

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION
4 APPLICATIONS OF AVANT OPERATING, LLC FOR
5 COMPULSORY POOLING AND APPROVAL OF AN
6 OVERLAPPING NON-STANDARD HORIZONTAL
7 SPACING UNIT, LEA COUNTY, NEW MEXICO.
8 CASE NOS. 24632-24633
9 APPLICATIONS OF MAGNUM HUNTER PRODUCTION,
10 INC. FOR COMPULSORY POOLING,
11 LEA COUNTY, NEW MEXICO.
12 CASE NOS. 24756-24759
13 CASE NOS. 24913-24916
14 APPLICATIONS OF MRC PERMIAN COMPANY
15 FOR COMPULSORY POOLING,
16 LEA COUNTY, NEW MEXICO.
17 CASE NOS. 24760-24767

18 TRANSCRIPT OF RECORDING
19 HEARING

20 DATE: Wednesday, November 6, 2024
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22 BEFORE: Hearing Examiner Gregory A. Chakalian
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24 1220 South Saint Francis Drive
25 Santa Fe, NM 87505
TRANSCRIBED BY: KENDRA TELLEZ
Kendra Tellez Court Reporting, Inc.,
A Veritext Company
500 4th Street, NW, Suite 105
Albuquerque, New Mexico 87102

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APPEARANCES
ON BEHALF OF FORAN OIL COMPANY AND MAGNUM
HUNTER/CIMAREX:

MICHAEL H. FELDEWERT, ESQUIRE
Holland & Hart, LLP
110 North Guadalupe Street, Suite 1
Santa Fe, NM 87501
mfeldewert@hollandhart.com
505-988-4421

ON BEHALF OF AVANT CORPORATION:
BENJAMIN B. HOLLIDAY, ESQUIRE
Holliday Energy Law Group, PC
107 Katherine Court
San Antonio, TX 78209
ben@theenergylawgroup.com
210-469-3197

ON BEHALF OF MAGNUM HUNTER AND MARATHON OIL
PERMIAN, INC.:
JENNIFER L. BRADFUTE, ESQUIRE
Bradfute Sayer Consulting & Legal Services
PO Box 90233
Albuquerque, NM 87199
jennifer@bradfutelaw.com
505-264-8740

ALSO PRESENT:
Isabella Sikes, Witness
Staci Frey, Witness
Calvin Boyle, Witness
Edward Behm, Witness (via videoconference)
Sophia Guerra, Witness (via videoconference)
Dean McClure, Technical Examiner
Frey Tschantz, Law Clerk
Madia Corral, Law Clerk

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1 HEARING EXAMINER: And
2 Mr. Holliday -- so -- Freya, would you start
3 recording now? Thanks.

4 UNIDENTIFIED SPEAKER: Yes.

5 HEARING EXAMINER: Good morning.
6 This is November 6th, the day after election, and it
7 is now 8:30 a.m. We're right on schedule.

8 As I remember, yesterday Mr. Feldewert had
9 presented three witnesses for MRC Permian.

10 Mr. Feldewert, have you concluded your
11 case in chief?

12 MR. FELDEWERT: Yes, sir.

13 HEARING EXAMINER: Okay. Is your
14 microphone on?

15 MR. FELDEWERT: It is now, yes.

16 HEARING EXAMINER: It's really
17 important today that everyone speak clearly and into
18 the mics, because we don't have a court reporter
19 with us. They're going to be transcribing this
20 verbatim from the recording. So for the witnesses,
21 too, please be very clear.

22 So that leaves Ms. Bradfute, your case for
23 Cimarex, otherwise known as -- what?

24 MS. BRADFUTE: Magnum Hunter.

25 HEARING EXAMINER: Thank you.

1 Otherwise known as -- what is your relationship
2 between the two?

3 MS. BRADFUTE: They are affiliates.
4 So both entities are owned by Coterra Energy
5 Company, which is their parent company.

6 HEARING EXAMINER: Thank you. How
7 many witnesses do you have?

8 MS. BRADFUTE: We have four
9 witnesses.

10 HEARING EXAMINER: Four witnesses.
11 Great. Why don't you have them come on up to the --
12 I know one of them is virtual.

13 MS. BRADFUTE: Yes, that is correct.

14 HEARING EXAMINER: Why don't you have
15 the three that are with us and the one who's virtual
16 turn on their screen, please, so we can see you.

17 I see you now, Mr. Boyle. So let's start
18 with you, Mr. Boyle, would you state and spell your
19 name for the record.

20 CALVIN BOYLE: Yes, sir. Calvin
21 Boyle, C-A-L-V-I-N, B-O-Y-L-E.

22 HEARING EXAMINER: Okay. Thank you,
23 sir.

24 And then one at a time, would you each
25 state and spell your names for the record.

1 STACI FREY: Staci Frey, S-T-A-C-I,
2 F-R-E-Y.

3 HEARING EXAMINER: Thank you.

4 ISABELLA SIKES: Isabella Sikes,
5 I-S-A-B-E-L-L-A, S-I-K-E-S.

6 HEARING EXAMINER: Thank you.

7 EDWARD BEHM: Eddie Behm, E-D-D-I-E,
8 B-E-H-M.

9 HEARING EXAMINER: Thank you.

10 Would you all raise your right hands,
11 please.

12 Do you swear or affirm under penalty of
13 perjury that the testimony you're about to give is
14 the truth, the whole truth, and nothing but the
15 truth?

16 HEARING EXAMINER: Mr. Boyle? Thank
17 you.

18 CALVIN BOYLE: Yes.

19 HEARING EXAMINER: Thank you, sir.

20 (WITNESSES: STACI FREY, ISABELLA SIKES, EDDIE BEHM,
21 CALVIN BOYLE sworn in.)

22 HEARING EXAMINER: Would you -- who
23 are you going to call first?

24 MS. BRADFUTE: I will call Ms. Sikes
25 first, but I'd also like to start with my opening

1 statement.

2 HEARING EXAMINER: Definitely, but I
3 just wanted someone to stay here at the witness
4 stand. And do you turn your mic -- is your mic on?

5 It is on. Excellent. Okay. And then I
6 had a question for Mr. Holliday. And I'm trying to
7 remember what it was we were -- oh, I asked about
8 preliminary matters.

9 So before you begin your brief opening
10 statement, because your witnesses do have flights,
11 what did you want to bring up?

12 MR. HOLLIDAY: I don't recall
13 anything, other than the movement of the -- sliding
14 in the time first tomorrow.

15 HEARING EXAMINER: So you have no
16 other preliminary matters for -- for discussion this
17 morning?

18 MR. HOLLIDAY: No, sir.

19 HEARING EXAMINER: Okay. And -- and,
20 Ms. Bradfute, do you have any preliminary matters
21 before you put on your case in chief?

22 MS. BRADFUTE: No, I do not. Thank
23 you.

24 HEARING EXAMINER: Very good. And,
25 Mr. Feldewert.

1 MR. FELDEWERT: No, sir.

2 HEARING EXAMINER: Okay, great.

3 Ms. Bradfute.

4 MS. BRADFUTE: Okay. Thank you,
5 Mr. Examiner.

6 In cases 24913 through 24916 and 24756
7 through 24759, Magnum Hunter and Cimarex have filed
8 eight applications proposing laydown development.
9 This development is going to cover Sections 32 and
10 33, which will be dedicated to Cimarex's Turnpike
11 wells. This is also referred to as the Turnpike
12 development area.

13 In comparison, Avant has filed two cases,
14 24632 and 24633, pursuing standup development in
15 Sections 29 and 32 for the development of its
16 Daytona wells. And MRC has filed eight
17 applications, in 24760 through 24767, pursuing
18 standup development in Sections 28 and 33 for the
19 development of its Bobby Pickard wells. So both
20 Avant's and MRC's applications overlap only in part
21 with -- with Magnum Hunter's application.

22 Magnum Hunter is seeking to initially
23 dedicate its proposed spacing units to eight wells,
24 four wells within the Bone Spring formation and four
25 wells within the Wolfcamp formation, but it has

1 simultaneously proposed 12 infill wells. So it has
2 a total 20 well development program that's focused
3 on developing every productive bench within
4 Sections 32 and 33. And I'm going to focus on
5 several differences that exist between Cimarex's
6 cases and development plan and the other cases and
7 development plans.

8 First, Magnum Hunter is proposing
9 development in two sections where it owns the
10 majority of the working interests. In comparison,
11 Avant seeks to extend wells down from Section 29
12 into Section 32, where it only has, at most, a
13 5.61 percent working interest.

14 And MRC seeks to extend wells down from
15 Section 28 into Section 33, where it owns absolutely
16 no working interest in the Wolfcamp formation and
17 only between 13 to 14 percent working interest in
18 the Bone Spring formation.

19 In Sections 32 and 33, Magnum Hunter has
20 established working interest control. It owns over
21 60 percent of the working interest in the Bone
22 Spring formation, and it owns over 66 percent of the
23 working interest in the Wolfcamp formation. It has
24 also gained support from several other working
25 interest owners within these sections.

1 Second, Magnum Hunter is the only party
2 that's proposed a full initial development plan of
3 every productive bench. MRC has not proposed any
4 development within the first Bone Spring and the
5 upper second Bone Spring sand. Avant has proposed
6 some development within the second Bone Spring
7 interval, but the second Bone Spring interval is not
8 included within its pooling application, and it has
9 not proposed four wells -- four-well per section
10 spacing in each bench of the second Bone Spring.

11 And so it has proposed a total of four
12 wells within the second Bone Spring, whereas Magnum
13 Hunter has proposed eight wells within the second
14 Bone Spring interval.

15 And so Magnum Hunter is the only party in
16 this case seeking to fully develop with a four-well
17 per section development plan per productive interval
18 making sure that full development happens within
19 Sections 32 and 33 and everyone's correlative rights
20 are fully development.

21 Third, Cimarex is the only party in this
22 case that is producing evidence related to surface
23 waste. Surface waste is defined under the Oil and
24 Gas Act as the burning or combusting of hydrocarbons
25 at the surface or losing oil at the surface.

1 Here, Cimarex has presented evidence that
2 its plans, its facilities plans will reduce venting
3 and flaring. It will use tankless facilities, which
4 are going to reduce surface emissions. And it has
5 compared its operations in venting and flaring
6 history with Avant's and MRC's, and it's by far
7 superior. No other party has presented evidence on
8 that front.

9 Fourth, Cimarex's plan is by far the
10 lowest cost option for working interest owners that
11 it seeks to pool and those who seek to participate
12 within its development. Under Magnum Hunter's plan,
13 it will -- it will drill the same benches and well
14 count as Avant in the first and third Wolfcamp
15 intervals for approximately \$23.6 million less.
16 That's significant savings for working interest
17 owners.

18 And it will drill the same benches and
19 well count that MRC has proposed in the lower
20 second, third, and Wolfbone -- Wolfcamp benches for
21 approximately \$38 million less. Again, significant
22 savings.

23 Despite these important factors that weigh
24 heavily within Cimarex's favor, the parties have
25 brought up differences in the geology. And we spent

1 a lot of time yesterday talking about wellbore
2 orientation.

3 Here, both Avant and MRC want to take a
4 (inaudible) that Cimarex owns the majority of
5 interest in and put it into their own plans. And so
6 they have to find some justification to do that.
7 They presented evidence yesterday that wellbore
8 orientation is that justification, and they're
9 making a waste argument.

10 Cimarex has a different interpretation.
11 Avant and MRC's interpretation is based on the
12 Zoback paper. And while the Zoback paper is one
13 piece of evidence, Cimarex is the only party who's
14 going to testify in this case that they have
15 acquired additional seismic evidence that adds to
16 their interpretation.

17 And so Cimarex has the most complete
18 geologic picture in this case supporting their basis
19 and their foundation that laydown development is
20 okay in this area. There's no actual preference.
21 You could pursue either laydown or standup
22 development, and it would not impact production from
23 the wells.

24 Finally, MRC has pointed to ownership
25 differences in -- in these cases. So MRC pointed

1 out the fact that there may be a title dispute in
2 Section 32 between Avant and Cimarex. Likewise, we
3 heard yesterday from Franklin Mountain that there is
4 a title dispute in MRC's cases between Franklin
5 Mountain and ConocoPhillips. So title questions
6 exist in all of the cases that you're hearing today.

7 That being said, the title questions in
8 Cimarex cases are different from the title dispute
9 in MRC's case. In Cimarex's applications, what they
10 have found is that Avant has not considered several
11 different filings that are in the public county
12 records.

13 When some of those filings have been
14 mentioned to Avant by other parties, Avant has
15 credited those parties with an increased working
16 percentage or indicated that they will. That's not
17 the same as having title litigation or a demand
18 letter or an actual claim out there. It's an error
19 to notice something in the public records.

20 There are depth severances located within
21 Section 32, which is a complex issue. Cimarex is
22 going to present evidence today showing, unlike the
23 other parties, that it has the most robust plan to
24 fully protect correlative rights in the depth
25 severed areas. Cimarex has calculated each interest

1 owner's percentage using surface acreage
2 calculations at the depths included within the Bone
3 Springs interval.

4 Production from the depth severed areas
5 will happen through specific wells, and there are
6 frack baffles between those wells. So there's no
7 chance of obtaining production from one depth
8 severed interest area into another. And production
9 from those wells is going to go up through
10 facilities that is actually metered and measured so
11 that everybody's production is accounted for.

12 The majority working interest owners are
13 not impacted by this depth severance. And so it is
14 in their correlative rights interest to allow
15 production from the lands. And that is the overall
16 goal of the Oil and Gas Act, is to protect
17 correlative rights and prevent waste.

18 Here, Cimarex has presented a plan that
19 does exactly that. It allows every working interest
20 owner within the unit to get production in the bench
21 where they own an interest. It allows for that
22 production to be accurately measured and calculated.
23 And it does not delay development for any working
24 interest owner. It also ensures that there is no
25 waste because every productive zone is developed on

1 a four-well spacing per section basis.

2 Thank you.

3 HEARING EXAMINER: Okay. Your
4 exhibits have been admitted into evidence, and we
5 have your first witness on the witness stand. The
6 microphone is on. Please proceed.

7 MS. BRADFUTE: Okay. Thank you.

8 DIRECT EXAMINATION OF ISABELLA SIKES

9 BY MS. BRADFUTE:

10 Q. Good morning.

11 A. Good morning.

12 Q. Okay. Ms. Sikes, by whom are you employed
13 and in what capacity?

14 A. I'm employed by Coterra, and I'm a
15 landman.

16 Q. Okay. And are you familiar with the
17 status of the lands in Magnum Hunter's applications?

18 A. Yes.

19 Q. Have you prepared written testimony in
20 advance of today's hearing?

21 A. Yes.

22 Q. And was that testimony marked as Exhibit A
23 in the exhibit packet that was filed with the
24 Division?

25 A. Yes.

1 Q. Having submitted this testimony, do you
2 have any corrections or modifications that you need
3 to make to that -- your testimony submitted as
4 Exhibit A?

5 A. I do. In Exhibit 8 of my packet, A-8,
6 there is one party that needs to be highlighted,
7 which will be noted as a party that needs to be
8 pooled.

9 Q. And who is that?

10 A. Nextgen.

11 Q. Okay. Thank you. And, Ms. Sikes, as you
12 sit here today, with the exception of adding that
13 highlight to Exhibit A-8, do you adopt the testimony
14 and the exhibits that you prefiled as part of your
15 testimony today?

16 A. I do.

17 Q. And, as well, do you affirm the veracity
18 of the exhibits and the slides with the correction
19 that you noted as attached to Exhibit A?

20 A. Yes.

21 Q. Okay. I'm going to share my screen.

22 Okay. Ms. Sikes, I want to look at your
23 Exhibit A-7B. Do you see that exhibit on the
24 screen?

25 A. Yes.

1 Q. Can you please explain what this exhibit
2 shows.

3 A. This is -- this exhibit is showing the
4 competing applicants' ownership as well as ours in
5 Sections 33 and 32. So in Section 33, MRC only owns
6 89.4 net acres in the Bone Spring formation that is
7 limited to the northwest quarter. And they do not
8 own any Wolfcamp net acres in Section 33. Magnum
9 Hunter, 368 in the Bone Spring and 480 in the
10 Wolfcamp.

11 And then moving over to Section 32, we
12 have Avant that owns 1.2 net acres in both the Bone
13 Spring and the Wolfcamp. That is limited to the
14 southwest quarter. And then we own 409.88 in the
15 Bone Spring and 370 in the Wolfcamp.

16 Q. Okay. So does Magnum Hunter own the
17 majority of working interests in Sections 32 and 33?

18 A. Yes.

19 Q. And those are the sections that you're
20 seeking to develop, correct?

21 A. Correct.

22 Q. Okay. I next want to turn to Exhibit A-10
23 within the exhibit packet. I apologize, I need to
24 go two pages down.

25 What does this exhibit show?

1 A. This exhibit is showing where the depth
2 severances are within the different tracts in the
3 Turnpike unit. A majority of the depth severances
4 are in Section 32. That depth severance occurs in
5 the middle of the second Bone Spring. The -- our
6 title documents show that it's from the surface of
7 the stratigraphic equivalent of 9,548 feet. This
8 applies to the west half northwest quarter, east
9 half northwest quarter, and the east half of
10 Section 32.

11 Q. Okay. And I want to next turn to your
12 Exhibit A-7.

13 Could you please explain what Exhibit A-7
14 shows.

15 A. Exhibit A is showing the working interest
16 control in supports we have in contract area A. And
17 so (inaudible), we created separate contract areas
18 that showed the ownership at those depths. And so
19 contract area A is from the top of the Bone Spring
20 to that depth severance. And then that depth, we
21 have 60.77 working interest. And with our -- with
22 the support, we have 63.67 support in contract
23 area A.

24 And then contract area B is going to be
25 from those depths, from the depth severance at that

1 depth to the base of the Bone Spring. And our
2 ownership there is 57.65, and our support in
3 contract area B is 61.15.

4 And then contract area C is for the
5 Wolfcamp formation. In that formation, we have
6 66.40 working interest. And overall control, we
7 have 69.73.

8 Q. Okay. Thank you. I want to turn next to
9 Exhibit A-6. Can you please identify what you were
10 showing within this exhibit.

11 A. This exhibit is showing the source
12 documents and materials examined from our brokers
13 who did the title research and for our title
14 attorney who rendered the title opinions for the
15 Turnpike 3332 development. For these lands, we have
16 title opinions dating back to 1965.

17 We also have other contracts and
18 assignments and agreements that we had in our files
19 that we provided to our brokers and title opinions.
20 From those, they were able to do their research in
21 the County records and render title opinions.

22 Q. Okay. And does Coterra and Cimarex have
23 other information on hand from operated wells within
24 Section 32?

25 A. Yes. Cimarex has worked closely with the

1 operators in the west half northwest, which would be
2 Rama's Operating Company, Limited, and the southwest
3 quarter which is Earthstone Operating, LLC, also
4 known as Permian Resources. We were able to obtain
5 the agreements and/or the PAYDEX of those wells.

6 Q. Okay. And within this exhibit, I see how
7 many different sources that you've listed that
8 Coterra and Magnum Hunter reviewed to determine
9 title?

10 A. Close to 40.

11 Q. Forty different title documents?

12 A. Yes.

13 Q. Including probably -- did you review other
14 documents within the county records as well?

15 A. Yes. And those would be over 100.

16 Q. Okay. Do you think that Coterra has
17 performed an extensive title search within the
18 county records for Sections 32 and 33?

19 A. Yes.

20 Q. Okay. And do you feel confident in Magnum
21 Hunter's title that is found so far?

22 A. I do.

23 Q. Okay. I'm going to next turn to
24 Exhibit A-8.

25 MR. FELDEWERT: Mr. Examiner, I'm

1 going to interject here.

2 HEARING EXAMINER: Is this an
3 objection?

4 MR. FELDEWERT: Observation first.

5 HEARING EXAMINER: Okay.

6 MR. FELDEWERT: So it is an
7 objection, yes.

8 First, my objection is that the witnesses
9 prefiled their testimony. She covered all of these
10 exhibits in her statement. Time is short today.

11 So I'm not sure why we're rehashing
12 exhibits and statements that she covered in her
13 filed statement, as opposed to information that she
14 needs to add based on what was presented yesterday.
15 If we have each witness rehash exactly what they
16 discussed in their -- in their witness statement and
17 go through the exhibits that they've already
18 prefiled, this going to be a longer day.

19 HEARING EXAMINER: Okay. So what's
20 the objection?

21 MR. FELDEWERT: So the objection is
22 this has already been covered by her statement. I
23 don't understand why we're covering it again.

24 HEARING EXAMINER: So your objection
25 is to redundancy?

1 MR. FELDEWERT: You can put it that
2 way, yes. Yes.

3 MS. BRADFUTE: Mr. Examiner, may I
4 respond?

5 HEARING EXAMINER: Of course.

6 MS. BRADFUTE: Yes, thank you. So
7 yesterday you did give leeway to the parties to tie
8 their exhibits to their testimony. So I do need to
9 set a foundation for the rest of the questions.

10 So we're just about done looking at the
11 exhibits here, but I would like equal treatment
12 with --

13 HEARING EXAMINER: Of course.

14 MS. BRADFUTE: -- what was afforded.

15 HEARING EXAMINER: Okay. So I
16 acknowledge your observation. Thank you for your
17 observation. I'm going to treat all of the parties
18 equally.

19 So, Ms. Bradfute, with that in mind --
20 and, of course, everyone knows that there's a time
21 issue with witnesses and all of that, so, you know,
22 please be cognizant of that. Otherwise, please
23 proceed.

24 MR. FELDEWERT: And just -- you know,
25 and I think she's aware of this. With my witnesses,

1 I just had them address the new information that
2 came up. So . . .

3 HEARING EXAMINER: And, you know --
4 and, Mr. Feldewert, I appreciate that each attorney
5 presents their case to the best of their client's
6 interests and -- but, I -- you know, one of the
7 rules here at the Division is that we have to
8 provide a full and fair opportunity for each party
9 to present their case. And unless I feel as though
10 a party is abusing that, then I -- I'm going to sit
11 back and let that party do their job unless there's
12 an objection. And, of course, I'll rule on
13 objections.

14 Ms. Bradfute, would you continue, please.

15 MS. BRADFUTE: Yes.

16 Q. Ms. Sikes, you know, briefly, without
17 restating the testimony that's in your affidavit,
18 can you explain what is shown in Exhibit A-8. It is
19 a fairly lengthy exhibit that has a lot of tract
20 information on it that would be helpful for the
21 hearing examiners to be oriented.

22 A. Yes. So these are just tract and
23 application overview maps that we made. In each --
24 all of the units that we've created, like the 211,
25 the 212, 213, 214, the next letter just outlining

1 the ownership within those spacing units.

2 Q. Great. So you can go to the spacing
3 units, each slide, and it lists the spacing units
4 for the well. And then to the left of that, it is
5 color coded and provides an ownership breakdown in
6 each of the tracts showing for the wells?

7 A. Correct.

8 Q. Okay. And there is a page that follows
9 the tract ownership title for each respective title
10 area. And it lists the overriding royalty interest
11 owners?

12 A. Correct.

13 Q. Okay. Thank you.

14 Is it your understanding that the NMOCD
15 usually expects a tract ownership diagram in each
16 parties pooling exhibits?

17 A. Yes.

18 Q. And is that simply what Magnum Hunter is
19 providing here?

20 A. Yes, it is.

21 Q. For cases 241 -- 24913 through 24916, the
22 Bone Spring cases, do all of the interest owners in
23 the Bone Spring own a working interest in the wells
24 that Magnum Hunter is proposing as its initial wells
25 under the pooling order?

1 A. Correct.

2 Q. Okay. So there isn't any working interest
3 owners in this case that would not receive
4 production from those wells, right?

5 A. Correct.

6 Q. Okay. And well production from those
7 wells be allocated to each tract in proportion to
8 the surface acres included in the tract?

9 A. Yes.

10 Q. Okay. Is this accomplished by calculating
11 the number of net mineral acres each interest owner
12 owns in the tract?

13 A. Yes. And I believe I outlined that in
14 Section 4 -- or paragraph 41 or 42 of my testimony.

15 Q. Okay. Of your testimony, wonderful. Is
16 Magnum Hunter proposing that the Division create
17 different contract areas for the depth-severed --

18 A. Yes.

19 Q. -- zones? Okay. And I use the term
20 "contract areas," but really, are you asking the
21 Division to just be knowledgeable of each ownership
22 interest in the tracts at various depths?

23 A. Yes.

24 Q. Okay. Thank you. And which working
25 interest owners have an interest in a depth-severed

1 lease?

2 A. Would you go back to the depth severance
3 map? And that would probably be a little bit easier
4 to explain.

5 Q. Yes. Hold on.

6 Okay. Can you see the exhibit?

7 A. Yes.

8 Q. Good.

9 A. So with the tracts where the depth
10 severance exists, in the west half northwest quarter
11 where the Rhombus Union State Com 1 well is, those
12 are some of the owners who are subject to depth
13 severance. So that is Rhombus Operating, Rhombus
14 Energy Company, Mary H. Wilson, D&M Snelson, Olive
15 Petroleum, Inc., and the Schlagal Brothers. And
16 also Foran Oil Company.

17 However, below the depths, below -- or
18 below the depths of the depth severance, Foran Oil
19 Company owns 100 percent of the interest in the
20 second -- lower second, third Bone Spring and
21 Wolfcamp in this tract.

22 In the east half northwest quarter, from
23 the first Bone Spring to the depth severance,
24 Marathon and Magnum Hunter have 50 percent interest
25 in these leases. Below the depth severance, Magnum

1 Hunter owns 100 percent of this lease.

2 And then in the east half, Magnum Hunter
3 and Delmar Holdings own -- and the same companies
4 own just the interest (inaudible) across that depth
5 severance.

6 One thing I would like to note is that
7 both Foran and -- or not Foran, sorry. Marathon
8 owns in all depths in the northwest quarter and in
9 all depths in the southwest quarter.

10 Q. Okay. And, Ms. Sikes, I want to unpack
11 that a little bit. So it sounds like there are
12 interest owners who only own a working interest in
13 part of the Bone Spring depths; is that correct?

14 A. Yes.

15 Q. Okay. And has Magnum Hunter reached a
16 voluntary agreement with all of those working
17 interest owners that only own in part of the Bone
18 Spring formation?

19 A. Who only own in the first contract area
20 essentially, yes. So with Schlagal Brothers, Olive
21 Petroleum, Inc., and Mary H. Wilson, all of those
22 parties signed our JOA. And then we just acquired
23 D&M Snelson, Rhombus Operating, and Rhombus Energy
24 Company last week.

25 Q. And are all of those parties working

1 interest owners in the Union State Com Number 1
2 well?

3 A. Yes.

4 Q. Okay. And is that the overlapping spacing
5 unit that Avant had not specifically notified in --

6 A. Correct.

7 Q. -- its application?

8 A. Yes. That's the well that produces from
9 the Bone Spring.

10 Q. Okay. So there are a few, a couple
11 working interest owners that own different ownership
12 percentages in the depths, but they own an interest
13 in every depth included within the Bone Spring
14 spacing unit, correct?

15 A. Correct.

16 Q. Okay. And did those working interest
17 owners receive specific notice of the depth
18 severance issue that was going to be presented at
19 today's hearing?

20 A. Yes. I've sent -- when we send our
21 original proposals, we sent an OA with the
22 filled-out Exhibit A that did outline this depth
23 severance. That was in -- November 15, 2023, and
24 then again in December to some other owners.

25 And then we sent out new proposals on

1 February 1st or February 2nd of 2024. And that also
2 included an OA with an Exhibit A that outlined the
3 contract areas for all the working interest owners.

4 Q. Okay.

5 A. In addition to the OAs we sent, we also
6 did the publication notice and the application
7 letters.

8 Q. Um-hmm.

9 A. Or whatever my counsel submitted.

10 Q. So all of the working interest owners in
11 this case have been notified about the depth
12 severance issue, right?

13 A. Correct.

14 Q. And have any of the interest owners who
15 own different ownership percentage within the Bone
16 Spring, but they own an interest in all depths,
17 executed an operating agreement?

18 A. They have not.

19 Q. Okay. And have they contacted you with
20 any specific concerns?

21 A. No.

22 Q. Okay. So you haven't heard any objections
23 or concerns before you sit here today to testify?

24 A. I have not.

25 Q. Okay. To your knowledge, does Magnum

1 Hunter believe that it can produce the Bone Spring's
2 pool in Section 32 -- I'm sorry, let me rephrase.

3 To your knowledge, does Magnum Hunter
4 believe that it can produce the Bone -- the second
5 Bone Spring pool in Section 32 and Section 33 in a
6 way that will promote the protection of correlative
7 rights?

8 A. Correct. We've proposed different wells
9 at different depths that will be separately
10 measured.

11 Q. Okay. And that applies to the whole Bone
12 Springs pool, not just the second Bone Springs
13 interval, right?

14 A. Correct.

15 Q. Okay. Will Magnum Hunter's correlative
16 rights be impacted if it is not allowed to develop
17 wells within Section 32 and 33?

18 A. Yes. As the majority owner in both
19 Section 33 and 32, specifically in 33, I believe the
20 first and upper second were not proposed. And in
21 Section 32, they're switching between 4, 5, maybe
22 upper second, maybe lower second, maybe staggered
23 wells. But as majority interest, we would like to
24 develop our minerals.

25 Q. Yeah. And Cimarex's development plans

1 would include an eight-well development plan in the
2 second Bone Spring, correct?

3 A. Correct.

4 Q. Okay. Are you aware of a title dispute in
5 the lands included in the Bobby Pickard spacing
6 units between Franklin Mountain and ConocoPhillips
7 in Section -- in Section 28?

8 A. I was not until yesterday when Deana
9 Bennett announced that Franklin Mountain had a title
10 dispute with ConocoPhillips in Section 33.

11 Q. Okay. And have you reviewed the testimony
12 that was offered, the written testimony that was
13 offered by MRC's landman in the Bobby Pickard cases?

14 A. Yes.

15 Q. Okay. Does that testimony appear to
16 allude -- or allege that Avant and Magnum Hunter are
17 in a title dispute involving acreage in Section 32?

18 A. It did.

19 Q. It did. And do you believe that statement
20 is correct?

21 A. I do not.

22 Q. Okay. Why not?

23 A. I would not say it's a title dispute. I
24 believe there were many errors made when Avant was
25 running title. That is due to not looking correctly

1 in county records or not running certain names
2 forward. Magnum Hunter was able to have documents
3 in its files where our brokers and title attorneys
4 were able to run those forward.

5 Q. Okay. And based on your title searches,
6 did you find assignments that were in the county
7 records that appear to be omitted from Avant's
8 title?

9 A. Yes, a lot.

10 Q. A lot. Approximately how many?

11 A. Twenty-plus.

12 Q. Okay. Has anyone sent Magnum Hunter a
13 demand letter claiming title adverse to what Magnum
14 Hunter shows in its exhibits for the Turnpike cases?

15 A. Not to my knowledge.

16 Q. Okay. To your knowledge, has anybody
17 recently filed a quiet title lawsuit involving the
18 minerals in Section 32?

19 A. Not my knowledge.

20 Q. Recently Avant assigned some of its
21 interests in Section 32 to another party; is that
22 right?

23 A. Yes.

24 Q. Can you please explain that assignment.

25 A. Yes. So Avant did not own in Section 32

1 until earlier this year where they picked up
2 interest from Coyote Oil & Gas. This is a party
3 that we did recognize in our title. Avant then went
4 on to pick up three subsequent assignments of people
5 we did not recognize in title.

6 After they had these assignments, they
7 assigned 10 percent of all of their interests in
8 Section 32 to TH McKelvey.

9 Q. Okay. So they are assigning away
10 interests while they're pooling cases in this matter
11 are pending?

12 A. Yes.

13 Q. Okay.

14 A. And I don't think that was reflected in
15 their exhibits.

16 Q. Okay. And you mentioned that there were
17 parties that you could not find when Magnum Hunter
18 ran its title. Can you explain, are those strangers
19 to title?

