative. But

1 to be more specific in Mr. Kelly's first Bone and
2 third Bone Spring sand type curve maps, I used the
3 applicable type curve wells that would denoted to be
4 geology -- geology of that unit in that area.

5 Q Okay. Okay. And how does the geology from
6 that slide compare to your study, your geologic study
7 of the area shown in Exhibit C4?

8 A Could you be more specific in terms of what
9 geology you are referencing?

10 Q Yeah. You just testified that you did study
11 the geology underlying the wells shown in the diagram
12 in the upper right-hand corner of this slide; correct?

13 A Yes.

14 Q Okay. So is this geology consistent with
15 the geology that you reviewed in Exhibit B4, you just
16 testified about

17 A It is related to it, yes. This well set is
18 based on wells that were drilled in the same target in
19 similar rock type, at similar depths, temperatures and
20 pressures and stress orientations.

21 Q Okay. And did you look for any faulting
22 pinch-outs, that type of information as you looked at
23 these wells shown in Exhibit C4, on the diagram?

24 A The data that I have, yes.

25 Q With the data that you have. What about pH

1 levels, porosity times height, is that consistent
2 throughout this area shown in the diagram?

3 A Can you repeat that question?

4 Q Yeah. What about pH levels, porosity times
5 height; is that consistent?

6 A It's -- it changes based on what porosity,
7 what cutoffs you use, what tops you pick to the
8 certain height of whether it's the gross interval or
9 specific target interval. So it -- it changes.

10 Q Okay. And those changes can change
11 production from wells; correct?

12 A Sure.

13 Q Okay.

14 A That's why we use a localized subset to keep
15 the data as consistent as possible, i.e., these wells,
16 this map.

17 Q Okay. Does the geology change as you move
18 to the east?

19 A Yes.

20 Q Okay. And how so?

21 A Depth pressure, temperature, stress,
22 thickness, porosity, I mean --

23 Q Okay. And does the stress orientation
24 rotate around the subject lands, in your application,
25 the Daytona units?

1 A Stress rotates around the Permian Basin.

2 Q Okay. Okay. I think I'm just going to get
3 a general answer there.

4 MS. BRADFUTE: So I'm done. Thank you.

5 MR. FELDEWERT: I have a question if I
6 may?

7 THE HEARING EXAMINER: To this witness?
8 yeah.

9 MR. FELDEWERT: Yeah. Where's exhibit
10 B four?

11 MS. BRADFUTE: B4?

12 MR. FELDEWERT: B4, yeah.

13 MS. BRADFUTE: Oh, sorry. There's a
14 lag.

15 RE CROSS EXAMINATION

16 BY MR. FELDEWERT:

17 Q I know Cimarex's council want to keep it
18 very general. But when you say the stress orientation
19 rotates around the Permian Basin, I want to get a
20 little more specific. Okay? All right. When I look
21 at where the Daytona area is, as I start moving west
22 and I get to the western end of 18 south 33 east,
23 okay, does that have a different -- as you start
24 moving west from there, is that a different stress
25 orientation?

1 A Yes. I previously -- previously stated, I
2 would say the stress, and obviously the map from Snee
3 and Zoback, would show that the stress does change
4 from the western edge of this map to the eastern edge
5 of this map.

6 Q Got it. Okay. And to get more specific
7 then, when you look at all the data you've looked at,
8 when you look at the stress orientation for the
9 subject area here, okay, is that stress orientation at
10 that location with the subject acreage, is that the
11 orientation that requires standup wells?

12 A It is my professional opinion that in this
13 Daytona Turnpike, five cart area, which is greater
14 than 45 degrees, would benefit from a north south
15 development.

16 Q Okay. And if I ask that same question as
17 you go over there now to the west end where you said
18 it starts to change, okay, is that an area where then
19 the orientation of the wells is less important?

20 A I would agree with that statement, yes. I
21 think you could go either direction, east, west, north
22 or south.

23 Q Okay.

24 MR. FELDEWERT: That's all the
25 questions I have. Thank you

1 THE HEARING EXAMINER: Mr. Holliday.
2 This is your witness. Do you have any redirect based
3 on those additional questions?

4 MR. HOLLIDAY: No, sir.

5 THE HEARING EXAMINER: Okay. You may
6 be excused. Okay. Mr. Holliday, does that conclude
7 your case in chief?

8 MR. HOLLIDAY: It does. Thank you.

9 THE HEARING EXAMINER: Thank you.
10 Okay. Ms. Bradfute, Mr. Feldewert, who's going next?

11 MR. FELDEWERT: I think it's us.

12 THE HEARING EXAMINER: Mr. Feldewert,
13 who are your witnesses?

14 MR. FELDEWERT: I have three. Okay.
15 I'm going to first call Clay Wooten, who is the
16 landman?

17 THE HEARING EXAMINER: Okay. Let's get
18 them all. I see Mr. Parker, Schulz and Wooten. Can
19 we get all three of you up here and swear you in at
20 the same time, please?

21 MR. FELDEWERT: Now, Mr. Schulz is
22 appearing remotely. That's fine.

23 THE HEARING EXAMINER: Okay. As long
24 as he'll raise his hand and turn his camera on. We'll
25 be okay. Mr. Schulz, are you with us?

1 MR. SCHULZ: Yes, I'm here.

2 THE HEARING EXAMINER: Would you turn
3 your camera on?

4 MR. SCHULZ: Yes, I believe we just
5 turned it on. Can you see me now?

6 THE HEARING EXAMINER: Not yet, but --
7 there we go. Mr. Feldewert, is that Mr. Schulz? It
8 says "Matador unverified."

9 MR. FELDEWERT: He's in the Matador
10 office.

11 THE HEARING EXAMINER: Very good.

12 MR. FELDEWERT: Yeah.

13 THE HEARING EXAMINER: Mr. Schulz,
14 would you state and spell your name for the record,
15 please?

16 MR. SCHULTZ: Tanner Schulz.
17 T-A-N-N-E-R-S-C-H-U-L-Z.

18 THE HEARING EXAMINER: And you've been
19 qualified as an expert in what field before this
20 division?

21 MR. SCHULZ: Drill engineering.

22 THE HEARING EXAMINER: Okay. Great,
23 sir. Okay. Now do we have Mr. Parker? That's you.
24 Would you please state and spell your name for the
25 record?

1 MR. PARKER: Andrew Parker.

2 A-N-D-R-E-W-P-A-R-K-E-R.

3 THE HEARING EXAMINER: And you've been
4 previously qualified as a geologist?

5 MR. PARKER: Thank you.

6 THE HEARING EXAMINER: And that is
7 Mr. Wooten? How do you spell -- oh, well, you'll tell
8 us now.

9 MR. WOOTEN: Yeah.

10 THE HEARING EXAMINER: Will you state
11 and spell your name for the record?

12 MR. WOOTEN: It's Clay Wooten,
13 C-L-A-Y-W-O-O-T-E-N.

14 THE HEARING EXAMINER: And you've been
15 previously qualified in what field?

16 MR. WOOTEN: Landman.

17 THE HEARING EXAMINER: Landman. Okay.
18 Very good. Would all three of you please raise your
19 hands, the right hand please. Do you swear or affirm
20 under penalty of perjury the testimony you're about to
21 give is the truth, the whole truth, and nothing but
22 the truth? I heard yes from all three.

23 Mr. Feldewert, who do I start with?

24 MR. FELDEWERT: Well, do I get to have
25 my opening statement? You do. Make it short and

1 sweet. Just tell me what the issues are from your
2 perspective?

3 MR. FELDEWERT: Certainly. So the
4 debate here between MRC and Cimarex is the development
5 of section 33. MRC has proposed a standup orientation
6 that involves Section 28 and 33. Cimarex has proposed
7 a laydown orientation across sections 32 and 33. So
8 they overlapped in section 33, where Cimarex has a
9 larger ownership than MRC. So why are we here? We're
10 here because the data, and you've seen a lot of it so
11 far, you and Mr. McClure. The data establishes that
12 standup is necessary to prevent waste. That's the
13 issue. When you look at over 99 percent of the wells
14 in the last 10 years being drilled standup in this
15 area, operators understand the necessity of it. When
16 you look at the degradation analysis that MRC has
17 presented, and the degradation analysis that they have
18 presented, when you compare standup to laydown in this
19 area, it shows standup is required to prevent waste.
20 And then we have that, that study that everybody
21 relies upon.

22 THE HEARING EXAMINER: And just to
23 clarify for the record, when you say "standup" and
24 "laydown," when the parties say this, well, standup
25 means north to south orientation of a horizontal well

1 and laydown means east to west orientation?

2 MR. FELDEWERT: Could be north south,
3 could be south north, but yes; correct.

4 THE HEARING EXAMINER: That's what it
5 means.

6 MR. FELDEWERT: Or west, yes; correct,
7 sir. Yep, exactly.

8 THE HEARING EXAMINER: Please proceed.

9 MR. FELDEWERT: So our point is that
10 since the data shows the stress orientation and what
11 you need to prevent waste, you got to look -- you
12 can't punt the ownership. The division has to look
13 beyond ownership and grant the applications that
14 provide the most efficient and effective orientation
15 that here is standup orientation. Here's why this is
16 important. As we said in our pre-hearing statement,
17 the Supreme Court has noted, "That the paramount duty
18 of this agency is to prevent waste." And that's borne
19 out by the division orders that everybody cites with
20 the criteria. When you read those orders, and if you
21 want to, I can share it.

22 THE HEARING EXAMINER: It's not
23 necessary.

24 MR. FELDEWERT: Okay.

25 THE HEARING EXAMINER: Just open the

1 argument.

2 MR. FELDEWERT: They point out that
3 here's the criteria. The first criteria you look at
4 is who's got the best plan to get the stuff out of the
5 ground; right. None of those, if that factor is a
6 wash, okay, and none of the other factors apply, then
7 you look at ownership it's controlling. Okay? So
8 what we have here is a different case than maybe what
9 you've seen in the past. And that is, we have a
10 circumstance where the evidence clearly establishes
11 that you need standup orientation to be the most
12 efficient and effective means of of getting the oil
13 and gas out of the ground. And you can only, it seems
14 to me, grant their application, Cimarex's application
15 over MRC's or even Avant's.

16 But let's just focus on MRC's. If you
17 come to the conclusion that this area that we're
18 talking about has a 45 degree orientation and,
19 therefore, you could go either direction and that is
20 not borne out by the solid hard evidence that has been
21 presented. So this is also state acreage that's
22 involved here. On our side it's all state leases,
23 state minerals. Okay. You have to be extra vigilant
24 as the agency, about making sure to prevent waste.
25 Because these are not private minerals, these are

1 state minerals.

2 Secondly, when you look at the
3 discussion we've had for the last three hours, okay, a
4 lot of it deals with, or some of it is, a big chunk of
5 it has dealt with these ownership issues that they
6 have over there in section 32. Okay? And the depth
7 severance issues that they have over there in section
8 32, that I don't think they have correctly addressed.
9 But it doesn't really matter for us because in our
10 acreage sections 28 and 33, we don't have any depth
11 severance issues. We don't have any title issues. We
12 don't have any of those issues that are cumbersome for
13 their -- for the Avant and Cimarex applications.
14 Those do not exist for our side. And so, our
15 application is not procedurally defective and can move
16 forward. Because as I raised with Cimarex's witness
17 and I said in a pre-hearing statement, I don't quite
18 understand what they're asking this division to do
19 with section 32.

20 But they certainly haven't asked the
21 division to do any kind of special pooling and they
22 certainly haven't demonstrated that they've dealt with
23 a debt severance issue that exists in section 32. We
24 don't have those issues with our application. And
25 finally, we've shown with the evidence that we've

1 already presented, that's been admitted, is that we're
2 positioned, MRC is positioned to develop this acreage,
3 this section 33, with their efficient and effective
4 standup wells without doing any surface disturbance.

5 They have their Iggles wells, which has
6 already been approved by pooling by this division.

7 There are standup wells, two-mile wells going north of
8 our acreage. Okay? There are well pads in the south,
9 half that they're using for the Iggles wells. Those
10 are the same well pads that they're going to use to
11 drill these Bobby Pickard wells. So no additional
12 well pads, they're going to use the same tank battery
13 and yes, examiner McClure, they're going to get
14 commingling approval, but they're going to use the
15 same tank battery. So we have absolutely no surface
16 disturbance.

17 So our point is this, the evidence is
18 clear, and shows that in order to prevent waste or
19 paramount duty, you can't approve a laydown
20 orientation in this particular area. You can't,
21 because it's going to cause waste. And so,
22 ownership's not controlling. What's controlling here
23 is the orientation of the wells, because that's what's
24 necessary to prevent waste. And that's why we think
25 you have to grant our application.

1 THE HEARING EXAMINER: So I have a
2 question.

3 MR. FELDEWERT: Yep.

4 THE HEARING EXAMINER: When you first
5 started this, it was my understanding that you and
6 Mr. Holliday and your clients seem to be on the same
7 side. It now sounds like they're not.

8 MR. FELDEWERT: No, we're still on the
9 same side. We're both proposing standup orientation.

10 THE HEARING EXAMINER: That's the hold
11 up?

12 MR. FELDEWERT: Yes. Okay. The hold
13 up is Cimarex. Cimarex is the only operator out there
14 proposing laydown orientation.

15 THE HEARING EXAMINER: But even if
16 Cimarex wasn't involved in this hearing, you'd still
17 have competing applications?

18 MR. FELDEWERT: No, we would not.

19 THE HEARING EXAMINER: Ah, that's what
20 I'm trying to understand. Since I'm trying to
21 understand the issues, why would you not have at that
22 point, a competing application with Avant?

23 MR. FELDEWERT: That is because our
24 application seeks to pool sections 28 and 33. Hope I
25 don't screw this up. And their application seeks to

1 pool the sections next door. Okay. They don't
2 compete, they don't overlap. What overlaps is a
3 Cimarex standalone laydown spacing unit that they, for
4 whatever reason, want to do out there where everybody
5 else has properly concluded, you got to have have
6 standup orientation.

7 THE HEARING EXAMINER: And
8 Mr. Holliday, does that accurately describe the
9 intersection between your competing applications and
10 Mr. Feldewert's competing applications, for lack of a
11 better word?

12 MR. HOLLIDAY: Correct. Avant's
13 applications compete with Cimarex's, but not MRC's.

14 THE HEARING EXAMINER: So your sections
15 are which ones?

16 MR. HOLLIDAY: 29 and 32.

17 THE HEARING EXAMINER: 29 is north, 32
18 is south; right?

19 MR. HOLLIDAY: Correct.

20 THE HEARING EXAMINER: And they buddy
21 each other; right?

22 MR. HOLLIDAY: Correct.

23 THE HEARING EXAMINER: Okay. And
24 Ms. Bradfute, which are your sections?

25 MS. BRADFUTE: Cimarex's sections are

1 section 32 and section 33.

2 THE HEARING EXAMINER: Okay. So that
3 would be next to 32 then. That's an east west sort of
4 orientation between sections?

5 MS. BRADFUTE: Yes, it's running from
6 east to west. And so, section 33 is the south path of
7 MRC's unit in section 32, yeah.

8 MR. FELDEWERT: Mr. Examiner.

9 THE HEARING EXAMINER: So you're number
10 27 and 33.

11 MR. FELDEWERT: So almost a good guess.
12 As good as mine, but I pulled a exhibit up here.

13 THE HEARING EXAMINER: Okay. Thank
14 you.

15 MR. FELDEWERT: And I should have put
16 this up earlier. So you see our unit involves 28 and
17 33. Okay, blue. Avant's unit is right next door to
18 the west 29 and 32. And there's Cimarex in orange 32
19 and 33. I should have pulled this up.