20 A. So some of the people that they've been
21 picking up -- or if we were to look at their
22 exhibits, there's a number of people where -- I
23 believe starting in the 1990s, most of them assigned
24 their interest to Mewbourne. And so this ties into
25 the JOA that currently Avant is not including in

1 their exhibits. But most of the people that they
2 include have assigned out and do not -- no longer
3 own in Section 32.

4 Q. Okay. And did you run county record
5 searches using the names of the record owners shown
6 in Avant's working interest list?

7 A. Yes. There were some owners that I did
8 look up that have never owned in Section 32.

9 Q. Okay. And what did do you to run those
10 searches?

11 A. So we use a program called Courthouse.
12 And I was able to just type in "Township 18." So
13 this is a very broad search of all of Township 18
14 South.

15 And so two of the working interest owners
16 that I did not recognize had the name "animal" in
17 them. So all I did was type in "animal." There
18 were no results of "animal" owning in Township 18.

19 Q. Okay. Prior to this hearing today, did
20 Magnum Hunter try to set a meeting with Avant to
21 discuss these potential title errors and omissions?

22 A. Yes. We did have one or two phone
23 conversations -- I would have to look back at my
24 chronology of contact -- where we did bring up the
25 title issues and tried to come to some sort of

1 agreement and maybe a prehearing statement where
2 we're not fighting about title just because the OCD
3 will not adjudicate title.

4 Q. Yeah. And what was Avant's response to
5 that request?

6 A. They were not interested.

7 Q. Okay. Did Avant share its title with
8 Magnum Hunter before this hearing today?

9 A. They did not.

10 Q. Okay. Did Avant share a division of the
11 working interest that it was going to propose before
12 it filed its exhibits in this case?

13 A. They did not. We did request an OA to
14 maybe get some insight to that on -- I'll have to go
15 back and look, but January of 2024. And we never
16 received an OA from them.

17 Q. Okay. And when you say "OA," you mean a
18 joint operating agreement?

19 A. Yes.

20 Q. Okay. Are you familiar with the New
21 Mexico Proceeds Payment Act?

22 A. Yes.

23 Q. Okay. And what is your nonlawyer
24 understanding of the purpose of that law?

25 A. It ensures that payments can be put into

1 suspense if there is a title dispute.

2 Q. Okay. If Cimarex's applications are
3 granted and there are still pending title questions
4 in Section 32, is Cimarex willing to place any
5 disputed funds in a suspense account, according with
6 the requirements of the New Mexico Proceeds Payment
7 Act?

8 A. Yes.

9 Q. I want to now look at Avant's Exhibit A.
10 Please bear with me.

11 MR. FELDEWERT: Mr. Examiner, while
12 she's looking at that, when we take a break, can I
13 have someone fix this screen? It's not -- not
14 working.

15 HEARING EXAMINER: Of course.

16 Q. Okay. Ms. Sikes, I have Avant's
17 Exhibit A, which is the sworn statement of their
18 land professional, opened up. And I want you to
19 look at paragraph 19.

20 Can you please explain what this paragraph
21 is saying? Just short, just paraphrase.

22 A. Avant is stating that Magnum Hunter may
23 have interests under a JOA. They don't state what
24 JOA, what the JOA covers or anything of that.

25 Q. Okay. And were you -- is Magnum Hunter

1 claiming title pursuant to a joint operating
2 agreement?

3 A. We are not.

4 Q. Okay. And joint operating agreements
5 don't typically create title, do they?

6 A. No.

7 Q. Okay. So what is the basis of Magnum
8 Hunter's title, in general?

9 A. So Matador was the original operator of
10 the east half JOA of Section 32. This JOA was for
11 the Zafiro 32 State Com 1 well. Matador then merged
12 with Tom Brown. And then Magnum Hunter -- or sorry.
13 Matador merged with Tom Brown. And then Magnum
14 Hunter acquired Tom Brown's interests in all of New
15 Mexico.

16 Q. Okay. And there are title documents filed
17 in the county records that reflect those title
18 interests?

19 A. Yes.

20 Q. Okay. And are there references to the JOA
21 for the Zafiro well also included in documents filed
22 in the county records?

23 A. Yes.

24 Q. Okay. And do you believe the Zafiro JOA
25 is the joint operating agreement that Avant's

1 landman is referring to on paragraph 19?

2 A. Yes.

3 Q. Okay. Let's see. Is there a producing
4 well still subject to that joint operating
5 agreement?

6 A. There is.

7 Q. Okay. And could we find that well if we
8 looked it up on the Oil Conservation Division's
9 records?

10 A. Yes.

11 Q. And does it show a transfer of
12 operatorship that matches the title description,
13 title assignments that you just described?

14 A. It does.

15 Q. Okay. And is that well still producing?

16 A. Yes.

17 Q. Okay. And who is operator under that JOA?

18 A. Cimarex Energy Co. of Colorado.

19 Q. Did you engage in good faith negotiations
20 with Avant and MRC to gain their voluntary joinder
21 in the Turnpike units?

22 A. Yes.

23 Q. Okay. Can you please describe your
24 communications with both companies.

25 A. I would turn to my chronology of contacts

1 exhibit.

2 Q. Okay.

3 A. So first would be Avant operating Double
4 Cabin Minerals and Legion Production Partners. All
5 of those are entities of Avant's. And as you can
6 see here, we documented pretty much every
7 interaction we had regarding the Turnpike lands
8 starting in December 20 -- 27, 2023. This was after
9 we had already proposed the wells to the owners who
10 did own within Sections 33 and 32 with what our
11 title showed at the time.

12 And then with Matador, we -- I highlighted
13 the same correspondence. And with both MRC and
14 Foran, our land manager had most of the
15 conversations with one of their land managers. But
16 this details all of the conversations that we have
17 had surrounding the Turnpike lands.

18 Q. Okay. Thank you. Do you believe that MRC
19 and Avant engaged in good-faith efforts to obtain
20 Magnum Hunter's joinder in their competing
21 development plans?

22 A. I do not. With Avant, we requested a JOA
23 in January of 2024, and we still have not received
24 one, even though they claimed to have provided one
25 to anybody who asked.

1 And same with Matador. They did not
2 outline anybody's ownership in Exhibit A of that are
3 JOA. And they did not send their OA -- maybe nine
4 or ten months after they had proposed the wells.

5 Q. Okay. Thank you. I want to next turn to
6 the one-mile wells that Avant has recently proposed
7 in Section 32. Does Magnum Hunter believe that
8 Avant will actually drill these one-mile wells?

9 A. No.

10 Q. Why not?

11 A. One would be the working interest. I
12 don't believe that Cimarex or Magnum Hunter would
13 drill a well with 1.2 net acres. And another piece
14 would be the surface disturbance. There is lesser
15 prairie-chicken in the -- oh, my gosh, the lizard.

16 Q. Yeah, is it the dunes sagebrush lizard?

17 A. The -- yes. Sorry, I was getting my
18 tongue twisted.

19 But both of those habitats exists, and
20 there is a "no disturbance" stipulation, I believe.

21 Q. Okay. And that "no surface" -- "no
22 disturbance surface" stipulation covers the whole
23 surface of Section 32, to your knowledge?

24 A. Yes.

25 Q. Okay. Is it the most efficient way to

1 access the minerals in 32 by drilling from a surface
2 location in Section 33?

3 A. Yes.

4 Q. Ms. Sikes, what is a communitization
5 agreement?

6 A. It's an agreement that is required by the
7 BLM and SLO to pool their interests.

8 Q. Okay. And is the SLO the New Mexico State
9 Land Office?

10 A. Yes.

11 Q. Okay. Is it necessary to obtain a
12 communitization agreement from the New Mexico State
13 Land Office prior to spud?

14 A. Yes, if it includes State trust lands.

15 Q. Okay. And are you aware of some new
16 processes that at State Land Office for the approval
17 of communitization agreements?

18 A. I am.

19 Q. Can you please explain what those are,
20 briefly.

21 A. From my understanding, if we need a
22 communitization agreement from the State Land
23 Office, we are to submit for preapproval. This is
24 essentially where we submit a draft of the Exhibit A
25 to the com agreements. And there -- they will

1 review to ensure that no acreage is being stranded,
2 which would lead to waste.

3 Q. Okay. And has Magnum Hunter received
4 preapproval for its communitization agreement in
5 Sections 32 and 33 from the State Land Office?

6 A. We have.

7 Q. Okay. Have you researched whether or not
8 the Bureau of Land Management would enter into a
9 communitization agreement that excludes the second
10 Bone Spring in Section 32?

11 A. I have.

12 Q. Okay. And what is the outcome of that
13 research?

14 A. From my understanding, the BLM has not
15 approved a com agreement that leaves out a portion
16 of a pool.

17 Q. Okay. And by pool here, the entire --
18 here, the pool covers the entire Bone Spring
19 formation?

20 A. Yes.

21 Q. Okay. Are you aware of the fact that
22 other parties who have title differences with
23 Avant's division of interest have contacted and
24 reached out to Avant?

25 A. Yes.

1 Q. Okay. Who are those parties?

2 A. Right now --

3 MR. FELDEWERT: Objection. She's
4 calling for testimony about conversations with third
5 parties in Avant. I believe that's inappropriate.

6 MS. BRADFUTE: Okay. I can withdraw
7 the question and rephrase it.

8 HEARING EXAMINER: Thank you.

9 MS. BRADFUTE: Yeah.

10 Q. To your knowledge, have parties reached
11 out to Avant regarding title questions with Avant's
12 division of interest?

13 A. Yes.

14 MR. FELDEWERT: Objection. That's
15 the same question.

16 MS. BRADFUTE: It's her -- it's her
17 knowledge of whether or not. It's not asking for
18 the substance of the communications.

19 HEARING EXAMINER: Let's -- let me
20 ask you something, Ms. Bradfute, before I rule on
21 the objection, because the other objection was
22 withdrawn when you said you were going to move on.
23 Where are we going with this?

24 MS. BRADFUTE: It goes to the title
25 differences between Avant's land testimony and

1 Magnum Hunter's.

2 HEARING EXAMINER: The title
3 differences. What do you mean by that?

4 MS. BRADFUTE: In the tract ownership
5 exhibits, they are very different between the two
6 companies.

7 HEARING EXAMINER: Don't the exhibits
8 spell this out?

9 MS. BRADFUTE: They don't spell out
10 why the differences exist, which I imagine the
11 technical examiners would want more information
12 about.

13 HEARING EXAMINER: Why don't you ask
14 that question.

15 MS. BRADFUTE: Okay.

16 HEARING EXAMINER: You got me --
17 since we are trying to basically --

18 MS. BRADFUTE: Yeah, keep it --

19 HEARING EXAMINER: -- cover new
20 ground.

21 MS. BRADFUTE: Okay. Yeah.

22 HEARING EXAMINER: So I sustain the
23 objection. So --

24 MS. BRADFUTE: Okay.

25 Q. Can you point out some of the title

1 differences related to other interests shown in
2 Avant's exhibits as compared to Magnum Hunter's
3 exhibits?

4 A. Yes. If you were to compare Avant's Bone
5 Spring with the Bone Spring exhibits that we put up,
6 there are tons of difference. Focusing on
7 Section 32 alone, I'd entered all of these interests
8 into a spreadsheet just to compare and contrast
9 what -- who's -- which owners are off.

10 Some of the biggest owners that were off
11 would have been Marathon and some other parties,
12 Schlagal Brothers, Earthstone, Magnum Hunter, and
13 the list goes on of just the differences between the
14 two exhibits.

15 Q. Okay. And does Magnum Hunter have some of
16 the same title documents for the basis of its chain
17 of title as Marathon does?

18 A. Yes.

19 Q. Okay. And to your knowledge, has Avant
20 indicated in some of the exhibits that it has
21 prepared for this case, that it may have
22 miscalculated Marathon's ownership percentage in
23 Section 32?

24 A. Correct.

25 Q. Thank you.

1 MS. BRADFUTE: And that concludes my
2 questions for Ms. Sikes.

3 HEARING EXAMINER: Thank you,
4 Ms. Bradfute.

5 I'll turn to you, Mr. Feldewert.

6 MR. FELDEWERT: Sure.

7 CROSS-EXAMINATION OF ISABELLA SIKES

8 BY MR. FELDEWERT:

9 Q. Good morning.

10 A. Good morning.

11 Q. And I'm going to start to share.

12 Ms. Sikes, I'm hoping you can clear
13 something up for me.

14 A. Okay.

15 Q. Okay? I -- and I recognize this is an
16 Avant exhibit. There was discussion about --
17 discussions about this yesterday. Do you see those
18 sticks that were drawn in Section 33?

19 A. Yes.

20 Q. Okay. Did -- do you know what they
21 represent?

22 A. I do not. We have permitted our Turnpike
23 Bone Spring wells, but those are not them. They
24 would have been two miles, not limited to
25 Section 33. So I'm not -- I'm not sure what those

1 wells are.

2 Q. You say you permitted your Cimarex
3 two-mile wells?

4 A. Or Turnpike --

5 Q. Turn --

6 A. -- 211 through 214. We have permitted
7 those, but I don't think those are the wells that
8 are shown on this map here. I'm not sure where
9 Avant got those.

10 Q. When you say "permitted," that means you
11 filed drilling permits?

12 A. Yes.

13 Q. Okay. Do they include the northwest
14 quarter of Section 33, your filed permits?

15 A. They do.

16 Q. Does the company have an interest in the
17 northwest quarter of Section 33?

18 A. I don't think the northwest quarter is our
19 bottom hole.

20 Q. Doesn't matter. Do you have an interest
21 in the northwest quarter of 33?

22 A. We do not.

23 Q. You do not? Do you have an agreement with
24 any owner in the northwest quarter of 33?

25 A. We do not.

1 Q. Are you aware that the Division rules do
2 not allow operators to file applications to drill
3 unless you have an ownership in each tract or an
4 agreement with an owner in each tract?

5 A. I would have to see the rules to agree on
6 that one.

7 Q. Okay. Give me a minute. So you're not
8 aware of that yourself?

9 A. (Inaudible) --

10 MS. BRADFUTE: I'm going to object.
11 The witness has just stated she doesn't have
12 personal knowledge.

13 MR. FELDEWERT: I think she said she
14 would have to see it. So we'll take a look at the
15 rule.

16 A. Okay. I do not --

17 MS. BRADFUTE: Excuse me.

18 HEARING EXAMINER: Okay. Hold on.

19 MS. BRADFUTE: Yeah.

20 HEARING EXAMINER: Hold on. Don't
21 answer any more questions until I make a ruling --

22 ISABELLA SIKES: Yes, sir.

23 HEARING EXAMINER: -- on the
24 objection. So the objection is what?

25 MS. BRADFUTE: So the objection is

1 there was two questions back to back from
2 Mr. Feldewert.

3 HEARING EXAMINER: Okay.

4 MS. BRADFUTE: The first one, the
5 witness answered that she would have to see the
6 rules. He then tried to clarify the question about
7 the rule. And she said I don't have knowledge about
8 that.

9 HEARING EXAMINER: Okay.

10 MS. BRADFUTE: She cannot testify to
11 something that she does not have knowledge in. And
12 she's not an expert when it comes to interpreting
13 the rules.

14 HEARING EXAMINER: Mr. Feldewert.

15 MR. FELDEWERT: I think she said she
16 would have to see the rule.

17 HEARING EXAMINER: Okay. Why are you
18 asking her about her interpretation of a rule?

19 MR. FELDEWERT: Well, because their
20 filing violates the Division's rules, and I want to
21 know if they were aware.

22 HEARING EXAMINER: Okay. But,
23 Mr. Feldewert, she's a fact witness.

24 MR. FELDEWERT: Okay.

25 HEARING EXAMINER: If you want to

1 elicit facts from her that -- and then you make a
2 legal argument, that's fine. But, I mean, I
3 don't -- I don't think that this witness can opine
4 on rules. So would you rephrase your question --

5 MR. FELDEWERT: Sure.

6 HEARING EXAMINER: -- to just elicit
7 facts.

8 So I sustain your objection, Ms. Bradfute.

9 Q. Ms. Sikes, I have up on the screen the
10 Division rule dealing with when an operator can file
11 applications to drill. Okay? And it states that
12 the -- "An operator shall not file an application
13 to -- for a permit to drill nor commence drilling of
14 a horizontal well until the operator has either A or
15 B." Do you see that?

16 A. I do see that.

17 Q. Okay. I'm not going to read it out loud,
18 but do you -- do you have the consent of an owner in
19 the northwest quarter of Section 33 as required in
20 1-A?

21 A. I do not.

22 Q. Okay. And you have not obtained a
23 compulsory pooling (inaudible)?

24 A. I have not.

25 Q. Okay. So you are not informed by counsel

1 that a filing of an APD without having either --

2 MS. BRADFUTE: Objection. That seeks
3 attorney communications.

4 HEARING EXAMINER: Sustained.

5 MR. FELDEWERT: Okay. All right.

6 Q. I want to then move to your -- let me step
7 back.

8 In those applications for permit to drill
9 that appear to be in violation of the rule, they
10 have not been withdrawn by the company?

11 A. I have no knowledge of that. I don't
12 submit them.

13 Q. Okay.

14 A. Don't know.

15 Q. I want to turn to your Exhibit A-12. You
16 had a brief discussion with your counsel about this
17 development plan that's part of your package.

18 A. Was that a question?

19 Q. (Inaudible). It indicates that you intend
20 to drill your 211 through 214 wells. Now, those
21 would be the upper second Bone Spring wells?

22 A. Correct.

23 Q. Okay. And then your 701 to 704 wells,
24 that would be the Wolfcamp D zone wells?

25 A. I'm not sure exactly what interval of the

1 Wolfcamp, but I do know that those are Wolfcamp
2 wells.

3 Q. Okay. Okay. So those are the wells that
4 you intend to drill under the pooling order?

5 A. Correct. Those are the ones that we
6 applied for.

7 Q. Okay. So that would be, as your counsel
8 noted, the only wells that you're obligated to
9 drill?

10 MS. BRADFUTE: Objection. That
11 actually mischaracterized anything that I noted.

12 HEARING EXAMINER: Mr. Feldewert.

13 MR. FELDEWERT: I think you said
14 yesterday that the wells in the -- that these wells
15 would be the ones that the company was obligated to
16 drill.

17 MS. BRADFUTE: I did not. There
18 might have been Avant witness that testified to that
19 fact, but I certainly did not offer any testimony in
20 the case related to that.

21 HEARING EXAMINER: Mr. Feldewert?

22 Q. So, Ms. Sikes --

23 MR. FELDEWERT: Let me rephrase.

24 HEARING EXAMINER: Okay.

25 Q. Ms. Sikes, then, are these wells, 211 to

1 214 and 701 to 704, those are the only wells that
2 you're going to be obligated to drill under the
3 pooling order, correct?

4 A. I would have to see the pooling order.

5 Q. Those are the only wells for which you've
6 applied with the Division to drill?

7 A. Those are the wells that we applied for,
8 yes.

9 Q. Okay. You have not asked the Division to
10 adopt, in your pooling application, this drilling
11 plan?

12 A. Not to my knowledge.

13 Q. Okay. So -- but you can certainly come
14 back and drill these later as infill wells, the
15 other zones that you reference on here, right?

16 A. Yes.

17 Q. Okay. And MRC could do the same thing,
18 correct?

19 A. Drill Turnpike wells?

20 Q. No. Drill their proposed wells.

21 A. Yes.

22 Q. Other wells as infill wells?

23 A. Yes.

24 Q. Okay. All right. You mentioned a
25 discussion about the submission of JOAs?

1 A. Submission?

2 Q. Or the requests for -- or the sending of
3 JOAs?

4 A. Yes.

5 Q. Okay. Did you request that (inaudible)
6 MRC send you a JOA?

7 A. No.

8 Q. You did not?

9 A. I did not.

10 Q. Okay. Did anybody within the company ask
11 that they send a JOA?

12 A. Not that I know of.

13 Q. Okay. Now, you mentioned that you-all
14 sent the JOA with your well proposal letter?

15 A. Correct. Most operators do.

16 Q. And the JOA you sent initially was sent
17 out in December, would that be correct, 2023?

18 A. Some were sent in November. Some were
19 sent in December.

20 Q. Okay. But isn't -- my understanding is
21 based on your exhibits filed, that I guess you sent
22 a JOA last week?

23 A. I sent an updated Exhibit A last week.

24 Q. That would be on October 24, 2024?

25 A. Yes, I think so.

1 Q. Okay. And if I read your letter
2 correctly, apparently the JOA that you sent out in
3 December had an incorrect ownership list on the
4 Exhibit A?

5 A. Not sent out in December. That's an
6 agreement dated December.

7 Q. Okay.

8 A. And the Exhibit A that we sent was just
9 updating title and a couple other factors that just
10 changed over time with new title coming in.

11 Q. So you sent out in -- last week a revised
12 JOA with a revised Exhibit A?

13 A. We sent out a revised Exhibit A to the
14 JOA.

15 Q. Okay. And that's because your initial
16 Exhibit A had ownership discrepancies or errors?

17 A. Correct.

18 Q. Okay. Now, when I go to this Exhibit A
19 that you sent out just last week -- and I'm going
20 down to page 159 of the PDF -- it shows your
21 proposed contract area A?

22 A. Correct.

23 Q. Okay. And it shows Magnum Hunter as
24 having 47.5 percent working interest?

25 A. Correct. At the time that I sent those

1 out, that was correct.

2 Q. Which was last week?

3 A. Yes.

4 Q. Okay. All right.

5 A. I -- since then, we have executed
6 agreements with D&M Snelson, Rhombus Operating,
7 Rhombus Energy. And we have reached an agreement
8 with Mewbourne Oil Company and its entities. So
9 since then, yes, our working interest has changed.

10 Q. So your working interest has now changed
11 again?

12 A. Correct, yes.

13 Q. Okay. All right. And that's why your
14 current exhibits don't -- ownership exhibits don't
15 match up what's on here, right?

16 A. Yes, sir.

17 Q. Okay. Thank you. All right. So these
18 changes in ownership happen, right?

19 A. All the time.

20 Q. Yeah, all the time. So when people send
21 out -- if they send out their JOAs early with an
22 Exhibit A, chances are that Exhibit A is going to
23 change, right?

24 A. Correct. But at the time that I sent it,
25 that was correct.

1 Q. Okay. Understand. You had extensive
2 discussion in your affidavit -- or statement about
3 depth severances in Section 32?

4 A. Yes, sir.

5 Q. Okay. Now, when I go to your compulsory
6 pooling checklist, it indicates that you are asking
7 the Division to pool the entire Bone Spring
8 formation, correct?

9 A. To my knowledge, yes.

10 Q. Okay. And aren't you -- but don't you
11 have a depth severance within the Bone Spring?

12 A. We do.

13 Q. All right. And isn't it true that you
14 intend to drill wells above and below the depth
15 severance line?

16 A. Our initial wells that we applied for are
17 above, yes.

18 Q. Are above. Okay. But you -- you've
19 indicated that you have an intent under the pooling
20 order to drill infield wells that would be below the
21 depth severance line?

22 A. On a pooling order?

23 Q. Under the pooling order.

24 A. Under the pooling order? Will you repeat
25 the question?

1 Q. Sure. So the pooling order wells that
2 you've asked for, you say will be above the depth
3 severance line?

4 A. The Bone Spring ones, yes. The Wolfcamp
5 will be below.

6 Q. Okay. But you have not asked the Division
7 to pool just the vertical extent above the depth
8 severance line?

9 A. I'm not sure what you're asking.

10 Q. Well, you mentioned that there is an
11 ownership depth severance.

12 A. Correct.

13 Q. Down to a certain depth.

14 A. Um-hmm.

15 Q. Okay? Your wells are going to be above
16 that depth?

17 A. Yes.

18 Q. Initial wells, right?

19 A. Yeah.

20 Q. Your obligation wells. Okay. And yet
21 you're asking the Division to pool all the owners
22 above and below that depth severance line?

23 A. The owners are the same.

24 Q. Don't they have different ownership
25 percentages?

1 A. Across, yes, but the ownerships are the --
2 the ownership parties are the same. We're asking
3 the Division to pool the parties.

4 Q. Pool the parties. But they're going to
5 have ownership differences in their percentages?

6 A. Correct.

7 Q. Okay. How do you intend to allocate
8 the -- to the owners in the lower part of the Bone
9 Spring when you drill the wells in the upper part of
10 the Bone Spring?

11 A. We're drilling wells at different --
12 there's going to be different wells at different
13 depths, and those are going to be separately
14 measured. For more information on that, I would ask
15 my facilities engineer.

16 Q. Understand. But from a contractual
17 standpoint, okay?

18 A. Would I go to my paragraph 41 in my
19 affidavit. That kind of outlines the calculations.

20 Q. So you have a formula that you intend to
21 use to allocate the proceeds from the wells drilled
22 under the pooling order?

23 MS. BRADFUTE: Objection. I think it
24 mischaracterizes Ms. Sikes' testimony that she just
25 referred to.

1 HEARING EXAMINER: Mr. Feldewert.

2 Q. How do you intend to --

3 MR. FELDEWERT: Let me rephrase the
4 question.

5 HEARING EXAMINER: Okay. So sustain
6 the objection.

7 MR. FELDEWERT: Yeah.

8 Q. How do you intend to allocate the proceeds
9 from the wells drilled under the pooling order?

10 A. I would ask you to turn to my paragraph 41
11 or 42 in my affidavit.

12 Q. And how do you intend to do it?

13 A. Would you please turn to my paragraph 41
14 or 42 of my affidavit.

15 Q. Okay.

16 A. If you would scroll down just a little bit
17 more. We have a whole section titled Calculation
18 Method for the Depth-Severed Interest.

19 Q. And are you asking the Division to adopt
20 this allocation method?

21 A. Not to my knowledge. I mean, I really
22 don't understand that question.

23 Q. So when you get your pooling order --

24 A. Yes.

25 Q. -- okay, and you drill your wells --

1 A. Okay.

2 Q. -- above the depth severance line --

3 A. Yes.

4 Q. -- okay, you're going to have to allocate
5 production from those wells to the owners that you
6 have pooled, right?

7 A. I guess I just don't really understand.
8 Sorry.

9 Q. So you don't know how you're going to
10 allocate the production?

11 MS. BRADFUTE: Okay. Objection. He
12 has asked this question about four different times.

13 HEARING EXAMINER: Well, I mean, I --
14 I understand the objection. I'm going to overrule
15 it, because I think he's trying to get to the
16 critical issue here in this -- in your case.

17 So I think it's helpful for the Division
18 to get a clear answer on this.

19 I thought that what he said was very
20 clear.

21 ISABELLA SIKES: Um-hmm.

22 HEARING EXAMINER: So why don't you
23 say it again slowly and ask the question from what
24 you just said.

25 MR. FELDEWERT: Okay.

1 Q. You're going to get a pooling order that
2 pools the entire Bone Spring formation.

3 A. Okay.

4 Q. Okay? When you drill your initial
5 wells -- or when you drill your obligation wells
6 under the pooling order in the Bone Spring, those
7 wells are going to be above a depth severance line.

8 A. Okay.

9 Q. Okay? Correct?

10 A. Yes.

11 Q. All right. When you look at the Bone
12 Spring, there are ownership differences above and
13 below the depth severance line?

14 A. Okay.

15 Q. Right?

16 A. Yes.

17 Q. Okay. How are you going to allocate the
18 proceeds from the wells drilled above the depth
19 severance line --

20 A. Um-hmm.

21 Q. -- to the parties who are pooled under the
22 pooling order?

23 A. So I would turn you to my paragraph 43 of
24 my affidavit. So this kind of outlines how we were
25 going to pay those owners based off of their surface

1 acres.

2 So it says, "If a working interest owners
3 owns a 1/40 interest in a 640-acre tract, it would
4 first determine its allocation to the respective
5 tract."

6 So we would take that 1/40, multiply it by
7 640 to get the net acres in that tract. So this
8 owner would have 16 net acres.

9 "If this tract was proposed to be
10 dedicated to a spacing unit that is 1280 acres, you
11 would next calculate the proportion of the tract
12 allocation to the number of total acres included in
13 that spacing unit, which is always done by looking
14 at surface acres regardless of depths. This is
15 calculated as follows: You would take the 16 net
16 acres, divide that by the 1280 unit, and you would
17 get a 1.25 percent working interest.

18 "Since different entities and individuals
19 own at different depths due to the depths severance,
20 this calculation can be performed by -- performed
21 for each separate depth for the owners in that
22 depth."

23 Q. What percentage are you going to apply,
24 ownership percentage? Because you said there's
25 different ownership percentages above and below the

1 depth severance line. So for -- let's just take an
2 owner like Foran Oil?

3 A. Okay.

4 Q. Okay? They own a different percentage
5 above and below?

6 A. Yes.

7 Q. Okay. Which percentage of Foran's Oil
8 ownership percentage are you going to use?

9 A. So we're drilling different wells at
10 different depths. So one well would be in the one
11 depth, and the owner would get their interest from
12 that depth. So if Foran owns A here and the well is
13 drilled through A, he would get A. Same with a
14 lower depth, even if that interest is different.

15 Q. So you have a formula, then, that you want
16 to impose?

17 A. No.

18 Q. Have you -- does your pooling application
19 indicate to the parties that are being pooled that
20 you intend to create a contract area A and a
21 contract area B?

22 A. I believe our JOA that I sent to every
23 single owner multiple times and the applications and
24 the publication notice that we published did.

25 Q. Your pooling application, does it ask the

1 Division to create a contract area A and a contract
2 area B?

3 A. I did not draft that.

4 Q. Okay.

5 A. I'm -- I do not know.

6 Q. It doesn't, right?

7 A. I can't say if I do or I don't. I'm
8 sorry.

9 Q. Well, I'm going to represent to you it
10 does not.

11 A. Well, I guess I'll just have to take your
12 word for it.

13 Q. All right. And then the public notice of
14 what's being considered by the Division today,
15 what's noticed on our website likewise does not
16 indicate that the company intends to ask the
17 Division to pool and then allocate based on a
18 contract area A and a contract area B.

19 A. My counsel drafted that. I can't -- I
20 didn't write it. I'm sorry.

21 Q. Okay. And while this is in your JOA, not
22 all of the affected working interest owners have
23 signed that JOA?

24 A. Correct.

25 Q. So not all of the affected working

1 interest owners have agreed to have the proceeds
2 from the Bone Spring wells allocated based on a
3 contract area A and a contract area B, correct?

4 A. I would say that most of the owners who
5 are subject to the depth severance have been getting
6 proceeds from a well that is in the Bone Spring that
7 does have that depth severance. That would include
8 Foran Oil Company.

9 Q. Different question.

10 A. Okay.

11 Q. Answer my question. They have not
12 agreed -- not all of the owners affected by the
13 depth severance have agreed to be paid on a contract
14 area B and then a contract area A?

15 A. Not to my knowledge.

16 Q. Okay. Your initial pooling application
17 that was filed in this case sought to create a pool
18 just for a contract area A, correct?

19 A. I would have to see it.

20 Q. It was filed under cases 24684 to 24687.
21 Do you remember that?

22 A. Yes. That was with former counsel. We
23 have since changed those applications.

24 Q. But you're aware of that, those
25 applications that were previously filed?

1 A. Correct.

2 Q. Okay. And they sought to pool what would
3 be described as just your contract area A?

4 A. Yes.

5 Q. For these second Bone Spring wells that
6 you intend to drill above the depth severance line?

7 A. Yes.

8 Q. Okay. Do you -- do you know why they were
9 dismissed in favor of pooling for the entire Bone
10 Spring?

11 A. We thought we needed to pool the entire
12 Bone Spring. I'm not entirely sure.

13 Q. Okay. All right. You mentioned that you
14 had some preliminary discussions with the State Land
15 Office?

16 A. Correct.

17 Q. Okay. Did you -- when you met with the
18 State Land Office, did you inform them that there
19 were competing pooling applications?

20 A. I sent an email, and then my boss followed
21 up with a call. And some of the other people from
22 our company called the SL -- SLO in regards to this.
23 I do not know if that was discussed or not. All I
24 did was send over the drafts.

25 Q. Okay. So you don't know if they informed

1 the State Land Office about the competing pooling
2 applications?

3 A. I do not, sorry.

4 Q. Okay. And you weren't involved in those
5 discussions?

6 A. I was involved in sending over the drafts
7 and then following up with the State Land Office on
8 preapproval maybe last Thursday or Friday to see if
9 they had looked at it yet.

10 Q. Okay. And when you followed up with them,
11 you didn't tell them that the CA that you were
12 seeking them to examine and issue a preliminary
13 approval on was subject to challenge in competing
14 pooling cases with the Division?

15 A. I did not.

16 Q. Okay. Did you --

17 A. I believe Matador could propose
18 (inaudible) agreements as well.

19 Q. What's that?

20 A. I believe that Matador could send their
21 drafts over as well.

22 Q. Well, one could suspect -- or one could
23 conclude that it might be a waste of the State Land
24 Office's time to ask them to look at com agreements
25 until you have a resolved competing pooling app --

1 applications with the Division, but I guess that's
2 based on a particular company.

3 Did you have any discussions with the
4 State Land Office that there was a debate over the
5 proper orientation of the wells?

6 A. Not to my knowledge.

7 Q. Okay. I saw -- I'm going to go to your
8 Exhibit A-11.

9 There was a discussion in your statement
10 about -- or a suggestion that the Turnpike
11 development that you're proposing here may be part
12 of a Federal unit; is that right?

13 A. No.

14 Q. Didn't you say something in your affidavit
15 referencing a Federal unit?

16 A. I did speak to the Federal unit, but that
17 was in terms of the other activity we have going on
18 in the area.

19 Q. Okay. So maybe I misread it. You're not
20 saying that would be part of some Federal unit?

21 A. I don't think I ever said that, no.

22 Q. Okay. What is this Country Western unit,
23 then, that you have on your Exhibit A-11?

24 A. So I guess that would be the Federal unit
25 that you're referencing. And this is a Federal unit

1 that we've been working on for the past two years to
2 put together. We've just received BLM and SLO
3 preapproval, and we are currently in the process of
4 seeking working interest owner and other owners'
5 support.

6 Q. So at this point, you don't have a
7 voluntary agreement for this Federal unit?

8 A. What voluntary --

9 Q. With all -- with all the working interest
10 owners?

11 A. Signed? Is that what you're asking?

12 Q. Yeah.

13 A. No, not right now.

14 Q. All right. So why do you show it on here,
15 on Exhibit A-11?

16 A. This -- as I explained in my affidavit,
17 this exhibit is outlining what we're planning in the
18 area. So this also shows Laguna Deep Federal unit
19 and then Showbiz, some, you know, contested hearings
20 we have going on in the area. Just a very general
21 map of the activity in our Quail Ridge.

22 Q. And that would be -- be -- your general
23 activity would be the blue boxes; is that right?

24 A. So the green boxes note a Federal unit.

25 Q. Okay.

1 A. The blue boxes are just other
2 developments.

3 Q. Other Cimarex developments?

4 A. Yes.

5 Q. Okay.

6 A. Just planning.

7 Q. Planning?

8 A. Um-hmm.

9 Q. And when I looked at these, they're just
10 south of your Turnpike unit?

11 A. When you say "these," do you mean
12 everything else?

13 Q. Yes, everything else shown here on
14 Exhibit 11 (sic)?

15 A. Yes.

16 Q. South of -- just south of your Turnpike
17 unit?

18 A. Yes.

19 Q. Okay. And all these developments that you
20 show on here in blue for Cimarex, they're all
21 standup orientation?

22 A. As of now, yes.

23 Q. Okay.

24 MR. FELDEWERT: Okay. That's all the
25 questions I have.

1 HEARING EXAMINER: Thank you.

2 Mr. Holliday, before we go to your
3 questions and then to Mr. McClure, let's take a
4 five-minute break.

5 We'll be back on the record at 9:48.
6 Thank you.

7 (Recess was taken.)

8 HEARING EXAMINER: Okay. We're back
9 on the record. It's 9:48 a.m. Taken a five-minute
10 break.

11 Mr. Holliday, your cross-examination.

12 MR. HOLLIDAY: Thank you,
13 Mr. Examiner.

14 CROSS-EXAMINATION OF ISABELLA SIKES
15 BY MR. HOLLIDAY:

16 Q. Good morning, Bella.

17 A. Good morning.

18 Q. Okay. So I'm going to do my best to ask
19 clear questions. If I don't and you need me to
20 rephrase it, just let me know.

21 A. Okay.

22 Q. Do you have actual knowledge of Avant's
23 plans for the one-mile wells in the second Bone
24 Spring in Section 32?

25 A. How would you consider actual knowledge?

1 Would you that be well proposals?

2 Q. So you're --

3 HEARING EXAMINER: Hold on. Hold on.
4 Hold on. Hold on. I can't have the witness asking
5 questions.

6 ISABELLA SIKES: Okay, sorry.

7 HEARING EXAMINER: So if you don't
8 understand the question, just say you don't
9 understand, but don't ask the attorneys questions.

10 ISABELLA SIKES: Okay.

11 Q. So do you have actual notice (sic) of
12 their plans to drill wells in the second Bone
13 Spring?

14 A. I know of their proposals that we received
15 a week or two ago, yes, and their testimony
16 yesterday to the first Bone Spring wells.

17 Q. So you provided your opinion that they
18 wouldn't drill and they, in fact, would not drill
19 these one-mile laterals that's based your
20 understanding, but that's limited to your
21 understanding as a landman, correct?

22 A. Yes.

23 Q. Not from a subsurface standpoint?

24 A. Correct. I would leave that opinion to my
25 geologist and engineer.

1 Q. And you have no actual knowledge whether
2 Avant, other than the proposals, does or does not
3 intend to drill those wells, correct?

4 A. Not to my knowledge.

5 Q. Not to your knowledge. Okay.

6 Okay. So you mentioned the fact that
7 JOA -- or excuse me -- Avant did not provide a copy
8 of its JOA. It sounds like you guys think this was
9 important. Is that a fair statement?

10 A. I believe when Avant states that they
11 provided everyone to -- or a JOA to every owner when
12 requested, however, that was not the case for us,
13 yes.

14 Q. Okay. So my review of the exhibits
15 indicates that Cimarex did request a copy in January
16 of 2024; is that correct?

17 A. Um-hmm.

18 Q. Did you request one at any time after
19 that?

20 A. No. I believe that once you asked once,
21 you typically receive an OA after that.

22 Q. I think I saw in your communication logs
23 that you followed up with owners that you were
24 seeking letters of support from multiple times; is
25 that correct?

1 A. Correct.

2 Q. But you didn't want to follow up with the
3 JOA from Avant?

4 A. I didn't feel the need to. We had already
5 asked for the JOA once, and they are supposed to
6 provide it within a period after that.

7 Q. So when you requested your letters of
8 support and they didn't provide those, why did you
9 then feel the need to follow up there, but not with
10 Avant?

11 A. Well, we needed working interest support.
12 So those are owners that I constantly reach out to
13 and had brokers reach out to as well.

14 Q. Are you aware of Avant's position that
15 they did, in fact, provide you with a JOA via USPS,
16 or United States Postal Service?

17 A. No.

18 Q. You're not? Okay. Okay. You mentioned
19 in paragraph 18 of your self-affirmed statement,
20 which is on page 13 if we need it, that Cimarex has
21 insight into how the interest owners in Section 32
22 have historically agreed to ownership?

23 A. Yes.

24 Q. All right. Okay. And then if we move to
25 paragraph 40, so just above your allocation

1 formulas, you state that, "Notably, the working
2 interest owners in Section 32 have long agreed how
3 their interest in the Bone Spring formation
4 underlying Section 32 should be treated."

5 Now, I won't assert a hearsay objection,
6 because I know that would be overruled, but that is
7 a statement about something someone else said. Do
8 you have any --

9 MS. BRADFUTE: Objection. They have
10 already stipulated to her written statement coming
11 into the record.

12 HEARING EXAMINER: Okay. And
13 Mr. Holliday.

14 MR. HOLLIDAY: There was no
15 objection.

16 HEARING EXAMINER: I'm sorry, what?

17 MR. HOLLIDAY: I was just noting on
18 the record.

19 HEARING EXAMINER: Noting what on the
20 record?

21 MR. HOLLIDAY: That there's hearsay
22 within the document.

23 HEARING EXAMINER: And how is that
24 relevant?

25 MR. HOLLIDAY: I guess it's not.

1 I'll withdraw it.

2 HEARING EXAMINER: Thank you.

3 Objection sustained.

4 MR. HOLLIDAY: Thank you.

5 Q. Okay. So there's this historical
6 agreement that you guys are aware of because -- or
7 how are you aware of this historical agreement?

8 A. I would say there's existing JOAs in the
9 west half and then we have PAYDEX for the Rhombus
10 Union State Com 1 well.

11 Q. Okay. So you have PAYDEX. Were there any
12 stipulations of interest or any record title
13 documents understanding -- supporting this
14 understanding, as you phrased it?

15 A. Record title or just county record
16 documents that these owners owning these interests,
17 yes.

18 Q. Right. But were there any stipulations of
19 interest supporting this historical understanding
20 over what record title would reflect?

21 A. Can you rephrase that?

22 Q. It's not clear.

23 A. I (inaudible) -- sorry.

24 Q. So my understanding is that the Union
25 State Pay Com Dex (sic) did not reflect title as you

1 would find it in the Lea County Courthouse; is that
2 correct?

3 A. It was just a couple percentages off,
4 correct.

5 Q. A couple percentages off, correct. Okay.
6 So then what was the relevancy of your statement
7 about this historical understanding as the way title
8 is allocated?

9 A. That these owners understand that there
10 has been a depth severance and that they're getting
11 paid on a well above the depth severance. Is
12 that --

13 Q. Okay.

14 A. -- kind of what you're . . .

15 Q. I was just curious. I was just curious as
16 to the reason for the inclusion of that statement.
17 You included it multiple times --

18 A. Okay.

19 Q. -- and I didn't see how it was relevant, I
20 think.

21 A. Sorry.

22 Q. All right. So you're aware, at least in
23 2024, of some discrepancies between record title and
24 these PAYDEX, correct?

25 A. Yes.

1 Q. Yes. Okay. So is this why you had title
2 run from that point forward? Why did you have
3 tiling run from date of your '99 opinion forward?

4 A. Typically most of the time when we plan
5 new developments, you order new title. Because from
6 1999 to 2024, there's bound to be a good amount of
7 changes.

8 Q. So if we could go to your list of working
9 interest control, I believe that's Exhibit A-7A,
10 page 101.

11 MR. HOLLIDAY: If we could see that.
12 Or am I supposed to (inaudible). Give me just one
13 second.

14 Oh, I have to log into the Teams meeting.

15 Mr. Examiner, one second. I need to log
16 into the Teams meeting.

17 Q. Okay. I think we -- okay. I have what we
18 need. So this is your Exhibit A-7A, which is a
19 recitation of Coterra -- what Coterra claims is
20 support by working interest owners; is that correct?

21 A. Yes.

22 Q. Okay. Are you aware that several of these
23 owners have also signed JOAs with Avant?

24 A. Yes.

25 Q. Okay. And would that impact your claims

1 for support?

2 A. I would say Avant counted them as support,
3 so did we.

4 Q. And I also see that you counted Nextgen
5 and Maverick. Do you have a JOA with them?

6 A. We do not.

7 Q. Any letters of support?

8 A. We do not.

9 Q. How are you including them in your working
10 interest control calculation?

11 A. They signed our AFEs.

12 Q. Is it your position that a signed AFE is
13 a -- is a statement of support for a development
14 plan?

15 A. When we send out proposals for people to
16 elect under wells, we would take AFEs as a form of
17 that commitment. So, yes.

18 Q. Even where they've signed AFEs with other
19 parties, in fact, competing parties?

20 A. Just like JOAs. Parties can sign
21 competing proposals, competing JOAs, and competing
22 AFEs.

23 Q. So if we go to your self-affirmed
24 statement on page 7.

25 MR. HOLLIDAY: If we could go to

1 page 7 real quick.

2 Q. Is it correct to say that you were asking
3 the Division to consider your proposed wells in the
4 first and third Bone Spring that are not, in fact,
5 in your pooling applications?

6 A. Those are -- those would be infill wells.

7 Q. Those would be infill wells, right, but --

8 A. But the only -- the only wells that we are
9 asking the OCD to look at in this case would be the
10 211 through 214 and the 701 through 704. Those are
11 the wells that we applied for in these cases.

12 Q. Correct. Are you asking the Division to
13 give any weight to these infill wells?

14 A. I mean, yes.

15 Q. Yes. But you're not obligated to drill
16 them?

17 A. They would be infill wells. So once the
18 initial wells are drilled and completed, then we
19 would propose those wells.

20 Q. So to the question that you're not
21 obligated to drill them under the pooling orders,
22 that would be a no, correct?

23 A. To which wells?

24 Q. The infill wells.

25 A. Are we obligated to drill the infill

1 wells?

2 Q. Correct.

3 A. Not to my knowledge.

4 Q. So then are you also asking the Division
5 to, on the other hand, disregard Avant's proposed
6 two -- or excuse me -- one-mile wells in Section 32?

7 A. I would say those are completely two
8 different developments, because the two-miles are
9 (inaudible) Com wells, and then the one-miles would
10 be a State Com. So I would say those can't really
11 be compared.

12 Q. Well, they can't be compared, but are you
13 asking the Division to disregard the fact that Avant
14 has also proposed wells that are not in its pooling
15 applications?

16 A. I don't -- will you repeat that question?
17 Sorry.

18 Q. You've asked the Division to consider the
19 wells you have proposed that are not in your pooling
20 application, correct?

21 A. Um-hmm.

22 Q. And you're not obligated to drill those
23 wells --

24 A. Correct.

25 Q. -- correct? Okay. So then are you, then,

1 asking the Division to disregard what I would
2 characterize as Avant's similar action in proposing
3 one-mile wells in Section 32?

4 A. I would say those are completely different
5 applications. They wouldn't be able to be drilled
6 under this pooling order. Those are one-mile State
7 Com wells. What you-all applied for are two-mile
8 (inaudible) com. And so I think those are
9 completely two different depth elements that can't
10 be considered like the rest of our wells.

11 Q. Okay.

12 A. Just like Matador, they probably have some
13 other wells they may want to drill. Those would be
14 infill wells under this development.

15 Q. So if I -- if I understood your --
16 Ms. Bradfute's opening statement correctly --

17 MS. BRADFUTE: Objection. The
18 witness should not be asked to opine on counsel's
19 opening statement.

20 HEARING EXAMINER: Okay. Let's wait
21 until he asks the question, and then you can make
22 your objection.

23 MR. HOLLIDAY: Thank you. And I'll
24 rephrase it.

25 Q. Is it your understanding that Cimarex has

1 a 20-well development program for the Turnpike units
2 collectively?

3 A. Those are what we proposed.

4 Q. Those are what you --

5 A. The working interest owners, correct.

6 Q. So why not include those additional wells
7 in your pooling applications?

8 A. We only applied for a Bone Spring and
9 Wolfcamp. From what I've understood, it's what you
10 plan to drill within one year of signature.

11 Q. So when you -- when you're -- is your
12 position that full formation development would, in
13 fact, unfold over -- if I look at page 120, I think
14 it's two to four years?

15 A. I would have to ask my engineers on that.
16 I'm sorry.

17 Q. Okay. But a lot can change in two to four
18 years, correct?

19 A. Probably, yes.

20 Q. Commodity price?

21 A. Probably, yes.

22 Q. Yeah. Okay. So it's possible those wells
23 don't, in fact, get drilled?

24 A. I would have to ask my engineers. I'm
25 sorry.

1 Q. Yeah. Okay. Looking at your
2 self-affirmed statement on page 5, if we need it,
3 you state that Cimarex has the only viable plan to
4 develop Section 32. Is it your position that Avant
5 is barred from pursuing its one-mile development
6 plan? Or prevented?

7 A. From pursuing it?

8 Q. Right.

9 A. I think you could pursue whatever. But
10 actually developing it, getting an order on it, I
11 think that's a different story.

12 Q. So Avant could have a viable -- a viable
13 plan. It's just your position, actually, that it's
14 more challenging, not that it's nonviable?

15 MS. BRADFUTE: Objection. Calls for
16 speculation on the -- on Avant's drilling plan from
17 the witness.

18 MR. HOLLIDAY: She is putting --
19 putting the testimony that Cimarex has the only
20 viable plan. My question is: Is Avant prevented
21 from drilling these wells? It seems like they have
22 a viable plan, albeit it may be more challenging
23 from a surface perspective.

24 HEARING EXAMINER: I overrule the
25 objection because this is an expert witness. She's

1 qualified to opine. She put this in her thing. I
2 just -- I'm hoping that this wraps up soon because
3 this seems like we're going down a rabbit hole.

4 But please proceed and ask the question.

5 MR. HOLLIDAY: Yes, sir. Okay.

6 Well, I think we have the answer we need from that.
7 I'll just actually move on.

8 Q. You reference your communication with the
9 State Land Office in paragraphs 28 to 32 of your
10 self-affirmed statement. Has the State Land Office
11 endorsed Cimarex plan?

12 A. They have given us preapproval for
13 communitization agreements.

14 Q. So they've given you preapproval. But is
15 it fair to say there's -- that statement is simply
16 that there's no regulatory bar, that you're allowed
17 to do it, but they don't necessarily support it?

18 A. I cannot state on what the New Mexico
19 State Land Office is saying. They gave us
20 preapproval for the communitization agreement.

21 Q. But not an endorsement?

22 A. Not from -- I mean, to my understanding,
23 they gave us a preapproval for communitization
24 agreement.

25 Q. So if we move down to paragraph 41, you

1 state that Cimarex has a correlative rights issue
2 because Avant's proposed one-mile wells are highly
3 speculative, given Avant's working interest; is that
4 correct?

5 A. Correct.

6 Q. And you're aware that Avant actually
7 claims a much higher interest in Section 32 than
8 Cimarex is crediting them with, correct?

9 A. I have seen them credit with -- themselves
10 with more, yes.

11 Q. Okay. So if, in fact, Avant's claims are
12 correct -- because we're not here to litigate
13 title -- would that impact your correlative rights
14 claim?

15 A. No.

16 Q. No. I want to move to this 1998 JOA. My
17 understanding is that Cimarex is asserting that its
18 working interest in Section 32 is much higher than
19 record title would reflect, based on the '98 Zafiro
20 State JOA; is that correct?

21 A. No. I would say that the record title
22 reflects much higher than Avant shows Magnum Hunter
23 to own.

24 Q. And what is the basis of that record
25 title? Is it the JOA?

1 A. It would be a letter agreement between
2 Mewbourne and Matador in 1998 and Magnum Hunter
3 owning the majority -- Magnum Hunter -- not Magnum
4 Hunter, sorry -- matador and Mewbourne owning a
5 majority in the east half.

6 If you were to go back and look at the
7 county records, you would see that a majority of the
8 interest owners that Avant has picked up or shown
9 were parties to that 1975 OA. However, most of
10 those -- actually all of those parties assigned
11 their interest to Mewbourne or Union, which Matador
12 is the predecessor to Union.

13 And so Mewbourne and Matador were the only
14 owners with interest in the east half. And so
15 that's clearly laid out through title and county
16 records. Yes, I would say that.

17 Q. Okay. I'd stipulate that Avant has
18 testimony to the contrary to that.

19 MS. BRADFUTE: Objection. I mean,
20 Avant's testimony is in the record, and they were
21 asked about title in Section 32 yesterday.

22 HEARING EXAMINER: So what's the
23 objection?

24 MS. BRADFUTE: I object to the
25 stipulation.

1 HEARING EXAMINER: Oh. But it wasn't
2 even a question. So we'll strike that from the
3 record.

4 Q. Okay. So --

5 HEARING EXAMINER: (Inaudible) a
6 question.

7 Q. This JOA was first -- as a source of title
8 was first raised in October of 2024; is that
9 correct?

10 A. No.

11 Q. No? When did you bring this up with Avant
12 before that?

13 A. A JOA is not a source of title.

14 Q. A source of contractual rights within
15 Section 32?

16 A. It's not contractual rights that we're
17 trying to stake a claim in the east half.

18 Q. Okay. Then what -- of what benefit, then,
19 is the JOA to Cimarex, if it's not record title and
20 it's not contractual title?

21 A. It's -- it's just to show the interest.
22 It's the easiest way to show what the leasehold
23 interest was at the time.

24 Q. It shows -- it's not a source of title.
25 It doesn't invest you with any contractual rights,

1 yet it's a representation of your rights to operate
2 in Section 32?

3 A. I would say that the contractual rights
4 that are listed on an Exhibit A are created through
5 the leasehold rights that are held in the leases.
6 And so in 1998, those are what was owned in the
7 leases, which is what I was -- sent to Ms. Guerra,
8 was the Exhibit A that shows the leasehold interest.

9 I don't even think there's a question
10 about validity. I think the biggest question here
11 is: If we stake a claim and this is what we're
12 saying our interests are from. No, it is not. It
13 is from county records.

14 Q. Okay. Was this JOA ever reported in Lea
15 County?

16 A. I'm not sure if a memo was ever recorded,
17 but there's multiple assignments that state this
18 JOA.

19 Q. So you're not aware that a -- the JOA
20 itself was recorded?

21 A. I'd have to look.

22 Q. You'd have to look. Are you -- do you
23 have -- are you aware of whether or not a memorandum
24 of the JOA was recorded?

25 A. I am not sure. I would have to look.

1 Q. Okay. So in your title research, which
2 you -- you've testified to was extensive in this
3 area, nothing -- none of these memorandums or
4 recordings came up at that time?

5 A. Through title. Well, we have these
6 documents in our own files, so that would be
7 considered a source document or a material examined.

8 Q. Right. But any record title reference to
9 this JOA -- or excuse me -- record title memorandum
10 or recording of the JOA, you did not find that; is
11 that correct?

12 A. Oh, it's referenced in county records. I
13 would look at the recording of Parks and Luttrell or
14 Mewbourne to Parks and Luttrell and then Parks and
15 Luttrell to Delmar Hudson, that's where the OA is
16 referenced in county records.

17 MS. BRADFUTE: I'm going to object to
18 this line of questioning. It's just getting
19 repetitive at this point in time, and I'm not sure
20 that it's helpful.

21 MR. HOLLIDAY: That's the last
22 question I had.

23 HEARING EXAMINER: Thank you,
24 Mr. Holliday.

25 I'm going to turn now to Mr. McClure. Oh,

1 wait.

2 MR. HOLLIDAY: That was the last
3 question I had about that, I'm sorry, not about --

4 HEARING EXAMINER: Oh, I'm sorry,
5 Mr. McClure.

6 MR. HOLLIDAY: But I don't have
7 any --

8 HEARING EXAMINER: Mr. Holliday has
9 more.

10 Q. Okay. You mentioned that -- did you
11 personally run title in this area?

12 A. Say that again. Sorry.

13 Q. Did you personally conduct some of the
14 title research in this area.

15 A. No. I'm an in-house landman.

16 Q. You're in-house. Okay. You mentioned
17 that you looked at the title on something called
18 Courthouse. I'm not familiar with this. Could
19 you -- just for the record?

20 A. Yeah. So we have a program called
21 Enverus, or some people call it Enverus. And
22 there's an app in there that's Courthouse. And so
23 it pools all of the documents and -- well, it
24 depends on what county you, you know, have a
25 subscription for, but pools for the --

1 Q. Courthouse Direct?

2 A. Yeah.

3 Q. Courthouse Direct. So -- and when you
4 were researching the title on Courthouse Direct --

5 A. Correct.

6 Q. -- you didn't actually research it in Lea
7 County, just with the Courthouse Direct?

8 A. Like in Lea County itself?

9 Q. Right, in the -- in the actual county
10 records.

11 A. No. Just through Courthouse Direct, which
12 is -- which is essentially the Lea County records.

13 Q. But you're aware that there's significant
14 discrepancies between Courthouse Direct and the
15 record title in the county, correct?

16 A. Probably. I mean, I don't really use it
17 for running title purposes. It's normally for just
18 a quick search. I trust my title attorneys and
19 brokers to really do the title research in the Lea
20 County Courthouse records.

21 Q. You referenced a spreadsheet with title
22 discrepancies. Did you provide that to Avant?

23 A. Could I provide that to Avant?

24 Q. Did you provide it to Avant.

25 A. Well, those -- I didn't know what the

1 discrepancies were, since you-all didn't send --
2 since Avant did not send an OA to us. And so I was
3 not able to recognize those differences until Avant
4 submitted their exhibits to show what they think
5 they own and other people.

6 Q. So -- and you've impugned Avant's title
7 efforts. Are you aware that Cimarex has failed to
8 properly account for several depth severances in its
9 chain of title?

10 A. I would have to ask -- where we've asked
11 Avant on many occasions and we've provided a list of
12 issues we found with theirs, they have failed to do
13 the same with us.

14 Q. And --

15 MS. BRADFUTE: And objection to this
16 question. We asked Avant's witnesses yesterday if
17 they could recognize where the depth severances
18 were, and the testimony was they could not.

19 MR. HOLLIDAY: She's already answered
20 the question.

21 HEARING EXAMINER: Yes, I know. It
22 was little late.

23 MS. BRADFUTE: Oh, sorry.

24 Q. Are you aware of Avant's testimony that it
25 did, in fact, provide working interest in the

1 Daytona wells as far back as January '24?

2 A. To who?

3 Q. To Cimarex.

4 A. They provided Magnum Hunter's interest,
5 not the working interest owners.

6 Q. Okay. Well, I think testimony will
7 reflect --

8 A. And we had raised issue that those numbers
9 were wrong as well.

10 Q. Okay.

11 MR. HOLLIDAY: I think that's all the
12 questions I have at this time. Thank you.

13 ISABELLA SIKES: Thank you.

14 HEARING EXAMINER: Thank you,
15 Mr. Holliday.

16 Mr. McClure.

17 MR. MCCLURE: Yeah, thank you,
18 Mr. Hearing Examiner. I do have some questions for
19 Ms. Sikes.

20 CROSS EXAMINATION OF ISABELLA SIKES

21 BY MR. MCCLURE:

22 Q. Ms. Sikes, if I can direct your attention
23 to -- let me move my hearing page over to the left
24 and bring up my exhibits here -- to page 120 of 712
25 of Cimarex's exhibits here.

1 A. Yes.

2 Q. Ms. Sikes, just to confirm, Cimarex is
3 only requesting a schedule for spudding and not for
4 completion; is that correct?

5 A. I am not certain. I'm sorry. I would
6 ask -- yeah, sorry.

7 Q. May I -- yeah, I was going to say I'll
8 expand on that. Without the specific schedule for
9 completion, essentially, Cimarex would be required
10 to complete one year after spudding. I'm just
11 confirming that somewhere in this exhibit packet,
12 it's not an additional schedule for completion and
13 spud is the only schedule listed here; is that
14 correct?

15 A. Yes, that is the only schedule listed.

16 Q. Okay. Thank you. Now, I know earlier
17 Mr. Feldewert had asked you if you knew the reason
18 for Cimarex not pursuing its earlier applications
19 that only involved, I believe, the Bone Spring one.
20 And you said you did not know the answer to that.
21 Do you recall that line of questioning?

22 A. Yes, I do.

23 Q. I guess my question to you is: If the
24 Division were to request it, do you believe that
25 Cimarex would be opposed to submitting cases again

1 that would be split out between all the different
2 Bone Springs or, I guess, contract areas, as you
3 refer to them here?

4 A. That's not something I personally could
5 speak to. That would be counsel and a team
6 decision.

7 Q. Okay. Thank you.

8 HEARING EXAMINER: So, Mr. McClure,
9 why don't we direct that question to Ms. Bradfute,
10 if she's willing to answer it.

11 MS. BRADFUTE: Thank you,
12 Mr. McClure.

13 No, Cimarex would not be opposed if the
14 Division wanted the application submitted in a
15 different way. The Division did order -- issue
16 several orders back in 2015 and 2016 where it
17 refused to pool a portion of a pool. So it refused
18 to exclude the vertical depths of a pool within a
19 pooling order based on language included in the Oil
20 and Gas Act.

21 And so those prior precedence later went
22 up to a case that was heard by the Commission, and
23 the Commission entered a ruling that was very
24 limited to the facts of the case and specifically
25 said that. I've referenced those cases in Cimarex's

1 prehearing order, and I'm happy to provide more
2 information on that.

3 Here, Cimarex has tried to address the
4 depth severances in the most comprehensive way that
5 it could. But if the Division preferred them to
6 send the application in a different way, they would
7 be willing to do so. The key is, they're trying to
8 ensure protection of correlative rights in the most
9 comprehensive way possible.

10 MR. McCLURE: Now, Ms. Bradfute, I
11 guess I'm not sure in regards to the a 2015, 2016
12 precedence set by Commission. Again, I don't know
13 what might have changed.

14 I do know that in recent years, though,
15 the Division routinely separates out pools at depth
16 severances and issues a compulsory pooling order for
17 above the depth severance and a different one for
18 below; hence, the reason on that compulsory pooling
19 checklist, we have like that vertical limit box.
20 Its express purpose is for pooling a portion of a
21 pool?

22 MR. FELDEWERT: Mr. Examiner, I might
23 be able to help here because I was involved in those
24 cases.

25 HEARING EXAMINER: Okay.

1 Mr. McClure, Mr. Feldewert has some
2 additional information on those 2015 cases. Do you
3 want to hear?

4 MR. MCCLURE: Yeah, I mean, it could
5 be -- it could be useful.

6 HEARING EXAMINER: Mr. Feldewert.

7 MR. FELDEWERT: So I think it
8 involved Concho's resources. And initially the
9 Division said you cannot pool a specific interval
10 within a -- within a Division designated pool.

11 It did go up to the Commission. And the
12 Commission reversed that and indicated to the
13 Division that they can pool certain intervals within
14 a pool. Okay? Which is why you -- the Division
15 subsequently revised its compulsory pooling
16 checklist, as you noted, Mr. McClure. And it has
17 become, I would suggest, routine for operators to --
18 when you have depth severances, to pool specific
19 intervals and request that in your application.

20 MR. MCCLURE: Thank you,
21 Mr. Feldewert.

22 HEARING EXAMINER: Does that help?

23 MS. BRADFUTE: And if I could just
24 clarify. So in that Commission order, in the record
25 it was limited to the specific facts of the case.

1 And so when later cases were brought after that
2 Commission order was issued, the Division confirmed
3 if the facts were very specific.

4 In that case, there was one owner who
5 owned interest in a nonproductive depth. And it was
6 agreed upon that that depth that would be excluded
7 did not have any producing zones in it.

8 Here, that is not the case. And so the
9 Commission lacks precedent on this issue, and there
10 are no rules, actually, in the NMOCD's regulations
11 regarding this issue. The guiding factor in that
12 Commission case was the protection of correlative
13 rights, and it was argued by Concho co-counsel at
14 that point in time that the Division has broad
15 latitude to protect correlative rights and
16 flexibility to enter in orders with conditions that
17 could protect correlative rights in the best way
18 that the Division sees fit.

19 HEARING EXAMINER: Well,
20 Ms. Bradfute -- Mr. Feldewert, were you the counsel
21 for Concho?

22 MR. FELDEWERT: Yes, sir. Yes, sir.

23 HEARING EXAMINER: Oh, you were?

24 Okay.

25 MR. FELDEWERT: Yes.

1 HEARING EXAMINER: Did she
2 characterize your argument correctly?

3 MR. FELDEWERT: No. She
4 mischaracterized it.

5 HEARING EXAMINER: What -- how do you
6 want --

7 MR. FELDEWERT: The issue was, we
8 were -- we were trying to pool a specific interval
9 within the -- within the formation. Because of
10 different ownership above and below the depth
11 severance line, the Division initially said you
12 can't pool only a portion of a pool. The Commission
13 then reversed that.

14 And there has been numerous multiple
15 Division cases since then that have pooled only a
16 specific interval within a formation because of
17 depth severance issues, whether it's difference in
18 ownership or different owners, that has never been
19 an issue, that has never been challenged, and, in
20 fact, has led to the evolution of your compulsory
21 pooling checklist, which now specifically asks
22 whether you're pooling a specific interval within a
23 formation.