20 THE HEARING EXAMINER: That's very
21 helpful. Thank you. Okay. Who's your first witness?

22 MR. FELDEWERT: Mr. Clay Wooten.

23 //

24 //

25 //

1 WHEREUPON,

2 CLAY WOOTEN,

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

6 DIRECT EXAMINATION

7 BY MR. FELDEWERT:

8 Q Would you please state your full name,
9 identify by whom you're employed and in what capacity?

10 A It's Clay Wooten. I'm employed by MRC
11 Permian and I'm a senior landman

12 Q Okay. And you're familiar with the
13 applications filed in these competing cases?

14 A Correct.

15 Q And you're the same Clay Wooten that is
16 submitted would've been marked as Cimarex Exhibit A?

17 A Correct.

18 Q Okay. Along with the sub exhibits, one of
19 which I have up here in the screen?

20 A Correct.

21 Q Okay. And those have all been admitted,
22 Mr. Wooten. So in the interest of time, I'm not going
23 to go through all those again. I do want to ask you a
24 couple things that that came up after looking at
25 what's been filed in this case. Okay? You agree, do

1 you not, that when you look just at section 33, that
2 Cimarex has the majority ownership?

3 A That's correct.

4 Q Okay. And so, our debate here and the
5 reason we're here is because of their proposed well
6 orientation?

7 A That's correct.

8 Q Okay. Are there working interest owners in
9 section 33 that have signed your JOA for a standup
10 orientation for the wells?

11 A Yes sir. We have two owners.

12 Q Okay. Now, one of the things that Cimarex
13 filed is they noted that a company called NexGen, and
14 I think they're represented here today, signed
15 Cimarex's AFEs. And therefore, Cimarex says, "Well,
16 they're on our side." Do you see that?

17 A Yes.

18 Q Okay. Did NexGen also sign your AFEs?

19 A Yes, they did.

20 Q Okay. All right. Finally, you heard me
21 talk about the Iggles wells?

22 A Yes, sir.

23 Q Okay. Can you confirm that the company
24 intends to use -- well, let me step back. The pads
25 for those wells, if I looked at exhibit A7, are going

1 to be up here in south half of section 21?

2 A Yes, sir.

3 Q Okay. And you intend to use the same well
4 pads the drill north to south 28 through 33?

5 A Yes, sir.

6 Q And use the same tank batteries?

7 A Yes, sir.

8 Q So no additional surface disturbance
9 necessary?

10 A No, sir.

11 Q Okay.

12 MR. FELDEWERT: That's all the
13 questions I have. Thank you.

14 THE HEARING EXAMINER: Mr. Holliday.

15 MR. HOLLIDAY: I don't have any
16 questions.

17 THE HEARING EXAMINER: Mr. Bradfute.

18 CROSS EXAMINATION

19 BY MS. BRADFUTE:

20 Q Good afternoon, Mr. Wooten.

21 A Good afternoon.

22 MS. BRADFUTE: Mike, do you want to let
23 me drive or do you want to drive?

24 MR. FELDEWERT: It's up to you. Do you
25 want to drive?

1 BY MS. BRADFUTE:

2 Q Can you turn to page 105 of MRC's exhibit
3 packet?

4 A Yes.

5 Q And it's exhibit A3 for MRC. Thank you.

6 MR. FELDEWERT: Tell you what. I'm
7 going to let you drive.

8 MS. BRADFUTE: Okay. I will drive. So
9 you want to stop sharing?

10 MR. FELDEWERT: Yes.

11 BY MS. BRADFUTE:

12 Q I just want to run through MRC's ownership
13 exhibits. Is this an exhibit that you prepared?

14 A Yes, ma'am.

15 Q Okay. And in this exhibit, does it show
16 that in case number 24760, MRC owns 50 percent of the
17 working interest? Is that correct?

18 A Yes, ma'am.

19 Q And you're seeking to pool 50 percent?

20 A Yes, ma'am.

21 Q Okay. The next one, turn to that next page
22 of this exhibit. Well, two pages. I want to look at
23 the summary of interest for case number 24761. Does
24 this show that MRC only owns a little bit above 25
25 percent of the working interest in this well?

1 A Yes, ma'am.

2 Q And it seeks to pool almost 75 percent of
3 the interest in the spacing unit?

4 A Close to 75.

5 Q Okay. I could go all the way through these
6 slides, but is it your opinion that MRC is seeking to
7 pull anywhere from 50 to 75 percent of the interest
8 for each one of its spacing units?

9 A Depending on the spacing units; correct.

10 Q Okay. So you're trying to pool essentially
11 half or two thirds of the interest owners in order to
12 put together a development plan; right?

13 A Right.

14 Q Do you happen to know what Magnum Hunter's
15 working interest percentage is within the Bone Spring
16 formation within section 33?

17 A Bone Spring, for the whole 1280, I'm -- I'm
18 not a hundred percent sure. I think it's roughly,
19 like, 35 percent, around there.

20 Q Okay. And does MRC own anything within the
21 Wolfcamp formation in section 33?

22 A No, we do not in 33.

23 Q Okay. And so, you don't have any minerals
24 in section 33, within the Wolfcamp?

25 A As of right now, no.

1 Q Okay. And what is MRC's mineral ownership
2 in the Bone Spring formation In section 33?

3 A We have 99 acres, roughly 99 acres.

4 Q So is that approximately 14 percent of a
5 640-acre unit?

6 A That's -- that's close.

7 Q Yeah. Okay. And it's a 640-acre section.
8 So you're looking at 14 percent ownership and one
9 formation in that section?

10 A Correct.

11 Q Okay. Turn to exhibit A4. Please bear with
12 me. Okay. Is this exhibit MRC's notice letter or
13 well proposal letter?

14 A The well proposal letter, yes.

15 Q Okay. And within MRC's well proposal
16 letter, do you list a number of wells not included in
17 your pooling applications?

18 A Yes, that's correct.

19 Q So is MRC listing both its initial wells and
20 its infill well development, as a proposal to working
21 interest owners?

22 A On the initial proposals?

23 Q Yeah, in the proposal letter? Yeah.
24 Absolutely. Okay. Is that a fairly common practice
25 for operators to engage in right now?

1 A I can't speak to everybody.

2 Q Yeah. Okay. Did you review and receive the
3 well proposal letters from Cimarex, from Magnum
4 Hunter?

5 A Yes, I received multiple different
6 variations of them.

7 Q Okay. And did Cimarex also propose both its
8 initial wells and info wells within its well proposal
9 letter sent to MRC?

10 A I believe so.

11 Q Okay. So in this case, both companies seem
12 to be proposing their full development plan within
13 their rare well proposals?

14 MR. FELDEWERT: Objection.

15 MS. BRADFUTE: That's fine.

16 THE HEARING EXAMINER: What's the basis
17 of the objection?

18 MR. FELDEWERT: Is that a question to
19 him?

20 MS. BRADFUTE: Yes. Yes, it was a
21 question.

22 THE HEARING EXAMINER: What was the
23 question, Ms. Bradfute?

24 MS. BRADFUTE: The question is are both
25 companies, MRC and Cimarex proposing both initial and

1 infill well development and their well proposal
2 letter?

3 THE HEARING EXAMINER: After he answers
4 the question, is there still an objection?

5 MR. FELDEWERT: Yeah. So I don't know.
6 He doesn't have knowledge what Cimarex is seeking to
7 propose by sending out their letters, and whether it's
8 their full development plan or not. And MRC's letter
9 simply is a well proposal letter to start the
10 discussions. It doesn't necessarily represent their
11 full development plan.

12 THE HEARING EXAMINER: Ms. Bradfute.

13 MS. BRADFUTE: He had just previously
14 testified on this subject about reviewing Magnum
15 Hunter's well proposal letters and offered testimony
16 on what were the initial wells and what's being
17 proposed in the pooling cases. So this was just a
18 confirming question. I can withdraw the question.

19 THE HEARING EXAMINER: But then you
20 already have the answer.

21 MS. BRADFUTE: I do. I do.

22 THE HEARING EXAMINER: Then the
23 objection is sustained.

24 MS. BRADFUTE: Yeah.

25 THE HEARING EXAMINER: Mostly based on

1 the fact that you already know the answer, and you're
2 just asking him to repeat the same information.

3 MS. BRADFUTE: Yeah.

4 THE HEARING EXAMINER: This is going to
5 take a lot longer than it needs to if we do a lot of
6 that.

7 MS. BRADFUTE: Yeah. I'll try to limit
8 that. Thank you.

9 MR. FELDEWERT: Thank you.

10 BY MS. BRADFUTE:

11 Q Is MRC proposing any wells within the first
12 Bone Spring sand?

13 A At this time, we -- we do not have those
14 proposals.

15 Q Okay. And is MRC proposing any wells within
16 the upper second Bone Spring?

17 A To my knowledge, I -- I don't believe so.

18 Q Did MRC send out Joint Operating Agreements
19 to all the working interest owners in its proposed
20 spacing units?

21 A We sent a follow up letter, and we sent up
22 the JOA to everybody.

23 Q Okay. And did those Joint Operating
24 Agreements contain an Exhibit A?

25 A You can -- I'm -- I'm sorry, what's your

1 question.

2 Q Yeah. Did those Joint, Operating Agreements
3 that you sent out, contain an Exhibit A?

4 A They all contain Exhibit As, yes.

5 Q Okay. And did the Exhibit As that you sent
6 out contain a list of ownership percentages that were
7 owned by the interest owners in the spacing units?

8 A No.

9 Q Why not?

10 A They weren't final title. That final title
11 verification wasn't done just yet.

12 Q How many working interest owners has MRC had
13 that have executed a JOA within the spacing units?

14 A Two.

15 Q Two. Is this MRC's normal practice to send
16 a joint operating agreement with an incomplete Exhibit
17 A, that doesn't list the ownership?

18 A It varies from case to case.

19 Q Okay. Do -- well, strike that. Would MRC
20 execute a joint operating agreement with an attached
21 Exhibit A that did not contain the ownership
22 information?

23 A That hypothetically if we were not on that?
24 I'm not sure.

25 Q You're not sure. Has MRC ever executed to

1 your knowledge -- have you, in your capacity as a
2 landman, received approval to execute a joint
3 operating agreement with an Exhibit A that doesn't
4 list MRC's ownership percentage?

5 A If I have title verification?

6 Q If you have title verification.

7 A Yes.

8 Q Did MRC give title verification to the
9 interest owners that it sent Joint Operating
10 Agreements to in these cases?

11 A To the owners that ask, I provided the title
12 information that I had.

13 Q Okay. Okay.

14 MS. BRADFUTE: And that concludes my
15 questions. Thank you.

16 THE HEARING EXAMINER: Thank you,
17 Ms. Bradfute. Let's go to Mr. McClure.

18 MR. MCCLURE: Thank you, Mr. Hearing
19 Examiner. Well, I would like it from Mr. Feldewert,
20 but I'll start with Mr. Wooten. Mr. Wooten, was the
21 notice letters and Affidavit of Publication prepared
22 by yourself or under your guidance, or were they done
23 by Mr. Feldewert in his office?

24 THE WITNESS: It was done by our
25 outside counsel.

1 MR. MCCLURE: Okay. Thank you, sir.
2 And Mr. Feldewert, can I call your attention to page
3 214. It should be the first of the notice letters
4 sent out.

5 MR. FELDEWERT: Let me get there real
6 quick.

7 MR. MCCLURE: Yes, sir. What date was
8 this notice sent out on?

9 MR. FELDEWERT: The letter says October
10 18th.

11 MR. MCCLURE: And you believe that's
12 when it was -- I mean, you believe that's when it
13 would've been mailed out?

14 MR. FELDEWERT: Yeah. I'm trying to
15 remember whether -- I think we waited until there was
16 a hearing date or these were on the docket, but yes.

17 MR. MCCLURE: And was there any written
18 notice sent prior to this?

19 MR. FELDEWERT: I'd have to look in the
20 file. I do not recall off the top of my head.

21 MR. MCCLURE: Are you in agreement that
22 written notice needs to be provided 20 days prior to
23 the day of hearing?

24 MR. FELDEWERT: Yes. So let me figure
25 out what happened here. Oh, I know what happened.

1 Okay. So if you go up further into that exhibit,
2 looks like there's a letter dated September 18, 2024.
3 Yeah. So Mr. McClure, to answer your question, and I
4 apologize. I wasn't prepared for it. It looks like
5 we had an initial round of notice go out on September
6 18th. And then, yeah, because I referenced letters in
7 my affidavit. So we had an initial round of notice
8 that went out September 18th and another round of
9 notice that went out in October.

10 MR. MCCLURE: Do you know what was the
11 reason for the second notice?

12 MR. FELDEWERT: There were some
13 additional owners that were located.

14 MR. MCCLURE: Okay. So then would it
15 be accurate to say that the October 18th notice is
16 required to complete the notice for your application
17 then?

18 MR. FELDEWERT: To the particular
19 parties that it affects; correct.

20 MR. MCCLURE: And those particular
21 parties are required to have been noticed of this
22 application; is that correct?

23 MR. FELDEWERT: Certainly.

24 MR. MCCLURE: I'm sorry, Mr. Feldewert,
25 I didn't hear that.

1 MR. FELDEWERT: Yes. Yes.

2 MR. MCCLURE: So then, to complete
3 Matador's notification, would this then need to run
4 for and additional two days, or am I misunderstanding
5 something?

6 MR. FELDEWERT: Oh, I haven't done the
7 counting. I'll take your your word for it, but you
8 might be correct there.

9 MR. MCCLURE: Let me look at it again.
10 Yeah, I think it's the 16th is what I believe the
11 written would've had to go out. Having said that,
12 Mr. Hearing Examiner, you want to continue; correct.
13 Now we're going about questioning opening.

14 THE HEARING EXAMINER: Well, I agree
15 that if the October 18th notice was required to advise
16 certain interest owners and it's not sufficient under
17 the 20-day rule, I don't know how we can cure that.
18 And, of course, we'll see. Do you have more
19 questions, Mr. McClure, for this witness?

20 MR. MCCLURE: For -- for the landman or
21 for Mr. Feldewert, at this time, I have no further
22 questions.

23 THE HEARING EXAMINER: Okay. Thank
24 you. Let's finish with this witness before we discuss
25 the notice issue. Okay. So Mr. Feldewert, do you

1 have any redirect for this witness?

2 MR. FELDEWERT: Just briefly.

3 REDIRECT EXAMINATION

4 BY MR. FELDEWERT:

5 Q If I go to -- I think you were looking at
6 page 7, and you were directed to page 108 of that.
7 And I know, Mr. Wooten, there were some discussions
8 about the parties and the percentage that MRC was
9 pooling. Do you recall that?

10 A Yes, sir.

11 Q Okay. Marathon has a big interest in this
12 acreage, correct?

13 A Correct.

14 Q Okay. And have you had discussions with
15 Marathon about this?

16 A We have. We've had ongoing discussions with
17 them.

18 Q Okay. And they have not objected to your
19 pooling efforts?

20 A They have not objected.

21 Q Okay. The only party that's objected is
22 Cimarex?

23 A To my knowledge; yes, sir.

24 Q Okay.

25 MR. FELDEWERT: Thank you. That's all

1 the questions I have.

2 THE HEARING EXAMINER: All right. Is
3 there any cross-examination on that question from
4 either party? No. Okay. Sounds good. You may be
5 excused. Okay. Mr. Feldewert, have you given any
6 consideration to the notice issue?

7 MR. FELDEWERT: Well, if we're two days
8 too late, and I will certainly have to go out and
9 confirm that. But if we're two days too late, we can
10 certainly have these matters on the next division
11 docket and see if anybody appears. I doubt that's the
12 case. In fact, it may be that these were overrides,
13 but I don't know that for sure.

14 THE HEARING EXAMINER: Right. Okay.

15 MR. FELDEWERT: So it seems to me it's
16 easy to cure by just having the cases called on or
17 listed on the next docket and then we're fine.