24 HEARING EXAMINER: So what part --
25 what part of what you just said was the

1 mischaracterization, in your terms, of
2 Ms. Bradfute's . . .

3 MR. FELDEWERT: She mentioned
4 something about us suggesting that the Division has
5 authority to deal with relative rights in a very
6 broad fashion and seemed to be suggesting that the
7 Division can somehow just accept a contract area and
8 a contract area A and a contract area B without
9 providing notice in their pooling application that
10 that's what they seek.

11 And my point procedurally, as I raised in
12 our prehearing statement, is that the Division can't
13 do that in this case because they didn't file an
14 application to pool a specific vertical extent, nor
15 did they suggest in their application that they were
16 going to ask the Division to pool a contract area --
17 or pool the entire Bone Spring and then allocate
18 production based on a contract area and a contract
19 area A and a contract area B.

20 HEARING EXAMINER: Ms. Bradfute, I'll
21 come you in just a moment. I'd actually like to
22 hear. This is interesting.

23 So in your prehearing statement, you
24 pointed out these -- what you would call
25 deficiencies in the application --

1 MR. FELDEWERT: Yes.

2 HEARING EXAMINER: -- and the notice
3 behind the application.

4 MR. FELDEWERT: Well, the first --
5 first off, the first time we saw the -- any
6 suggestion that they were going to try to pool for a
7 contract area A and a contract area B was in the
8 notice letter -- notice of the hearing that was sent
9 out. There was nothing in the application that
10 suggested that.

11 There's also nothing their well proposal
12 letter that said that they were going to pool for a
13 contract area and a contract area A and a contract
14 area B.

15 So my point here is that if you don't
16 indicate in your application that you are going to
17 pool a specific interval or that you're going to
18 pool the entire interval but then ask the Division
19 to impose on working interest owners a contract
20 area A and a contract area B, that they're not on
21 sufficient notice, that that is what you seek. It's
22 not in the application. It's not in the public
23 notice. And there are parties that may not have
24 received the application.

25 So I can't, for example, say that I'm

1 going to pool the entire Bone Spring in my
2 application and then come in with a notice letter
3 and say, "Well, we really want to do a contract area
4 A and a contract area B," but provide no indication
5 of what that is or that that's what they seek.

6 HEARING EXAMINER: So you first
7 learned -- so from your perspective, you first
8 learned about this through notice. Which notice are
9 you talking about?

10 MR. FELDEWERT: It was the one we
11 attached to our . . .

12 HEARING EXAMINER: Exhibits?

13 MR. FELDEWERT: Exhibit package, yes.

14 HEARING EXAMINER: But what was the
15 date of that notice?

16 MR. FELDEWERT: October 15, 2024.

17 HEARING EXAMINER: Okay. And you're
18 saying that wouldn't be sufficient notice for this
19 hearing?

20 MR. FELDEWERT: It -- no, I'm saying
21 it wouldn't be sufficient -- it would not provide
22 the Division with the ability to pool for a contract
23 area A and a contract area B because that was not
24 requested in the application, that is, then, also
25 put on the public notice docket.

1 MS. BRADFUTE: Can I please respond?

2 HEARING EXAMINER: Of course.

3 MS. BRADFUTE: Yeah.

4 HEARING EXAMINER: Of course.

5 MS. BRADFUTE: Yeah.

6 HEARING EXAMINER: I'm just trying to
7 understand --

8 MS. BRADFUTE: Yeah. Yeah.

9 HEARING EXAMINER: -- Mr. Feldewert's
10 position. Because I don't remember -- I mean, these
11 are very interesting and important issues that
12 you're raising now based on everything that's going
13 on here. I don't remember your discussing this in
14 your opening statement.

15 I remember your focusing on the protection
16 of waste from the positions of the wells being
17 vertical -- sorry -- standup versus laydown. I'm
18 not sure why I didn't hear this in your opening
19 statement.

20 MR. FELDEWERT: So two reasons: One
21 is, my opening statement I kept fairly short as I
22 could, right --

23 HEARING EXAMINER: Of course.

24 MR. FELDEWERT: -- to deal with the
25 factual issues between the parties.

1 Secondly, I wasn't -- I'm still not
2 exactly sure what they're asking the Division to do.
3 Okay?

4 HEARING EXAMINER: Okay.

5 MR. FELDEWERT: And as you got that
6 from my line of questioning. I don't know -- it
7 seems to me, based in our compulsory pooling
8 checklist and their application, that they are not
9 asking the Division to pool and create a contract
10 area A and a contract area B. That's what it seems
11 like to me.

12 If that's the case, then I still don't
13 understand how you can issue a pooling order,
14 subject all these owners under that pooling order,
15 and then impose that allocation to the owners that
16 are subject to the pooling order. If the parties
17 agree to that, that's fine. But we don't have an
18 agreement for that, and there's no notice to the
19 owners being pooled that they're going to be subject
20 to an allocation based on a contract area A and a
21 contract area B.

22 So I think the way they did it the first
23 time around, where they filed their application for
24 the contract area A, made sense. I don't understand
25 why they didn't file a separate application for

1 contract area B.

2 HEARING EXAMINER: Okay. Now,
3 Ms. Bradfute, well, you have several issues to
4 adhere. The first one is about the characterization
5 or the Commission, the Commission order --

6 MS. BRADFUTE: Yes.

7 HEARING EXAMINER: -- that you both
8 referenced.

9 MS. BRADFUTE: Yes.

10 HEARING EXAMINER: Then you have the
11 additional issues now, which are very illuminating
12 for the Division because I know that we've been
13 struggling with this as well. So, please.

14 MS. BRADFUTE: Okay. Yeah,
15 absolutely. So I actually pulled the briefing from
16 that Commission case and converted the arguments
17 into a Word document as I worked on my positions for
18 this case. I would be happy to provide a briefing
19 which -- you know, it's hard when people sit and
20 think about what happened several years ago from the
21 top of their head.

22 So I think briefing on this issue may be
23 helpful to talk about what the Division and the
24 Commission actually put out there as public rulings
25 for the parties to follow.

1 HEARING EXAMINER: Let me interrupt
2 you and just say that I think that would be the
3 perfect thing to put in a closing argument --

4 MS. BRADFUTE: Okay.

5 HEARING EXAMINER: -- which I know
6 we're going to want --

7 MS. BRADFUTE: Yes.

8 HEARING EXAMINER: -- in these cases.
9 I sometimes leave it up to the parties. You know,
10 do you want to provide this? Do you want to provide
11 that?

12 In this case, we are ordering the parties
13 to file full written closing argument. Now, of
14 course, the transcript will take two weeks. We'll
15 deal with all the timeframe later. But, yes, we
16 want parties to submit written closing arguments.
17 Any issue not mentioned is waved, of course. And
18 then proposed findings and proposed conclusions
19 because -- sorry, Mr. Feldewert.

20 MR. FELDEWERT: I know.

21 HEARING EXAMINER: But that's what we
22 want in this case because it is somewhat complex or
23 multiple legal issues here and multiple factual
24 issues that, you know, everyone has different
25 positions on. And I think it would be helpful for

1 the Department so that we have a solid understanding
2 of what's going on here and what to make a decision
3 on.

4 So, anyway. So please proceed.

5 MS. BRADFUTE: Yeah.

6 HEARING EXAMINER: You were -- you
7 were responding to Mr. Feldewert's comments.

8 MS. BRADFUTE: And so next issue,
9 moving beyond the Commission case is in Cimarex's,
10 Magnum Hunter's applications, they are seeking to
11 pool right now the entire Bone Spring. They're not
12 asking for the Division to created different
13 contract areas; however, that is an easier way to
14 reference the differences in the interest
15 percentages in the depths.

16 And so at this point in time, I think it's
17 a very clear-cut case where production -- which we
18 have not yet been able to put on all of our
19 witnesses, production comes from wells landed in
20 depths that only produce from each specific zone.
21 And so there will not be a well that obtains
22 production from the two different depth-severed
23 zones.

24 And so the wells will take production from
25 the zone. All of the interests are calculated, as

1 Ms. Sikes has testified, based on surface acreage
2 ownership. And that is laid out just like it is in
3 any other pooling case for the tracts committed to
4 the spacing unit for the wells.

5 And if necessary, there are different
6 measures that the Division could put in to protect
7 contractive rights. It could require the creation
8 of an overlapping spacing unit for the infill wells
9 to cover the Bone Spring if it would prefer that.

10 HEARING EXAMINER: Now, you mentioned
11 different wells in different, let's say, contract
12 areas, for lack of better terms. So then why are we
13 hearing about allocation --

14 MS. BRADFUTE: There is --

15 HEARING EXAMINER: -- (inaudible)?

16 MS. BRADFUTE: -- no allocation
17 formula here. That -- so that came up in
18 Mr. Feldewert's questioning, yeah.

19 HEARING EXAMINER: It's not -- isn't
20 that in --

21 MS. BRADFUTE: It's not in her
22 testimony.

23 HEARING EXAMINER: Whose affidavit
24 were we looking at when we were talking about
25 (inaudible)?

1 MS. BRADFUTE: So -- while --
2 HEARING EXAMINER: (Inaudible) I
3 thought.

4 MS. BRADFUTE: Yeah. While --

5 HEARING EXAMINER: (Inaudible).

6 MS. BRADFUTE: While Mr. Feldewert
7 talks about it and he used the word "allocation
8 formula" --

9 HEARING EXAMINER: Right.

10 MS. BRADFUTE: -- that formula is how
11 you -- how you calculate net mineral interest in any
12 tract. It's the formula used.

13 HEARING EXAMINER: I see.

14 MS. BRADFUTE: Yeah.

15 HEARING EXAMINER: So you're saying
16 it's not an allocation formula?

17 MS. BRADFUTE: No. It's just
18 explaining -- because it is such a complicated
19 issue --

20 HEARING EXAMINER: Okay.

21 MS. BRADFUTE: -- here --

22 HEARING EXAMINER: I see.

23 MS. BRADFUTE: -- that this a basic
24 calculation as you would use in every other pooling
25 case that is out there. You'd just calculate it per

1 depth ownership area.

2 HEARING EXAMINER: And it would be --
3 it would be calculated based on whichever well it is
4 and whichever zone it is.

5 MS. BRADFUTE: Yeah.

6 HEARING EXAMINER: Based on the
7 ownership in those zones.

8 MS. BRADFUTE: Yeah.

9 HEARING EXAMINER: Okay. I'm
10 understanding slowly what's going on.

11 MS. BRADFUTE: The other complex
12 issue related to this is that BLM has indicated that
13 they will not accept communitization agreement that
14 is limited to a zone within a formation. And so the
15 BLM communitization agreement needs to match the
16 spacing order.

17 HEARING EXAMINER: Okay. Okay.
18 Yeah, that's a lot of moving parts here.

19 Mr. Feldewert.

20 MR. FELDEWERT: Sure. Can I share?

21 HEARING EXAMINER: Please.

22 MR. FELDEWERT: Who's sharing right
23 now?

24 HEARING EXAMINER: And, of course,
25 this is all argument.

1 MR. FELDEWERT: Yeah.

2 HEARING EXAMINER: This is not
3 evidence. I just want to make that clear for the
4 record.

5 MR. FELDEWERT: And just so I'm clear
6 and perhaps the Division is clear, this is the --
7 this is the noticed letter that MRC received.

8 HEARING EXAMINER: And what's the
9 date of this noticed letter?

10 MR. FELDEWERT: This is the one that
11 we saw previously. October 15, 2024. It's our
12 Exhibit F.

13 HEARING EXAMINER: Okay. Very good.

14 MR. FELDEWERT: In their application,
15 they mention nothing about the depth severance.
16 They do here. Okay? Then they describe a contract
17 area A and then they describe a contract area B.
18 And then they say in their notice letter -- again,
19 not in their application -- that Magnum will ask the
20 Division to recognize these contract areas in any
21 pooling orders issued by the Division for the
22 proposed units. Okay?

23 It sounds like they're not doing that
24 anymore. That's what it sounds like to me. Okay?
25 And my point that I made in prehearing statement was

1 that they wouldn't be able to do that because they
2 didn't have the contract area A or the contract
3 area B in their application or in any of the public
4 notice. If they're not doing this, okay, let's know
5 that.

6 And secondly, if they're not doing this,
7 then under what agreement have the owners above and
8 below the depth severance line agreed to be paid
9 differently based on where the wells are located and
10 what agreement -- under what agreement have they
11 acceded to the idea that we're going to be paid this
12 way if the well's up here and another way if the
13 well's below? Nowhere.

14 HEARING EXAMINER: Ms. Bradfute.

15 MS. BRADFUTE: There is nothing
16 within the Oil and Gas Act or within the regulations
17 or Commission precedent or -- that I could find --
18 and I ran a thorough search of Division orders --
19 that specifically require an agreement of absolutely
20 all parties.

21 There is a requirement, I think, to work
22 with interest owners in good faith and give them
23 notice of this issue. And notification has been
24 given of this issue to the working interest owners
25 in this case.

1 HEARING EXAMINER: So my question to
2 you, then, is -- and then we need to move on with
3 witnesses because we're going to be here for a long
4 time.

5 MS. BRADFUTE: Yeah.

6 HEARING EXAMINER: But I do
7 appreciate this conversation because it helps me
8 understand -- and I think maybe the technical
9 examiner as well -- legal issues that we did not
10 know were precedential or what effect they might
11 have on the pooling applications.

12 Why, then, bring it up here? Why not have
13 it in the original application if you are going to
14 have it here?

15 MS. BRADFUTE: Yeah. You can get
16 voluntary joinder from all of the parties. And so
17 Cimarex did already testify they got voluntary
18 joinder from every interest owner who did not have
19 an interest in each cell.

20 So now all the working interest owners own
21 an interest in every zone or they have signed a JOA
22 agreeing that it's okay. And those are the working
23 interest owners that are most likely to be impacted
24 by a depth severance, because they're the ones that
25 could have costs imposed on them in a zone where

1 they don't own any interest.

2 Here, that's not the case. They've all
3 signed a JOA agreeing to this ownership allocation
4 or they have assigned their interest over to
5 Cimarex.

6 HEARING EXAMINER: So when -- is
7 when Mr. Feldewert a moment ago brought up that
8 issue of agreements, you're saying there are
9 agreements in place?

10 MS. BRADFUTE: There are. Now, does
11 it cover -- did every working interest owner within
12 the whole -- the whole ownership deck sign a JOA?
13 No, not every working interest owner. But the
14 interest owners that had depth severed interest,
15 their interest were cut off and they didn't own
16 anything in the lower part of the Bone Spring, they
17 did reach an agreement.

18 HEARING EXAMINER: Okay. All right.

19 MR. FELDEWERT: But. But. And this
20 is very clever. Okay? There are -- let's say owner
21 A. Okay? Owner A has a 12 percent interest --
22 let's just use a number, 12 percent interest in the
23 upper zone. Owner A has a 15 percent interest in
24 the lower zone. Okay? There's no agreement with
25 those owners.

1 She's saying: Well, we reached an
2 agreement with all the owners likely, most likely to
3 be affected. But if I'm an owner above and below,
4 my ownership percentage is different. Okay? My
5 sharing of the costs is, therefore, different. My
6 sharing of the proceeds is, therefore, different
7 under their proposed procedure here. Okay?

8 I have not agreed to that. They have not
9 told me that they -- that this is how it's going to
10 be imposed under the pooling order. So there's
11 going to be problems with that. And you are an
12 effected working interest owner if there's -- and
13 Mr. McClure knows this. If there are ownership
14 percentage differences above and below a depth
15 severance line, they have to be addressed either by
16 contract or by a pooling order.

17 HEARING EXAMINER: Ms. Bradfute.

18 MS. BRADFUTE: Yes. So here, the
19 other way, and other practitioners who have
20 practiced before the Division for a long time have
21 noted that just like in any pooling case, right,
22 you've got a tract allocation formula. Every
23 pooling case has a tract lease map allocation that
24 we present. Not every interest owner understands or
25 consents to their percentage in that tract lease

1 map.

2 Here, there are tract lease maps broken
3 out by formation. Notices given to every interest
4 owner, just like it is in every other pooling case.
5 And so the owners know that there's a difference as
6 to depths.

7 On top of that, there's been in-depth
8 conversations with all of the interest owners
9 subject to a depth severance, which is entered into
10 evidence in this case. Once notice is given, the
11 purpose of the pooling provisions in the Oil and Gas
12 Act is to allow for compulsory pooling so that
13 correlative rights can be protected. There's
14 actually nothing in the Oil and Gas Act that talks
15 about an agreement between all owners when there's a
16 depth severance.

17 It does talk about pooling when there is a
18 minority interest owner who does not sign a JOA in
19 order to protect the correlative rights of the other
20 interest owners within the spacing (inaudible).

21 So the prevailing law, the controlling law
22 actually sides in favor of protecting correlative
23 rights for the majority interest owners as long
24 as -- and I think you follow a procedure very
25 similar to what has always been followed. And

1 that's what Cimarex is proposing here.

2 HEARING EXAMINER: Okay. Thank you
3 for all this discussion. It's been fascinating.

4 Okay. Let's see. Do you have redirect
5 questions for this witness? And if you do, please
6 keep them brief.

7 MS. BRADFUTE: No.

8 HEARING EXAMINER: You do not?
9 Excellent. Okay. This --

10 MR. McCLURE: Mr. -- Mr. Hearing --

11 HEARING EXAMINER: Yes.

12 MR. McCLURE: -- Examiner?

13 HEARING EXAMINER: Yes, Mr. McClure.

14 MR. McCLURE: I never finished my
15 questioning.

16 HEARING EXAMINER: You haven't
17 finished? I did not know that. Excuse me.

18 MR. McCLURE: Well, we got a little
19 sidetracked. I (inaudible) --

20 HEARING EXAMINER: We sure did, but
21 it was excellent sidetrack.

22 MR. McCLURE: Oh, I absolutely agree.
23 But if I may, I would continue --

24 HEARING EXAMINER: Please.

25 MR. McCLURE: -- my -- okay. Thank

1 you, sir. To be fair, I guess I only have one more
2 topic I wanted to discuss.

3 CROSS-EXAMINATION OF ISABELLA SIKES (continued)
4 BY MR. McCLURE:

5 Q. Ms. Sikes, reference was made earlier to
6 you disagreeing, I guess, with the interest
7 breakdown that Cimarex has -- or excuse me -- that
8 Avant has; is that correct?

9 A. Correct.

10 Q. Do you have a disagreement with the
11 interest that Matador's cases has?

12 A. We do not.

13 Q. Okay. Are you familiar with the committed
14 interest that Avant is testifying that they have to
15 their cases?

16 A. Yes.

17 Q. Okay. Do you disagree with the committed
18 interest percent that they have?

19 A. With their percent, plus other percents of
20 people who have signed, yes.

21 Q. Okay. Do you have within your exhibits
22 here a percentage that you believe is correct for
23 their committed interest?

24 A. For their committed -- for their committed
25 interest, I don't. Our title shows them only owning

1 1.2 net acres in Section 32.

2 Q. Which is different than what they're
3 portraying. Is that what you're saying to me?

4 A. Yes, correct.

5 Q. So then that would -- well, I guess it
6 would change the sum of their working interest and
7 committed interest; is that correct?

8 A. Yes, correct.

9 Q. Okay. And within your exhibits somewhere,
10 do you have that new sum that you believe would be
11 correct?

12 A. For them, I do not. I was not able to see
13 their exhibits until they were filed. So nowhere in
14 my case in chief exhibits do I have what they think
15 they own.

16 Q. Okay. Do you know what you believe they
17 own and --

18 A. 1-point --

19 Q. -- have committed?

20 A. 1.2 net acres. And I believe the part --
21 I would have to look back at my exhibits, but if we
22 cross compared who they have supporting in owners we
23 recognize through title, that would be TH McElvain,
24 which is 10 percent of Avant's interest is committed
25 to them. And the other party, I believe, is

1 Marbella, Marbella Development. They supported them
2 as well.

3 Q. Okay. I guess -- well, we'll just -- I
4 guess the disagreement that you have with Avant,
5 what percentage of the overall proposed pool area is
6 actually -- how much is that percentage changing by?

7 A. So if we were just to look at Section 32,
8 I think there were six parties that I was able to
9 agree with Avant on title on. Everybody else they
10 had added acreage to, they were missing acreage
11 from, they completely added parties that had
12 assigned out or were strangers to title.

13 And so it would be a majority. Because
14 the owners that we did have matched up that were
15 correct probably owned less than 20 net acres.

16 Q. I guess what my question is, is it appears
17 that -- of being approximately 46 percent is what
18 Avant is portraying that they have a committed
19 interest of, between either their working interest
20 and who's committed to them. How much difference do
21 you believe would be accurate?

22 A. I think it's hard to say. They couldn't
23 say yesterday what they owned in Section 32 and --
24 based off of their exhibits. But it's been hard to
25 tell what they think they own just because they did

1 combine Sections 29 with 32.

2 But I did do some sort of backwards math
3 where I did take all of their working interest
4 owners in the Bone Spring. I removed -- I didn't
5 leave them with an interest. I took Avant, Legion,
6 Double Cabin, T -- TH McElvain. If I added
7 everybody else up, there's only 40 acres remaining
8 in Section 32 to split between four different
9 parties.

10 So what they think they own has to be a
11 little bit less than 40 acres in Section 32. What
12 we show them owning is only 1.2 net acres.

13 Q. Now, in regards to Section 29, though, did
14 you take into consideration what their interest is
15 there?

16 A. So I did not take 29 into consideration.
17 We do not have title on Section 29. We have not
18 proposed to drill from or into Section 29.

19 What I will say is, the parties that they
20 have listed owning in Section 30 -- so if we took
21 their exhibit that lists out the tracts, tracts, I
22 think it was, 1 through 7 show the ownership in
23 Section 32.

24 If I put all of those in the Excel sheet
25 and included Avant's three entities and left those

1 blank, if I added everybody else up in Section 32
2 who owns -- we're looking for 640 total -- I got
3 600, which we're able to deduct. You know, there's
4 only 40 acres left over to split between those four
5 parties.

6 So from my understanding, from what their
7 exhibits show, there's 40 acres between those four
8 entities. What our exhibits show and our title
9 shows, they only own 1.2. So it is -- it is a big
10 jump.

11 Q. Okay. So just to make sure I'm keeping up
12 and understanding, what you're saying is that Avant
13 was portraying that they have 40 net acres in
14 Section 32, but you believe that it's only 1.5 (sic)
15 acres in Section 32; is that correct?

16 A. Yes. They were portraying somewhere
17 around 40. We know that it's the 1.2.

18 MR. MCCLURE: Okay. Thank you,
19 Ms. Sikes. I have no further questions. Thank you,
20 Ms. Sikes.

21 Thank you, Mr. Hearing Examiner.

22 ISABELLA SIKES: Thank you.

23 HEARING EXAMINER: Thank you.

24 Ms. Bradfute, redirect?

25 MS. BRADFUTE: No redirect.

1 HEARING EXAMINER: No redirect. This
2 witness may be excused.

3 ISABELLA SIKES: Thank you.

4 HEARING EXAMINER: Who is your second
5 witness?

6 MS. BRADFUTE: My second witness is
7 Staci Frey.

8 HEARING EXAMINER: Thank you.

9 MR. FELDEWERT: Mr. Hearing Examiner?

10 HEARING EXAMINER: Yes.

11 MR. FELDEWERT: Would we be able to
12 take a break?

13 HEARING EXAMINER: Yes. Would you
14 like to take a break now?

15 MR. FELDEWERT: Yes.

16 HEARING EXAMINER: How many minutes?

17 MR. FELDEWERT: Just a few minutes.

18 I just need --

19 HEARING EXAMINER: Five minutes?

20 MR. FELDEWERT: Yep.

21 HEARING EXAMINER: Okay. Ms. Frey,
22 make yourself comfortable. We'll take a five-minute
23 break. We'll be back on the record at 10:49. Thank
24 you.

25 (Recess was taken.)

1 HEARING EXAMINER: It is 10:50 a.m.
2 We are back on the record. And Cimarex's second
3 witness is on the stand and is under oath.

4 Please proceed.

5 DIRECT EXAMINATION OF STACI FREY

6 BY MS. BRADFUTE:

7 Q. Good morning, Ms. Frey. Could you please
8 state your name for the record.

9 A. Staci Frey.

10 Q. And by whom are you employed and in what
11 capacity?

12 A. I work for Coterra Energy as a petroleum
13 geologist.

14 Q. And are you familiar with the applications
15 that have been filed by Magnum Hunter in these
16 cases?

17 A. Yes.

18 Q. And have you conducted a geologic study of
19 the lands included in those applications?

20 A. Yes, I have.

21 Q. Have you prepared written testimony in
22 advance of today's hearing?

23 A. Yes, I have.

24 Q. And was that testimony marked as Exhibit B
25 in the exhibit packet filed with the Division?

1 A. Yes.

2 Q. Having submitted this testimony, do you
3 have any corrections or modifications or changes
4 that you need to submit and make part of Exhibit B?

5 A. No, I do not.

6 Q. Ms. Frey, as you sit here today, do you
7 adopt the testimony that you prefiled under
8 Exhibit B as part of your testimony today?

9 A. Yes.

10 Q. Okay. And as well, do you affirm the
11 veracity of the exhibits and slides that you
12 attached as Exhibit B?

13 A. Yes, I do.

14 Q. Okay. Thank you. So, Ms. Frey, we heard
15 a lot of geology testimony yesterday, correct?

16 A. Correct.

17 Q. Okay. Are you familiar with the Zoback
18 study that was introduced yesterday by MRC?

19 A. Yes, I am.

20 Q. Okay. And did you hear the geology
21 testimony that was offered yesterday by Avant's and
22 MRC's witnesses?

23 A. Yes.

24 Q. Do you agree with the testimony that they
25 offered?

1 A. I don't. And it sounded like they gave
2 slightly different testimony. I know from Avant's
3 geologist, they acknowledge that stress fracture
4 rotates around the subject lands, which we also
5 agree with. And MRC's geologist believes that
6 stress direction is pretty constant as you move from
7 north of the subject lands down to the south several
8 townships, and I don't agree with that.

9 Q. Okay. So in your opinion, do any of the
10 geology experts in these three cases agree upon
11 stress orientation interpretation?

12 A. No, I don't think we do.

13 Q. Okay. I'm going to share my screen. Let
14 me see if I can find where the Teams meeting --
15 there it is.

16 Is this the Zoback study that MRC
17 introduced yesterday to discuss?

18 A. Yes.

19 Q. Have you reviewed this paper?

20 A. Yes, I have.

21 Q. Okay. And do you have any notable
22 opinions that you want to share with the hearing
23 examiner about this paper?

24 A. Yeah. This paper is widely recognized
25 across the industry. Many operators refer to this

1 paper, and I have included Figure 1 in my
2 exhibits -- and I know MRC and Avant have also
3 included Figure 1 in their exhibits -- to discuss
4 the direction of maximum horizontal stress
5 direction, also referred to as SHmax. That's going
6 to be important in this case because we're arguing
7 over a standup versus laydown development. And I'm
8 arguing that either development scenario will work
9 in this area.

10 Q. Okay. And have you reviewed the data that
11 went into creating Figure 1 in the Zoback study?

12 A. Yeah. So along with this paper, Lund Snee
13 and Zoback supplied different tables that included
14 the data that went into this figure. And I went in
15 and looked at that data specifically for data points
16 surrounding the subject lands. And I know in each
17 of the exhibits, we all kind of zoom in to the
18 subject area and we look specifically at the stress
19 directions that are closest to the subject lands.

20 So I guess along with that data, they
21 provide quality of SHmax measurements, and they rank
22 the quality from a scale -- on a scale from A to
23 D-plus. So A would be the highest quality data.
24 And I noticed in -- near the subject lands, there
25 have several data points that have a D-plus quality,

1 and so they're actually not included in this map.
2 Qualities that are included in this map are A to C.

3 Q. Okay. And is -- where are the data
4 points? Or what are the data points that are
5 referenced on this map?

6 A. The bold black lines that are located
7 across the entire Permian Basin, those are what I'm
8 referring to.

9 Q. Okay. And where are the closest lines to
10 the subject lands that are involved in these three
11 cases?

12 A. It might be easier to refer to my exhibit,
13 but just looking at this map, it would be the
14 northeastern part of the Delaware Basin where
15 there's a pretty significant data gap.

16 Q. Let me pull up your exhibit --
17 Exhibit B-2. Is this an exhibit that you prepared?

18 A. Yes, it is.

19 Q. Okay. And can you just walk us through
20 the data points that you're discussing and how close
21 they are to the subject lands, which is marked with
22 a star.

23 A. Yes. So our Turnpike development, marked
24 with a star, both in my testimony, as well as Avant
25 and MRC's, we all refer to the data points that are

1 closest to the subject lands. So that includes the
2 cluster of SHmax data points to the west, which are
3 about 14 miles away.

4 You have the data point to the east.
5 That's, I think, about north 65 to 70 degrees east.
6 That lies outside of the Delaware Basin, which is
7 important because I believe that is a separate
8 tectonic regime that should not be applied to within
9 the Delaware Basin. That lies about 13 miles away.

10 And then the data point to the south,
11 which is, I believe, at about north 65 degrees east,
12 that's actually the most reliable data point.
13 That's also about -- over 13 miles away to the
14 south. That's the most reliable because it's based
15 on microseismic data instead of drilling induced
16 fracturing, like the other data points.

17 Q. Okay. And why would it be unreliable to
18 rely on a data point outside of the basin?

19 A. So the San Simon Channel, like I said,
20 it's considered a different tectonic regime. The
21 channel was subsiding throughout the Bone Spring and
22 Wolfcamp. Delaware Basin was, too, but in a
23 different capacity. And we noticed that stress
24 direction is kind of rotating around the Delaware
25 Basin, kind of perpendicular to the basin edge.

1 We don't see that similar trend outside of
2 the basin, so it's very difficult to rely on just a
3 single data point 13 miles away to try to infer
4 stress direction of the subject lands.

5 Q. Okay. And in your opinion, are MRC's and
6 Avant's geologist making assumptions that aren't
7 included in the Zoback study?

8 A. Yes. And that's due to the large data gap
9 that we see in this paper. I think if there's a lot
10 more data points that were much closer to the
11 subject lands, then we would be able to trust the
12 data and rely on it a lot more. But that's just not
13 the case. We don't have any measurements nearby.

14 Q. And I want to look at Figure 2. Sorry, I
15 was in your slides.

16 Figure 2 in the Zoback paper. Does
17 Figure 2 shed any more light on stress orientation
18 within the area?

19 A. Yeah. So I think all three of us relied
20 on Figure 1 because it's much more -- a much more
21 granular look at the individual data points.

22 Figure 2 was referenced yesterday by MRC's
23 geologist. And the reason I don't want to use this
24 image is because specifically in box Number 2, that
25 is where the subject lands resides, they're

1 averaging in this paper the stress direction based
2 on approximately two data points across that whole
3 area. And as we just noted, there are no
4 measurements near the subject lands.

5 So that average is just based on data
6 points of 13 miles away. So I don't think that's an
7 accurate image to use.

8 Q. Okay. And does the Zoback paper include
9 any other information that could help fill this data
10 gap within that 13-mile area?

11 A. Yeah. Going back to Figure 1, they not
12 only include SHmax measurements, they're also
13 including focal mechanisms that are measured from
14 seismicity that -- there are a couple different
15 areas that I'm going to focus on the Dauger draw
16 field, which is in western Eddy County.

17 Those are not a direct measurement of
18 SHmax, but they do show the type and direction of
19 slip on faults in that area. And I wanted to note
20 that those beach balls, the lines on the beach balls
21 align with SHmax directions that are just to the
22 east.

23 And that's probably because it's common
24 knowledge that when -- the stress direction is very
25 similar to the fault plane orientation nearby. We

1 also see that faults have a greater potential for
2 slip if the stress direction is very close to the
3 orientation of the fault.

4 So I'm also using focal mechanisms in my
5 exhibits to try to add additional information about
6 SHmax near the subject lands.

7 Q. Okay. And I'm going to go back to your
8 exhibit now. And I'm going to go to your
9 Exhibit B-3.

10 Is this your Exhibit B-3?

11 A. Yes, it is.

12 Q. Okay. And does this exhibit show focal
13 mechanisms similar -- or does this -- what does this
14 show, as compared to the focal mechanisms you just
15 discussed?

16 A. So this is showing Cimarex's private
17 seismic array, which is looking at seismicity that's
18 nearby the subject lands. These seismic events are
19 the little colored bubbles on the map, and those are
20 colored by magnitude.

21 So we've also interpreted focal mechanisms
22 that are shown as the little beach balls with red on
23 one side and white on the other side. Those are
24 events that are above the magnitude of 3. So higher
25 confidence events that are measured by 40 -- between

1 40 and -- to 60 seismometers across the basin, and
2 those are interpreted in a direction of north
3 43 degrees east.

4 That's important because this is telling
5 us that at least the stress direction near that
6 fault is at about 45-degree angle, which means that
7 you would be able to drill your wells either
8 north/south or east/west.

9 Q. Okay. And are the focal mechanisms shown
10 on Exhibit B-3 representative of SHmax?

11 A. So they're not a direct measurement of
12 SHmax, but I do think that stress has to be at
13 least -- almost in that orientation for that fault
14 to be able to slip. And we also know that when you
15 get closer to faults, stress orientation does tend
16 to rotate along the plane of the fault.

17 Q. Okay. To your knowledge, is Cimarex the
18 only party that's provided additional data beyond
19 what is shown in the Zoback study to support its
20 interpretation of stress orientation?

21 A. Yes, we are. And I did attempt to look
22 for microseismic data nearby, FMI logs to look at
23 drilling induced fracturing, something more like
24 what the Zoback paper was showing. But we just
25 don't have that data in the area.

1 We do have 3-D seismic data both over the
2 subject lands and the vacuum -- covering the vacuum
3 field that was mentioned yesterday in testimony.
4 That's up to the northeast of this particular fault.
5 And this -- these focal mechanisms seem to align
6 parallel with the faulting on that 3-D survey.

7 Q. Okay. Great. I'm going to share MRC's
8 exhibit briefly. So bear with me while I pull that
9 up.

10 Is this MRC's Exhibit B-8?

11 A. Yes.

12 Q. Okay. Can you compare the testimony that
13 you heard yesterday from MRC's witness with your
14 analysis that you just explained based on your
15 study?

16 A. Yeah. So, again, we're all referencing
17 the same image. They're zooming in to the area
18 around the subject lands that includes the three
19 different areas showing different stress directions.
20 And so they show the data point to the east, like I
21 said, that's located outside of the Delaware Basin.
22 And it's a single data point.

23 So I'm not sure how much we can rely on
24 that single data point as the definition of stress
25 at the subject lands.

1 They also show the data point to the
2 south, which I believe is the most reliable. But,
3 again, it's over two townships to the south, and I
4 believe that stress is rotating around the basin,
5 kind of perpendicular to the basin edge.

6 And then they show the cluster of SHmax
7 directions to the west. That was over in the Lusk
8 field area that was mentioned yesterday in
9 testimony. And I don't think that those are
10 particularly an outlier, as was testified yesterday,
11 because if you look at the zoomed out map on the
12 left, even if you exclude those points, stress does
13 rotate from north to south in Eddy County all the
14 way over to about east/west in southern Lea County.

15 There's just such a large data gap around
16 the subject lands that it's very difficult to tell
17 what exactly that measurement would be. But I don't
18 think you can infer a certain measurement based on
19 this exhibit.

20 Q. Okay. I'm going to go back to your
21 exhibit in B-2, and there was some testimony
22 yesterday about the red arrows. Can you please
23 explain what the red arrows on your exhibit
24 represent?

25 A. Yes. So those are my -- or my

1 interpretation of interpolated stress direction
2 around the subject lands. And so those do come with
3 some assumptions as well; however, I am attempting
4 to interpolate between the stress directions over by
5 the Lusk field all the way down to what we see in
6 southern Lea County. However, those are informed by
7 our additional data from our focal mechanisms on my
8 Exhibit B-3.

9 So they're not -- they're not made up.
10 They're just interpret -- I guess an educated
11 estimate of what the stress might be doing around
12 the subject lands.

13 Q. And did you study the structural features
14 in the area where the red -- red arrows are shown?

15 A. Yeah, I did. And there -- there's really
16 not many major features that would rapidly change
17 the stress direction around there. So there's the
18 Lusk field, which does have a deep fault, but then
19 there's really -- there's not much deep faulting in
20 that area until you get further down into southern
21 Lea County where you start to see the influence of
22 Antelope Ridge, which is a solarium structural high
23 that seems to affect oil cuts, reservoir
24 thicknesses, and potentially stress direction.

25 Q. And in your opinion, does the proximity to

1 the basin edge guide stress direction?

2 A. Right. So that's kind of what I mentioned
3 about the testimony yesterday. I believe it was
4 MRC's reservoir engineer had noticed that stress
5 kind of rotated perpendicular to the basin edge.
6 And so my interpolation of stress around the subject
7 lands also follows that theory where they are
8 perpendicular to the basin edge as well.

9 Q. Okay. Okay. And do you remember
10 correctly if it was MRC's reservoir engineer or
11 Avant's reservoir engineer that offered that
12 testimony?

13 A. Or maybe it was Avant's.

14 Q. Okay. Well, would you need to go back and
15 look --

16 A. I would, yeah.

17 Q. Yeah. But your overall conclusion is --
18 can you summarize it again?

19 A. About the basin edge?

20 Q. Yeah, just that it runs perpendicular?

21 MR. FELDEWERT: Leading.

22 MS. BRADFUTE: Sorry.

23 HEARING EXAMINER: I think --

24 MS. BRADFUTE: I'm just trying to
25 clarify.

1 HEARING EXAMINER: I think --
2 Ms. Bradfute, I think even though the objection was
3 to leading, I'm going to -- all the parties have
4 done that throughout their direct examinations. But
5 I'm -- I am hoping that we're going to be hitting
6 high points --

7 MS. BRADFUTE: Yeah.

8 HEARING EXAMINER: -- with your
9 witnesses.

10 MS. BRADFUTE: Yeah.

11 HEARING EXAMINER: Thank you.

12 MS. BRADFUTE: Thank you.

13 Q. Okay. We can strike that question,
14 Ms. Frey. And let's turn to your Exhibit B-3 again.
15 And you said that you used a vendor to
16 provide the microarray, correct?

17 A. Yeah. So this is Cimarex's private
18 seismic array. And the data was processed and
19 provided to Cimarex by a vendor known as
20 Nanometrics, which is a company used by many
21 operators in the Delaware Basin and across the
22 world. They process seismic waveforms, and they
23 have several seismic arrays across basins.

24 Q. Okay. And can you explain the quality of
25 this data and the general location of the

1 seismometers used by the vendor?

2 A. Yeah. So I guess the importance of the
3 seismometer location is your error decreases if you
4 have more seismometers used to measure those events.
5 An example of one of those seismometers is in the
6 blue triangle on this map. And, of course, I've
7 only shown one seismometer in this area; however, we
8 have over 50 across the basin, probably more. But
9 specifically what measured these events, the
10 magnitudes above 3, those were -- those were
11 measured by seismometers -- between like 40 and 60
12 seismometers across the basin.

13 And so that's important because if you
14 have maybe just a few seismometers that are located
15 in just one direction away from the faulting, you're
16 going to have significantly higher error on the
17 location of those events.

18 Q. Okay. And are other operators within the
19 Permian Basin using this vendor to obtain geologic
20 information?

21 A. Yes. So any operator -- or anyone -- can
22 subscribe to the seismic array, but there are many
23 operators within the Delaware Basin that subscribe
24 to this, including Exxon, Conoco, Diamondback, EOG,
25 many other operators here.

1 Q. Okay. MRC testified yesterday that the
2 stress orientation was reasonably similar in
3 Township 21 South as it is in Township 18 South. Do
4 you remember that testimony?

5 A. I do.

6 Q. In your opinion, is that true?

7 A. No. Because I think that the stress is
8 rotating around the subject lands. I don't think
9 stress direction is consistent from 18 South all the
10 way down to 21 South.

11 Q. And I'm going to turn to MRC's
12 Exhibit C-1.

13 Is there anything else geologically or
14 structurally different in the wells located in
15 21 South and Township 18 South?

16 A. Oh, yeah. So across this entire area, the
17 basin deepens as you move to the south. So you'll
18 have higher -- greater depths, higher pressures.
19 Each reservoir tends to thicken. We have
20 differences in porosity, and we also have
21 differences in major structural features.

22 So as I mentioned before, Antelope Ridge
23 starts to come in around 21 South on the eastern
24 side of this box, which tends to affect many
25 different reservoir properties, such as oil cut.

1 Q. So it's fair to say that wells to the
2 south will outperform wells drilled to the north,
3 correct?

4 A. Yes, that's what we've observed.

5 Q. Okay. I want to go to one last exhibit
6 that I wanted to discuss with you in questioning.
7 And I'm going to turn to your Exhibit B -- I believe
8 it is your Exhibit B-8. Is this an exhibit that you
9 prepared?

10 A. Yes.

11 Q. Could you please walk us through this
12 exhibit and, in particular, the red dashed lines
13 that are marked in the middle of the exhibit.

14 A. Yes. This is a structural cross section
15 going across our Turnpike development in Sections 32
16 and 33. I'm showing where our landing zones are in
17 the bold black lines. And the red dash lines denote
18 the base of contract area A, which is just below our
19 upper second sand landing, and then the base of
20 contract area B, which is at the top of the
21 Wolfcamp.

22 Q. Okay. And do you notice any frack baffles
23 present within the Bone Spring formation?

24 A. Yeah. So I've shown a gamma ray log in my
25 first tract, which is the left of each log that I'm

1 showing. And I'm coloring gamma ray kind of by
2 lithology. So yellow is more of a sandstone
3 reservoir. Blue is carbonate, which is very tight
4 generally and not a reservoir. It's not something
5 we target. And then brown would be shale. So
6 that's down in the Wolfcamp.

7 Q. Okay. And in your opinion, is there
8 sufficient frack baffle between the base of what you
9 noted as contract area A and contract area B?

10 A. Yes. So going back to the gamma ray log,
11 again, I've colored blue to represent carbonate, and
12 it's represented by low gamma ray, high resistivity,
13 and low neutron and density. These -- this is a
14 tight formation.

15 And so within the second sand0 itself
16 between our upper sand landing and our lower, there
17 is a frack baffle that exists, and it is over
18 100 feet thick. And we do see porosity decreasing
19 significantly within this carbonate. And so that
20 would impede hydraulic fracture growth.

21 Q. Okay. In your opinion, is this frack
22 baffle sufficient to prevent wells landed in the
23 upper Bone Spring from obtaining production from the
24 lower second Bone Spring? Sorry, the upper second
25 Bone Spring from obtaining production from the lower

1 second Bone Spring intervals?

2 A. Yeah, I don't see why hydraulic fractures
3 would preferentially grow down and especially
4 through a frack baffle like this.

5 Q. Okay. In your opinion, is the stress
6 orientation within the subject land suitable for
7 east/west development and north/south development?

8 A. Yes, that's correct.

9 Q. And in your opinion, is the -- is the
10 approval of Magnum Hunter's applications sufficient
11 to prevent waste and protect correlative rights?

12 A. Yes.

13 Q. Okay.

14 MS. BRADFUTE: Thank you.

15 HEARING EXAMINER: Thank you,
16 Ms. Bradfute.

17 Mr. Feldewert.

18 CROSS-EXAMINATION OF STACI FREY

19 BY MR. FELDEWERT:

20 Q. Good morning.

21 A. Good morning.

22 Q. I guess I'm going to share here.

23 Ms. Frey, I see that you indicated you
24 testified previously before the Division. Was that
25 as Staci Mueller?

1 A. Yeah. My last name changed.

2 Q. Okay. Got it. All right. Thank you.
3 Because I was trying to figure that out.

4 Now, you would agree with me that stress
5 orientation is important when you try to orient your
6 wells, correct?

7 A. Yes.

8 Q. Okay. And that knowing the stress
9 orientation and properly orienting your wells is
10 necessary to prevent waste?

11 A. Yes.

12 Q. And when I looked at your Exhibit B-2, you
13 looked at the Lund Snee and Zoback map, and then, as
14 you put it, you did an estimate -- you interpolated
15 and did an estimate of what might be occurring in
16 our subject acreage?

17 A. Yes.

18 Q. Okay. And you mentioned, then, that
19 there's an actual data point, I think you said,
20 14 miles to the west?

21 A. Yes. That cluster of SHmax bold lines
22 over to the west is about 14 miles away.

23 Q. Okay. So then if I look to the data point
24 to the east, you said that was closer, right?

25 A. About 13 miles.

1 Q. Okay. And that data point would indicate
2 that in order to prevent waste, you would need your
3 well orientation to be standup. We can agree to
4 that?

5 A. If you were to drill over there, that
6 would be correct.

7 Q. Okay. And then when I go to the next
8 closest data point on here to the south, you said
9 that was about the same distance, 13 miles?

10 A. Yes.

11 Q. Okay. And you would agree with me that
12 that would indicate that if you were going to drill
13 there, you would want your well oriented in a
14 standup fashion to prevent waste?

15 A. Yes, if you drilled to the south.

16 Q. Okay. At what degree are you comfortable
17 drilling either north/south or east/west?

18 A. That's tough, because that relies on the
19 degree of anisotropy as well. It's not just the
20 angle of SHmax. You also need to look at the
21 difference between your minimum and maximum
22 horizontal stress.

23 So if there was a high degree of
24 anisotropy, then would you expect your hydraulic
25 fractures to be more linear. And in that case, it

1 would matter more what angle you would be
2 determining in a standup or laydown.

3 However, if there is low anisotropy, it
4 means your hydraulic fractures are more likely to
5 appear kind of in a cloud form, if you've ever
6 looked at microseismic. Therefore, it matters a lot
7 less. So it's hard to determine a specific angle
8 unless you know the degree of anisotropy.

9 Q. So in this particular area -- let's just
10 focus on the subject acreage -- do you have enough
11 knowledge there to know what degree you would be
12 comfortable going north/south or east/west?

13 A. I do not.

14 Q. You do not?

15 A. I don't, because we don't know the degree
16 of anisotropy up there. However, Zoback does state
17 in his paper that where there is a rapid rotation,
18 there seems to be low anisotropy, which would mean
19 that the stress direction would matter less.

20 Q. So is it your testimony, though, that you
21 believe that this area that's at issue here, that it
22 has a 45-degree orientation?

23 A. That would be what the best available data
24 is telling us, yeah.

25 Q. Telling you?

1 A. Correct.

2 Q. Okay. And you believe that that degree
3 is, therefore, necessary in order to be comfortable
4 that you would be able to drill either standup or
5 laydown?

6 A. Right. That angle, yes.

7 Q. Okay. All right. When I see your
8 suggestion here about the degrees, that first arrow
9 would be, what, 45 degrees roughly?

10 A. Around there, yeah.

11 Q. Okay. If I go down to the next arrow,
12 what's that degree?

13 A. It's difficult to tell without putting it
14 on top of the stress diagram as I have in
15 Exhibit B-3.

16 Q. Let me ask you this: Greater than
17 45-degree?

18 A. Yes.

19 Q. Okay. And then the third arrow down would
20 be greater than 45-degree?

21 A. Correct.

22 Q. Okay. All right. Thank you.

23 Now, if I look at, let's just take --
24 let's take our Exhibit C-1. How far -- if I look at
25 the yellow star where you believe the stress

1 orientation is at 45 degrees, how far south does
2 that particular orientation that allows you, in your
3 opinion, to go north/south or east/west? How far
4 down does that go on this particular map? How many
5 townships down?

6 A. I think that I would not be able to answer
7 that question without a closer data point. And
8 that's kind of the whole issue with using that
9 public paper alone, is that there's a large data
10 gap. So it's difficult to tell between the subject
11 lands and all the way down to that southern data
12 point that's in that paper what the stress direction
13 might be.

14 Q. So I'm looking at just our exhibit, right?
15 I see 18 South, 34 east. Okay? Is it your opinion
16 that there's a 45-degree orientation in that
17 township?

18 A. Yes. Around there, yes.

19 Q. Okay. Now, if I go in 19 South, 34 East,
20 what's your opinion there?

21 A. It would be a little greater than
22 45 degrees.

23 Q. Okay.

24 A. But I don't know how much greater because
25 there's no data.

1 Q. Okay. All right. So you talked about
2 data, right? Okay. So we have -- would you agree
3 with me that if you look at the orientation used by
4 operators in this area, that that would be an
5 indication of what the stress orientation is based
6 on what other operators are studied?

7 A. Not necessarily. I don't think that's a
8 geologic data that determines stress direction.

9 Q. I agree with you. But at some point, the
10 operator is going to have to determine whether drill
11 is standup or laydown, right?

12 A. Correct.

13 Q. And they have geologists like yourself?

14 A. Correct.

15 Q. And they look at the data?

16 A. Um-hmm.

17 Q. Right?

18 A. Yes.

19 Q. And they want to prevent waste?

20 A. Hope so.

21 Q. Hope so, too, right. And so you don't
22 think it's important that when you look at this area
23 that over 90 percent of the operators and their
24 geologists have determined that you have to drill
25 standup over laydown in order to prevent waste?

1 A. I don't want to insinuate what kind of
2 data that they're using, but I do think that when
3 you move all the way down to Township 21 South, I
4 would agree that you would want to drill standup. I
5 just don't know how quickly that changes.

6 Q. Okay. Then the other data that we have,
7 right, is the degradation analysis that was done by
8 MRC, correct?

9 A. Correct.

10 Q. That would be an indication of whether you
11 need standup or laydown, wouldn't it?

12 A. It would if you filter the data correctly.

13 Q. Okay. And then the -- also the
14 degradation analysis that was done by Avant?

15 A. Correct.

16 Q. Right? And that would be an indication of
17 whether you need to drill standup or laydown in
18 order to prevent waste, correct?

19 A. Correct, as long as they filter the data
20 correctly.

21 Q. Okay. Did you-all -- and then would you
22 agree that as part of filtering the data correctly,
23 that if you're going to do a degradation analysis,
24 that you would want to look at an area that has a
25 similar stress orientation?

1 A. Yes.

2 Q. Okay. So you wouldn't, for example, want
3 to take this map and turn it and include areas that
4 clearly have a different stress orientation?

5 A. I don't agree with that.

6 Q. You think you can turn it and include
7 areas with a different stress orientation in your
8 degradation analysis?

9 A. I think the stress is consistently
10 rotating around the subject lands. So just using
11 this box seems to be biased towards a certain stress
12 direction, and it's important to look at an area to
13 the west as well.

14 Q. But you would agree that the area to the
15 west has a different stress orientation than what
16 you suggest is in the subject acreage?

17 A. Yes. It depends how far west, but, yes.

18 Q. Okay. Now, when Cimarex is proposing its
19 wells, does Cimarex try to orient their wells in a
20 fashion that is going to be conducive to the stress
21 orientation and, therefore, prevent waste?

22 A. Yes.

23 Q. Okay. So when I go to -- I want to go to
24 MRC's Exhibit A-10. Okay?

25 A. Okay.

1 Q. I have it up in front of me. We see our
2 area of subject -- subject area right where the
3 Bobby Pickard is in 28 -- Sections 28 and 33?

4 A. Yes.

5 Q. Okay. All right. Now, if we just go
6 directly south of that, we see a number of operators
7 that are either in the process of developing
8 (inaudible) or that has planned developments,
9 correct?

10 A. Correct.

11 Q. Okay. And it includes operators like
12 Mewbourne?

13 A. Yes.

14 Q. Okay. MRC, of course. And then I see
15 Cimarex with their Big Iron. Do you see that?

16 A. I do.

17 Q. That's the same as Magnum Hunter, right?

18 A. Yes, it is.

19 Q. All right. Then I see the Cimarex
20 Mescalero Ridge wells. That's your company. I see
21 the Cimarex Chaparral wells. That's your company,
22 right?

23 A. Yes.

24 Q. Okay. I see the Cimarex Capadones wells.
25 That's your company?

1 A. Yes.

2 Q. And I see the Coterra Cordoniz wells.
3 Now, is that, again, your company, even though it
4 says Coterra?

5 A. It is, yes.

6 Q. Okay. All right. So when I look just
7 directly south of this acreage, your company, along
8 with others, are not drilling laydown wells.
9 They're drilling standup wells?

10 A. Correct.

11 Q. Okay. All right. And when I look at -- I
12 want you to keep this in mind. Okay? I want you to
13 take a look at the Mescalero Ridge and the Cordoniz
14 and the Capadones and the Chaparral.

15 When I go to your Exhibit A-11, we see
16 that for the Mescalero Ridge area, just directly
17 south of the subject area, Cimarex is choosing to
18 orient their wells standup even though they own
19 acreage that would allow a laydown, correct?

20 (Inaudible) the yellow box acreage that Cimarex
21 owns?

22 A. It is, yes. I'm not sure specifically
23 about Mescalero Ridge, just because we have other
24 operators in the area that are kind of constraining
25 where we can drill.

1 Q. Has the -- but it would seem to indicate
2 that you would have ownership that would allow
3 laydown over standup, if that's what you really
4 wanted to do.

5 A. Again, not -- maybe not specifically at
6 Mescalero Ridge.

7 Q. What about the Chapedones?

8 A. I think it -- maybe it'd be more helpful
9 to show the wells that are already drilled in this
10 area, because Chapedones is another one that we're
11 kind of constrained by what's already drilled. And
12 a lot of those are drilled as standup third Bone
13 Spring wells nearby --

14 Q. By other operators?

15 A. Correct.

16 Q. So (inaudible) do standup?

17 A. Yes.

18 Q. Okay. What about your Stacey's well down
19 there, you drilling standup there? Or intend to
20 drill standup?

21 A. Yes.

22 Q. Okay. Do you have the acreage that would
23 allow you to go west/east or laydown if that's what
24 the company thought was appropriate?

25 A. No, because there are other wells drilled

1 nearby.

2 Q. Standup?

3 A. Correct.

4 Q. Okay.

5 HEARING EXAMINER: Mr. Feldewert,
6 this is getting a little repetitive.

7 MR. FELDEWERT: Gotcha. Okay.

8 Q. The other data point that we have about
9 the actual stress orientation in this area would be
10 not only the Figure 1 in these -- Zoback report, but
11 also the Figure 2, right?

12 A. Yes.

13 Q. Okay. You would agree that the acreage at
14 issue in -- would be located in what would be box 2
15 in the southern part of that box?

16 A. Yes.

17 Q. Okay. And you would agree that the
18 professors that put together this peer-reviewed
19 document -- to them, the data indicates that the
20 stress orientation is, on average, 60 degrees and
21 perhaps somewhere between 60 and 75 in this
22 particular acreage?

23 A. Right. And that's kind of what I brought
24 up before. This figure takes Figure Number 1 and
25 buckets the more granular data points into large

1 averaged areas. And I have an issue with area
2 Number 2 because, as you saw in Figure Number 1,
3 there just aren't many data points nearby.

4 Q. So you have -- you don't agree with what
5 these professors show?

6 A. I do agree that those are the averages,
7 but I don't agree that they're representative of the
8 subject lands because there's just no data nearby.

9 Q. Okay. So you disagree with them,
10 suggesting that box 2 has an average stress
11 orientation of 60 degrees?

12 A. No. Again, I do agree that these are --
13 these averages are averages of the stress directions
14 based on Figure Number 1, but I do not agree that
15 it's representative of the subject lands.

16 Q. Okay. Now, you testified before this
17 Division in August of last year? Do you remember
18 that?

19 A. Yes.

20 Q. A series of cases?

21 A. Yes, I do.

22 Q. Do you remember what cases?

23 A. That would be -- I think that was the
24 Mighty Pheasant, Loosey Goosey. I don't know the
25 case numbers.

1 Q. I think you're right.

2 A. Okay.

3 Q. Mighty Pheasant, Loosey Goosey. Okay.

4 And that was acreage just one little -- one township
5 away to the south?

6 A. I'd have to look at the map again, but it
7 is to the south, yes.

8 Q. So we see in MRC's Exhibit A-10, the
9 discussion -- the development we just talked about.
10 The Loosey Goosey would be just to the south of your
11 Chaparral, correct?

12 A. That's correct.

13 Q. Down there in which sections, (inaudible)?

14 A. 4958.

15 Q. Okay. So just south of all this standup
16 development. Did you -- do you recall informing the
17 Division as to what you thought the stress
18 orientation is in this area just to the south of the
19 subject area?

20 A. Down there, the stress continues to
21 rotate, and it's probably closer to a north 60,
22 65 degrees east orientation.

23 Q. Do you remember what you told the
24 Division?

25 A. I do not.

1 Q. Do you recall providing the Division with
2 a map that contained a line showing your
3 interpretation of the stress orientation?

4 A. I don't remember that exhibit
5 specifically, but I know we do generally have to
6 provide a stress direction information.

7 Q. Okay. Would it be helpful for you to see
8 that map?

9 A. I'm not sure, because my argument isn't
10 that --

11 Q. I understand. My question is -- you don't
12 recall exactly what you told them?

13 A. As far as the exact angle on the stress
14 direction?

15 Q. Yeah.

16 A. No.

17 Q. Okay. All right. Let me bring up --
18 Ms. Mueller, I'm going to -- I'm sorry.

19 A. Same-same.

20 Q. Okay. All right. I'm going to bring up
21 on the screen the -- your self-affirmed statement
22 that was marked as Exhibit B. And I'll just give
23 one case. There's a Cimarex case 23448. Okay?

24 A. Okay.

25 Q. And that's what we've just talked about?

1 A. Yes.

2 Q. All right. Okay. When I go down to your
3 statement, paragraph 6, you note that you used the
4 same Zoback map that we've been talking about?

5 A. Yes.

6 Q. Okay. And that you took that and then
7 zoomed into a portion of their regional map and
8 where the blue lines, as you said, represent the
9 digitized version of the same stress directions?

10 A. Yes.

11 Q. Okay. And you said based on the regional
12 trends observed by Lund Snee and Zoback, the
13 estimated stress direction at the Mighty Pheasant
14 and Loosey Goosey is approximately 70 degrees,
15 right?

16 A. Yes.

17 Q. Okay. When I go to your map, if I look
18 at -- what was it? B -- Exhibit B-1 to your
19 statement, is this a map that you created?

20 A. It is.

21 Q. Okay. I see -- let's get oriented here
22 real quick. If we -- we see that cluster data
23 points to the west that you have been referencing.
24 Do you see that in blue?

25 A. Yes.

1 Q. So now they're in blue, not in black?

2 A. Correct.

3 Q. Okay. And then we see the -- what you
4 said was about 14 miles away?

5 A. From the Turnpike development, yes.

6 Q. Okay. And then we see the blue line in
7 the upper right-hand portion that you drew on here
8 that also represents the line from the Zoback
9 analysis?

10 A. Yeah. I just want to clarify. I didn't
11 draw these lines on here. These are digitized
12 version of the Zoback paper.

13 Q. Okay.

14 A. So these are not interpreted.

15 Q. Okay. And the acreage at issue here would
16 be 18 South, 34 East?

17 A. Yes.

18 Q. Okay. So just to the left of that blue
19 line?

20 A. About 13 miles to the west, yes.

21 Q. Okay. All right. And then we also see
22 the other digitized data points from the Zoback
23 analysis on here, right?

24 A. Yes.

25 Q. Okay. Now, that line, then, would

1 represent your 70 degrees?

2 A. Yes, at the Mighty Pheasant and Loosey
3 Goosey development.

4 Q. Okay. And if I take a look at that line,
5 it's just at the bottom edge of the cluster of lines
6 to the west, right?

7 A. Yeah. The black dashed line is -- again,
8 it's representative of the Mighty Pheasant, so more
9 like 20 South, 34 East. It's not -- it might be
10 misrepresented as being drawn above the box. I just
11 didn't want to cover the box.

12 Q. Okay.

13 A. That's why I drew it there.

14 Q. But the box, then, would be right at
15 the -- if I go west from the box, it's right at the
16 bottom of that cluster of markings --

17 A. Yes.

18 Q. -- right? Okay. So then if I take that
19 and I go back to your map -- so let's keep that
20 oriented -- and I go back to your -- we'll need to
21 zoom out. I can't . . .

22 I go to your map here. And using that
23 same orientation, I'm at the cluster in your -- in
24 your outtake box to the left, the black lines --

25 A. Yes.

1 Q. -- right?

2 A. Um-hmm.

3 Q. Okay. And if I go from the bottom of that
4 and I go straight across, your 70-degree stress
5 orientation line would fall somewhere between your
6 first arrow to the right of that -- those black
7 cluster lines and your second arrow down below
8 the -- below the star?

9 A. Sure.

10 Q. Okay. So roughly close to the bottom --
11 right at the bottom of that star?

12 A. Yes.

13 Q. Okay. So if we took your analysis just a
14 year ago and we put -- and we put that black line in
15 there, it would be a 70-degree line of your
16 interpretation just below the yellow star?

17 A. Right. But also since a year ago, I've
18 looked into the new information from our private
19 array, which informs this exhibit.

20 Q. Now, when you -- your information from
21 your private array. Okay. I want to ask you about
22 that real quick. You indicated that that's not a
23 measurement of stress orientation, correct?

24 A. It's not a direct measurement, correct.

25 Q. Okay. And that information that you

1 said -- that you've used here today that you didn't
2 show about a year ago, that you've had since 2020,
3 right?

4 A. Right. I'm not sure about the focal
5 mechanisms, but we have had that fault image since
6 2020.

7 Q. Okay. Yet back a year ago, you didn't
8 think that that was important to inform on the -- on
9 your stress orientation line that you represented to
10 the Division just to the south of the subject
11 acreage?

12 A. No.

13 Q. Okay. Now, is it possible, possible, that
14 the analysis that you did a year ago would explain
15 why over 96 percent of the wells drilled by
16 operators in this area is in a standup orientation?

17 A. I don't think you can conclude that from
18 that one exhibit. I do still stand by the fact that
19 the stress does rotate around the subject lands.

20 Q. But you would have to go from a 70-degree
21 line just below that star and then quickly just
22 rotate to 45 degrees?

23 A. No. The 70 degrees was my interpretation
24 at that time, and it's probably more like 50 to 60
25 at this time after I've looked at those focal

1 mechanisms.

2 Q. So you chose not to look at the focal
3 mechanisms a year ago?

4 MS. BRADFUTE: I think this is asked
5 and answered a couple of times now.

6 HEARING EXAMINER: Mr. Feldewert.

7 Q. So I just want to be clear. You had that
8 data --

9 HEARING EXAMINER: Mr. Feldewert.

10 MS. BRADFUTE: Whoa. Objection.

11 MR. FELDEWERT: Has it been asked --
12 I don't think it's been asked.

13 MS. BRADFUTE: Yeah.

14 HEARING EXAMINER: You should respond
15 to the objection, don't you think?

16 MR. FELDEWERT: It has not been asked
17 and answered.

18 HEARING EXAMINER: I'll allow -- I'm
19 going to overrule this objection. You're -- but
20 this will be the end of this line of questions.

21 MR. FELDEWERT: Sure.

22 HEARING EXAMINER: So please go
23 ahead.

24 Q. Okay. So you had that focal information
25 that you said does not -- is not a measurement of

1 stress orientation a year ago, but you chose not to
2 use that when you represented to the Division the
3 stress orientation in acreage just to south of here?

4 A. No. I said that I don't know if we had
5 the focal mechanism information available a year
6 ago. I know we did have the fault imaging
7 information available, and I wouldn't make
8 conclusions just based on fault imaging.

9 Q. Okay. The other thing about your -- or
10 let me ask you this: You mentioned on -- in your
11 paragraph 17, I think it was yours, of your
12 statement -- let me get there.

13 Did you -- you testified about the
14 barriers that exist between the upper Bone Spring
15 target and the second Bone Spring target. Do you
16 remember that?

17 A. I don't think this is my paragraph.

18 Q. That's what I'm trying to get to. So
19 let's go to this, right?

20 You did testify about this?

21 A. Yes.

22 Q. Okay. All right. And did you mean to
23 suggest that if you don't, that MRC was going to
24 orphan the upper Bone Spring target area if it
25 initially develops the lower Bone Spring target

1 area? That was your word, right?