18 THE HEARING EXAMINER: By my
19 calculation, 20 days, the mail out -- it was mailed
20 out, I think you said October 18, or the letter said
21 October 18, if I'm not mistaken.

22 MR. FELDEWERT: Uh-huh.

23 THE HEARING EXAMINER: Okay. So we
24 don't count the October 18 day. And then, we start
25 counting 19, so one two, three -- yeah, the 20th day

1 should be the 7th, by my calculations and you guys
2 should double check on that.

3 MR. FELDEWERT: Which would have been
4 your regular hearing.

5 THE HEARING EXAMINER: Which would be
6 our regular hearing.

7 MR. FELDEWERT: So I'm sitting here
8 thinking.

9 THE HEARING EXAMINER: Mr. Holliday,
10 your position.

11 MR. HOLLIDAY: I think the position
12 proffered by Mr. Feldewert is acceptable to Avant to
13 list it on the next docket, reopen it. And the way I
14 understand it is, the case will be reopened if someone
15 appeared, and we could proceed today. That would be
16 our preference.

17 THE HEARING EXAMINER: Well, all the
18 cases will have to be continued to that docket. We'll
19 put them at a status conference for that docket.
20 Because hopefully by then, the testimony will be over
21 and we'll see if anyone objects, or et cetera.
22 Ms. Bradfute, your position?

23 MS. BRADFUTE: Yes. I did have a
24 clarifying question about the notice letters,
25 Mr. Hearing Examiner, so.

1 THE HEARING EXAMINER: Sure. Who are
2 you asking the question to?

3 MS. BRADFUTE: To Mr. Feldewert?

4 THE HEARING EXAMINER: Okay.

5 MS. BRADFUTE: Were the October 18th
6 notice letters, your general notice letters that you
7 sent out for the November 5th hearing, or was it just
8 a couple interest owners?

9 MR. FELDEWERT: Good question. I don't
10 know.

11 MS. BRADFUTE: Okay. Because I'm not
12 sure if it impacts everybody, and it was just notice
13 letters that were sent out advising of the November,
14 5th docket date.

15 MR. FELDEWERT: That could very -- you
16 know, I think I'm shooting in the dark here. I don't
17 know.

18 MS. BRADFUTE: Okay.

19 MR. FELDEWERT: Because I do notice
20 that the first letter referenced a different hearing
21 date.

22 MS. BRADFUTE: Okay.

23 MR. FELDEWERT: So I think we need to
24 check into that. But either way -- and it may only
25 impact a very few number of people. I don't know.

1 THE HEARING EXAMINER: So Ms. Bradfute,
2 I don't know that I understand your position.

3 MS. BRADFUTE: Sorry. I was trying to
4 figure out the scope of impact --

5 THE HEARING EXAMINER: Right.

6 MS. BRADFUTE: -- related to the issue.
7 Our position would be, I think it's fine to continue
8 this out to the November 7th hearing date, the MRC
9 cases.

10 THE HEARING EXAMINER: Okay.

11 MS. BRADFUTE: For the purpose of the
12 notification.

13 THE HEARING EXAMINER: Okay. All
14 right. So the parties will all have to transfer their
15 cases to continue them to the November 7th docket.
16 And that doesn't give you a lot of time to do that. I
17 mean, we have room on the docket. It's not that the
18 docket is full by any means. Freya, is there any
19 problem if the attorney staff files a continuance for
20 the November 7th docket? I know, but Freya is
21 monitoring, and she would know the -- Madia, is Freya
22 with us?

23 MS. CORRAL: She is. She is on the
24 line. I sent her an email right now.

25 THE HEARING EXAMINER: Okay.

1 MS. CORRAL: Just to verify if it
2 was --

3 THE HEARING EXAMINER: Okay. When
4 Freya is ready to answer that question, will you let
5 me know?

6 MS. CORRAL: I will.

7 THE HEARING EXAMINER: All right.
8 Thank you. All right. Mr. Feldewert, your second
9 witness.

10 MR. FELDEWERT: Will be our geologist,
11 Mr. Parker.

12 THE HEARING EXAMINER: Mr. Parker?

13 MR. PARKER: Yes, sir.

14 WHEREUPON,

15 ANDREW PARKER,
16 called as a witness and previously sworn to tell the
17 truth, the whole truth, and nothing but the truth, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. FELDEWERT:

21 Q Would you please state your full name, by
22 whom you're employed and in what capacity?

23 A My name's Andrew Parker. I'm the senior
24 vice-president of geoscience for MRC Permian.

25 Q Okay. And, Mr. Parker, you're the

1 individual who signed the self-affirmed statement
2 marked as MRC Exhibit B?

3 A Yes, sir.

4 Q And developed or assisted in developing all
5 the referenced exhibits?

6 A Yes.

7 Q Okay. All of which have been admitted into
8 evidence. Okay. I want to then move to a couple
9 of -- let me step back.

10 MR. FELDEWERT: Let me ask you this,
11 Mr. Examiner. He's got some comments on some of their
12 rebuttal exhibits.

13 THE HEARING EXAMINER: Uh-huh.

14 MR. FELDEWERT: So --

15 THE HEARING EXAMINER: Yeah, we're not
16 going to do that now.

17 MR. FELDEWERT: Don't want to do that
18 now?

19 THE HEARING EXAMINER: No, I don't want
20 to do rebuttal yet. We haven't even gotten to that
21 point. But if he has comments on any other exhibits
22 that have been admitted, that's not a problem.

23 MR. FELDEWERT: Okay.

24 THE HEARING EXAMINER: But let's wait
25 on rebuttal stuff.

1 MR. FELDEWERT: Okay.

2 BY MR. FELDEWERT:

3 Q Then I want to bring up Cimarex Exhibit B2.
4 Have you looked at that?

5 A Yes.

6 Q Okay. And I'm on page 190 of their 712-page
7 PDF. They referenced this. I'll call it the Zoback
8 report; is that fine?

9 A Sure.

10 Q Okay. Have you read the entire Zoback
11 report?

12 A Many times.

13 Q Okay. When you see the red arrows that have
14 been drawn here on the upper right-hand side of this
15 exhibit, on the takeout, right near the yellow star,
16 what's your opinion about that?

17 A I -- I think that that's a -- a
18 misrepresentation of the data in this paper. And I
19 don't think that people should be able to take the
20 liberties to draw in lines in here that are not
21 supported by other evidence. And I -- I'd like to
22 explain some of the other nuances or details of this
23 paper that help support that.

24 Q Okay. All the parties have referenced this
25 report?

1 A Yes.

2 Q Okay. Do you think it would be helpful for
3 the division, since everybody's aware of this report
4 and have referenced it, to actually have a complete
5 copy of that report?

6 A Sure.

7 Q Okay.

8 MR. FELDEWERT: Mr. Examiner, I would
9 like to move to --

10 MS. BRADFUTE: Mr. Examiner, I object.
11 This was -- it was presented yesterday by Holland &
12 Hart, as a rebuttal exhibit.

13 THE HEARING EXAMINER: What was?

14 MS. BRADFUTE: The entire paper that
15 he's just about to ask to introduce.

16 THE HEARING EXAMINER: But there is the
17 legal argument of completeness --

18 MS. BRADFUTE: There is.

19 THE HEARING EXAMINER: -- that we're
20 facing right now. If I'm not mistaken that's rule
21 11.105?

22 MS. BRADFUTE: That is a good question.
23 I don't know.

24 MR. FELDEWERT: Yes, I agree with you.
25 I didn't offer it as a rebuttal witness.

1 THE HEARING EXAMINER: I know that.
2 Thank you. But Ms. Bradfute, so basically, which one
3 of your witnesses brought this exhibit in?

4 MS. BRADFUTE: It is not one of my
5 rebuttal exhibits. It would be one of Mr. --

6 THE HEARING EXAMINER: That's not what
7 I'm asking you.

8 MS. BRADFUTE: Oh, which one of my --

9 THE HEARING EXAMINER: Yes. Yes.

10 MS. BRADFUTE: -- geologist refers to
11 this paper, as well?

12 THE HEARING EXAMINER: And we're
13 looking at your exhibit here, are we not?

14 MS. BRADFUTE: You are.

15 THE HEARING EXAMINER: Okay. Very
16 good. And I think the argument here -- so,
17 Mr. Feldewert, what is your argument for bringing, the
18 full study or whatever you want to call it, paper in?

19 MR. FELDEWERT: Well, first off, I
20 think everybody references it. And they've taken an
21 insert out of that, at least Cimarex has, to then take
22 liberties to just draw in some red dash lines, which
23 was not expected. Okay. And I believe the witness
24 said that he's reviewed this many times, and it would
25 be helpful in his testimony to have this admitted into

1 the record as a complete document. This is also, as
2 you know, a public document.

3 MS. BRADFUTE: Mr. Examiner, if I may.

4 THE HEARING EXAMINER: Yes, of course.

5 MS. BRADFUTE: One other point is all
6 the parties reference this paper in their exhibits in
7 chief.

8 THE HEARING EXAMINER: Okay.

9 MS. BRADFUTE: And so, Mr. Parker did
10 have an opportunity to present this testimony related
11 to the paper in primary testimony. Which is why I
12 assume Mr. Feldewert was going to use this for
13 rebuttal and cross-examination, when he referenced
14 this paper yesterday. It seems to be that
15 Mr. Feldewert now wants to add to and supplement his
16 witness's sworn testimony.

17 THE HEARING EXAMINER: Okay. I am
18 looking at this as an issue of completeness. I'm not
19 looking at this as whether it's a rebuttal exhibit or
20 not. So far, what I'm understanding is, and correct
21 me if I'm wrong. Mr. Holliday, did you refer to this
22 exhibit in your case in chief?

23 MR. HOLLIDAY: Yes, sir. We did,
24 Exhibit B.

25 THE HEARING EXAMINER: In what way?

1 MR. HOLLIDAY: We used the -- well,
2 there was testimony about it. We used the chart down
3 to the left. We did not use the chart with these, so
4 what seems to be subsequently added red lines.

5 THE HEARING EXAMINER: So you're saying
6 that in which of your witness's testimony?

7 MR. HOLLIDAY: That would be
8 Mr. Harper.

9 THE HEARING EXAMINER: Okay,
10 Mr. Harper. So can you go back to what I was looking
11 at a minute ago, whoever changed the screen?

12 MR. FELDEWERT: I'm sorry about that.
13 Give me a minute.

14 THE HEARING EXAMINER: I think it's the
15 tab next to the one you just opened.

16 MR. FELDEWERT: All right. Let me get
17 back to where I was. Cimarex B2.

18 THE HEARING EXAMINER: Okay.

19 MR. FELDEWERT: Okay. Thank you.
20 Sorry.

21 THE HEARING EXAMINER: Please leave it
22 that way. Mr. Holliday, did you introduce this
23 exhibit, or did your witnesses refer to this paper?
24 What is the name? Mr. Parker, what is the name of
25 this article?

1 THE WITNESS: Can you pull please pull
2 up that slide image you just set up?

3 MR. FELDEWERT: I can tell you.

4 THE HEARING EXAMINER: Oh, what is it?

5 MR. FELDEWERT: It's the "State of
6 Stress in the Permian Basin, Texas and New Mexico:
7 Implications for induced seismicity," Implications of
8 Induced Seismicity, by "Jens-Erik Lund Snee and
9 Mark D. Zoback."

10 THE HEARING EXAMINER: And when was it
11 published?

12 THE WITNESS: 2018.

13 THE HEARING EXAMINER: Thank you.
14 Okay. And familiar with it?

15 THE WITNESS: Yes.

16 THE HEARING EXAMINER: "Very," you
17 said. Okay. And Ms. Bradfute. Hold on,
18 Mr. Holliday. And Ms. Bradfute, your witness,
19 Mr. Harper, that's your witness. Very good. So
20 Mr. Holliday, your witness, Mr. Harper, was he very
21 familiar with this paper?

22 MR. HOLLIDAY: Yes. And we cited it in
23 Exhibit B3.

24 THE HEARING EXAMINER: Your B3?

25 MR. HOLLIDAY: Yes, sir.

1 THE HEARING EXAMINER: Yes, sir. Okay.
2 Very good. And Ms. Bradfute.

3 MS. BRADFUTE: Yes. My witness who has
4 yet to testify Staci Frey --

5 THE HEARING EXAMINER: Yes. Is familiar
6 with this article.

7 THE HEARING EXAMINER: Okay. So it's
8 universally acknowledged. Okay. So the reliability
9 of it, and I haven't heard anyone call it into
10 question reliability wise. I understand Ms. Bradfute
11 that your witness, was it Ms. Frey, who put these red
12 marks, red lines with arrows at the end?

13 MS. BRADFUTE: Yes. So Cimarex, I
14 mean, my witness will be testifying later. So we'll
15 get the whole testimony in the record.

16 THE HEARING EXAMINER: Of course.

17 MS. BRADFUTE: So I'm not sure if it
18 was -- but somebody within Cimarex did add the red
19 arrows to this exhibit.

20 THE HEARING EXAMINER: Okay. All
21 right. I want to understand your objection.

22 MS. BRADFUTE: Yes.

23 THE HEARING EXAMINER: We're just
24 talking about completeness now.

25 MS. BRADFUTE: Yeah.

1 THE HEARING EXAMINER: Not whether it's
2 a proper rebuttal or anything else?

3 MS. BRADFUTE: Yes.

4 THE HEARING EXAMINER: What reason do
5 you have for me to exclude this document?

6 MS. BRADFUTE: I am not objecting to
7 having the document not come in itself. It is more
8 the timing of the questions. It feels like -- I
9 understand there is a conciseness component here and
10 having an efficiency to the hearing. But it feels
11 like we went beyond the scope of direct and cross,
12 directly to kind of now crossing Cimarex's exhibits,
13 without even putting them on, and into the realm of
14 rebuttal.

15 THE HEARING EXAMINER: Okay. I
16 understand your objection. I feel like -- and let me
17 go to Mr. McClure for just a moment. Mr. McClure, are
18 you familiar with this document?

19 UNASSIGNED: Mr. Hearing Examiner, I --
20 I am familiar with this document. It should be on my
21 computer somewhere, but I'm sitting here looking
22 through my folders, and suddenly I'm not finding it
23 there. But yes, I -- I am familiar with it. It's a
24 common document that we use.

25 THE HEARING EXAMINER: Oh.

1 UNASSIGNED: For a fault slip analysis
2 in the URC world all the time.

3 THE HEARING EXAMINER: Okay. Okay.
4 Very good. Thank you, Mr. McClure. So Ms. Bradfute,
5 I'm going to overrule your objection. It sounds like
6 it's a widely acknowledged and reliable document, so I
7 will let it in. What are you going to label it?

8 MR. FELDEWERT: MRC Exhibit G.

9 (MRC Exhibit G was marked for
10 identification.)

11 THE HEARING EXAMINER: G. And what are
12 you calling this document, order to --

13 MR. FELDEWERT: Zoback Report.

14 THE HEARING EXAMINER: Perfect. How do
15 you spell that?

16 MR. FELDEWERT: Z-O-B-A-C-K.

17 THE HEARING EXAMINER: Report. All
18 right. So now, obviously, and you have copies for
19 everyone.

20 MR. FELDEWERT: I do.

21 THE HEARING EXAMINER: That's great.
22 So at some point when this hearing concludes, I'm
23 going to ask you to file an amended exhibit packet
24 with this document scanned in and marked as Exhibit G.
25 And also, whatever rebuttal exhibits that we admit,

1 because I only want to have one exhibit packet for
2 each party. Okay. So I expect each party, if you
3 have a rebuttal exhibit or a change in your original
4 exhibit, will have an amended exhibit packet. I know
5 you already have one.

6 MR. FELDEWERT: Yes.

7 THE HEARING EXAMINER: So it'll be your
8 second amended packet. Okay. So Mr. Feldewert this
9 document is admitted. Where are you going with your
10 questions?