2 A. Right. So if they don't drill the upper
3 second sand and they only drill the lower second
4 sand, they would be orphaning the upper landing
5 zone.

6 Q. Okay. But you agree that there's no need
7 to simultaneously develop those two zones?

8 A. I agree with that, yes.

9 Q. Okay. And that if MRC, like they have
10 here, had chosen to develop the second Bone -- the
11 lower second Bone Spring sand first, that that would
12 not prevent them or any other operator from
13 proposing wells subsequently as infill wells in the
14 upper second Bone Spring sand?

15 A. Correct.

16 Q. Okay. All right. And would you agree
17 with me that by targeting the second Bone Spring
18 sand first, that you would then gain logging
19 information from the upper second Bone Spring zone?

20 A. Yes.

21 Q. Okay. And don't you believe that that is
22 important in order to de-risk that upper first
23 Spring -- Bone Spring zone?

24 A. Not necessarily in this area. There's so
25 much production within the upper second sand,

1 there's even a vertical field nearby.

2 Q. Did you testify just a year ago in your
3 same statement that we just looked at, that the
4 lower second Bone Spring sand is the established
5 target across several townships?

6 A. That's a different area. The upper second
7 sand is much more discontinuous. And the best --
8 the highest quality upper second sand is up in this
9 area and not necessarily down in the other area. We
10 would need to de-risk it there.

11 Q. So let me step back. I think my question
12 was: Didn't you testify that the lower second Bone
13 Spring sand is the established target across several
14 townships?

15 A. Yes, more so related to the Mighty
16 Pheasant, Loosey Goosey area.

17 Q. Well, did I characterize your testimony
18 correctly, though?

19 A. I don't remember exactly what I said --

20 Q. Okay.

21 A. -- but --

22 Q. Let's go to your statement then, I'm
23 sorry.

24 A. Okay.

25 Q. I'm in paragraph 9 of the statement you

1 provided less than a year ago. And I got it up on
2 the screen for you. Do you see it?

3 A. Yes.

4 Q. And didn't you testify that the lower
5 second sand is the established target across several
6 townships?

7 A. Yes.

8 Q. Okay. And then you go on to testify that
9 the upper second sand is a target that Cimarex has
10 investigated and determined to be too risky to drill
11 before collecting data?

12 A. As it pertains to Mighty Pheasant and
13 Loosey Goosey, yes.

14 Q. Which is just the lower township to the
15 south?

16 A. A lot can change in a township.

17 Q. Okay. And that -- you also testified that
18 it would be prudent to, if you can, drill through
19 that first Bone Spring sand and obtain logging data
20 before you go up and develop it?

21 A. Where it's riskier, yes, I definitely
22 believe that.

23 Q. Okay. So you would understand, then, why
24 MRC would be interested, perhaps, in developing the
25 lower third Bone -- the lower second Bone Springs

1 sand first because that would allow them to get
2 information on the upper second Bone Spring sand?

3 A. Sure.

4 Q. Okay.

5 MR. FELDEWERT: Thank you for your
6 time.

7 STACI FREY: Thank you.

8 HEARING EXAMINER: Mr. Holliday and
9 Mr. McClure, I'd like to finish the
10 cross-examination of this witness before we go to
11 lunch. Is that acceptable to everyone here?

12 Okay, good. That will then leave two more
13 witnesses for you, Ms. Bradfute?

14 I thought so. And then we have to deal
15 with rebuttal cases. So I think we're going to plan
16 on being here for the rest of the day. Whether we
17 finish today is in question, but I sure hope the
18 parties cooperate with each other to make that
19 happen.

20 So Mr. Holliday.

21 MR. HOLLIDAY: Okay. Well, I'll be
22 brief. I just have a few questions.

23

24

25

1 CROSS-EXAMINATION OF STACI FREY

2 BY MR. HOLLIDAY:

3 MR. HOLLIDAY: If we could go back to
4 Cimarex's Exhibit B-8.

5 MR. FELDEWERT: I can drive for you,
6 real quick.

7 MR. HOLLIDAY: Thank you. Thank you.

8 MR. FELDEWERT: There you go.

9 MR. HOLLIDAY: I'm not licensed to
10 drive yet. I have a learner's permit.

11 Q. Okay. So if we look at this -- wait. I
12 may have a different -- I may have written down the
13 wrong slide. Here you go, one second.

14 I'm sorry, it was MRC's B-8. I apologize,
15 that's the confusion.

16 MR. FELDEWERT: Give me a minute.

17 Okay.

18 Q. Okay. I just want to clear up real quick
19 for the testimony -- I mean, excuse me -- for the
20 record. Was it your testimony that we can't tell
21 the approximate distances between the eastern data
22 points and the western data points on this slide?

23 A. I --

24 MS. BRADFUTE: Objection. The
25 witness didn't testify about this slide.

1 HEARING EXAMINER: Okay.

2 Mr. Holliday?

3 MR. FELDEWERT: My bad. Wrong slide.

4 MS. BRADFUTE: Oh.

5 MR. HOLLIDAY: There we go. Yeah,
6 there we go.

7 HEARING EXAMINER: It didn't make any
8 sense.

9 MR. HOLLIDAY: It's all right. I got
10 focused on my question.

11 HEARING EXAMINER: I knew something
12 was wrong.

13 A. Can you repeat that again?

14 Q. Yeah, you bet. All right. I just wanted
15 to make sure I've captured your testimony correctly.
16 Was it your testimony that when we look at this
17 slide -- excuse me -- this map, that we cannot tell
18 the approximate distances between the eastern and
19 westernmost data points?

20 A. We -- as far as the stress direction data
21 points?

22 Q. Yes.

23 A. We are able to tell the total distance
24 between the two.

25 Q. Okay. Okay. So if the basin outlined --

1 or was it your testimony that the basin outline
2 negates the data outside of them, basin outlines?

3 A. I think there's a lot more uncertainty for
4 data points that lie outside of the Delaware Basin,
5 just because it's -- lies within a different
6 tectonic regime.

7 Q. Okay. And why, then, in your opinion,
8 does the data stay relatively consistent -- as we
9 move from the Delaware Basin across the Central
10 Basin Platform into the midline, as we move west to
11 east, why does that data stay relatively consistent?

12 A. I think we see a slight tilt, especially
13 moving from the eastern Delaware Basin onto the
14 Central Basin Platform. I don't think it stays
15 completely consistent. But for this particular data
16 point, it's just one data point. It's really
17 difficult to tell what stress might be doing in
18 other areas outside the basin up here.

19 Q. Okay. So sticking to this B-8, what does
20 that gamma -- gamma ray log measure?

21 A. I -- I'm not sure what you're referring
22 to.

23 Q. Oh, different B-8, I'm sorry.

24 MR. HOLLIDAY: If -- now Matador's
25 B-8.

1 MR. FELDEWERT: Matador's B-8 or --

2 MR. HOLLIDAY: I'm sorry, gosh.

3 MR. FELDEWERT: Or A-8?

4 MR. HOLLIDAY: Cimarex's B-8.

5 MR. FELDEWERT: Cimarex. There we
6 go.

7 MR. HOLLIDAY: A lot of Bs. Thank
8 you. There we go, and I'm not a geologist.

9 Q. Okay. Looking at this slide, what does
10 the gamma ray log measure?

11 A. Gamma ray is a good lithology indicator,
12 so you can tell the difference between sandstone and
13 carbonate and shale, for example.

14 Q. Okay. So how are you inferring competency
15 of these frack baffles that you've highlighted?

16 A. It's a combination of gamma ray
17 resistivity and neutron intensity porosity, which
18 are the logs that I provided here. I just referred
19 to gamma ray because I tried to make it easier by
20 coloring the gamma ray log by lithology. That's
21 more commonly known as a carbonate baffle, but I --
22 so like blue, for example, is carbonate; however, I
23 would also back that up with high resistivity
24 indicating that it's probably very tight, as well as
25 neutron intensity porosity approaching 0 percent

1 porosity on a limestone matrix, which also indicates
2 that it's tight.

3 Q. Thank you. So if we look at that upper
4 Bone Spring well, that looks pretty tight against
5 that frack baffle that you've identified. Do you
6 have any concern that you could -- when you frack
7 the upper Bone Spring wells, that that can create
8 any sort of frack into this baffle?

9 A. Which upper Bone Spring wells are you
10 referring to?

11 Q. That top -- the one just above -- there's
12 a black line, a red line, and the blue frack baffle.
13 The upper Bone Spring wells that you've proposed.

14 A. Okay. Can you repeat the question?

15 Q. Yeah, you bet. So when you go to frack
16 your upper Bone Spring wells, do you have any
17 concern that this might create some communication
18 with or fractures into the frack baffle?

19 A. I see. Okay. So you're referring to the
20 upper and lower second Bone Springs sand wells --

21 Q. Right.

22 A. -- with the frack baffle in between. I
23 think because that frack baffle exists, there's low
24 likelihood that the lower second Bone Spring sand
25 wells would communicate much, if at all, with the

1 upper second Bone Spring sand wells. And I know we
2 are designing our hydraulic fracture stimulation to
3 prevent height growth, which is something you can
4 ask our engineer about.

5 Q. Okay. So maybe this is a better -- I'll
6 ask one more, but maybe it's a better question for
7 the engineer. So is it possible that fracking that
8 upper Bone Spring well could create communication,
9 if and when you come back to drill the lower Bone
10 Spring well, second Bone Spring well?

11 A. No, that's pretty unlikely. We don't
12 often see hydraulic fractures extend downward within
13 formations. Especially with that baffle there, it's
14 more likely that hydraulic fractures within that
15 upper sand will stay mostly contained.

16 Q. Okay. So you don't have any concerns
17 about the competency of that barrier?

18 A. I don't, based on these logs and based on
19 the fact that we are modifying our frack design to
20 stay more contained within the sand reservoirs.

21 Q. Okay. If it were to be compromised, would
22 that cause depletion concerns for the second Bone
23 Spring, lower Bone Spring well?

24 MS. BRADFUTE: Objection. The
25 witness just testified that it was unlikely to be

1 compromised. So it's assuming facts not in
2 evidence.

3 HEARING EXAMINER: Sustained.

4 MR. HOLLIDAY: Okay. I believe
5 that's all the questions I have.

6 HEARING EXAMINER: Thank you.

7 Mr. McClure.

8 MR. MCCLURE: I have no questions for
9 this expert, Mr. Hearing Examiner.

10 HEARING EXAMINER: Thank you.

11 Ms. Bradfute, any redirect?

12 MS. BRADFUTE: I have just like two
13 redirect questions.

14 HEARING EXAMINER: Okay.

15 MS. BRADFUTE: Could I share my
16 screen?

17 HEARING EXAMINER: Sure.

18 MS. BRADFUTE: Thank you.

19 REDIRECT EXAMINATION OF STACI FREY

20 BY MS. BRADFUTE:

21 Q. Okay. Ms. Frey. I am showing MRC's
22 exhibit that they showed earlier, Exhibit A-10. Oh,
23 shoot.

24 And this exhibit, I believe, goes from the
25 MRC Iggles wells down approximately 10 miles. Is

1 that what you see, more or less?

2 A. Yes.

3 Q. And have you studied the geology going
4 about -- have you looked at the geology going about
5 10 miles south below the subject lands?

6 A. Yes.

7 Q. And does the stress orientation, in your
8 opinion, change as you look 10 to 13 miles south?

9 A. Yes. I believe the stress orientation is
10 consistently rotating around this area.

11 Q. Okay. And there was a lot of testimony
12 earlier about your prior testimony in the Loosey
13 Goosey and Mighty Pheasant cases. It sounded like
14 that spacing unit was also located to the west. It
15 was located 13 miles, approximately, to the south
16 and to the west of these subject lands; is that
17 right? Or did I mishear that?

18 A. Not to the west, but directly to the
19 south.

20 Q. Okay. So it's about 13 miles to the
21 south?

22 A. Yes.

23 Q. Okay. So structurally from a geologic
24 standpoint, what are the differences?

25 A. Actually, I want to correct that. It's

1 about seven miles to the south.

2 Q. Okay. Thank you.

3 MR. FELDEWERT: I didn't have to
4 redirect. Good.

5 A. Can you repeat the question, please.

6 Q. Yeah. Structurally, what are the geologic
7 differences as you go about seven miles to the
8 south?

9 A. Geologically, to the south, we see an
10 increase in depth and pressure. Stress orientation
11 does continue to rotate to more of a north 65,
12 70-degree angle. We also see an increase in total
13 thickness of certain reservoirs and porosity.

14 Q. Okay.

15 MS. BRADFUTE: Thank you.

16 HEARING EXAMINER: Any recross on
17 that redirect?

18 MR. FELDEWERT: No, sir. The only
19 matter is whether it might be helpful for me to
20 introduce as an exhibit, their statements since we
21 both referred to it.

22 HEARING EXAMINER: I don't think so.

23 MR. FELDEWERT: You don't need it?
24 Okay.

25 HEARING EXAMINER: I don't think so.

1 Thank you.

2 MR. FELDEWERT: Okay.

3 HEARING EXAMINER: Okay. May this
4 witness be excused, Ms. Bradfute?

5 MS. BRADFUTE: Yes, she may.

6 HEARING EXAMINER: All right. Thank
7 you.

8 All right. It's noon. What time do the
9 parties want to reconvene?

10 MS. BRADFUTE: Mr. Examiner, I would
11 think we want to take a quick lunch. I imagine most
12 people have to drive and go get some food. Have
13 parties been able to do that within 30 minutes
14 previously?

15 HEARING EXAMINER: I don't know.
16 There are some restaurants right over by Trader
17 Joe's. There's --

18 MR. FELDEWERT: Yeah, that's where we
19 went yesterday, and it was an hour --

20 HEARING EXAMINER: Oh. Which one?

21 MS. BRADFUTE: It was an hour.

22 MR. FELDEWERT: We went to The Baking
23 Company.

24 HEARING EXAMINER: Which one?

25 MR. FELDEWERT: The Baking Company.

1 HEARING EXAMINER: Oh, that one over
2 there.

3 MR. FELDEWERT: Yeah. I thought it
4 would be quicker.

5 HEARING EXAMINER: Was it?

6 MR. FELDEWERT: It took us -- we got
7 here in an hour.

8 HEARING EXAMINER: Got it. Okay.

9 MS. BRADFUTE: And we might all need
10 an hour for lunch --

11 HEARING EXAMINER: Okay.

12 MS. BRADFUTE: -- as much as I --

13 HEARING EXAMINER: We'll go for an
14 hour. We'll reconvene in 59 minutes at 1:00. Thank
15 you very much.

16 MS. BRADFUTE: Thank you.

17 (Recess was taken.)

18 HEARING EXAMINER: We are back on the
19 record. It is 1:00. It is snowing heavily outside.
20 And we have witnesses that need to get to the
21 airport.

22 So, Ms. Bradfute, with that little
23 introduction, let's bring your third witness. I
24 think that was Mr. Boyle?

25 MS. BRADFUTE: Yes. And he is with

1 us on Teams.

2 HEARING EXAMINER: I see it.

3 Mr. Boyle, you're still under oath. Make
4 sure you speak loudly so that the recording picks
5 you up because we don't have a court reporter today.
6 It will be transcribed after the recording is over.

7 Please proceed.

8 DIRECT EXAMINATION OF CALVIN BOYLE

9 BY MS. BRADFUTE:

10 Q. Good afternoon, Mr. Boyle. Can you please
11 state by whom you are employed and what -- in what
12 capacity.

13 A. I work for Coterra as a facility engineer.

14 Q. And are you familiar with the facilities
15 plan for the Turnpike wells proposed by Magnum
16 Hunter?

17 A. Yes.

18 Q. Have you prepared written testimony in
19 advance of today's hearing?

20 A. Yes.

21 Q. Was that testimony marked as Exhibit C in
22 the exhibit packet that was filed with the Division?

23 A. Yes.

24 Q. And having submitted this testimony, do
25 you have any corrections or modifications or changes

1 that need to be made to -- part of Exhibit C?

2 A. No.

3 Q. Mr. Boyles (sic), as you sit here today,
4 do you adopt the testimony that you prefiled under
5 Exhibit C as your testimony?

6 A. Yes.

7 Q. And as well, do you affirm the veracity of
8 the exhibits and the slides that were attached in
9 Exhibit C?

10 A. Yes.

11 Q. Okay. Mr. Boyles, could you explain what
12 the facilities plan is for the Turnpike wells?

13 A. Yes. We will have two pads, one to the
14 south and one to the north. On the south pad, we're
15 going to have a satellite, which means we're going
16 to put the separators there, and then we'll run bulk
17 lines up to the CTB, which will be with the north
18 pad. And that allows us to continually drill off
19 those pads without having any additional surface
20 disturbance. And then on the CTB, it will be a
21 tankless battery on the CTB.

22 Q. Okay. And I'm going to share my screen,
23 so hopefully you can see the exhibits that I'm
24 showing really quickly. And I just want to run
25 through one to two of your exhibits quickly.

1 So, Mr. Boyles, does Exhibit C-2 reflect
2 that facilities design that you just described?

3 A. Yes, it does.

4 Q. And what are the benefits, in your
5 opinion, of Cimarex's facilities plan?

6 A. Okay. So like I said, the picture on the
7 bottom, that's our satellite. That's where we put
8 our satellite separators on pad. And with that,
9 we're able to continually drill off that pad, adding
10 more and more wells.

11 And we'll only have on-pad flow lines,
12 which tie into bulk lines. After the first
13 development, you'll have to put the bulk lines in
14 during the first development. And then after that,
15 we only have on-pad -- we only work on pad. So
16 there will be no further disturbance off pad.

17 And then as far as the top picture, that
18 is our tankless central tank battery. With that,
19 we -- in the past, the vast majority of operators --
20 or all operators have issues with free patches and
21 end of lines, and we have completely designed that
22 out of this design. So we now have zero high risk
23 emissions devices.

24 We also removed the high pressure flare
25 since Cimarex has a zero routine high pressure

1 flaring policy. And then we install redundant BRUs.
2 That way, we can also drive our LP flaring to a
3 minimum as well.

4 And then on top of that, on the spill
5 side, we do quite a few things to make our
6 facilities less likely to have spills.

7 Q. Okay. And, Mr. Boyles, in your opinion,
8 will this facilities design reduce emissions in
9 venting and flaring from the Turnpike wells?

10 A. Yes.

11 Q. Mr. Boyles, what does this exhibit show?

12 A. So this is comparing what we were doing in
13 the past, like I said a second ago, with fee patches
14 and end of lines on the right back in 2019 compared
15 to our tankless on the left. And, again, we were
16 seeing emissions issues with our tank facilities, as
17 well as lower capture off of our tanks. And so when
18 we moved to the tankless facility, we were able to
19 drive our failure rate down to zero off the CBS and
20 then, as well, drive our percent capture off of the
21 tanks or surge vessels up to 97 percent. Which in
22 that, lowers our low pressure flaring.

23 Q. Okay. And in Exhibit C-4, did you compare
24 Cimarex's venting and flaring matrix with MRC's
25 venting and flaring matrix in 2023?

1 A. Yes.

2 Q. And can you just really quickly explain
3 what those -- what these graphs show?

4 A. Yes. So pretty quickly, this is all data
5 that was submitted to the EPA, and we're just
6 showing it here.

7 So on the far left, you'll see the Permian
8 flare intensity. So that is the amount of gas that
9 you flare divided by the amount that you produced.
10 And in that, we were significantly less than MRC's.

11 On the top right, that's the GHG, or
12 greenhouse gas, intensity. And, again, that's on
13 the emissions side, and we're significantly lower
14 than MRC.

15 And then in the bottom right, that's
16 specifically methane intensity, where it's your
17 methane emitted divided by your total metric tons of
18 gas produced. And, again, we're significantly less.

19 Q. And did you perform a similar analysis
20 comparing Cimarex's and Avant's operations?

21 A. Yes. This is -- these are the same
22 charts, just with Cimarex and Avant instead. And,
23 again, we're significantly less in all three
24 categories.

25 Q. And, Mr. Boyles, in your opinion, will

1 Cimarex's facilities plan for the Turnpike wells
2 reduce surface waste?

3 A. Yes, I -- yes, I do believe that. Between
4 flaring gas or emitting gas, we will be less.

5 Q. Thank you.

6 MS. BRADFUTE: That's all of the
7 questions that I have.

8 HEARING EXAMINER: Thank you.

9 Mr. Feldewert.

10 MR. FELDEWERT: Yes.

11 CROSS-EXAMINATION OF CALVIN BOYLE

12 BY MR. FELDEWERT:

13 Q. Good afternoon, Mr. Boyle.

14 A. Good afternoon.

15 Q. I see in paragraph 12 of your statement,
16 that you were going to -- various efforts you'd
17 undertaken to allow Cimarex, as you say, to minimize
18 flaring. Is Cimarex operating flares in New Mexico?

19 A. Some, yes, sir. We have a low pressure
20 flare on every facility. It's a safety . . .

21 Q. And are you -- and you're -- are you
22 flaring gas?

23 A. Yes, sir. Like I showed in my last slide,
24 even on our better tankless facilities, we catch
25 about 97 percent. So we're flaring about 3 percent

1 even off of those.

2 Q. Okay. On those existing facilities, I
3 think your paragraph 14 of your statement reflects
4 that -- for your existing facility, you are seeing
5 an average of 8 percent up to 19 percent failure
6 rate; is that right?

7 A. Yeah. There's a range there depending on
8 the facility. And you're talking about -- do you
9 mind pulling that up so I'm looking at what you're
10 looking at?

11 Q. Sure. Do you have your statement in front
12 of you?

13 A. I can. I wasn't sure if I was supposed to
14 have (inaudible).

15 Q. Let me see if I can share it. Hold on.
16 No, it's all right. Let me see if I can share.

17 So on paragraph 14, right?

18 A. Yes, sir.

19 Q. Cimarex tankless facilities is 0, compared
20 to an average of 8 percent, which you say range from
21 0 to 19 percent on Cimarex's older tank facilities.

22 A. Yes, sir, that's correct. I just wanted
23 to do a comparison between the tank facilities and
24 our new tankless facility.

25 Q. Okay.

1 A. And, again, on this development, we're
2 going to have tankless. So I would expect the zero.

3 Q. And -- but your existing facilities seem
4 to have up to 19 percent?

5 A. Yeah, they can.

6 Q. Are you spending money to address those?

7 A. Yes, sir.

8 Q. Okay. Are you aware that -- are you
9 meeting your -- the gas capture requirements imposed
10 by the recent rules enacted by the Oil Conservation
11 Commission?

12 A. Yes, sir.

13 Q. And you're aware that MRC is likewise
14 meeting those requirements?

15 A. Yes.

16 Q. Okay. In fact, isn't it true that MRC's
17 gas capture requirement is up to 99 percent, based
18 on your studies?

19 A. I'm sure I -- I don't actually know that
20 stat. But this specific, when I showed 97 percent,
21 I mean 97 percent off the tanks alone, not the
22 entire gas. If you include the entire gas, we're
23 well above 99 percent. We're like 99.8.

24 Q. Okay. In terms of gas captured?

25 A. Yes, sir.

1 Q. Okay. Now, I think you've also testified
2 in paragraph 8 of your statement that in order to
3 initiate your development, laydown development, that
4 you're going to need some power surface equipment
5 out there that would require new roads and two new
6 well pads --

7 A. Yes, sir.

8 Q. -- right?

9 A. Yes, sir.

10 Q. And additional acreage disturbance for a
11 tank battery?

12 A. Yes.

13 Q. And then additional surface disturbance
14 for bulk lines?

15 A. Yes, sir.

16 Q. And I think you offered a total of
17 24 acres of surface disturbance?

18 A. Yes, sir. I believe that's correct. You
19 could scroll up, and I could definitely affirm that.

20 Q. I think that's correct. I agree with you,
21 that's correct.

22 And I know you're not here, but I guess --
23 have you ever been to the Oil Conservation
24 Division's building here in the hearing room?

25 A. Yes.

1 Q. And seen the parking lots surrounding it?

2 A. Yes, sir.

3 Q. So your 24 acres of surface disturbance
4 would be bigger than the surface disturbance for
5 this building in the parking --

6 MS. BRADFUTE: Objection.

7 Q. -- (inaudible)?

8 MS. BRADFUTE: It assumes facts not
9 in evidence about the area, the size, the acreage.

10 MR. FELDEWERT: He's seen it.

11 HEARING EXAMINER: Hold on. It's
12 already been answered. Unfortunately, your witness
13 is very quick to answer the questions, which is
14 appreciated today. But, yeah, it's a little late.
15 So I'm not going to make a ruling on that objection.

16 Please proceed, Mr. Feldewert.

17 Q. And then you've been -- you've heard the
18 testimony that's presented up -- in this case up to
19 this point?

20 A. Yes.

21 Q. Okay. And you're aware that MRC will be
22 able to develop its late standup wells without any
23 additional surface disturbance?

24 A. Yes, sir.

25 Q. And that they'll be able to utilize the

1 existing tank battery for their Iggles wells?

2 A. Yes.

3 Q. Okay.

4 MR. FELDEWERT: That's all the
5 questions. Thank you.

6 HEARING EXAMINER: Mr. Holliday.

7 MR. HOLLIDAY: I have no questions.

8 HEARING EXAMINER: Very good.

9 Mr. McClure?

10 MR. MCCLURE: Thank you, Mr. Hearing
11 Examiner. I do have a few questions for Mr. Boyle.

12 CROSS-EXAMINATION OF CALVIN BOYLE

13 BY MR. MCCLURE:

14 Q. Mr. Boyle, can you please describe for me
15 how production from contract area 1 and contract
16 area 2 would be determined in these facilities?

17 A. Do you mean -- when you say contract area
18 1 and contract area 2, what exactly are you
19 specifying?

20 Q. Essentially above and below the depth
21 severance within the Bone Spring is how Cimarex has
22 described it in its exhibits.

23 A. Yeah, I believe that we're planning to
24 drill different wells on -- above and below. And
25 with that, we'll have a different separator per

1 well. And with a different separator, we'll have an
2 orifice meeter and a Coriolis meter that will be
3 allocated back to those wells.

4 Q. And are you asking the Division to impose
5 stipulations as to the quality of meter, calibration
6 dates, the requirement that those meters stay in
7 place, and that production is separated and metered
8 prior to commingling it?

9 A. I'm not -- I'm not sure what we're asking
10 Division on that front.

11 MS. BRADFUTE: Mr. Examiner, if I
12 may?

13 HEARING EXAMINER: Yes.

14 MS. BRADFUTE: I think Mr. McClure is
15 asking kind of -- for a legal position from Cimarex.
16 And I believe Cimarex would be willing to agree to
17 whatever measurement conditions Mr. McClure deemed
18 fit.

19 HEARING EXAMINER: Okay.
20 Mr. McClure, did you hear the answer?

21 MR. MCCLURE: Yes, I did, Mr. Hearing
22 Examiner.

23 HEARING EXAMINER: All right.

24 MR. FELDEWERT: Mr. Examiner, the
25 only thing I would note is, once again, none of this

1 is in their application or public notice that it
2 would be even considered today.

3 HEARING EXAMINER: Understood. Thank
4 you.

5 Mr. McClure.

6 MR. McCCLURE: I have -- I have no
7 further questions for this expert.

8 HEARING EXAMINER: Very good.

9 MR. McCCLURE: Thank you, Mr. Hearing
10 Examiner.

11 Thank you, Mr. Boyle.

12 CALVIN BOYLE: Thank you.

13 HEARING EXAMINER: Ms. Bradfute, may
14 this witness be excused?

15 MS. BRADFUTE: Yes, Mr. Examiner.

16 HEARING EXAMINER: Thank you. Let's
17 call your final witness, and that would be -- let's
18 see. I see here -- I'm not sure how to say it.
19 Behm?

20 MS. BRADFUTE: Mr. Behm.

21 EDWARD BEHM: Behm, yes, sir.

22 HEARING EXAMINER: Thank you. Got
23 it.

24 Mr. Edward Behm. You're under oath, sir.
25

1 DIRECT EXAMINATION OF EDWARD BEHM

2 BY MS. BRADFUTE:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. Could you please state by whom you're
6 employed and in what capacity.

7 A. Employed by Coterra as a senior reservoir
8 engineer for Lea County.

9 Q. And are you familiar with the petroleum
10 engineering plan for the Turnpike wells proposed by
11 Magnum Hunter?

12 A. Yes.

13 Q. Have you prepared written testimony in
14 advance of today's hearing?

15 A. Yes.

16 Q. Was that testimony marked as Exhibit D in
17 the exhibit packet that was filed with the Division?

18 A. Yes.

19 Q. Having submitted this testimony, do you
20 have any corrections or modifications or changes to
21 the testimony that need to be submitted along with
22 Exhibit D?

23 A. I have one on number 24.

24 Q. Okay. And are you referring to paragraph
25 24 of your affidavit?

1 A. Yes.

2 Q. Let me turn there.

3 And I'm going to scroll up just slightly.

4 A. Yeah, it's right there. It's the top
5 sentence on that page. For the one-mile costs that
6 we'd be caring that 3.375 million, would
7 5.76 million per well.

8 Q. And what is the cause for that change?

9 A. Oh, the additional working interest we've
10 acquired within Section 32.

11 Q. Okay. And did Magnum Hunter just recently
12 acquire that additional working interest?

13 A. Yes. This is the same changes Bella
14 covered earlier in our testimony.

15 Q. Okay. With the exception of that change
16 in that dollar figure in paragraph 24 of your
17 affidavit, as you sit here today, do you adopt the
18 testimony that you filed under Exhibit D as your
19 testimony today?

20 A. Yes.

21 Q. And as well, do you affirm the veracity of
22 the exhibits and the slides that you attached to
23 Exhibit D making that dollar figure change?

24 A. Yes.

25 Q. Okay. Mr. Behm, you attached several

1 different slides to your affidavit. We are not
2 going to go through many of those slides, but I did
3 want to have you explain a couple of them that folks
4 testified about yesterday.

5 I'm showing Magnum Hunter Exhibit D-1, and
6 I wanted you to explain what you were trying to show
7 with this slide to the Hearing Examiners.

8 A. My point with these slides is that we're a
9 prudent operator. We have excellent IP performance,
10 and we have excellent one-year QM performance.

11 Q. And this slide looks at performance
12 looking at Lea County as a whole, right?

13 A. Yes.

14 Q. And it applies that -- it applies to all
15 three operators looking at total operations within
16 the county?

17 A. Yes.

18 Q. Okay. And did you -- when you ran and
19 created this study, where did you find that Coterra
20 ranked among operators in Lea County?

21 A. We're in the top two to three on both
22 these metrics if you just pull everybody in for the
23 most active for the last five years for -- I think
24 it's 50 operators, and 25 I've looked at.

25 Q. Wow, great. I want to next move to

1 Exhibit D-3.

2 And, Mr. Behm, could you walk through this
3 exhibit? It shows several different factors that we
4 talked about in the case.

5 A. Yes, so this is a -- due to the overlap,
6 we've got three different competing companies. So
7 everybody has their own capital layout fees that
8 have been turned in. So what I've got here is by
9 bench, what is the well costs for each company.

10 So on the left would be Cimarex wells and
11 our capital cost. Almost all the wells are
12 two-mile. So adjacent to that I've got dollars per
13 foot. So that's another way to compare well cost
14 and capital efficiency.

15 If I move over to Avant's column, I know
16 the second sand sounds like it might be changing
17 from what's been proposed, but you can compare
18 capital costs versus what we've proposed on a per
19 well basis. And then the other thing you can see
20 easily here all in one spot is that second sand has
21 not been proposed at the same well density.

22 If I were to move over, I've got Matador's
23 in there. These are the AFEs we have. We did check
24 last night. I don't have an updated AFE for this,
25 so I'm showing the information we have that we

1 received. But I do not have a proposal for first
2 Bone Spring, and I do not have a proposal for upper
3 second Bone Spring. And so what I was able to
4 compare was lower second, third, and Wolfcamp. And,
5 again, just highlighting individual wells to be able
6 to see the count and what companies have proposed to
7 target with their development plans.

8 Q. And not proposed, where you've noted "not
9 proposed" in both Avant's column and Matador's
10 column, those are sections or wells signifying well
11 spacing where no wells have yet been proposed by
12 those operators, correct?

13 A. Yes.

14 Q. What conclusions did you draw after
15 putting together this information?

16 A. The key point of this would be that there
17 are economic benches which we, then, spend more time
18 on in the exhibit that do not have a current plan.

19 The other piece would be well density.
20 Four wells per section in the second sand. And
21 really, all of these benches, if you're drilling it
22 at two miles, there's not a big discrepancy in
23 drilling density. It's more, is there a plan for
24 the additional formations.

25 Q. And at the bottom of this slide, you make

1 some conclusions about the relative costs between
2 the proposals for the wells, correct?

3 A. Yes. And -- yeah, and they are written
4 there.

5 Q. Yeah.

6 A. It's just -- if you were to sum up
7 like-for-like where well count is the same and
8 capital is targeting the same bench at the same
9 length, what's the delta between the proposed plans.

10 Q. And Coterra's proposed plans offer
11 significant savings, right?

12 A. Yes.

13 Q. Mr. Behm, you have analyzed the second
14 Bone sand interval, correct?

15 A. Yes.

16 Q. And what is your opinion about the
17 potential productivity of the second Bone Spring
18 interval?

19 A. These properties are showing second --

20 MR. FELDEWERT: I'm going to --

21 HEARING EXAMINER: I have -- I heard
22 objection, so hold on a second.

23 What is the objection?

24 MR. FELDEWERT: It's redundant
25 because his opinion is already in the statement.

1 HEARING EXAMINER: Okay.

2 MS. BRADFUTE: You know, I just
3 want -- there's slides with a lot of graphs. And so
4 I do think it's helpful to -- we're not going to go
5 through each slide and each graph.

6 HEARING EXAMINER: Sure.

7 MS. BRADFUTE: But in particular,
8 this one does matter.

9 HEARING EXAMINER: Well, if you could
10 focus on what makes this slide matter --

11 MS. BRADFUTE: Yeah. Yes.

12 HEARING EXAMINER: -- and ask
13 questions that don't --

14 MS. BRADFUTE: Okay.

15 HEARING EXAMINER: -- require the
16 witness to restate what he's already stated in his
17 written testimony, it would be appreciated.

18 MS. BRADFUTE: Yeah, absolutely. I'm
19 just trying --

20 HEARING EXAMINER: Thank you.

21 MS. BRADFUTE: -- not to lead a
22 little bit. But, yes, thank you.

23 Q. So, Mr. Behm, in your study and in your
24 analysis, have you concluded that the second Bone
25 Spring interval is the most valuable target?

1 MR. FELDEWERT: Objection, leading.

2 HEARING EXAMINER: I mean, we're
3 going to be here all day if we object to leading
4 questions. All the parties have been doing it all
5 day long, and I haven't said anything --

6 MR. FELDEWERT: All right.

7 HEARING EXAMINER: -- about it. But
8 I've already explained what I'm looking to you
9 for --

10 MS. BRADFUTE: Yes.

11 HEARING EXAMINER: -- Ms. Bradfute.
12 So if you could try not to lead the witness and
13 just -- let's get to the point.

14 MS. BRADFUTE: Yeah. Okay.

15 Q. Mr. Behm, why did you include this slide
16 in your study?

17 A. To highlight that the upper and lower
18 second sand are proven targets and they are
19 outperforming the other choices in the area.

20 Q. I want to look at the maps you included
21 and diagrams you included in this exhibit. And I
22 want to first start with the diagram here on the
23 right side of the screen.

24 Could you please note what you're
25 observing with Avant's acreage listed in this

1 diagram.

2 A. What we're looking at in this diagram,
3 it's from another public presentation we were able
4 to get a map for the area. And it's just
5 highlighting Avant drilling units, is how it's
6 labeled in this -- in this map. And it's showing
7 kind of the orientation of where the wells are
8 planned. It's also giving kind of an overview of
9 the infrastructure that was talked about yesterday.

10 And so what's important here is, there's a
11 lot of east/west development four miles west of this
12 acreage block. The other piece here is the acreage
13 that we both own kind of goes outside of the
14 sections that we're talking about today. So Avant
15 has a significant position adjacent to this, just
16 like we have a position in the south and Matador has
17 one to the northeast.

18 What I've got here is, we've talked about
19 DSL today, and I do remember hearing earlier that it
20 was all over the place out here. One thing I just
21 wanted to highlight on this map specific to that, is
22 that Section 32 has a -- significant lizard
23 restrictions on surface --

24 Q. Okay. And --

25 A. -- (inaudible) --

1 Q. Sorry to interrupt you, Mr. Behm. DSL,
2 could you clarify what that is when you use that
3 acronym?

4 A. Dunes sagebrush lizard.

5 Q. Thank you.

6 A. And it would come with surface
7 restrictions. And all I'm highlighting on the map
8 is some different ways that acreage could be
9 developed if Cimarex was elected operator.

10 Q. And did Cimarex look at whether or not it
11 could place surface facilities to develop Section 32
12 independently?

13 A. Yes.

14 Q. And what were the results of those
15 findings?

16 A. Our regulatory -- our regulatory staff
17 told us not to. To stay out of Section 32 was my
18 feedback.

19 Q. And was that because of the no surface
20 disturbance limitation?

21 A. Yes.

22 Q. Okay. I want to look at Exhibit D-8A.
23 This exhibit looks at the technical reserves that
24 Cimarex has analyzed in this second Bone Spring
25 sand, correct?

1 A. Yes.

2 Q. Okay. What are the key findings from this
3 slide that you want to point out to the Hearing
4 Examiners?

5 A. That the upper and lower second Bone
6 Spring are highly economic targets to pursue. What
7 I've got down here is just for scale, because there
8 is a wells-per-section difference. If you were to
9 look at State PV0 12-and-a-half percent, that's the
10 value of -- on a two-mile basis for developing these
11 wells. That would be the important part on a dollar
12 basis.

13 Q. In your opinion, have all three operators
14 proposed similar plans to develop the second Bone
15 Spring?

16 A. They have not.

17 Q. And what are the key differences, in your
18 mind?

19 A. The biggest difference that I see is the
20 one-miles from Avant. Working interest was covered
21 earlier today. Those are one-mile wells with a
22 1 percent interest. Some of the things that drive
23 how important an acre is to us is how many we have.

24 So if I have 1 percent of a 640, it's a
25 really small percentage of the value that I've got

1 down there. That would matter less to me
2 professionally.

3 If I've got a significant working interest
4 over the development, then a lot of that total value
5 that I'm showing down in the bottom is weighed. So
6 that project would rank higher for development and
7 be more important to the company developing it.

8 Q. And do you think one-mile development in
9 Section 32 is going to be more challenging for an
10 operator to pursue?

11 A. Yes.

12 Q. And is that in part because of the
13 significant surface restrictions in that section?

14 A. Yes.

15 Q. Do you believe that the second Bone Spring
16 sand would be developed if Avant is awarded
17 operatorship in Section 32?

18 A. I'm not -- I'm not sure it would rank very
19 low for choices. They have a significant acreage
20 position with two miles. It's all competing for
21 same infrastructure space. And it -- if you were
22 doing it on a money basis, it should rank very low
23 in the development options they could go pursue.

24 Q. Has Cimarex found that the second Bone
25 Spring is one of the most productive intervals in

1 Section 32?

2 A. Yes.

3 Q. Okay. Is there some concern that these
4 minerals would go without development, essentially
5 being stranded?

6 A. Yes.

7 Q. And very quickly, why did you decide to
8 study the -- hold on real quick, sorry.

9 Yeah, why did you decide to continue this
10 study and look at the upper second Bone Spring in
11 the first Bone Spring sand?

12 A. This is just to highlight the same data,
13 but for the other overlapping acreage unit.

14 Q. Okay.

15 A. So first and second have not been
16 proposed, what does that mean in terms of scale
17 across the acreage.

18 Q. Okay. And this is -- when you're talking
19 about first and second sand not being proposed, this
20 would be the overlapping unit with Matador's
21 proposed Bobby Pickard wells, correct?

22 A. Yes.

23 Q. Mr. Behm, what conclusions did you draw
24 after conducting your study?

25 A. Could you be more specific --

1 Q. Yeah.

2 A. -- for the question?

3 Q. Yeah. After you've looked at the
4 reservoir engineering analogs within the subject
5 lands, the value of the technical reserves, and the
6 surface restrictions, what conclusions have you
7 drawn?

8 A. Oh. In my opinion, the best way to
9 develop this acreage is with two-mile laterals. And
10 the first, the upper second, the lower second, the
11 third, the Wolfcamp, are all worthy of being
12 drilled.

13 Q. Have you reviewed MRC's exhibits in its
14 Bobby Pickard cases?

15 A. Yes.

16 Q. Okay. I'm going to turn really quickly.
17 I need to stop sharing and reshare this exhibit.
18 Sorry. It doesn't want to switch pages for me.

19 And, Mr. Behm, did you review Exhibit B-9
20 offered by MRC?

21 A. Yes.

22 Q. Do you have any observations about the
23 area of review that was selected by MRC for the
24 study that was used later in the reservoir
25 engineering exhibits?

1 A. Yes. In my opinion -- and it's actually
2 been pointed out -- part of our well performance is
3 driven by having acreage in the south. General well
4 performance improves as you head to the south. So I
5 was surprised at how far south wells were being
6 evaluated, because I would expect wells in 21 South
7 to outperform 18 South with the same frack and the
8 same orientation.

9 Q. And did you review the degradation
10 analysis that was performed by MRC's witnesses?

11 A. Yes.

12 Q. Okay. And did you find issues or
13 questions that you had about that analysis?

14 A. Yes. The main challenge here is that
15 there aren't a lot of east/west wells drilled within
16 the subject area. So if I look at this, we talked
17 about frack overprints in some of the prior
18 testimony. Frack is a massive overprint on well
19 performance. We've also covered how wells improve
20 in general as you head to the south.

21 So the issue I have here is that there's
22 six wells that have been drilled in the last ten
23 years that are the sample set for east/west versus
24 north/south. And then additionally, we will -- we
25 would have a different stress interpretation for the

1 area.

2 Q. Is it your opinion that it would have been
3 more representative of the area to include more
4 acreage to the west of the subject lands?

5 A. Yes.

6 Q. Okay. And looking at the degradation
7 study that was performed by MRC, they were looking
8 at wells drilled from 2010 to present. Do you see
9 problems with performing that sort of an analysis?

10 A. Yes. This is a very small sample set.
11 There are two wells that are closer to 500 pounds
12 per foot, ten barrels per foot. This is at the very
13 beginning of when people were figuring out how to
14 best access the reservoirs.

15 More common completions today are four to
16 five times as big. Significantly more frack energy
17 would give you a different result anyway.

18 Q. And then Matador limited its analysis to
19 2010 to 2015. In your -- in your opinion, did frack
20 design changes -- did frack designs significantly
21 change from '10 -- 2010 to 2013?

22 A. People were learning the entire time. The
23 goal is to get the best at getting all the oil. So
24 everybody's working on that every year.

25 So, yes, 2010, you might have tripled sand

1 and fluid per foot. People are changing clusters.
2 They moved from doing crosslink, like a conventional
3 frack, to slick water, which I know Avant talked
4 about yesterday. That was a big change. Yes, lots
5 has changed.

6 Q. And as -- in your position within the
7 reservoir engineering department at Coterra, do you
8 review well proposals?

9 A. Yes.

10 Q. Okay. And have you reviewed well
11 proposals from Avant?

12 A. I have reviewed these proposals from
13 Avant.

14 Q. These proposals that --

15 A. Yes.

16 Q. -- you mean in Avant's cases?

17 A. Yes.

18 Q. Okay. And I'm going to pull up Avant's
19 exhibits. Sorry, my computer is lagging. Just for
20 a second.

21 I apologize, this screen does not want to
22 share all of a sudden. So there is a computer lag
23 there.

24 I think we've looked at the Avant map a
25 lot in this case. Do you recall that map that

1 you've seen where their acreage is shaded in yellow?

2 A. Yes.

3 Q. Okay. And it's included in numerous
4 exhibits that Avant has proposed in the case, right?

5 A. Yes.

6 Q. More specifically, I am looking at
7 Exhibit A-2, which contains one of the copies of
8 those maps with the yellow shaded acreage. In your
9 review of these maps, you've testified that you did
10 notice that there was a lot of east/west development
11 that Avant is showing on its maps, right?

12 A. Correct.

13 Q. Are you familiar with Avant's Ghost and
14 Grey Wind proposals?

15 A. Yes. Those are two 1280 east/west -- or
16 laydown proposals. They're four miles, roughly,
17 away from the edge of their position that's part of
18 this case.

19 Q. Okay. And approximately how far away are
20 those well proposals from the Turnpike development
21 area?

22 A. It would -- I would add another seven --
23 seven to six miles without seeing the map.

24 Q. Okay. And are you familiar with -- or,
25 and would you expect Avant's east/west Ghost and

1 Grey Wind wells to underperform because they're not
2 drilled north/south?

3 A. No.

4 Q. Okay. What would you expect the
5 performance from those wells to be?

6 A. I would expect them to be similar to
7 north/south performance in the area.

8 Q. Okay. And do you think performance from
9 wells that are drilled about four or five miles to
10 the west are going to perform significantly
11 differently from the wells drilled in the Turnpike
12 acreage?

13 A. No. I was surprised by how fast things
14 are supposed to change.

15 MS. BRADFUTE: Mr. Behm, I believe
16 that's all the questions that I have for you.

17 HEARING EXAMINER: Mr. Feldewert.

18 CROSS-EXAMINATION OF EDWARD BEHM

19 BY MR. FELDEWERT:

20 Q. Mr. Behm, you mentioned the challenges
21 about developing in Section 32?

22 A. Yes.

23 Q. Okay. You're aware that there are --
24 there is existing development over there, correct?

25 A. Yes.

1 Q. Okay. In fact, isn't there an existing
2 spacing unit that you're overlapping that is
3 comprised of the west half of the northwest quarter
4 of Section 32?

5 MS. BRADFUTE: Objection. That
6 existing spacing unit was built in the 1990s. I'm
7 not sure that -- is assumes --

8 MR. FELDEWERT: What's the objection?

9 MS. BRADFUTE: The objection is
10 relevance.

11 HEARING EXAMINER: Mr. Feldewert.

12 MR. FELDEWERT: It's a -- it's a
13 surface location.

14 MS. BRADFUTE: Built in the 1990s.

15 HEARING EXAMINER: I'm not sure I
16 understand. If you're saying "relevance," how does
17 the age of the facility impair the relevance of the
18 question?

19 MS. BRADFUTE: Yeah. The dunes
20 sagebrush lizard was listed as an endangered species
21 this year.

22 HEARING EXAMINER: Okay.

23 MS. BRADFUTE: So those restrictions
24 would not have existed in the 1990s.

25 HEARING EXAMINER: Does your

1 question, Mr. Feldewert, go to the dunes sage (sci)
2 lizard?

3 MR. FELDEWERT: No.

4 HEARING EXAMINER: So my -- so --

5 MS. BRADFUTE: That's okay. I can
6 withdraw the objection.

7 HEARING EXAMINER: Thank you very
8 much.

9 Mr. Feldewert, would you repeat the
10 question?

11 MR. FELDEWERT: Sure.

12 Q. So you're aware that there's an existing
13 spacing unit in the east half of the northwest
14 quarter, right?

15 A. Yes.

16 Q. Okay. Which would have a surface
17 location?

18 A. I have not looked this specifically.

19 Q. Okay. Did your -- you said that you were
20 told that it's challenging to develop in Section 32.
21 But did they inform you that there's no surface
22 locations available in the west half of the west
23 half of Section 32?

24 A. I'm not a regulatory expert. We went out
25 to survey several times, and the plan we put forth

1 was our recommendation to proceed.

2 Q. Okay. All right. I just wondered. All
3 right.

4 Now, you also mentioned in your statement
5 that you had no concerns with MRC's (inaudible)
6 bench spacing in the number of wells per landing
7 zone, right?

8 A. For the wells proposed, yeah, four wells
9 per section, I think everybody's roughly in
10 agreement there.

11 Q. Agreed. Okay. And your concern was that
12 MRC, as you put it, had not proposed as initial
13 wells, wells in the upper second Bone Springs sand
14 and in the lower second Bone Spring sand?

15 A. It would be the upper second and the first
16 for differences between our proposals with MRC.

17 And then the other piece I wasn't sure
18 about is similar to Avant that I covered earlier,
19 with a 0 percent interest in the Wolfcamp. I wasn't
20 sure how those would rank for Matador -- or MRC.

21 Q. But I think you would agree with me
22 that -- and you were here for the prior testimony.
23 I mean, MRC is going to develop the lower Bone
24 Spring sand first as initial wells, right?

25 A. Lower -- I'm sorry, could you be more

1 specific?

2 Q. Lower second Bone Springs.

3 A. Yes, sir.

4 Q. Lower second Bone Springs.

5 A. Yes, sir.

6 Q. Thank you. You-all have chosen to first
7 develop the upper second Bone Spring?

8 A. Correct.

9 Q. Okay. You would -- and you agree that
10 there's nothing that would prevent either company
11 from coming back subsequently and develop one or the
12 other?

13 A. To my knowledge, we're the only one that's
14 proposed coming back with that in our plan.

15 Q. Understand. But MRC could come back later
16 and drill the upper second Bone Spring sand?

17 A. Theoretically, yeah.

18 Q. Okay. Now, your Exhibit D-1, I'm going to
19 share, if I may.

20 I think you referenced this in your
21 testimony. You said you did this -- you did this
22 analysis to demonstrate that Cimarex is a prudent
23 operator; is that right?

24 A. Yes.

25 Q. Where you suggesting that MRC is not a

1 prudent operator?

2 A. No.

3 Q. Okay. Good. All right.

4 When I go to Exhibit D-5, I see you chose
5 a study area for the second Bone Spring sand; is
6 that right?

7 A. Yes.

8 Q. In the right-hand corner, is that your
9 study area?

10 A. Yes.

11 Q. Okay. And is this an area that you
12 believe has a similar reservoir?

13 A. Yes.

14 Q. And a similar stress orientation?

15 A. Yes.

16 Q. Can you explain to me why operators --
17 mostly operators in this acreage here that you chose
18 to study drilled standup rather than laydown?

19 A. There's a lot there. We spoke to some of
20 this earlier. Sometimes -- if you happen to own --
21 let's say I've got a standup 640 and that's my
22 ownership. If somebody's drilled the -- both sides
23 of that location, your choices are at two-mile or
24 you could drill a half mile west/east.

25 So there is a -- it's not there a vacuum.

1 Some of this what's been executed on both sides of
2 you.

3 And then also, there's not a lot of stress
4 data here. There isn't. I think everybody's
5 covered that. When you're not sure, a lot of times
6 people just look at what's closest and just do that.

7 Q. Why do they -- why would they look at
8 what's closest and do that?

9 A. Because they have analogs to point out.

10 Q. Oh, okay. So you have some information
11 that would indicate that standup makes sense?

12 A. Well, they have some well results to look
13 at.

14 Q. Okay. Did you -- I know you mentioned
15 some concerns about MRC's study and Avant's study
16 about the degradation between standup and laydown
17 wells. And you mentioned that your concern was the
18 frack improvements that would have occurred during
19 different periods of time?

20 A. Yes.

21 Q. Okay. Did you -- for example, in this
22 study area where you think the stress orientation is
23 similar and the reservoir is similar, why didn't you
24 do a study of the results of the standup wells
25 versus the laydown wells?

1 A. There's not a really good data set of
2 east/west wells, is a challenge that we were all
3 addressing in this immediate area.

4 Q. So we can only do with -- the study with
5 the data and the information we have now, correct?
6 Isn't that your point?

7 A. Within this area, there's not a good
8 modern frack analog for us to point out. One
9 doesn't really exist in a really close area. If you
10 go further out and expand your search and do a much
11 larger area of review, then there's more data.

12 Q. Good point. And that's what MRC did,
13 right? They went south within their area of review
14 to compare laydown versus standup?

15 A. Yes.

16 Q. Okay. And it did that -- you were here
17 for the testimony because they believe that the
18 stress orientation is similar in their area of
19 review?

20 A. Yes.

21 Q. Okay. Would you agree with me that frack
22 improvements, okay, would equally impact standup
23 wells or laydown wells?

24 A. The challenge is --

25 Q. That's -- my question is: Would you agree

1 with me that frack improvements, the uplift in
2 production, is the same whether it's a standup well
3 or a laydown well when you just look at the frack
4 improvements?

5 A. I'm sorry, could you ask one more time?

6 Q. If you just look at the frack improvements
7 that you've referenced over time, okay, that the
8 frack improvements would have the same impact on the
9 well, whether it's standup or laydown, when you just
10 look at the frack improvements?

11 A. If stress isn't a factor, I would expect
12 it to be very similar performance, yes.

13 Q. All right. When I looked at your
14 Exhibit D-3, you did this analysis?

15 A. Yes.

16 Q. And I think you were -- you alluded to the
17 fact that it does not include MRC's updated AFE
18 costs in the right-hand side of this -- of this
19 analysis?

20 A. Correct.

21 Q. When was the last time that Cimarex
22 drilled a Bone Spring well in this particular area?

23 A. Roughly -- it was the Mescalero.

24 Q. Is that the one we talked about earlier --

25 A. Yes.

1 Q. -- that was cost overruns?

2 A. Yes, that's the same well.

3 Q. Okay. That's the last well that Cimarex
4 drilled in this area?

5 A. Yes.

6 Q. So that was over two years ago?

7 A. Yes.

8 Q. And that's where you submitted an AFE of
9 12.2 million?

10 A. It -- that sounds correct, yes.

11 Q. And that the ultimate cost of the Bone
12 Spring well was 15 million?

13 A. I would have to go double check that.
14 But, yes, that well did go over cost.

15 Q. Okay. All right. When I look at your
16 costs on the left-hand side that you put in your
17 CAPEX, I look at the middle column. That would be
18 your AFE costs, roughly?

19 A. Yes.

20 Q. Okay. They're quite different from the
21 12.2 that you used two million -- two years ago?

22 A. This is for multi-well development. That
23 was a single well. We just put out our earnings
24 call. We've got our Lea County average in there,
25 which is a multi-well data set. It includes, I want

1 to say, 17 one-mile wells. And that's about 1050.
2 I'm confident in these costs.

3 Q. Right. And when I looked, then, at these
4 costs, these costs that you're confident in, do you
5 see how the upper second Bone Spring is 10.5 for the
6 four wells that you intend to drill?

7 A. Yes.

8 Q. Okay. And then we see the lower second
9 Bone Spring. Looks like one of the wells has 10.5
10 and the others are 9.5?

11 A. Yes.

12 Q. What's -- that's not -- is that a little
13 odd?

14 A. We have some well sequencing. If I drill
15 a well first, we aren't using an existing battery,
16 we'd be building our tankless battery. So there's
17 additional costs on the first tranche of wells.

18 Q. Which would be the first tranche of wells
19 here?

20 A. We are committing to drill the four upper
21 second Bone Springs sand wells first.

22 Q. That's the 10.5?

23 A. Yes.

24 Q. Okay. And the lower second Bone Spring
25 wells, why is it not matching the cost of the upper

1 second Bone Spring wells?

2 A. What we would like to do is get an
3 additional second sand in there as an infill with
4 our second batch, which is the Wolfcamp 700, so
5 similar to Avant's proposal where they've got two
6 packages. We also have two packages for how we've
7 intended to drill this.

8 Q. My question was: Why are the costs of the
9 lower second Bone Spring sand less than the cost of
10 the upper second Bone Spring sand? Because you're
11 going a little deeper, right?

12 A. With the facility, some of the things
13 Mr. Boyle covered, like the bulk lines, the power
14 lines, roads, that's all an initial investment that
15 is now there.

16 Q. And that's going to be borne by the upper
17 second Bone Spring owners?

18 A. Yes.

19 Q. And not borne by the lower second Bone
20 Spring owners?

21 A. That is how cost is allocated, yes.

22 Q. Have you got an agreement between the
23 owners in the upper second Bone Spring sand and the
24 owners in the lower second Bone Spring sand?

25 MS. BRADFUTE: Objection. This has

1 been asked earlier. And the engineering expert
2 isn't the right witness for that question.

3 HEARING EXAMINER: Sustained.

4 Q. Okay. Can you, then, explain to me why an
5 upper second Bone Spring sand is going to be 10.5
6 and I go down to the Wolfcamp and it's 10.2? Do you
7 see that?

8 A. Yes.

9 Q. Okay. Now, the upper second Bone Spring
10 sand is shallower?

11 A. Yes.

12 Q. And the Wolfcamp wells you're talking
13 about here would be a deeper zone of the Wolfcamp,
14 what they call a Wolfcamp D, as in David?

15 A. They're Wolfcamp wells.

16 Q. Are they the Wolfcamp D, as in David?

17 A. I would defer to geos to agree on the
18 naming convention for the bench. But we're
19 targeting the lower Wolfcamp.

20 Q. The lower Wolfcamp?

21 A. Yes, sir.

22 Q. Okay. That's fine. That's fine.

23 A. Sorry.

24 Q. The lower part of the Wolfcamp?

25 A. Yes.

1 Q. Much deeper than the upper second Bone
2 Spring?

3 A. Correct.

4 Q. Yet you show the cost of the much deeper
5 Wolfcamp wells to be less than the upper second Bone
6 Spring?

7 A. These would be in our second batch. And
8 our plan is to commingle into a single battery. So
9 batteries are very expensive, bulk lines, power
10 lines, roads. There's a lot of infrastructure that
11 happens. So if that's not there, then the infill
12 wells wind up being cheaper in the future.

13 Q. So you're -- is it fair to say, then, your
14 Wolfcamp wells down here, your 10.2, do not include
15 facility costs and the other costs you just
16 mentioned?

17 A. They would only include an on-path flow
18 line and a separator, which would then go into the
19 existing bulk line.

20 Q. They would not include the other facility
21 costs and the other costs that you mentioned?

22 A. Correct.

23 Q. If I go to D-4, this is your drilling
24 plan.

25 Okay. Now, I think the bottom of this

1 talks about the cost allocation that you just
2 discussed; does it not?

3 A. Yes.

4 Q. Okay. Where the owners in the upper
5 second Bone Spring would bear the costs of the
6 facilities and the gathering, et cetera?

7 A. Yes.

8 Q. Okay. It -- now, when I look at the
9 second Bone Spring cost, the upper second Bone
10 Spring -- do you see that?

11 A. Yes.

12 Q. Okay. I see 10.5, and then I see 9.5,
13 9.5, 9.5. Do you see that?

14 A. Yes.

15 Q. When I go to D-3 and I go to the upper
16 second Bone Spring, I see 10.5 all the way across
17 the board.

18 A. Yes.

19 Q. Is that a mistake?

20 A. It -- if we could go back to Exhibit D-4,
21 please.

22 And so what I've got here is, we sent out
23 AFEs. February 2024 is the first column with
24 capital costs. And the costs that we've got
25 allocated per well is a function of timing due to

1 surface costs.

2 So what I'm showing now to the right is an
3 updated current AFE estimate. And so the shift
4 there is the order.

5 So if we drill the upper second Bone
6 Spring first and the battery has not been built yet,
7 the first batch of wells would carry additional
8 costs for the battery.

9 Q. Okay. So that's the "who's going to bear
10 the cost" timing issue?

11 A. Yes. The first wells will need a battery
12 to produce in and all the supporting surface
13 infrastructure.

14 Q. Gotcha. Okay. All right.

15 MR. FELDEWERT: That concludes my
16 questions. Thank you.

17 HEARING EXAMINER: Mr. Holliday.

18 MR. HOLLIDAY: Thank you.

19 CROSS-EXAMINATION OF EDWARD BEHM

20 BY MR. HOLLIDAY:

21 Q. I do have a few questions.

22 MR. HOLLIDAY: If we could go to
23 Cimarex slide B-8.

24 MR. FELDEWERT: (Inaudible).

25 MR. HOLLIDAY: Yes, Cimarex.

1 Exactly.

2 Q. Okay. Mr. Behm, am I saying that
3 correctly?

4 A. Yes.

5 Q. Behm. Okay. So we asked your counterpart
6 in geology some questions about this, and she
7 deferred -- what -- I understand is she deferred to
8 you. So I'll ask the same question.

9 Are you concerned -- when we're looking at
10 that upper second Bone Spring, are you concerned
11 about fractures from the upper second Bone Spring
12 penetrating that frack baffle that you've identified
13 and causing depletion issues for the lower Bone
14 Spring?

15 A. Not up in this area. And this might be --
16 well, what's -- the biggest difference here versus
17 we've shown a lot of our other wells that are spread
18 out further to the south, some of the biggest
19 differences here would be the additional carbonate.
20 There's a lot more separation and baffles between
21 the individual landing zones.

22 Q. Okay. Yeah, we're going to get -- I have
23 some questions about the carbonate.

24 First, though, can you estimate how many
25 gallons of water you intend to use in your frack job

1 here?

2 A. We would be 40 barrels per foot. So we'd
3 do that times 42.

4 Q. Okay. And same question but for sand?

5 A. For sand, we'd be 2,000 pounds per foot.
6 And we've done some research down in the south where
7 we operate more heavily, where we've had success
8 walking back frack achieving similar EURs and RADs.
9 So that's what my geologist was referring to
10 earlier.

11 Q. Okay. And in this frack design, do you
12 intend to pump acid?

13 A. That, I would defer to completions for
14 that. That can be -- sometimes that might be on one
15 stage at the beginning if you're having a hard time
16 or if you happen to be in a more carbonate rich
17 zone. That could be very well specific. It could
18 even be stage specific within the same well.

19 Q. Gotcha. The so the purpose of the acid is
20 to break down rocks like a carbonate, correct?

21 A. Well, if you're talking about matrix
22 stimulation, that might be something different.
23 This would be more like: I've got poor connection
24 right at the wellbore where the wells landed. So
25 maybe you landed your well in like a carbonate

1 stringer, and it's hard to get your frack off
2 because you happen to be in like a -- maybe it's a
3 really small interval or maybe your perms aren't
4 real good and you're just trying to get better
5 connection to start the frack.

6 Q. Okay.

7 A. But we would not be doing an acid frack,
8 if that's what you're referring to.

9 Q. Do you have any concerns, should acid be
10 used, about this acid dissolving those carbonates in
11 that frack barrier?

12 A. I'm sorry, could you ask the question
13 again?

14 Q. Yeah. Assuming acid is used or if you
15 were to use acid in your frack design, do you have
16 any concerns that that acid might dissolve the
17 carbonates within that frack barrier that you're
18 relying upon?

19 A. The normal -- for the volumes we normally
20 pump, no. And if someone were doing an acid frack,
21 maybe that would matter. I'm not sure. I don't
22 have a lot of experience with that.

23 Q. Okay. Do you know for sure that you --
24 whether you will or will not use an acid frack?

25 A. We're not -- yeah, we don't -- we don't

1 pump those.

2 Q. You don't pump those. Okay.

3 A. In Lea County, in the area I have
4 knowledge about.

5 Q. Okay. So if we go back to the sand and
6 water, approximately how far up and down do you
7 expect that sand and water to travel?

8 A. For -- from a props standpoint, I would
9 expect most of the fracture to stay well contained
10 within the barrier. As far as -- I've seen water
11 leak off before a structure, but as far as what's
12 drainage and how well things are accessed, I would
13 expect the fracks and the depletion to largely come
14 from where the wells are landed.

15 Q. Okay. So could you just give a footage
16 estimate of how far you expect those to travel?

17 A. It can be a function of what's above you.
18 So some of the most important things to me on a log
19 like this would be some of the color shading
20 Ms. Frey did earlier. So if you're in a 200-foot
21 sand and you've got a good stress change and a
22 carbonate up above you and below you, you -- you'd
23 probably be confined to that 200 feet. If that's
24 100 feet higher up, you might see 300 feet.

25 Q. Okay. So that's upper range. But what

1 about the lower range downward, given the colors
2 that we've identified on this plat?