11 (MRC Exhibit G was received into
12 evidence.)

13 MR. FELDEWERT: Well, I'll give you a
14 copy if you like.

15 THE HEARING EXAMINER: No, thank you.

16 MR. FELDEWERT: May I approach the
17 witness?

18 THE HEARING EXAMINER: Please.

19 MR. FELDEWERT: A copy.

20 THE HEARING EXAMINER: So for the
21 record, Mr. Parker has exhibit G in his hands?

22 THE WITNESS: Yes.

23 BY MR. FELDEWERT:

24 Q And I'm going to go ahead and bring it up on
25 the screen if I may. Now, this is the report that you

1 said you've read numerous times, Mr. Parker; is that
2 right?

3 A Yes.

4 Q And I'm going to flip back and forth here.
5 It seems like when I look at these red arrows that
6 have been drawn in here, okay, by Cimarex on their
7 Exhibit B2, is there any evidence in the Zoback report
8 or any discussion in the Zoback report that would
9 support the arrows that you see drawn in here?

10 A No, I don't think so.

11 Q Okay. Now instead, what does the Zoback
12 report indicate with respect to the horizontal stress
13 as you move -- and I'll go back to Cimarex Exhibit B2.
14 As you move from the data point, the black line just
15 to the bottom of that third arrow, what does it
16 indicate with respect to that data point and the data
17 point in the upper right-hand side to the west of the
18 yellow star?

19 A Those data points indicate that the maximum
20 horizontal stress is about 70 to 75 degrees.

21 Q And is that true then, as you move from the
22 data point below the red line, then north through the
23 yellow star?

24 A Yes, it's our -- I think the paper supports
25 this and it's our interpretation that that 70 to 75

1 degree orientation, that the trend of that data is
2 consistent as you move north through that yellow star.

3 Q Okay.

4 A And the paper goes on to elaborate that the
5 broader tectonic force that causes the Eddy County
6 rotations to rotate, is Rio Grande Rift to the west of
7 the basin. And so, it's not until you move to the
8 west that those stresses begin to rotate. It's not a
9 function of going north. And there's nothing in the
10 paper that says that it's a gradual rotation. It's a
11 very strong -- you have a -- and these are -- these
12 are tied to basement fabric, they're tied to a
13 regional faulting, which is very -- which is very well
14 documented here. But the force that causes it to
15 rotate is Rio Grande rifting. And it occurs as you go
16 west, not as you go to the north. There's no data in
17 this gap here, around the yellow star, that suggests
18 anything other than that.

19 The other point that I think gets overlooked
20 on this paper is the color shading behind the data
21 points that is indicating the faulting machine, which
22 is zoned on the key to that. These east west data
23 points and through the area of interest are in this --
24 are in this sort of color-coded strikes look to normal
25 faulting regime that are going to be -- that are still

1 falling within this east west stress orientation.

2 Q Now --

3 A Can -- can I add one more thing to that too?

4 Q Sure. Sure.

5 A As you go west that -- that really abrupt
6 cluster of 45-degree data points that are right on the
7 Eddy County line, those are a little bit anomalous
8 there, because those are occurring on a bigger
9 structure called Lusk field. And so, that has a
10 unique basement fabric that causes that 45-degree
11 rotation. But it's very strongly -- as you go west
12 from that, it very rapidly shifts to north south.
13 It's not this gradual -- it's not this gradual
14 rotation that everyone tries to invoke here. There
15 are very strong quadrants of the basin that have very,
16 very distinct stress regimes to them. There's nothing
17 that suggests this rotation. And then Mr. Feldewert,
18 if you could go to the -- the figure, now that we have
19 it in evidence.

20 Q You're already ahead of me.

21 A The figure on page 130 of this paper.

22 Q Give me a minute. Let's orient a little bit
23 before we get there. Okay?

24 A Okay. Sure.

25 Q So just to help the people that haven't

1 looked at this as much as you have. So you have the
2 initial cover page.

3 A Uh-huh.

4 Q Now, do you agree that this is a document
5 that has had a substantial amount of peer review
6 associated with it?

7 A Yes. Yeah, I mean Mr. Zoback at Stanford, I
8 mean, this is work out of a large industry funded
9 consortium. There's a number of companies that are
10 involved in the data. There's, you know, a large
11 number of structural geologists that peer review this.
12 I mean, Lund Snee and Zoback are, you know, they're
13 tenured professors at Stanford. And they -- their --
14 their publications go through a lot of scrutiny, a lot
15 of data review.

16 Q And do you agree with the previous testimony
17 from other geologists, that this is what geologists
18 like yourself use to ascertain the stress orientation
19 in particular areas of development, within the Permian
20 Basin?

21 A Yes, it's used very often for that.

22 Q Okay. Now if we go to the second page of
23 this paper, is that where we see the diagram or the
24 insert that I think the division has seen a number of
25 times and that parties have used in this case?

1 A Yeah, I would say this is probably the most
2 commonly used figure from this paper.

3 Q Okay. And just to orient this, if I look in
4 the middle of it, just to get reoriented, we see the
5 location of Hobbs. And then, to the left of there is
6 where Cimarex's B2 had the yellow star; right?

7 A Yes, sir.

8 Q Okay. Now, you mentioned that not only is
9 there this diagram, but in this report there's another
10 figure; correct?

11 A Yes.

12 Q Okay. So let's keep our eyes on this
13 location here, and then it has a nice Hobbs by it. If
14 you go down to, I guess it's on page 4, we see figure
15 number 2. Is that what you're talking about?

16 A Yes, sir.

17 Q Okay. First off, as I blow this up, when
18 you look at this figure 2, there's a lot of lines and
19 boxes, et cetera. We see the common red line showing
20 the Permian Basin; right?

21 A Yes.

22 Q Okay. You see how these boxes are numbered
23 1, 2, 3, 4, 5, 6, 7, etcetera, in figure 2?

24 A Yes, sir.

25 Q Okay. Where is the subject acreage? In

1 other words where everybody has their star in the
2 acreage that's at issue, which box is it in?

3 A We're in the southern half of box 2.

4 Q The southern half of box 2. Okay. And when
5 you look at this box 2 now, is this additional
6 information that this Zoback report puts out there
7 about the stress orientation?

8 A Yes.

9 Q Okay. And when you read this report and
10 look at this data, what are they saying about the
11 stress orientation in that entirety of box 2?

12 A Yeah, they're -- there's -- they're
13 bracketing larger quadrants of the basin into areas
14 that have more of an average stress orientation. So
15 you can see box number 4 is the well-known, you know,
16 75 degrees stress. Whereas box 2 is starting to
17 approach a 60-degree stress. There's nothing in the
18 box 2, that would suggest rotation to a 45-degree --

19 Q Okay. And if you have, let's say the -- if
20 you were -- now you said we're on the southern part of
21 box 2, kind of on the line there between 2 and 4?

22 A Yes, sir.

23 Q Okay. Let's say you were in a northern part
24 of box 2 where they show a 60-degree orientation. Do
25 you see that?

1 A Uh-huh.

2 Q Okay.

3 A And that's the clarity on that.

4 Q Okay. All right. And what's the primary
5 data that they utilized to develop this stress regime?

6 A Can we go back to the other figure? The --
7 the first map.

8 Q Yes.

9 A That shows all the data for it.

10 Q Yes.

11 A So what -- what people need to understand
12 about the black lines on this is these are one
13 dimensional data points in a -- in a vertical well.
14 The length and thickness of the line is based on the
15 author's confidence in that data point. And so, most
16 of these data points are either -- they're either from
17 image logs, which are usually, you know, resistivity
18 imagers, formation imagers that are collected in
19 vertical wellbores. Some of the data points and
20 this -- this -- the specifics of all of these data
21 points is provided by -- by the authors and other
22 supplemental data that's not in this figure.

23 But some of the data points are also from
24 cross dipole sonics in these well bores where they're
25 looking at the first sheer wave arrival time. That

1 also gives you an indication of -- of horizontal
2 stress. They put all of these data points through a
3 fisher statistical analysis to make sure that the data
4 is, you know, consistent enough through the well board
5 that the -- that there are a number, a significant
6 number of medium to low confidence data point. And
7 then, so that's the -- that's the source of
8 information for all of the black lines. And you can
9 roughly approximate that the actual well location is
10 somewhere in the middle of that, of each individual
11 black line on that.

12 Q And just to orient ourselves to other
13 exhibits this contains, and it's not always clear on
14 the other exhibits we've seen, we can see where Eddy
15 County is located; right, where that red dot is?

16 A Uh-huh.

17 Q Okay. And then to the right of that red
18 dot, is a more lighter line. Is that the county line
19 between Eddy and Lea County?

20 A Yes.

21 Q Okay. All right. Anything else about this
22 report?

23 A The -- the other thing that they've added to
24 this workflow over the last few years is -- is what
25 the -- the data points that look like beach balls on

1 the map, those are the focal mechanisms. It's
2 actually an inversion of the focal mechanism, or
3 moment tensor data. And those I think are the data
4 points that often get, you know, misused or
5 mischaracterized. What they're looking at is modern
6 seismicity, primarily at Dauger draw field in Eddy
7 County. And then, you can see other modern seismicity
8 in cogno field. These are, you know, pretty decent
9 magnitude events where they're able to, you know,
10 acquire the focal mechanism data and invert it to this
11 beach ball depiction of that data.

12 And what those data points do is they tell
13 you a potential strike of a fault plane and a dip of
14 the fault plane. And then there's a couple of
15 different potential inferences of the direction of
16 movement along that fault plane. Those data points
17 have nothing to do with stress orientation, but they
18 do help -- they do help guide the authors on this
19 paper on their fault slip analysis and which faults
20 are prone to failure in different regions of the
21 basin.

22 Q And let me stop you right there. When you
23 look at the title of this, part of what they were
24 studying is implications of induced seismicity;
25 correct?

1 A Yes. The -- the main goal of this paper is
2 to -- is to look at the faulting of the basin, acquire
3 as much stress aid as they can in the basin and
4 establish which faults are most prone to failure based
5 on those stresses.

6 Q Okay. All right. Now, you look at the
7 stress orientation lines that they put on here, and
8 what they've shown both in figure 1 and in figure 2,
9 does that explain why operators in the subject area
10 have oriented their wells north to south?

11 A Yes. I mean almost entirely through Lea
12 County, that has become a preferred orientation.

13 Q And is that why we see that when you compare
14 in the subject area now, the area we're focused on
15 here, when you compare standup wells with laydown
16 wells, is that why you see the degradation in
17 performance for the laydown wells?

18 A Yes.

19 Q Okay. Anything else about this?

20 A No, not for me.

21 Q Okay. Then I want to go to a topic you
22 briefly discussed and one I think Cimarex has put out
23 there. Let's go to those beach balls. Okay. If I go
24 to what's been marked as Cimarex Exhibit B3, have you
25 looked at this?

1 A I -- I've seen this figure.

2 Q You've seen this exhibit?

3 A Yes.

4 Q Okay. Can you please discuss your concerns
5 about this particular Exhibit B3?

6 A Yeah. I mean, so this is a -- this is a
7 private array. I am not familiar with the company
8 that offers this. Apparently, Cimarex participates in
9 this. And I'm -- I'm anxious to hear a more detailed
10 explanation on this. You know, they show one -- one
11 monitoring station, which looks to be, you know, five
12 or so miles less of the beach balls that are on the
13 right side of this map. So these beach balls are a
14 little unusual looking because you're not -- you're
15 not getting the -- the sort of full depiction of the
16 inverted focal mechanism. So if I were to look at
17 these beach balls in a vacuum, it would look to me
18 like, granted, I don't have a detailed closer up --
19 close up view of these, but it would look to me that
20 these are vertical faults with all of the compression
21 on one side, and all of the tension on the other.

22 And, you know, typically to -- to get
23 accurate moment tensor data, and to invert it to these
24 beach balls, you know, the -- the magnitude of
25 completeness for that analysis is dependent one, on

1 the magnitude of the seismic event. And it's also
2 dependent on the number of arrays or monitor stations
3 around that event, too, that are able to get -- this
4 figure only tells me that there's one station
5 recording these events, which means that the accuracy
6 of those events is -- is very unreliable. And
7 maybe -- maybe Cimarex will offer more detail on that.
8 I don't know. But that's -- that's -- that's my
9 interpretation from these.

10 The other thing on the orientation of
11 the -- of the faulting on these -- these focal
12 mechanism inversions here, is it's very inconsistent
13 with very -- very known and reliable fault
14 orientations. Like, the vacuum fault is a well
15 documented fault that's just to the northwest of these
16 features. And it's relatively oblique to that
17 structural trend that this data is implying. So
18 that -- that just gives me more pause on this figure.

19 Q Now, to be fair, there's a takeout there
20 that says "focal mechanisms indicate type and
21 direction of slip on a fault plane." Do you see that?

22 A Yeah, I agree with that statement.

23 Q Okay. Then there's a second statement here
24 on the bottom right-hand side of this exhibit.
25 "Stress direction is approximately 43 degrees east."

1 A I do not agree with that statement, because
2 these -- these data points do not tell you stress
3 direction as I think the Avant geologist agreed with
4 earlier in this statement.

5 Q So they don't tell you stress direction?

6 A They do not tell you stress direction.

7 Q Okay. Now, when I look at -- I want you to
8 keep this in mind. So here's this red box is our
9 subject area; correct?

10 A Yes, sir.

11 Q Okay.

12 A Well, that's Cimarex.

13 Q Cimarex. Ours would be 28 and 33; right?

14 A Yes, sir.

15 Q Standup. Okay. So let's keep that in mind.
16 This is the section right next door, 18 south, 35
17 east?

18 A The town -- that's the township next door.

19 Q Township.

20 A You're going from 1834 over to 1835.

21 Q And that's where the bubbles are.

22 A Uh-huh.

23 Q Okay. All right. So keep that in mind. If
24 we go to -- give me a minute. Looking for our
25 exhibits. Yeah, I'm going to try to go to -- there we

1 go. So I put up what has been marked and accepted as
2 MRC's Exhibit B8. Now you have that Zoback paper;
3 right?

4 A Yes, sir.

5 Q Or that insert from the Zoback paper. Would
6 you either use that paper, or maybe the inset to the
7 right. Okay? The inset to the right shows in yellow
8 our subject area?

9 A So now we're showing Matador's
10 Bobby Picker's subject area, and the Cimarex Turnpike
11 would be --

12 Q Okay. And then we see a number, and we see
13 some wells. And then, we get over the township next
14 door. Okay. All right.

15 A So those -- those kind of fuzzier lines,
16 underneath those are -- that's the vacuum fault trend
17 that I mentioned earlier, that is oblique to the
18 seismicity that Cimarex showed from their private
19 array.

20 Q Okay. About where would be the bubbles in
21 that section?

22 A The primary cursor is running right through
23 the middle of that township.

24 Q Right at the end of that black line?

25 A Yes, sir.

1 Q And that black line is from that Zoback
2 report?

3 A Yes, that's one of the data points from the
4 Zoback paper.

5 Q Okay. And that Zoback paper black line,
6 that data point indicates the stress direction right
7 there where they where Cimarex has their bubbles is
8 what?

9 A Yeah, that data points, you know, three to
10 five miles east of -- of the Cimarex private array.
11 And it shows that maximum horizontal stress is
12 probably about north 70 to 75 east. And that's also
13 one of their highest confidence state of points based
14 on the fitness and length of the line.

15 Q Okay. So does that support your opinion as
16 it has been expressed by others that it's difficult to
17 use focal mechanisms to determine stress orientation?

18 A I mean, that's just not one of the
19 applications of -- of those. To -- to get stress
20 orientation from the focal mechanisms, you have to go
21 to like more pool on failure analysis and model it
22 out. And you have to have other data to -- to comply
23 with that. You don't get it directly from the focal
24 mechanism.

25 Q Okay. All right. And so, when you look at

1 this report and you look at our acreage, I think
2 you've already said this. Your opinion in this area
3 is that to avoid waste, the wells have to be oriented
4 in a standup orientation?

5 A Yes.

6 Q Okay.

7 MR. FELDEWERT: That's all the
8 questions I have.

9 THE HEARING EXAMINER: Okay.
10 Mr. Holliday?

11 MR. HOLLIDAY: No questions.

12 THE HEARING EXAMINER: All right.
13 Ms. Bradfute.

14 MS. BRADFUTE: Okay. Thank you,
15 Mr. Examiner.

16 THE HEARING EXAMINER: Okay. So
17 before you start your questions --

18 MS. BRADFUTE: Yes.

19 THE HEARING EXAMINER: I want to take a
20 five-minute break. It is now 2:44 p.m. Let's come
21 back on the record at 2:49 p.m. Thank you.

22 (Off the record.)

23 THE HEARING EXAMINER: We are back on
24 the record. It's 2:51 p.m. Ms. Bradfute, your
25 cross-examination.

1 MS. BRADFUTE: Yes. Thank you.

2 CROSS-EXAMINATION

3 BY MS. BRADFUTE:

4 Q Good afternoon, Mr. Parker. I had a couple
5 of follow-up questions for you following your
6 testimony. You testified that the Rio Grande rift
7 affects stress near the subject lands. Can you point
8 to where that is referenced in Zoback's paper?

9 A I mean, it -- it's in here. It's -- it's
10 several pages. I'd have to review it.

11 Q We looked for the reference and could not
12 find it. So it would be helpful if you could point it
13 out.

14 A I mean, it might be -- it might be quicker
15 for -- to just do a word search on the document.

16 Q I'll give you a minute to kind of see if you
17 can point it out. And if not, we'll have Cimarex's
18 witness testify about it later.

19 A Sure.

20 THE HEARING EXAMINER: You know what,
21 I'd like to avoid making this report the crux of
22 today's hearing. It's a tool that the technical
23 examiners will use. I understand why the parties are
24 arguing about it, and how they try and use it to
25 either support their position or to refute the other

1 party's position. But this hearing is not about this
2 report. So I think with that being said, it has been
3 admitted into evidence. And you're more than welcome
4 to cross-examine this witness in the way you feel is
5 most effective, Ms. Bradfute. But I don't want to
6 spend time while he searches through a report. If you
7 say it's not there, then you can ask the question in
8 that.

9 A The comment on page 130, in the top right
10 paragraph where it says that -- "That the state of
11 stress in any county is consistent with the state of
12 stress in the Rio Grande rift."

13 Q That's the reference. Okay. Thank you for
14 that.

15 MS. BRADFUTE: I don't have a lot of
16 questions like that Mr. Hearing Examiner, but it was a
17 technical question.

18 THE HEARING EXAMINER: Sure, of course.
19 I'm not leaving you in that way?

20 MS. BRADFUTE: No. No.

21 BY MS. BRADFUTE:

22 Q And, Mr. Parker, do the focal mechanisms in
23 the Zoback paper generally align with measured SHmax
24 nearby?

25 A No, they don't align with it, because they

1 don't -- they're not -- like I said, those aren't
2 telling you what SHmax is. They are aligning with --
3 with documented fault fabric in the area. The focal
4 mechanisms tell you the strike of the fault and they
5 tell you the movement of -- they tell you the
6 direction of movement along that fault plane. And
7 that the sensitivity of that can be, you know, oblique
8 to -- to the stress depending on -- depending on the
9 setting. And that's what -- that's what the authors
10 are trying to demonstrate in the paper. They're
11 demonstrating, you know that over at Dauger draw there
12 are -- there are faults that are -- if you look at
13 those beach balls, they would suggest that those
14 faults are kind of southwest to northeast, probably
15 about 45 degree strike. So that's the direction that
16 the fault is. And then it's -- it's also, if you dig
17 into the data on these, which you can go to various
18 resources to find, strike and dip of these faults,
19 it'll tell you that.

20 And then you have to take the colors of
21 those to infer whether or not those faults are moving,
22 you know, either normal fault or reverse fault strike
23 slip or -- or a leak. The ones around Dauger draw are
24 mostly for normal faults. They probably dip at around
25 60 degrees. They're faulting normally to somewhat

1 oblique. Whereas when you look at the beach balls
2 over at the Cogo field area, that's a very strong
3 strike slip regime. And so, it's showing the
4 orientation of those faults. It's none -- none of
5 those things are telling you what the stress direction
6 is.

7 Q Okay. I next want to turn to Matador MRC's
8 Exhibit B8. And it's up on the screen. Can you see
9 that?

10 A Yes.

11 Q Okay. I want to first focus on the image on
12 the left. And could you identify what the red
13 rectangle is?

14 A I'm sorry, what the what is?

15 Q The red rectangle?

16 A That's just -- that's just highlighting the
17 area that the focused map down at the bottom right is
18 looking at.

19 Q Okay. And so the map on the bottom right is
20 essentially what's in the middle of that red
21 rectangle?

22 A Yes.

23 Q Okay. Wonderful. And then I'm going to now
24 focus exclusively on the bottom right image. You
25 indicated that these dark dash lines are data points;

1 right?

2 A Yes.

3 Q Okay. And does there appear to be a big gap
4 in the middle of this image where there are no data
5 points?

6 A Yes.

7 Q Which data points did you use to form your
8 conclusions on this diagram?

9 A I'm not inferring anything by the area of
10 this diagram. I'm just zooming in on our area and
11 showing that, you know, within a, you know -- about a
12 township on either side of our area, the wells are,
13 you know, dominantly north south. There's a strong
14 data point, you know, a couple of townships south.
15 There's a strong data point, you know, township and a
16 half to the east that I think are both relevant to the
17 stress regime of this area. But then, as I mentioned
18 earlier, the cluster of data points that are, you
19 know, probably more like 14 or 15 miles over to the
20 west that's concentrated around that Lusk field area
21 and that stress regime over there is not relevant to
22 the area around our project.

23 Q Okay. And that's what I was trying to
24 identify. Are you saying that the data points on the
25 west are not relevant?

1 A That's correct; yes.

2 Q And so, you primarily focused as the basis
3 of your opinion, the data point to the east and the
4 data point to the south?

5 A I think that those data points are
6 representative of this acreage going up to the north.

7 Q Okay. And did you rely on any other data
8 points that aren't shown within your exhibits?

9 A We don't have any other data there.

10 Q Okay. So there's no other data that you
11 have?

12 A No.

13 Q Okay. I next want to focus on the paper.
14 I'm going to stop sharing and I'm going to share the
15 paper. So please bear with me. Hoping that I can get
16 to the paper.

17 MS. BRADFUTE: Mike, can I ask you to
18 put up the paper for me? I'm sorry.

19 MR. FELDEWERT: What you looking for?

20 MS. BRADFUTE: The Zoback paper? I
21 can't get my screen to work.

22 MR. FELDEWERT: Hold on. Let me share
23 the paper.

24 MS. BRADFUTE: Okay. Great. And could
25 you scroll up to page 1? Thank you.

1 BY MS. BRADFUTE:

2 Q How has this paper primarily been used in
3 New Mexico by the oil conservation division, to your
4 knowledge?

5 A I couldn't answer that.

6 Q Okay. Based on the title, it says
7 "Implications for Induced Seismicity." Has it been
8 primarily discussed in reference to deep disposal
9 wells with seismicity inquiries?

10 MR. FELDEWERT: Objection. Discussed
11 by whom?

12 BY MS. BRADFUTE:

13 Q Just in general. Is it recognized as a
14 study relating to reduced seismicity?

15 THE HEARING EXAMINER: Ms. Bradfute.

16 MS. BRADFUTE: Yeah.

17 THE HEARING EXAMINER: Okay. Hold on.
18 There's been an objection. I'm not sure what the
19 basis of the objection is. What is the basis of the
20 objection?

21 MR. FELDEWERT: So I'm not sure the
22 question is very clear. First she asked if the
23 division.

24 MS. BRADFUTE: I can rephrase.

25 MR. FELDEWERT: Okay.

1 MS. BRADFUTE: I can withdraw and
2 rephrase.

3 THE HEARING EXAMINER: Okay.
4 Sustained.

5 BY MS. BRADFUTE:

6 Q Mr. Parker, the title of this paper says
7 that it focuses on implications for induced
8 seismicity; correct.

9 A Uh-huh.

10 Q Induced seismicity has been discussed a lot
11 in the Permian Basin recently; correct?

12 A Sure.

13 Q And it's been discussed a lot with
14 regulators both in Texas and New Mexico; correct.

15 A Uh-huh.

16 Q Okay.

17 THE HEARING EXAMINER: Mr. Parker,
18 please --

19 THE WITNESS: Yes.

20 THE HEARING EXAMINER: Say "yes," and
21 please say it a little closer to the mic, so that the
22 record picks up what you're saying.

23 THE WITNESS: Got you.

24 THE HEARING EXAMINER: Thank you.

25 //

1 BY MS. BRADFUTE:

2 Q When the topic of induced seismicity is
3 discussed in the state of New Mexico, are people who
4 are talking about induced seismicity typically talking
5 about induced seismicity related to water disposal?

6 A I don't think I should answer that question.
7 I don't know what other people talk about. You know,
8 I mean, broadly this paper gets used for a number of
9 different reasons.

10 Q Okay. This paper creates a fault slip
11 potential analysis; right?

12 A Yes.

13 MS. BRADFUTE: Okay. Mike, could you
14 turn to page 131 is how it's marked in the paper.

15 MR. FELDEWERT: So if you look at the
16 bottom right-hand corner.

17 MS. BRADFUTE: Yeah.

18 MR. FELDEWERT: That page 131?

19 MS. BRADFUTE: Yeah. Right there.

20 Thank you. Okay.

21 MR. FELDEWERT: Got a big map on it?

22 MS. BRADFUTE: Yeah.

23 BY MS. BRADFUTE:

24 Q What is this map within this paper?

25 A This is where the authors, you know, took

1 a -- a pretty comprehensive fault map of the entire
2 Permian Basin. And based on the stress data, and the
3 knowledge that they have of fault -- fault strike and
4 dip, they -- they -- you know, they -- they're
5 consorting one of their tools that they've put out to
6 the industry. It's a modeling tool that allows you to
7 plug in various parameters and calculate the -- what
8 they put here done on the bottom left, the fault slip
9 potential on any one of these faults.

10 Q And how do parties use this fault slip
11 potential tool?

12 A I -- I can't say how everyone uses it.

13 Q Has Matador used this false slip potential
14 tool in the past?

15 A THE WITNESS: Mike, I don't want
16 to comment on that because it has nothing to do with
17 this case. And it's not -- I mean, if you can tell me
18 how it's relevant to this project area. But I'm not
19 here to speak on Matador's, you know, saltwater
20 disposal or anything that tells of that.

21 THE HEARING EXAMINER: Let's take a
22 break. Let's take a break for a moment. So first of
23 all, the witness answers questions that are asked.
24 Unless there's an objection from counsel, you have to
25 answer the question. If you don't know, say you don't

1 know.

2 THE WITNESS: Sure.

3 THE HEARING EXAMINER: You can say
4 "yes," "no" as whatever you want, as long as it's the
5 whole truth, nothing but the truth. It's up to
6 counsel to make an objection to a question that he
7 feels is wrong for some reason.

8 THE WITNESS: Okay.

9 THE HEARING EXAMINER: So,
10 Ms. Bradfute, unless there's an objection -- is there
11 an objection to the question?

12 MR. FELDEWERT: I do have an objection.

13 THE HEARING EXAMINER: What is the
14 objection?

15 MR. FELDEWERT: So, as I understand the
16 question, she's talking about fault slip analysis and
17 I don't see how that is relevant --

18 THE HEARING EXAMINER: Okay.

19 MR. FELDEWERT: -- to the issue before
20 the division. Okay. Which is dealing with maximum
21 stress orientation and the data available on that. So
22 I gave her some leeway, but I agree with Mr. Parker.
23 I don't see how this has anything to do with the issue
24 before the division.

25 THE HEARING EXAMINER: Okay.

1 Ms. Bradfute.

2 MS. BRADFUTE: This paper has been
3 widely used by industry to use the fault slip analysis
4 tool and modeling would be performed under this paper.
5 And the analysis was submitted by just about every
6 operator within the state of New Mexico as proof that
7 fault slip potential would not occur -- virtual
8 connectivity interruption -- reliable data put into
9 this paper. We did see increased induced seismicity
10 throughout the state, which is widely recognized. And
11 so the use of this paper as a reliable single source
12 of information about geologic information, which they
13 have said it is, is questionable.

14 THE HEARING EXAMINER: Okay.
15 Mr. Feldewert, because this is a paper that you
16 introduced in evidence for completeness, are you
17 suggesting that fault slip analysis is completely
18 irrelevant to this hearing today?

19 MR. FELDEWERT: I don't see how it's
20 relevant. I mean, we've talked about stress
21 orientation for purposes of orienting horizontal
22 wells. Okay. Water disposal, fault slips, induced
23 seismicity has nothing to do with this hearing today.
24 And this witness has not been called to address that.

25 THE HEARING EXAMINER: Okay.

1 Ms. Bradfute, if you can tie your question into the
2 topics that I think this paper was brought for, which
3 is, how are you orienting your wells and what is the
4 most efficient way to orient your wells, whether it be
5 standup, or laydown, or whatever it may be, then I
6 think it's relevant. Unless you can tell me how this
7 fault slip analysis would be relevant to approving
8 your application.

9 MS. BRADFUTE: Mr. Examiner, I'm not
10 questioning or bringing in fault slip potential. But
11 the reliability of the paper is a piece of evidence
12 that has been introduced is at issue. This paper has
13 been used in New Mexico by the Oil Conservation
14 Division.

15 MR. FELDEWERT: Objection. Objection.

16 MS. BRADFUTE: And it has -- can I
17 finish?

18 THE HEARING EXAMINER: Why are you
19 objecting to her argument?

20 MR. FELDEWERT: Because she -- where
21 does all this fact -- these are -- she's testifying
22 now?

23 THE HEARING EXAMINER: No.,

24 MS. BRADFUTE: I'm arguing.

25 THE HEARING EXAMINER: This is just

1 arguing. This is not evidence.

2 MR. FELDEWERT: All right.

3 THE HEARING EXAMINER: Mr. Feldewert,
4 you know better than that. Mr. Feldewert, you're
5 playing games now. Ms. Bradfute, in a short, concise
6 manner, explain to me how your question is relevant to
7 the applications before the division.

8 MS. BRADFUTE: Matador and Avant have
9 spent a good part of today arguing that this paper is
10 a reliable scientific basis for wellbore orientation.

11 THE HEARING EXAMINER: Yes.

12 MS. BRADFUTE: The data presented in
13 this paper has been shown to be unreliable when used
14 in other areas such as false slip potential in
15 applications filed with the well conservation
16 division.

17 THE WITNESS: Can -- can I comment on
18 that?

19 THE HEARING EXAMINER: No, definitely
20 not. Definitely not. You're the witness. You're
21 just here to answer questions. This is a legal
22 question that we have here. I tell you what. I'm
23 going to take a few minutes and talk to Mr. McClure.
24 Okay. Find out from a technical perspective what he
25 thinks of this argument. And then, we'll come back,

1 and I'll rule on the objection.

2 MR. FELDEWERT: May I add one thing?
3 Okay.

4 THE HEARING EXAMINER: Sure. You can.

5 MR. FELDEWERT: I wrote down --

6 MR. HEARING EXAMINER: Let me finish
7 what I was saying.

8 MR. FELDEWERT: Sure.

9 THE HEARING EXAMINER: We are going to
10 break at four o'clock today. It won't be five
11 o'clock. And I understand that some people have to go
12 home, or everyone has to go home. I don't know. But
13 when we reconvene tomorrow, the witnesses are more
14 than welcome to attend virtually. And if you want
15 your witnesses, Cimarex has not been sworn in, we'll
16 get them sworn in here in person before, or are they
17 joining us tomorrow here?

18 MS. BRADFUTE: They will be joining us.

19 THE HEARING EXAMINER: Oh, I'm sorry.
20 Whose witnesses have to go home?

21 MR. FELDEWERT: Avant.

22 THE HEARING EXAMINER: Ah, Avant.
23 Okay. MRC Permian?

24 MR. FELDEWERT: We're fine.

25 THE HEARING EXAMINER: You'll be here?

1 MR. FELDEWERT: Yes.

2 THE HEARING EXAMINER: Okay. Now what
3 else did you want to say before I speak to
4 Mr. McClure?

5 MR. FELDEWERT: My point being I wrote
6 down "shown unreliable."

7 THE HEARING EXAMINER: Okay.

8 MR. FELDEWERT: Okay. By whom?

9 THE HEARING EXAMINER: Okay. There has
10 been nothing put in the record by anybody to suggest
11 this is not reliable for the purpose that we have used
12 it for. Okay. In fact, everybody's used the diagrams
13 under stress orientation. And all she's doing is
14 sitting there and testifying, I guess, and saying,
15 "Well in my opinion the state of New Mexico has used
16 this, and it's been shown to be unreliable," blah blah
17 blah. There's been nothing of that.

18 THE HEARING EXAMINER: Okay. I
19 understand your perspective.

20 MR. FELDEWERT: Okay.

21 THE HEARING EXAMINER: I don't take her
22 argument as evidence, as you well know. And I think
23 it is her right, if it's relevant to show this
24 information. If it's unreliable then I think it's
25 her, right, because you brought it in. You're relying

1 on it. Mr. Holliday is also relying on it, because
2 his wells are standup wells, as well. Hers are
3 laydown. I understand why she would want to show this
4 as less reliable than you would like it to be. I
5 would like to ask Mr. McClure what he thinks. And
6 I'll be back with you in a few minutes.

7 MR. FELDEWERT: Okay.

8 THE HEARING EXAMINER: Thank you.
9 We're off the record.

10 (Off the record.)

11 THE HEARING EXAMINER: It's 3:14 p.m.
12 We're back on the record. And is Mr. Feldewert here?
13 Not yet. The objection was to relevance of that
14 question. And that question was offered to put in
15 question the reliability of the report. And the way
16 this report -- the division is aware of this report.
17 The division will put the weight that it deems it is
18 reliable, or is not reliable on the weight that it
19 gives it this report, Ms. Bradfute. I don't want this
20 hearing to devolve into a hearing about this report.
21 I understand why the parties are using the fault lines
22 in the area to either help or discourage the type of
23 wells that they want to drill in the area. I
24 understand that and so does the division.

25 So I admitted this report in its

1 entirety, because part of the report had been admitted
2 earlier by a party. And I felt it was only fair to
3 allow another party to enter the entire document under
4 the rule of completeness. However, the division is
5 not going to be looking at the fault slip aspect of
6 this report, in its granting or denying permits. It's
7 going to be looking at the fault lines in this area
8 and the way the wells are situated in this area to
9 interact with those fault lines. So I'm sustaining
10 the objection, Ms. Bradfute. I don't want to hear any
11 more questions about the reliability of what this
12 expert thinks about this report. That's not relevant
13 to what we're doing here. So I sustain the objection
14 and please move on with your questions.

15 MS. BRADFUTE: Okay. Thank you,
16 Mr. Examiner. Mike, if you could please stop sharing
17 and I'll go ahead and share my screen.

18 BY MS. BRADFUTE:

19 Q If you could please look at exhibit B9. Is
20 this an exhibit that you've prepared?

21 A Yes.

22 Q Okay. And what is the diagram shown in the
23 right-hand portion of this slide?

24 A It's just the zoomed in area around the
25 project area showing all of the horizontal wells of

1 the developing of these two downshifts.

2 Q Okay. And how many miles south of the star
3 does this area of review go?

4 A I mean the township's six miles, so 18 to 20
5 miles.

6 Q 18 to 20 miles south, included in your area
7 of review?

8 A Included in this map.

9 Q Okay. And is this the map area of review
10 that MRC uses in its reservoir engineering exhibits
11 admitted as exhibit C?

12 A I believe that's Tanner's area for these
13 slides.

14 Q Okay. Did you perform a geologic study of
15 the area of review used in your reservoir engineering
16 exhibits that were admitted into evidence in this
17 case?

18 A Can you ask that again?

19 Q Yeah. Did you perform a geologic study of
20 the area of review that was used in MRC's engineering
21 exhibits?

22 A Yes.

23 Q Okay. And as part of that geologic study,
24 does this diagram show the land area where you
25 performed that study?

1 A I believe the areas match up well, yes.

2 Q Okay. So you're going 18 or so miles south
3 in this area of review as part of that geologic study?

4 A Yes.

5 Q Okay. Thank you. And as part of your
6 geologic study, for this area of review, did you find
7 that geology to be relatively consistent throughout
8 this whole area?

9 A It depends on what you mean by geology to
10 that. I mean --

11 Q Okay. Did you find pH porosity time site
12 levels to be fairly consistent throughout the area of
13 review?

14 A That varies all of the basin.

15 Q Okay. And did you find, did you look at the
16 whole area of review for pinch-outs and faults?

17 A Yes.

18 Q Okay. And did you find any unique faulting
19 or pinch-outs within the area of review that would
20 cause differences in production?

21 A There's -- there's structure complexity
22 throughout the whole area.

23 Q Okay.

24 A I'm not -- not aware of any, you know,
25 pinch-outs that are meaningful within this area.

1 Q Are there structural differences throughout
2 the area that might cause some wells to produce higher
3 in certain portions of the area than in other portions
4 of the area of review?

5 A I would say that's true for the whole basin.

6 Q Okay. Okay. Were depths of the geologic
7 zones, the geologic zones that you looked at similar
8 throughout this whole area of review?

9 A I mean, roughly, things -- things get deeper
10 shallow and parts, but it's relatively similar across
11 the area.

12 Q Okay. And were pressures the same
13 throughout the area of review that you looked at?

14 A I probably don't have enough information to
15 comment, you know, for the entire area for -- in that
16 regard.

17 Q Okay. And was there any geologic
18 variability that you noticed throughout the area of
19 review?

20 A There's always geologic variability, just
21 depends on what you mean by it.

22 Q Okay. I noticed that there's a lot more
23 development as you go south within this area of
24 review. Why is that?

25 A Those -- you know, a lot of that other

1 operators, I mean that's -- that's getting down in one
2 of the core areas of the basin that had, you know,
3 heavy development early on and it's, you know,
4 development has kind of increased and marched around
5 the basin through time.

6 Q Okay.

7 MS. BRADFUTE: That's it for my
8 questions. Thank you.

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

11 MR. MCCLURE: Mr. Hearing Examiner, I
12 do not have any questions for this witness.

13 THE HEARING EXAMINER: Thank you.
14 Mr. Feldewert, is there any redirect?

15 MR. FELDEWERT: Just briefly.

16 THE HEARING EXAMINER: Please.

17 MR. FELDEWERT: I'm going to share.
18 Are you sharing? Yeah, that's fine. You can stay
19 there. Okay.

20 REDIRECT EXAMINATION

21 BY MR. FELDEWERT:

22 Q Exhibit B9, that you prepared Mr. Parker,
23 I'm not sure Cimarex's counsel had read your statement
24 about why you prepared it.

25 MR. FELDEWERT: Okay. So could you

1 move up to paragraph 25 of his exhibit B, his
2 statement. Should be on page 153. Okay.

3 BY MR. FELDEWERT:

4 Q So Mr. Parker, paragraph 25 of your
5 statement is where you reference Exhibit B9?

6 A Yes.

7 Q Okay.

8 MR. FELDEWERT: And I think you went
9 down little too far.

10 MS. BRADFUTE: Sorry, I think there was
11 a lag.

12 MR. FELDEWERT: I may have to drive.
13 There.

14 BY MR. FELDEWERT:

15 Q You state here on this exhibit, the zoomed
16 in area, the highlighted by the black box is slightly
17 different scope than the prior exhibit. This area of
18 focus covers approximately 12 townships and comprises
19 an area where I believe the maximum horizontal stress
20 orientation is approximately north 75 east or roughly
21 east to west. So you chose this area to address the
22 maximum stress orientation; correct?

23 A Yes.

24 Q Okay. And I know they made a big issue
25 about it going 18 to 20 miles south. Okay.

1 A Yes.

2 Q But you testified that you believe that
3 stress goes south to north and it's relatively
4 constant?

5 A Yes.

6 Q Okay. Then I think you explained the
7 question she didn't ask you, but I know they're going
8 to raise it. And it is why you didn't go west 18 to
9 20 miles on a township? Does your paragraph say that?

10 A Yes.

11 Q What do you say?

12 A I say that by going to the west, you're
13 starting to incorporate wells that are in this
14 different stress regime. And then, then you're no
15 longer comparing the importance of stress orientation.

16 Q To the productivity of the well.

17 A To the productivity of the well.

18 Q Okay. All right. And that's why you chose
19 then this particular area to study?

20 A Yes. If you're trying to look at the
21 importance of stress orientation and productivity,
22 it's important that you look at a set of wells that
23 are in the same stress orientation.

24 Q Okay. And if you went and turned this, your
25 study -- let's go back to B9. And if you took your

1 square box, okay, and rather going north to south, you
2 turned it and went east to west. Okay. What's going
3 to happen?

4 A That rectangle is going to extend west into
5 Eddy County and it's going to include the data points
6 around Lusk field where the stress is rotated to 45
7 degrees.

8 Q Okay.

9 A And those wells are not going to be relevant
10 to this study.

11 Q And would it make any sense to you to
12 compare the results of standup and laydown wells in an
13 area where they took your box and turned it east west?

14 A No, that's going to -- no.

15 Q Why is that?

16 A It -- because by doing that you're now --
17 you're now changing the scope of that study and
18 incorporating data points that are going to paint a
19 picture where yes, drilling east west and 45 degrees
20 is okay. But that doesn't matter because that's not
21 the stress orientation where we're drilling. So
22 you're -- you're cherry picking and painting the data
23 set to look a certain way, that is not relevant to the
24 point we're trying to make here.

25 Q So in other words, if I take an area that

1 has a stress orientation of 45 degrees, let's say to
2 the west of here, and I take an area where the stress
3 orientation is, as you say, 70 to 75 degrees, okay,
4 and I just using that compare the results of laydown
5 and standup wells, are you comparing apples to apples?

6 A No.

7 Q Okay.

8 MR. FELDEWERT: That's all the
9 questions I have. Thank you.

10 THE HEARING EXAMINER: Is there any
11 cross-examination on that part?

12 MS. BRADFUTE: No.

13 THE HEARING EXAMINER: Thank you.
14 Okay. This witness may be excused. Your third
15 witness?

16 MR. FELDEWERT: Yes. We have our last
17 witness.

18 THE HEARING EXAMINER: Mr. Schulz?

19 MR. FELDEWERT: Yes. Mr. Schultz who
20 will appear remotely.

21 THE HEARING EXAMINER: Ah, yes.
22 Mr. Schulz, can you get closer to the camera and the
23 microphone?

24 MR. SCHULZ: I'll try to zoom in.
25 We'll do it by ports.

1 THE HEARING EXAMINER: Perfect. We can
2 see you and you're under oath, Mr. Schulz.

3 WHEREUPON,

4 TANNER SCHULZ,
5 called as a witness and previously sworn to tell the
6 truth, the whole truth, and nothing but the truth, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. FELDEWERT:

10 Q Would you please state your full name for
11 the record, identify by whom you're employed and in
12 what capacity?

13 A Yes, my name is Tanner Schulz, employed by
14 MRC Permian. My title is vice-president of reservoir
15 engineering.

16 Q Okay. And Mr. Schultz, you previously
17 testified before this division as an expert witness in
18 petroleum engineering?

19 A Yes, that's correct.

20 Q And in particular as a reservoir engineer?

21 A Yes, sir.

22 Q Okay. And are you the individual that
23 submitted the statement and associated exhibits that
24 had been marked as MRC Exhibit D, as in David?

25 A Yes.

1 Q No, hold on. Is it D or is it C? I'm
2 sorry. Exhibit C?

3 A Yes, that's correct.

4 Q Okay. All right. Now there's been some
5 exhibits filed by various parties since then. I'd
6 like to have you take a look at what was filed as
7 Cimarex Exhibit D1. Do you see that?

8 A Yes.

9 Q Okay. What do you observe from this
10 exhibit?

11 A So Cimarex is showing kind of the last five
12 years by the -- the company or the operator that was
13 initially the operator to the county that drilled the
14 wells, showing a one year cums versus end of peak oil
15 per thousand for the lateral. Comparing Matador
16 Cimarex as well as Avant in that picture.

17 Q Hold on. Hold on. Mr. Schulz, if you could
18 hold on one second. I think we're having a difficult
19 time hearing you. Is there any way you can either sit
20 closer to a microphone or increase the volume?

21 A Yes, we're moving ports.

22 Q Okay.

23 A Sorry about that.

24 Q Is that better?

25 A Can you hear me better now?

1 Q I think so. I think I interrupted you. Go
2 ahead.

3 A Sure. So I said comparing Matador, Cimarex
4 and Avant, showing the well counts and the wells in
5 the last five years showing one year cums, as well as
6 the average lateral length for both -- for all there
7 companies. Kind of showing companies -- the wells
8 that were drilled between New Mexico and the Texas
9 state line and the south. Kind of looks like it's all
10 the way up through Lea County as well.

11 Q So let's orient real quick. I guess the
12 Cimarex wells are shown in blue; right?

13 A Yes, that's correct.

14 Q Matador --

15 A You might see that a little more on the
16 exhibit.

17 Q Sure. Matador wells are shown in brown
18 according to their legend; is that right?

19 A -- virtual connectivity interruption --

20 Q So I'm looking at their legend. I see blue
21 circle for Cimarex, brown circle for Matador, and
22 then, I guess, purple is Avant. Do you see that?

23 A Yes, sir.

24 Q And then that seems to correspond with the
25 colored sticks on the left-hand side of this exhibit?

1 A That's correct.

2 Q Okay. Now I see the town of Hobbs on here.
3 Can you orient us on this exhibit, to the township and
4 range at issue here?

5 A Yes. So the -- the project area Bobby
6 Pickard is going be approximately three or so
7 townships to the west of Hobbs.

8 Q And that would be what, 18 south?

9 A 18 South, 30 -- I'm having trouble reading
10 the map. I don't remember the -- the township range
11 off the top of my head. 18 south 30 east; is that
12 right?

13 Q I think it's 18 South 34 east; right?

14 A 34 east, yeah. That's right.

15 Q Okay. All right. So that would be, you're
16 right. One, two, three, four townships to the left of
17 Hobbs?

18 A Yep.

19 Q Okay. So when you look at this, looks like
20 it covers what, 37 townships in most of Lea County?

21 A Yeah, that's correct.

22 Q Okay. When you look at this analysis, does
23 it account at all for reservoir changes as you move
24 from our subject area south?

25 A No, it does not.

1 Q Okay. And where does it show most of
2 Cimarex's wells to be?

3 A Big drill in the southern part of Lea
4 County.

5 Q Were you here for the testimony by other
6 witnesses that indicated that the best rock in Lea
7 County is as you move south?

8 A Yes, and I would agree with that.

9 Q So how does that impact their analysis?

10 A They would have more wells located kind of
11 in that area, less in reservoir rock than comparing
12 against wells that us, Matador, or Avant have drilled,
13 kind of more further to north. That is a little bit
14 lesser quality of reservoir rock. So well results by
15 nature would be a little bit worse.

16 Q So if you were going to compare the results
17 of companies wouldn't you want to look at an area
18 where their wells are closer to each other and then
19 therefore in a similar reservoir setting?

20 A That's correct.

21 Q Okay. So if I look at this map and I look,
22 for example at 28 South, 33 east, do you see that on
23 this map?

24 A Yes.

25 Q Now that's an area it looks like based on

1 the colors where we have some Matador wells right next
2 to the Cimarex wells; right?

3 A That's correct.

4 Q Would that be a pretty good study area?

5 A Yeah, about as darn good as you're going to
6 get.

7 Q What's that?

8 A About as good as you're going to get.

9 Q Okay. Another area, if I look at 20 south,
10 35 east, do you see that looks like we've got some
11 brown wells near blue wells?

12 A Yes.

13 Q Not quite as good, but it might at least be
14 close to having the same reservoir sitting; right?

15 A Yeah, you're generally much closer. Your
16 well counts could be an issue but yeah, definitely
17 variable rock.

18 Q And then you'd want to count for what?
19 Would you want to count for vintage of the wells and
20 any the completions that were used?

21 A Yep, absolutely. Time kind of is proxy for
22 completion design. Also looking at, you know,
23 publicly available data for completion design. So
24 prop in per foot, barrels pumped per foot, as well
25 looking at the lateral length, things of that nature.

1 Q Okay. So in your opinion, does a study area
2 that includes 37 townships, and most of Lea County, is
3 that an appropriate area to try to compare the results
4 from operators?

5 A No, I don't believe so.

6 Q Now I want to move to what has been admitted
7 as Cimarex Exhibit D10. Are you familiar with this?

8 A Yes, I've seen it.

9 Q Okay. Now if you look at Exhibit D10, we
10 see a smaller study area there to the right; correct?

11 A Yes.

12 Q And we actually see the acreage at issue
13 here, 28 and 33. And then, for Avant it's 29 and 32.
14 Do you see that in the inset?

15 A That's correct.

16 Q Okay. Would this be an area that should
17 have a similar rock, in other words, similar
18 reservoir?

19 A Without looking at any further geo maps or
20 anything like that, you certainly have proximity to
21 well results. So yes, I would say it's probably a
22 good starting point.

23 Q Okay. All right. And when you look at
24 the -- and this is a Cimarex analysis; right?

25 A Yes.

1 Q Of the second Bone Spring targets?

2 A Correct.

3 Q Okay. And when you look at that, there's a

4 well up there that's in red, that's the Pickard well.

5 Do you see that?

6 A Yes.

7 Q Okay. Does that look to you like the best

8 performing well, in this in their study area?

9 A Yes, it does.

10 Q Who operates that well?

11 A Matador does.

12 Q Who drilled that well?

13 A Matador did.

14 Q Okay. If I go to D11, again a Cimarex

15 study; correct?

16 A Correct.

17 Q Okay. And again, we see a smaller area of

18 review in the right-hand side?

19 A Yes.

20 Q Okay. And this apparently looks at results

21 in the first Bone Spring interval; is that right?

22 A That's correct.

23 Q When I look at that, it looks like one of

24 the best performing wells is the Airstrip well?

25 A That's correct.

1 Q Who operates that well?

2 A Matador does.

3 Q Who drilled that well?

4 A Matador did.

5 Q Okay. So at least with respect to when you
6 focus it down to specific areas chosen by Cimarex, it
7 appears Matador is the best operator; correct?

8 A You can surmise that, yes.

9 Q Okay. Now, in their exhibits they seem to
10 raise concerns about Matador's AFE costs. Are you
11 aware of that?

12 A I'm sorry. Repeat that.

13 Q In their exhibits that they filed, they seem
14 to raise concerns about Matador's AFE costs, their
15 estimated costs for their proposed wells.

16 A Yes.

17 Q Now, first of all, as part of this hearing
18 Matador provided updated AFE costs, because the ones
19 sent with the well proposal were almost a year old;
20 right?

21 A That's correct.

22 Q Okay. And did Cimarex's analysis take into
23 account Matador's updated AFE costs?

24 A No, it did not.

25 Q Okay. When you looked at those updated AFE

1 costs, how do they compare with Cimarex?

2 A When you look at them, the second Bone
3 Spring were roughly pretty similar. I think we're
4 about 600,000, \$700,000 apart, if I'm not mistaken.
5 And then, on the Wolfcamp B, we were still a little
6 bit further apart.

7 Q Okay. Do you have concerns about Cimarex's
8 AFE costs being too low?

9 A Yes, I do.

10 Q Now, Matador as reflected in their own
11 exhibits has extensive experience drilling in this
12 area; correct?

13 A That's correct.

14 Q Okay. Or do you know the last well that
15 Cimarex actually drilled in this area?

16 A Not off the top of that.

17 Q Okay. Are you aware of the last Cimarex,
18 well where Matador was participating?

19 A Yes, it's the Mescalero Ridge number 2H, I
20 believe is --

21 Q Mescalero --

22 A -- miles out the -- of the subject area.

23 Q Okay. So let's go to -- I'm going to go to
24 MRC's Exhibit A7, or I may have to skip around. Give
25 me a minute. There we go, A10. If I look at Exhibit

1 A10, which we've admitted, we start at the top of the
2 Iggles wells; correct?

3 A Correct.

4 Q Okay. And then we see MRC's Bobby Pickard.
5 And then we move down to the next township down and we
6 see about halfway down, are those the Cimarex
7 Mescalero Ridge wells?

8 A Yes, that's correct.

9 Q And that's what you're talking about?

10 A Yes.

11 Q So this is just south of our subject area?

12 A Correct.

13 Q Do you recall when those wells were drilled?

14 A I believe it was -- that well was turned
15 online the beginning of this year. So last -- drilled
16 last year.

17 Q Okay. Do you recall the AFE that was
18 submitted by Cimarex to Matador for this particular
19 well or these sets of wells?

20 A I do. For the -- for the number 2H it was
21 roughly 12 and half, \$12.7 million to drilling
22 complete and equip the well.

23 Q 12.7 is that what you said? 12.7 million?

24 A Yes, sir, 12.7.

25 Q And that was for Bone Spring well?

1 A Yes, they're done.

2 Q Okay. As opposed to their 9.5 to 10.5 that
3 that's in their current AFE?

4 A That's correct.

5 Q Okay. Now when you got the actual cost for
6 Cimarex's Bone Spring well, this Mescalero well, was
7 it higher or lower?

8 A It was higher than the AFE.

9 Q How much higher?

10 A About two and a half million dollars higher.

11 Q So up to 15 million?

12 A Yes, sir.

13 Q Is that why you're concerned that Cimarex's
14 AFEs are too low?

15 A Yes, that's correct.

16 Q One of the reasons, at least. Also based on
17 your drilling experience out there, do they appear to
18 be too low?

19 A That's right. As a company, yeah, we've
20 been active drilling in the -- the general area. And
21 so I think we got a pretty good corporate or company
22 knowledge about the the cost that it's going to take
23 to drill and equip these wells, to complete them.

24 Q Okay. Now, in their exhibits there's a lot
25 of discussions about Cimarex's ability to use recycled

1 produced water. Do you recall that?

2 A Yes.

3 Q Okay. When I look up here at this exhibit
4 A10, we show MRC's Iggles wells at the top, the
5 two-mile wells going to the north. Do you see that?

6 A Yes, sir.

7 Q They're going to be drilled from a pad in
8 the south half of section 21.

9 A Yes, sir.

10 Q Okay. The same pads that you're going to
11 use to drill the Bobby Pickard wells?

12 A That is the plan, yes.

13 Q Okay. Are you going to be able to use the
14 produced water from the Iggles wells to likewise drill
15 the Bobby Pickard?

16 A That's correct. We are setting up a --
17 actually investing into a system that's going to allow
18 us to use almost a hundred percent, if not almost a
19 hundred percent produce water in our fracs for both
20 Iggles and we would represent that on Bobby Pickard
21 wells.

22 Q Okay. So you're going to have no new
23 surface disturbance and you're going to be able to use
24 a hundred percent or close to a hundred percent
25 recycled produce water?

1 A That's correct.

2 Q For your two-mile standup wells in this
3 area?

4 A That's correct.

5 Q Okay. And I think you've testified to this,
6 but would you agree that a standup orientation is
7 necessary for wells in this area in order to prevent
8 waste?

9 A Yes, I do agree with that.

10 Q Okay.

11 MR. FELDEWERT: Thank you. That's all
12 the questions.

13 THE HEARING EXAMINER: Mr. Holliday.

14 MR. HOLLIDAY: No questions.

15 THE HEARING EXAMINER: Ms. Bradfute.

16 MS. BRADFUTE: Yes, thank you.

17 CROSS EXAMINATION

18 BY MS. BRADFUTE:

19 Q Good afternoon.

20 A Good afternoon.

21 MR. BRADFUTE: Mike, could I share my
22 screen?

23 MR. FELDEWERT: Certainly.

24 MS. BRADFUTE: Thank you.

25 //

1 BY MS. BRADFUTE:

2 Q I want to turn to MRC Exhibit C1. Can you
3 see that screenshot?

4 A Yes, ma'am.

5 Q Okay. Is this an exhibit that you prepared?

6 A Yes, prepared under my direct supervision.

7 Q Okay. Great. And is this similar to the
8 exhibit that was shared by MRC's geologist who
9 previously testified?

10 A Yes, it should be the exact same.

11 Q Okay. And I'm so sorry. I can just barely
12 hear you when you respond. So if you could speak a
13 little closer.

14 A Yes.

15 Q Is the area in the black rectangle an area
16 of review that you studied through an engineering
17 reservoir study?

18 A Yes, that's correct.

19 Q Okay. And we've already discussed this
20 study area. And did you have anything to add from
21 MRC's geologist testimony about this area of review?

22 A No, not off the top of my head.

23 Q Okay. Let's see. Why did MRC pick this
24 specific area overview for your study?

25 A Yep. I think we -- we chose this area

1 because it had the same kind of geomechanical
2 properties, ultimately kind of looking at the -- the
3 maximum principal stress. We thought this area was
4 very similar. There's not a whole lot of east west
5 wells directly around the subject area. And so, we
6 kind of expanded down into what we thought what as,
7 you know, rock that had the same view of mechanical
8 properties. And in order to capture more east west
9 wells in the study to make it a little bit more
10 statistically meaningful.

11 Q Okay. And it's a fairly large area;
12 correct?

13 A Yes.

14 Q About approximately how many miles does it
15 include?

16 A You're looking at three by four townships,
17 so 18 by 26 miles.

18 Q Is there any reason you didn't include more
19 sections going up to the north?

20 A You -- you're kind of at the edge of the
21 basin, so there's really no more wells too much
22 further north of you.

23 Q And do you think the stress direction in
24 township 21 south is the same as the stress direction
25 in township 18 south?

1 A Can you zoom in for me?

2 Q Yeah, I sure can. Let's see. Does that
3 help a little bit?

4 A Yeah, it helps a little bit. Can you maybe
5 point to it on the -- the screen as you're asking.

6 Q Okay. Hold on real quick. See if I can
7 scroll in some more.

8 A Okay. And you're asking about the road, I'm
9 assuming.

10 Q Yeah, let me re-ask the question. Do you
11 think the stress direction in township 21 south is the
12 same as it is in township 18 south?

13 A Based on Mr. Parker's testimony and the
14 Zoback study, I think, you know, there's similarities
15 there. And so, they're not two different from each
16 other.

17 Q Okay. Does stress change as you head south?

18 A You know, I'll defer that to Mr. Harper's
19 testimony.

20 Q Okay. Is there some reason you decided not
21 to include township 19 south, 32 east, and 20 south,
22 32 east.

23 A 19 south. Ultimately because you're getting
24 further west over to the field that Andrew had pointed
25 out to where stress regimes do start to change. And

1 so, you're getting into more east west wells. So that
2 orientation does work better.

3 Q Okay. And your affidavit -- oh so sorry. I
4 didn't mean to cut you off.

5 A Just trying to keep -- oh, sorry about that.
6 That's okay. Just trying to keep the sample set to be
7 more specific to the subject area.

8 Q Okay.

9 A And I guess, the appropriate stress regime.

10 Q And your affidavit states that your study
11 contains about 957 wells; is that right?

12 A Yes, ma'am.

13 Q I'm sorry. Can you repeat that? I didn't
14 hear you.

15 A Yes, ma'am.

16 Q Okay. Thank you. Is the net sand or five
17 times H, porosity times height consistent in all the
18 wells in your area of review?

19 A I think it's variable throughout the basin.
20 I'd have TO rely on our geologist's testimony.

21 Q Okay. And from an engineering standpoint at
22 porosity times -- virtual connectivity interruption --
23 height values for the wells that you used in your
24 study?

25 A Not specifically. We did look at maps

1 together. But, you know, I'll rely on the geologist's
2 testimony.

3 Q And what's the date range for when the wells
4 were drilled that were included in your study?

5 A We cut it off the beginning 2010 to present.
6 And then, we also had another sample that we looked at
7 for 2010 to 2015.

8 Q Okay. And are you sure that the timeframe
9 was 2010 to present or was it 2010 to 2018?

10 A I --

11 MR. FELDEWERT: Should we go to the
12 exhibit?

13 MS. BRADFUTE: Yeah. Let me find the
14 exhibit.

15 MR. FELDEWERT: I think you're looking
16 at C3 and C4.

17 MS. BRADFUTE: Okay. Yes. Oh, okay.
18 It was 2010 to present. Thank you. Okay.

19 MR. FELDEWERT: And 2010 to 2015.

20 MS. BRADFUTE: And 2010 to 2015.

21 BY MS. BRADFUTE:

22 Q So that's a pretty wide date range looking
23 at 2010 to present; correct?

24 A Yes, ma'am.

25 Q Okay. Why did you pick that timeframe?

1 A To show all the wells that were drilled in
2 the area.

3 Q Okay. So you just comprehensively wanted to
4 show everything?

5 A Yes. Just kind of being intellectually
6 honest, kind of showing everything that's available
7 there.

8 Q Have drilling completions changed from 2010
9 to present?

10 A Yes.

11 Q Okay. And did you do any filtering besides
12 setting the first production date?

13 A In this sample? No.

14 Q Okay.

15 A And that's why we have Exhibit C4?

16 Q Okay. And what filtering did you do in
17 Exhibit C4?

18 A Filtered off the time.

19 Q Filtered off the time.

20 A Yeah, basically focused on wells.

21 Q Okay. Okay. And was time the only filter
22 that you used?

23 A Yes, that's correct.

24 Q Okay. When you filtered by time, are you
25 showing cum oil over the life of production or just

1 over production in the time period?

2 A No, so we're -- we're still, we're showing
3 the EUR, which is the estimated ultimate recovery of
4 what we expect the wells to make, ultimately. And so
5 it's just looking at the wells that were completed --
6 drilling completed in between 2010 and 2015.

7 Q Okay. Are you familiar -- oh, go ahead.
8 I'm sorry.

9 A I was just saying, so there's still a
10 forecast on the data which ultimately starts here as
11 of 2024 forward.

12 Q Are you familiar with the third sand
13 Goldstone and Skydweller wells?

14 A Yes, I'm familiar.

15 Q Okay. Do you expect those wells to have a
16 significant difference in frac design and to perform
17 equally with other wells in the study?

18 A Those are the kind of newer models; correct.

19 Q Yes. I believe that's correct

20 A Yes, I would assume that they would --

21 Q Okay. How would their frac design look
22 different from a well that was drilled in 2010?

23 A So it's probably going to have more
24 clusters, more stages. It's going to use a higher
25 amount of profit, pounds per foot that's going to be

1 pumped during the job, more barrels, kind of fluid
2 pumped during the job. So you'd have more frac.

3 Q Would you expect higher production from the
4 more recently drilled wells, the new wells that we
5 were just talking about?

6 A Generally speaking, yes.

7 Q In your opinion, is it fair to compare
8 production s that were first drilled in 2010 with
9 wells that were drilled presently in 2024?

10 A No, I don't think that's fair. Which is why
11 we cut the exhibit off at 2015 here.

12 Q Okay. And that's why you decided to focus
13 on the 2010 to 2015 timeframe?

14 A That's correct.

15 Q Okay. Did frac designs and completion
16 designs change significantly between 2010 and 2012?

17 A I think the design was ever evolving kind of
18 in that timeframe. But generally speaking from my
19 knowledge of the industry, the -- the fracs were
20 smaller during that timeframe, certainly compared to
21 what we're doing today. And so using time as a proxy,
22 for completion design evolution, that seems like an
23 appropriate cutoff.

24 Q Okay. Do you know approximately how many
25 wells included within your study were drilled in the

1 2010 to 2012 timeframe?

2 A No, -- no, ma'am. Not off the top of my
3 head.

4 Q Do you know how many of the east west wells
5 included in your study were drilled in the 2010 to
6 2012 timeframe?

7 A No, ma'am.

8 Q Okay. Do you know the completion designs
9 used for the east west wells included within your
10 study?

11 A Generally, I think they were somewhere
12 around 600 pounds per foot.

13 Q Okay. And that's for all the east west
14 wells included within your area of review?

15 A Yes. And specifically to these two.

16 Q Okay. And how many east west wells were
17 included within your study?

18 MR. FELDEWERT: Which studies.

19 THE WITNESS: C4 and C3 it's two,
20 because they only --

21 BY MS. BRADFUTE:

22 Q Okay. Okay. Thank you. So let's go first
23 with C3. How many east west wells were included
24 within your study shown on C3?

25 A There's two.

1 Q There's two. Okay. And were those wells
2 drilled both around the relatively same timeframe?

3 A As far as I'm aware, yes.

4 Q I'm sorry. Can you repeat that?

5 A As far as I'm aware, yes.

6 Q Okay. And what year was that?

7 A I -- I recall off the top of my head. But
8 they were somewhere around 2012, 2011, 2013, somewhere
9 in there.

10 Q Okay. So they were in the earlier side in
11 the timeframe?

12 A That's correct.

13 Q Okay. Looking at Exhibit C4, how many east
14 west wells were included within your study, this
15 study?

16 A Two. It's the same from the previous
17 exhibit.

18 Q Oh, okay. So it's just the same two east
19 west wells that were included in both studies?

20 A Yes, because they're the only two wells in
21 the area east west.

22 Q Okay. Okay. Just a couple of last
23 questions moving away from this exhibit now. Has MRC
24 proposed to drill a first Bone Spring well within its
25 Bobby Pickard spacing units?

1 A I'd have to defer to landman, but I don't
2 believe we have proposed that well yet.

3 Q Okay. And has -- oh, I'm sorry. What was
4 that?

5 A Or those wells, just moving forward.

6 Q Okay. And has MRC proposed to drill any
7 upper second Bone Spring wells in the Bobby Pickard
8 spacing units?

9 A Not that I'm aware of. I think our correct
10 proposals are lower second Bone Spring walls. Yeah.

11 Q Okay. In the event that MRC does not
12 prevail in these cases, have you discussed any
13 contingency plans to develop section 29?

14 A Not that I'm aware of. I know we're --
15 we're currently -- we're about to drill our Iggles
16 wells to the north that we talked about earlier. And
17 so that would strand this block at a -- at a one-mile
18 section.

19 Q And a recent Hart Energy article highlighted
20 MRC's successful U-turn activity in the Delaware basin
21 recently. Are you familiar with that article?

22 A Yes.

23 Q MRC has also highlighted some success of
24 U-turn turn wells with their investor in their
25 investors report; is that correct?

1 A That's correct.

2 Q Okay. Do you agree that U-turn wells
3 drilled by MRC or performing in parallel to two-mile
4 straight laterals?

5 A Yes, I -- I do agree with that.

6 Q Has the company considered drilling U-turn
7 wells within section 28?

8 A Honestly don't know. It's not in my purview
9 with the team that's actually looking at the
10 development plans.

11 Q Okay. It does appear that MRC controls
12 ownership in the two sections that are above 28th,
13 that's sections 21 and 16. Have you actually started
14 drilling those wells within those sections?

15 A The Iggles wells?

16 Q Yeah.

17 A I believe our rig is supposed to go out
18 there within the next couple months.

19 Q Okay.

20 A So we're prepping surface and facilities and
21 things of that nature right now, as far as I'm aware.

22 Q Okay.

23 MS. BRADFUTE: And that concludes my
24 questions. Thank you

25 THE HEARING EXAMINER: Mr. McClure.

1 MR. MCCLURE: Thank you Mr. Hearing
2 Examiner. I do have a few questions. Mr. Shulz, if I
3 can direct your attention to, well you're almost there
4 I guess, page 177, your Exhibit C4. Mr. Shulz, you
5 only identify two wells east west in the second Bone
6 Spring; is that correct?

7 THE WITNESS: That's correct.

8 MR. MCCLURE: was a search conducted
9 for wells in the first Bone Spring or a third Bone
10 Spring within this area?

11 THE WITNESS: Yes, it -- there was.

12 MR. MCCLURE: Were there not any Bone
13 Spring three or Bone Spring one wells?

14 THE WITNESS: There -- there are a -- a
15 handful.

16 MR. MCCLURE: Oh, Okay. Okay. So
17 there are a handful, but they were not considered for
18 purposes of this graph and this map; is that correct?

19 THE WITNESS: That's correct. This
20 graph for this exhibit pertains only to the second
21 Bone Spring. And so, just looking at the degradation
22 north south versus east west in the 2010 to 2015 time
23 range is -- was the purpose of this exhibit. And so,
24 the -- you know, body only looking at second Bone
25 Spring wells, the first Bone and the third Bone wells

1 are not shown.

2 MR. MCCLURE: Do you believe that the
3 Bone Spring one, Bone Spring two, and Bone Spring
4 three differ in regards to the angle of maximal
5 stress?

6 THE WITNESS: I don't believe they do.
7 I'll have to refer to my geologist further testimony
8 on it. But I thin, you know, as far as I'm aware you
9 have a similar stress regime kind of throughout the
10 column.

11 MR. MCCLURE: So I guess, was there a
12 reason that Bone Spring one and Bone Spring three was
13 not considered for purposes of this study?

14 THE WITNESS: They -- they are
15 considered, when you look at exhibit, I think you flip
16 forward one more exhibit page, to C5, you'll see here
17 this is a -- we're -- we're kind of broadening out to
18 a larger area of review, which is going to be the same
19 area that was previous, excuse me, previously shown on
20 exhibit C1. And the basis of that is there's just not
21 enough east wells -- east west wells and the third
22 Bone and the first bone, and really even second bone
23 locally to -- to look at it. So what we're trying to
24 do is show north, south, east, west, with a
25 significantly or statistically significant

1 representative number of wells to be able to look at
2 degradation. And while that does encompass a number
3 of different rock qualities, as we've mentioned here
4 today, that the rock quality general needs matter
5 south, you're still having a nice kind of hetero
6 mixture of north, south, east, west wells throughout
7 this block. And so, to me that kind of makes this a
8 representative sample set.

9 MR. MCCLURE: Is it more accurate to
10 say that -- or do you believe that exhibit, the study
11 conducted in exhibit C5, do you believe that's more
12 representative than the study that was conducted in
13 exhibit C6? The next one in line there.

14 THE WITNESS: I would probably say that
15 C6 is more representative and the basis of that is
16 constraining the -- the sample set cutting it off in
17 the 2015 timeframe. You know the -- what we're --
18 what I'm trying to do here is show that 2010 to 2015,
19 even though there's differences of frac design -- in
20 the in pounds per foot prop -- I wish I had the
21 numbers off the top of my head, but how it was used in
22 each. But, you know, generally speaking the frac
23 design is probably pretty similar throughout this
24 timeframe. And so, being able to look at those east
25 most wells versus north south -- north south wells

1 hopefully the timeframe as proxy for completion design
2 removes the kind of completion knob in this data set,
3 if you will.

4 MR. MCCLURE: Did you notice a trend
5 towards higher production as you moved from the north
6 to the south in this area of review?

7 THE WITNESS: Yes.

8 MR. MCCLURE: Do you portray -- within
9 your exhibits do you have any sort of -- you see in
10 Exhibit C1, I guess you have an overhead map. In
11 Exhibit C1, this would be all the present wells,
12 though. This would not be representative of the area
13 review for C6; is that correct? No, C5 and C6 would
14 be would be based off of all the wells shown in the
15 black box.

16 MR. MCCLURE: I guess what my question
17 is -- oh wait, I -- I apologize sir. You said that
18 all the wells in this box is included in both C5 and
19 C6? Is that what you said?

20 THE WITNESS: Yes. It's the -- it's
21 the data set that goes into C5 which is further the
22 filter into C6.

23 MR. MCCLURE: Okay. So we have no map
24 that -- an overhead map similar to this that would
25 show us the wells that are in C6; that correct?

1 THE WITNESS: That is correct. We can
2 provide a list of wells that -- that went into that
3 study in a map if that's so desired.

4 MR. MCCLURE: Yeah. I think -- I
5 think, I think I am going to make that request but
6 once we get to that line, which would be a table of
7 all the wells in your C6 study as well as an overhead
8 map. But we'll bring all that up when we provide
9 this. Thank -- thank you, sir. Thank you
10 Mr. Examiner. I have no further questions.

11 THE WITNESS: Thank you.

12 THE HEARING EXAMINER: Thank you
13 Mr. McClure. It is 4:05. Mr. Feldewert, normally at
14 this time I would ask if you have any redirect
15 questions for this witness, and if you do, do you?

16 MR. FELDEWERT: I have. It'd be very
17 short.

18 THE HEARING EXAMINER: Very short.

19 MR. FELDEWERT: Because I don't leave as
20 much --

21 THE HEARING EXAMINER: Okay, fine. All
22 right. Go right ahead.

23 MR. FELDEWERT: I just need some help
24 driving. Can you go to C3?

25 //

REDIRECT EXAMINATION

BY MR. FELDEWERT:

Q So Mr. Schulz, there were some comments about how there was only two wells that you used in this exhibit; right?

A Correct.

Q Okay. But you used the data you had; right?

A That's right.

Q Okay. So for whatever reason, and I think we know the reason. All operators in your study area have drilled standup except for those two wells. So that's all you had to go on; right?

A That's right.

Q Same thing with the next exhibit, C3?

A C -- yeah, that's right, C4?

Q Oh, I'm sorry, C4. That's the data you had available to you, so that's what you used?

A That's correct.

Q Okay. But you recognized that from a statistical standpoint, that is not a lot of data to go on, so that's why you created C5 and C6?

A That's correct.

Q Okay. And when you went to your capital analysis on C7, which it takes into account the degradation that is clearly evident when you look at

1 laydown versus standup in this area, you used some
2 fairly conservative numbers; right. in terms of the
3 percentage degradation?

4 A That's correct. We're showing the -- the
5 examiner, and then the parties three different kind of
6 degradation models if you'll will, but at 15 percent,
7 at 30 percent, and at 45 percent degradation.

8 Q All right. So there's no doubt that there's
9 degradation in this area if you compare standup and
10 laydown; correct?

11 A That's correct.

12 Q Okay. And is there any doubt that standup
13 wells are more efficient than laydown, in this
14 particular area?

15 A Sorry. Can you ask that one more time?

16 Q Is there any doubt that that standup is more
17 efficient than laydown, in this particular area?

18 A No, I -- I agree that north is more
19 efficient, will provide better production results.

20 Q And thereby prevent waste.

21 A That's correct.

22 Q Okay.

23 MR. FELDEWERT: That's all. Thank you.

24 THE HEARING EXAMINER: Mr. Holliday.

25 Ms. Bradfute. Thank you. Okay. Mr. McClure, do you

1 have any further cross-examination based on the
2 questions that Mr. Feldewert just asked?

3 MR. MCCLURE: I do not, Mr. Hearing
4 Examiner.

5 THE HEARING EXAMINER: All right.
6 We're going to go to recess at this point. What time
7 do the parties want to reconvene tomorrow? Well,
8 you're driving from Albuquerque; right?

9 MR. FELDEWERT: I'm in -- I'm here in
10 Sante Fe.

11 THE HEARING EXAMINER: You're here.
12 Thank you.

13 MS. BRADFUTE: I would be driving from
14 Albuquerque.

15 THE HEARING EXAMINER: You're driving.

16 MS. BRADFUTE: Yes.

17 THE HEARING EXAMINER: What time would
18 you like to reconvene tomorrow?

19 MS. BRADFUTE: Whatever your preference
20 is.

21 THE HEARING EXAMINER: What's your
22 preference

23 MS. BRADFUTE: In between 8:00 and
24 9:00.

25 THE HEARING EXAMINER: Okay. I think

1 the front doors don't open until 8:00. And you guys
2 need a little time to set up I would think. And
3 you're not going to be here?

4 MR. HOLLAND: No. Just so the parties
5 know, we're not going to have a court reporter
6 tomorrow, because this lasted longer than he was
7 available. So we will be recording tomorrow's
8 proceedings, and we will have them transcribed
9 verbatim in the normal two-week time.

10 THE REPORTER: Yes.

11 THE HEARING EXAMINER: We just send you
12 the recording and --

13 THE REPORTER: I'll confirm with
14 Veritext and then let you and Freya know.

15 THE HEARING EXAMINER: Thank you.
16 Okay. Okay. So why don't we say it's your
17 preference, 8:30 OR 9:00. What do you prefer?

18 MS. BRADFUTE: I would prefer 8:30.

19 THE HEARING EXAMINER: 8:30. You want
20 to be here earlier? Sounds good. We will reconvene
21 at 8:30 tomorrow. And we will have our witness's
22 except for Avant's witnesses, which will be going
23 home. I'd like to get Cimarex's -- well, your
24 witnesses will be here tomorrow, so I don't need to
25 swear them in today. Okay. Now we need a little

1 housekeeping here, because these cases have to be
2 continued to the November 7th docket. How soon can
3 the parties do that?

4 MR. FELDEWERT: Given the time I can
5 have my -- we can do that. Our office can do that
6 quickly.

7 THE HEARING EXAMINER: I thought so.
8 So you mean this afternoon?

9 MR. FELDEWERT: Yes, yes.

10 THE HEARING EXAMINER: Mr. Holliday.

11 MR. HOLLIDAY: That's fine.

12 THE HEARING EXAMINER: Ms. Bradfute.

13 MS. BRADFUTE: Yes, I can. Thank you.

14 THE HEARING EXAMINER: All right.

15 Good. So Freya was concerned about getting this
16 agenda out there and so, that's why we're asking that
17 question. Okay. Is there anything else that the
18 parties want to address at this time before we go to
19 recess?

20 MR. FELDEWERT: No, I think the next is
21 your witnesses; right? Okay.

22 THE HEARING EXAMINER: And then, we'll
23 have to deal with rebuttal cases. If you have a
24 rebuttal case, please be prepared to show me how you
25 could not have anticipated the evidence you are trying

1 to admit. Okay, I think that's everything. Thank
2 you, James. Thank you, Madia. Thank you, Freya.
3 Thank you everyone for attending. We'll see you
4 tomorrow. Thank you.

5 (Whereupon, at 4:11 p.m., the
6 proceeding was concluded.)
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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

December 30, 2024

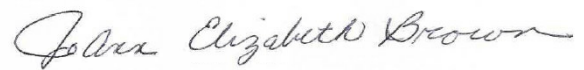


JAMES COGSWELL
Notary Public in and for the
State of New Mexico

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