3 A. Within the sands, I would expect you to
4 grow a little bit down, not much, but -- and be more
5 focused within the -- within the sands where we're
6 landing the wells.

7 Q. Okay. So do you know how far, then -- if
8 you can't say how far you think the water in the
9 sand would travel downward, do you have an
10 approximate footage for how far from your proposed
11 well that frack baffle is?

12 A. I can't answer that off the -- I do not.

13 Q. Don't. Okay. How far -- do you know how
14 far above the upper second Bone Spring is the first
15 Bone Spring target in Cimarex's plans?

16 A. I believe it's roughly 400 feet, 450.

17 Q. Okay. So you've testified about -- or let
18 me make sure I've -- characterizing your testimony
19 correctly. Is it your testimony that Cimarex, based
20 on your calculations, is the -- is the low cost
21 operator amongst these competing plans?

22 A. Yes.

23 Q. Yeah. Okay. Do you consider these AFE
24 costs you've listed to be your final costs?

25 A. They are best estimate today. To my

1 knowledge, we'll repropose under the order, and that
2 might be updated for inflation or new costs or a
3 different commodity. But that's our best look
4 today.

5 Q. So fair to say that those costs could
6 increase?

7 A. They could. Costs change all the time.

8 Q. Does Cimarex, to the best of your
9 knowledge, ever have actual costs that do exceed
10 their AFEs?

11 A. All operators can exceed their AFEs, yes.

12 Q. Including Cimarex?

13 A. Yes.

14 Q. Has, to the best of your knowledge,
15 Cimarex ever been involved in any Avant operated
16 wells to date?

17 A. I'm not an expert on those, but we have a
18 little bit of knowledge about the cuppo (phonetic).

19 Q. Okay. So do you have any knowledge about
20 Avant's AFE to actual cost comparison?

21 A. Not -- no, I do not.

22 Q. You don't. Okay. Okay. So we've talked
23 a lot about the surface restrictions in Section 32.
24 Just before we go into further questions, can you
25 detail for the record what specifically are these

1 surface disturbance limitations that you're
2 referring to?

3 A. As --

4 Q. For Section 32?

5 A. For Section 32, we had issues with placing
6 a pad to minimize kickouts to be able to go target
7 if we were to go drill to the east. Again, I'm not
8 a regulatory expert. If you go from our other
9 section, we're outside of DSL habitat, all of those
10 issues go away, and we're able to drill east/west
11 without any of that added complexity.

12 Q. So is it your testimony that Section 33
13 does fall outside of the dunes sagebrush lizard
14 habitat polygon? That's a big word.

15 A. To the best of my knowledge, yes.

16 Q. To the best of your knowledge. But you're
17 not a regulatory expert?

18 A. No, I am not.

19 Q. So Section 32, it states surface and
20 minerals. Are you aware that Avant has surveyed and
21 staked two pads and a central tank battery to
22 support their one-mile development in Section 32?

23 A. I'm -- I am not.

24 Q. Okay. Okay.

25 MR. HOLLIDAY: That's all my

1 questions.

2 HEARING EXAMINER: Thank you.

3 Mr. McClure.

4 MR. McCLURE: Thank you, Mr. Hearing
5 Examiner. I do have a fast line of questioning for
6 Mr. Behm.

7 CROSS-EXAMINATION OF EDWARD BEHM

8 BY MR. McCLURE:

9 Q. Mr. Behm, you're familiar with the
10 exhibits that Avant and Matador submitted in which
11 they were preparing laydown to standup wells; is
12 that correct?

13 A. Yes.

14 Q. Earlier I had seen like you had referenced
15 that maybe there was some frack technology
16 improvements between 2010 and 2015. Do you believe
17 that that comparison would be like-to-like or is
18 2010 and 2015 too far apart, in your opinion?

19 A. It's tough to go by year because things
20 are changing so much. To be fair, there's not a
21 good analog selection here. I'm not disputing that.
22 It's just there's still a lot of frack overprint on
23 that data, in my opinion.

24 Q. Do you think that Avant's study that went
25 2012 to 2015 may be reasonable, then?

1 A. The big issue I have with that is the area
2 included to the south, as far as -- that surprised
3 me a little bit. If you drill a well in the south,
4 I believe it's weighted two to three times to the
5 south for well count, just a rough estimate. But
6 there's a lot of wells south of the east/west wells
7 that were chosen. Those tend to be in better
8 porosity, which means I've got more fluid to go
9 capture within the same reservoir.

10 So the exact same north/south well with
11 the exact same frack by the exact same operator, I
12 would expect it would to outperform in the southern
13 end of that AOI anyway, in my opinion.

14 Q. Yes, sir. And I guess I understand where
15 we're going with that. But I guess, though, my
16 question is: In your opinion, do we have the extra
17 variable, not just the north/south aspect of it, in
18 as towards the south it may produce more? Do you
19 believe we have an additional variable, in that the
20 frack technology might have improved between 2012
21 and 2015?

22 A. Sure. There's lots of different ways that
23 operators can place a pound per foot.

24 Q. Okay.

25 MR. McCLURE: Thank you, Mr. Behm.

1 I have no further questions, Mr. Hearing
2 Examiner.

3 HEARING EXAMINER: Ms. Bradfute,
4 redirect?

5 MS. BRADFUTE: Yeah, I have just a
6 few questions.

7 HEARING EXAMINER: Go ahead.

8 REDIRECT EXAMINATION OF EDWARD BEHM
9 BY MS. BRADFUTE:

10 Q. Mr. Behm, prior to receiving Avant's and
11 MRC's exhibits, had they reached out -- had their
12 technical teams reached out and talked to anybody at
13 Cimarex about well bore orientation?

14 A. Not to my knowledge.

15 Q. And neither of the companies had raised
16 any issues with Cimarex about laydown development?

17 A. Not to my knowledge.

18 Q. Okay. In this case you testified during
19 cross-examination with MRC's counsel, that Matador
20 doesn't own any interest in the Wolfcamp formation
21 in Section 33; is that correct?

22 A. Yes.

23 Q. If Cimarex was in a similar situation
24 where it did not own any working interest in a
25 section, would it have an opinion about well bore

1 orientation that an operator was pursuing?

2 A. No. It would have no impact on what we
3 were doing.

4 Q. There were a number of questions about
5 cost changes. Is it true, in your opinion, that all
6 operators can exceed their AFE estimates that are
7 provided?

8 A. Yes.

9 Q. Does that happen frequently?

10 A. Not all the time, but everybody has a
11 problem well every once in a while. You can have
12 one well in high. It's the average of your
13 development program that is kind of what you use.

14 Q. And you were asked a question about the
15 Mescalero wells specifically by Mr. Feldewert,
16 correct?

17 A. Yes.

18 Q. Okay. Are you familiar with the cost
19 overages for that particular well?

20 A. Not in detail.

21 Q. Okay. Thank you. You did mention that
22 there are some recent cost numbers that were
23 presented in Cimarex's investor deck regarding its
24 actual drilling costs compared to AFEs?

25 A. Well, it's the average for the county for

1 this year. So if you wanted our most current
2 snapshot, there's an average of Lea County in there
3 that's -- I want to say it's last Thursday. So
4 that's very similar to what was shown today and that
5 it includes 17 one-mile wells, which, as we saw in
6 my dollars per foot comparison, are significantly
7 higher. So it's -- you know, I've got 17 -- I want
8 to say they're \$1900 per foot wells mixed into that
9 average.

10 Q. And were AFEs sent out to all the working
11 interest owners that Cimarex is seeking to pool in
12 these cases?

13 A. To the best of my knowledge. I would
14 probably defer to Bella for working interest owner
15 communications.

16 MS. BRADFUTE: And that concludes my
17 questions. Thank you.

18 HEARING EXAMINER: Is there any --
19 no.

20 MR. HOLLIDAY: I just have one quick
21 question.

22 HEARING EXAMINER: On what she asked?

23 MR. HOLLIDAY: Yeah, on what she
24 asked.

25 HEARING EXAMINER: Go right ahead.

1 REXCROSS-EXAMINATION OF EDWARD BEHM

2 BY MR. HOLLIDAY:

3 Q. I just want to be clear for the record.
4 Is it your testimony that Avant did not raise
5 concerns with Cimarex about the east/west well
6 orientation?

7 A. I have not -- the testimony that -- I'm
8 sorry, could you be more specific? Do you mean
9 prior to the hearing or . . .

10 Q. Yes, prior to the hearing.

11 A. To my knowledge, prior to the hearing, no.

12 Q. No. Okay.

13 MR. HOLLIDAY: That's my only
14 question.

15 HEARING EXAMINER: All right. Thank
16 you.

17 Mr. McClure, anything else for this
18 witness before we excuse him?

19 MR. MCCLURE: I do not, Mr. Hearing
20 Examiner.

21 HEARING EXAMINER: All right. Thank
22 you.

23 Okay. Does that conclude your case in
24 chief, Ms. Bradfute?

25 MS. BRADFUTE: Yes, it does.

1 HEARING EXAMINER: Very good. Okay.
2 All three parties have concluded their case in
3 chief.

4 So let's start with Avant, and let's talk
5 a little bit about rebuttal case. First of all, do
6 you have a rebuttal case?

7 MR. HOLLIDAY: Yes, Mr. Examiner. I
8 believe we submitted four slides.

9 HEARING EXAMINER: I haven't seen
10 them yet, so I just want to talk generally about
11 your rebuttal case. What is the -- if you were
12 going to describe, almost like have an opening
13 statement but a very small opening statement about
14 your rebuttal case, what would it be?

15 MR. HOLLIDAY: It would be we
16 submitted one -- I believe one land slide to discuss
17 the issue raised by Ms. Bradfute on behalf of
18 Marathon.

19 HEARING EXAMINER: What issue?

20 MR. HOLLIDAY: An ownership
21 discrepancy that she raised. So we introduced
22 evidence to rebut that. Because we had no --
23 Marathon had not yet contradicted Avant's ownership
24 to date, and so we just wanted to put things in the
25 record that are -- I mean, it's fair to say that we

1 were surprised, and it's new evidence based on the
2 statements from Marathon.

3 HEARING EXAMINER: Hold on one
4 second. I want to understand it first, and then
5 I'll go to your objection. It sounds like you have
6 an objection.

7 MS. BRADFUTE: A clarification.

8 HEARING EXAMINER: A clarification
9 about what?

10 MS. BRADFUTE: I wanted -- I also
11 have entered an appearance on behalf of Marathon
12 Permian, LLC, in the case. And so they are a party
13 to the case separate and apart from Magnum Hunter
14 and Coterra. Unrelated operators.

15 MR. HOLLIDAY: Correct. Sorry.

16 HEARING EXAMINER: Thank you. Okay.
17 Back to your rebuttal case.

18 MR. HOLLIDAY: Right.

19 HEARING EXAMINER: So you have a
20 slide, a landman slide.

21 MR. HOLLIDAY: I'm sorry, we --
22 there's two. I said one. There are actually two.

23 HEARING EXAMINER: So hold on a
24 second. Let me write this down.

25 So how many exhibits are you proposing to

1 admit through rebuttal in total?

2 MR. HOLLIDAY: If can you give me
3 just a second, I'll open them and answer that
4 specifically.

5 We have four total rebuttal exhibits.

6 HEARING EXAMINER: Four total
7 rebuttal exhibits. Okay. Let's talk about each
8 one. How were they labeled, first of all?

9 MR. HOLLIDAY: The land exhibits are
10 labeled A-16. That discusses Avant's ownership in
11 Section 32.

12 HEARING EXAMINER: Hold on. I can't
13 write that fast.

14 MR. HOLLIDAY: Okay.

15 HEARING EXAMINER: Section 32. Go
16 ahead.

17 MR. HOLLIDAY: Section 32. And then
18 we have A-17.

19 HEARING EXAMINER: A-17.

20 MR. HOLLIDAY: Which was our response
21 to Marathon Oil's title concerns.

22 HEARING EXAMINER: MRC.

23 MR. HOLLIDAY: Marathon. Marathon
24 Oil's title concerns.

25 HEARING EXAMINER: Not MRC.

1 Marathon.

2 MS. BRADFUTE: Yes.

3 HEARING EXAMINER: Got it.

4 MS. BRADFUTE: You can write it
5 shorthand, MRO.

6 HEARING EXAMINER: No thanks. I'll
7 get even more confused.

8 Okay. So A-17 is a response to Marathon's
9 title dispute. How did you learn about that?

10 MR. HOLLIDAY: We learned about that
11 when Ms. Bradfute entered an appearance on behalf of
12 Marathon.

13 HEARING EXAMINER: Okay. How does
14 her entry of appearance clue you in to a dispute on
15 title?

16 MR. HOLLIDAY: I'd have to go back
17 and look at the entry of appearance, but I believe
18 it was stated blatantly in her -- in her appearance.

19 HEARING EXAMINER: Ms. Bradfute, can
20 you clarify?

21 MS. BRADFUTE: Yes. Yes. I
22 specifically stated Marathon's issue in the case
23 because they were entering an appearance.

24 HEARING EXAMINER: Which is what?

25 MS. BRADFUTE: Which is that their

1 title was incorrectly stated in Avant's title
2 exhibits, their ownership percentage breakdown.

3 HEARING EXAMINER: All right. I
4 think -- didn't you mention this already much
5 earlier in the -- like yesterday?

6 MS. BRADFUTE: I did. I did, yes.

7 HEARING EXAMINER: I thought so.

8 MS. BRADFUTE: Yes.

9 HEARING EXAMINER: Okay. So then --
10 okay. All right. So we have that A-17. And you've
11 seen these?

12 MS. BRADFUTE: Yes.

13 HEARING EXAMINER: Okay. And,
14 Mr. Feldewert, you've seen these rebuttal exhibits?

15 MR. FELDEWERT: Yes, sir.

16 HEARING EXAMINER: Okay. We'll get
17 to any objections in a minute.

18 What about A-18?

19 MR. HOLLIDAY: No, the next one would
20 be B-17.

21 HEARING EXAMINER: B-17, thank you.
22 What is that?

23 MR. HOLLIDAY: B-17 is something
24 that's been pretty thoroughly covered by testimony.
25 That's Avant's concerns about the stress rotation.

1 HEARING EXAMINER: Okay.

2 MR. HOLLIDAY: Estimations made by
3 Cimarex specifically. I know we talked a lot about
4 those red lines.

5 HEARING EXAMINER: Yes, I understand.
6 I know what it is. Okay. So B-17 is that exhibit.
7 And B -- and what's next? B-18?

8 MR. HOLLIDAY: B-18, yeah. B-18 is
9 introduced in rebuttal to I believe it was Cimarex's
10 D-1 slide about impairing production rates in the
11 basin. And this slide was introduced to
12 demonstrate -- because we were a little bit
13 surprised by that because we didn't -- that's not a
14 like-to-like comparison, in Avant's perspective.

15 And so we introduced B-18 to show that
16 there's clear delineation between the northern and
17 southern portions of Lea County.

18 HEARING EXAMINER: And it rebuts
19 Cimarex's -- which exhibit? Just put it in words.
20 Maybe Ms. Bradfute will know what exhibit it is.

21 MS. BRADFUTE: I believe it's D-1.

22 HEARING EXAMINER: D-1.

23 Ms. Bradfute, what is D-1? I think it has
24 to do with your production engineer.

25 MR. FELDEWERT: I can share, if you'd

1 like me to.

2 MS. BRADFUTE: Thank you.

3 HEARING EXAMINER: Thank you.

4 MS. BRADFUTE: Yes, D-1 is one of the
5 slides that Mr. Behm just recently had up in the
6 beginning part of his testimony just showing
7 operator performance throughout Lea County.

8 HEARING EXAMINER: I remember that.
9 Okay. So this rebuts that?

10 MR. HOLLIDAY: Yes, sir.

11 HEARING EXAMINER: Okay. Very good.

12 Okay. Are -- Ms. Bradfute, do you object
13 to any of these rebuttal exhibits?

14 MS. BRADFUTE: I do not.

15 HEARING EXAMINER: Mr. Feldewert?

16 MR. FELDEWERT: No.

17 HEARING EXAMINER: Very good.

18 Mr. Holliday, your four rebuttal exhibits
19 are entered into evidence.

20 (Avant Rebuttal Exhibits 1-4 admitted
21 into evidence.)

22 HEARING EXAMINER: Obviously at the
23 end of all of this, we're going to instruct each of
24 the parties to resubmit their exhibits so we have
25 one clean copy of all the exhibits properly labeled,

1 and you can make corrections -- just one second --
2 and you make corrections that you have noted through
3 your witnesses that this was in error and you are
4 correcting it on the record.

5 So I would highly encourage you to correct
6 those, but I want a cover sheet for -- I want a
7 cover sheet that says these are -- these are the
8 changes that we made from the original exhibit
9 packet that we submitted. In other words, here are
10 the rebuttal exhibits, here are the corrections we
11 made to the exhibits based on the witnesses'
12 testimony. Okay?

13 All right. Now, Mr. Feldewert.

14 MR. FELDEWERT: Yes, I want to -- I'm
15 going to raise a concern about what you just said.

16 HEARING EXAMINER: Sure.

17 MR. FELDEWERT: Okay? So having done
18 this where you look to transcripts and you go to
19 exhibits or a lot of times we reference page numbers
20 out of PDFs. Okay? My concern is if you take
21 the -- what's filed out of the record and replace it
22 with a -- what you would say a complete set, okay,
23 there is a likelihood that the pagination of the
24 PDFs is going to be off. Okay?

25 HEARING EXAMINER: Why is that?

1 MR. FELDEWERT: Well, if you, for
2 example, correct or add information to, let's say,
3 A-1. I go to A-1 and I add information. It may
4 change the format of that A-1.

5 HEARING EXAMINER: I understand your
6 concern. I don't mean to cut you off. But let's
7 cut do the chase.

8 MR. FELDEWERT: Yeah.

9 HEARING EXAMINER: All the
10 corrections that I've heard so far are very minor --

11 MR. FELDEWERT: Okay.

12 HEARING EXAMINER: -- corrections.
13 Nothing more than changing a sentence in an
14 affidavit or such.

15 MR. FELDEWERT: Okay.

16 HEARING EXAMINER: So I've not heard
17 anything that would change page numbers, unless you
18 can tell me I'm wrong.

19 MR. FELDEWERT: I think that's
20 correct so far, yes.

21 HEARING EXAMINER: So far.

22 MR. FELDEWERT: That's just -- but I
23 just wanted to voice that. (Inaudible) --

24 HEARING EXAMINER: (Inaudible). I
25 get that.

1 MR. FELDEWERT: Because the other way
2 to do it is, we keep the existing package and then
3 you just file the exhibits that you had to amend.
4 So then for me, and for others I think, when you
5 come and look at the file six months later or a year
6 later, it's literally easier to understand what
7 happened. That's all I'm suggesting.

8 HEARING EXAMINER: Okay. I
9 understand your concern. I don't feel it's
10 warranted in this case, but I will keep it in mind
11 for future cases. Because I do agree with you, that
12 I wouldn't want to throw off the page numbers.

13 However, with a cover letter that says
14 these are the additional exhibits, that won't change
15 the page numbers either because they'll come after.
16 Does that make sense?

17 MR. FELDEWERT: It does.

18 HEARING EXAMINER: Okay. So that's
19 why I require a cover letter to be clear.

20 Okay. Now, do you have -- Ms. Bradfute,
21 do you have a rebuttal case?

22 MS. BRADFUTE: Yes, I do.

23 HEARING EXAMINER: Please tell me
24 what exhibits you have.

25 MS. BRADFUTE: Okay. I have eight

1 rebuttal exhibits.

2 HEARING EXAMINER: Eight?

3 MS. BRADFUTE: Eight.

4 HEARING EXAMINER: Eight. Okay. How
5 are they going to be labeled?

6 MS. BRADFUTE: So they are labeled
7 MHPI Rebuttal Exhibit 1 through 8.

8 HEARING EXAMINER: And so you're
9 going to call them Rebuttal Exhibit 1 through 8.
10 And you'll attach these at the end of your exhibit
11 packet.

12 And just to be clear, so that we don't
13 throw off the page numbers, which is Mr. Feldewert's
14 concern, please put your rebuttal exhibit --
15 actually, I don't want you to label them A-16; 17,
16 B-17 and 18. I want you to list them as Avant
17 Rebuttal 1 through 4. Because I agree, it would
18 throw things off. So put them at the end as
19 rebuttal exhibits.

20 Go ahead, Ms. Bradfute.

21 MS. BRADFUTE: Okay.

22 HEARING EXAMINER: What are they?
23 And why are they here?

24 MS. BRADFUTE: So the first rebuttal
25 exhibit is an engineering rebuttal exhibit.

1 Coterra -- or Cimarex was not on notice that the
2 area of review was going to be selected, and there
3 have been a lot of questions about the areas of
4 review selected for the degradation studies.

5 And so it took a very similar study,
6 copying MRC's degradation analysis and Avant's
7 analysis, looking at a box to the west.

8 HEARING EXAMINER: Okay. Fine.
9 What's the next one?

10 MS. BRADFUTE: Okay. The next one
11 is -- there's been a lot of conversation about
12 laydown development. Coterra and Cimarex were
13 actually surprised that Avant was going to oppose
14 laydown development, given the number of laydown
15 units they had proposed.

16 And so they have prepared an exhibit
17 showing and labeling all of the specific well names
18 from Avant using the map that have been previously
19 proposed.

20 HEARING EXAMINER: So it's just a
21 list of Avant's laydown wells in the area?

22 MS. BRADFUTE: Yeah. It's a map, and
23 then it's got the boxes with the well names.

24 HEARING EXAMINER: Okay. As long as
25 that's all it is.

1 MS. BRADFUTE: Yeah. It is.

2 HEARING EXAMINER: I can see how that
3 could be helpful. Okay. Number 3?

4 MS. BRADFUTE: Number 3 is, we did
5 not expect Avant's landman to be missing so many
6 recorded assignments from the interest numbers in
7 her list of ownership in the exhibits.

8 And so when our landman, Bella Sikes,
9 reviewed that and she went into the county records
10 and saw the missing assignments, she put together a
11 list of those missing record -- title documents with
12 the filing number in the county records and then a
13 list of strangers to title that she was also
14 surprised to see listed.

15 HEARING EXAMINER: Missing from Avant
16 or MRC or both?

17 MS. BRADFUTE: Missing just from
18 Avant.

19 HEARING EXAMINER: And is that from
20 an Avant exhibit number?

21 MS. BRADFUTE: That is -- it is
22 rebuttal to Avant's landman's affidavit in paragraph
23 21.

24 HEARING EXAMINER: Affidavit. Okay.

25 MS. BRADFUTE: Yeah.

1 HEARING EXAMINER: Okay. Okay. All
2 right. Very good. I should have asked -- and
3 Exhibit Number 2, the list of Avant laydown wells,
4 is that rebut to an exhibit?

5 MS. BRADFUTE: That is a rebuttal to
6 testimony, actually --

7 HEARING EXAMINER: All right.

8 MS. BRADFUTE: -- that -- it was
9 about -- the testimony about the well bore
10 orientation.

11 HEARING EXAMINER: Okay.

12 MS. BRADFUTE: Yeah.

13 HEARING EXAMINER: All right.

14 Number 4?

15 MS. BRADFUTE: Number 4, Cimarex was
16 surprised to hear the testimony or see the testimony
17 in paragraph 19 of Avant's -- of Avant's landman's
18 affidavit stating that it was claiming title under
19 the Zafiro JOA. And so it has put together the
20 title -- a list of the title documents, and the
21 county record filings that are the basis for its
22 mineral interest title.

23 HEARING EXAMINER: In -- for which
24 owner?

25 MS. BRADFUTE: For -- this is the --

1 when Avant claimed that it wasn't going to credit
2 Cimarex with the full interest in Section 32 due to
3 the fact that Cimarex had not produced a JOA.

4 HEARING EXAMINER: And how is that
5 relevant to the compulsory pooling application?

6 MS. BRADFUTE: That is relevant to
7 the pooling application because it goes to documents
8 Cimarex's title as shown in its own ownership list.
9 And it rebuts what is shown in Avant's ownership
10 (inaudible).

11 HEARING EXAMINER: So you're saying
12 Avant shows a smaller interest?

13 MS. BRADFUTE: Um-hmm.

14 HEARING EXAMINER: And you're saying
15 Cimarex has larger interest and here's why?

16 MS. BRADFUTE: Yeah. Yeah.

17 HEARING EXAMINER: Okay.

18 MS. BRADFUTE: And it specifically
19 goes to paragraph 19, which we were surprised to
20 see --

21 HEARING EXAMINER: 19, that's
22 (inaudible).

23 MS. BRADFUTE: -- in the landman's
24 affidavit.

25 HEARING EXAMINER: Okay. Number 5?

1 MS. BRADFUTE: Number 5 relates to
2 that Zafiro JOA. It is copies of the JOA pages
3 and -- that had been produced to Avant and the
4 recordings -- a recording in the county records
5 referencing that JOA.

6 HEARING EXAMINER: Same interest we
7 were talking about in Number 4?

8 MS. BRADFUTE: Um-hmm. Yes.

9 HEARING EXAMINER: That they're
10 related?

11 MS. BRADFUTE: They are related.

12 HEARING EXAMINER: Okay. Go ahead.
13 Number 6?

14 MS. BRADFUTE: Number 6 is a summary
15 based on all of the -- all of the working interest
16 control exhibits that have been introduced in the
17 case showing everyone's maximum number of working
18 control interest that they have talked about.
19 Because this case involves overlapping units in
20 part, giving everybody the benefit of the doubt,
21 looking at the highest number of total working
22 interest control and comparing that. All of the
23 parties have asserted arguments on working interest
24 control. This consolidates it so you can see it in
25 an image.

1 HEARING EXAMINER: Why wasn't this
2 exhibit submitted with your exhibit packet
3 originally?

4 MS. BRADFUTE: We did not know what
5 Avant owns in Section 29 and what MRC owns in --
6 what Avant owns in Section 29 and what MRC owns in
7 28 before they filed their exhibits. So we were
8 unable to determine what their working interest
9 control was going to be.

10 HEARING EXAMINER: Okay. So this
11 dealt with the unknown interest in 28 and 29?

12 MS. BRADFUTE: Yes. Yes.

13 HEARING EXAMINER: Okay. Number 7?

14 MS. BRADFUTE: Number 7 is -- or was
15 that -- 5. Did we just talk about 5?

16 HEARING EXAMINER: No. We just dealt
17 with 6. 5 was related to 4, which was a J -- 5 was
18 a JOA related to Number 4.

19 MS. BRADFUTE: Okay. And Number --

20 HEARING EXAMINER: 7.

21 MS. BRADFUTE: Number 7 is feedback
22 from the BLM on whether or not a communitization
23 agreement could be approved for Avant's Bone
24 Spring -- for a nonstandard spacing unit that omits
25 an interval within the Bone Spring pool. This

1 information documents Mrs. Sikes' research and did
2 not exist until November the 1st.

3 HEARING EXAMINER: Okay. And
4 Number 8.

5 MS. BRADFUTE: Number 8 is a copy of
6 the Exhibit A to Matador's JOA, and we can not file
7 this one.

8 HEARING EXAMINER: Okay.

9 MS. BRADFUTE: Yeah. All right.

10 HEARING EXAMINER: All right. So we
11 have seven rebuttal exhibits.

12 MS. BRADFUTE: Yeah.

13 HEARING EXAMINER: Mr. Holliday, any
14 objections to these seven rebuttal exhibits?

15 MR. HOLLIDAY: We do, Mr. Hearing --

16 HEARING EXAMINER: Go ahead. What
17 are they?

18 MR. HOLLIDAY: Okay. So as you made
19 very clear repeatedly, rebuttal is a very narrow
20 case.

21 HEARING EXAMINER: Right.

22 MR. HOLLIDAY: And it's based on two
23 elements. Surprise and foreseeability, right?

24 HEARING EXAMINER: Yes, correct.

25 MR. HOLLIDAY: So if we look at these

1 exhibits, Avant's position broadly, I can go through
2 each of them individually, is that there is no
3 surprise and each of these arguments were
4 foreseeable based on the interactions of parties and
5 the almost year that they've been trying to work
6 this out prior to hearing.

7 HEARING EXAMINER: Okay. Go ahead.

8 MR. HOLLIDAY: Okay. So when we look
9 at Exhibit 1, Matador Exhibit 1, this is a rebuttal
10 about -- discussing about orientation. The
11 orientation concerns of Avant, as oppose to
12 Cimarex's plan, were well -- I mean well documented.
13 I don't think any party was unaware that the
14 orientation was going to be a major issue in this
15 case. And we feel like this, if it's to be
16 included, should have been in the case in chief, not
17 in rebuttal.

18 HEARING EXAMINER: I thought that
19 Number 1 was the engineering area of review of
20 degradation?

21 MS. BRADFUTE: Yes, that is correct.
22 It is --

23 HEARING EXAMINER: How does that deal
24 with -- so how does that deal with what you just
25 said, Mr. Holliday?

1 MR. HOLLIDAY: Okay.

2 HEARING EXAMINER: Have you shared
3 these rebuttal exhibits with Mr. Holliday
4 (inaudible)?

5 MS. BRADFUTE: Yes, I have. Yeah.

6 HEARING EXAMINER: Okay. And have
7 you seen these rebuttal exhibits, Mr. Holliday?

8 MR. HOLLIDAY: I have.

9 HEARING EXAMINER: Good. Do you have
10 it in front of you?

11 MR. HOLLIDAY: I do. And they're
12 discussing east/west, north/south orientation in
13 this slide.

14 HEARING EXAMINER: But Ms. Bradfute
15 said that the -- that the -- that the import of this
16 exhibit is the area -- is the review of degradation.
17 How does that . . .

18 MR. HOLLIDAY: If that's the import
19 of the slide, then I'll drop my objection.

20 HEARING EXAMINER: Is it not,
21 Ms. Bradfute?

22 MS. BRADFUTE: No, it is. It --
23 looking --

24 HEARING EXAMINER: Did I mishear you?

25 MS. BRADFUTE: It's essentially

1 taking the studies that both parties did and just
2 flipping them to -- yeah, and running a summary
3 analysis.

4 HEARING EXAMINER: Right. We're
5 going to deal with it one at a time so I can hear
6 your objections to Number 1.

7 MR. FELDEWERT: Oh, I don't -- I just
8 wanted to clarify.

9 HEARING EXAMINER: Oh, sure.

10 MR. FELDEWERT: This is the one where
11 I had my hands and I said --

12 HEARING EXAMINER: Yes.

13 MS. BRADFUTE: Yeah.

14 MR. FELDEWERT: -- (inaudible) looked
15 at it and included acreage that appears --

16 HEARING EXAMINER: I remember.

17 MR. FELDEWERT: -- to have a
18 different horizontal stress direction. That's what
19 that one's all about.

20 HEARING EXAMINER: I remember.

21 MR. FELDEWERT: Okay.

22 HEARING EXAMINER: Yeah. But do you
23 have an objection to Number 1?

24 MR. FELDEWERT: No. No.

25 HEARING EXAMINER: Did you hear her

1 list -- have you seen the rebuttal exhibits?

2 MR. FELDEWERT: I have.

3 HEARING EXAMINER: Great. Do you
4 have an objection to any of her seven rebuttal
5 objections?

6 MR. FELDEWERT: No. Since the only
7 one I had was on the last one, which you
8 (inaudible).

9 HEARING EXAMINER: We're good. All
10 right. So we don't have any objections from MRC.
11 So we're back to Avant now.

12 All right. So Number 1, we don't have any
13 objection to. So that's admitted.

14 Number 2, sir?

15 MR. HOLLIDAY: So if we go to -- I
16 believe it's Exhibit 4.

17 HEARING EXAMINER: Oh, hold on.
18 Going one at a time now.

19 MR. HOLLIDAY: Okay.

20 HEARING EXAMINER: Number 2, do you
21 have an exhibit -- an objection?

22 MR. HOLLIDAY: I have no objections
23 to 2 or 3.

24 HEARING EXAMINER: 2 or 3. Okay.

25 Now, Number 4.

1 MR. HOLLIDAY: Let me get there.

2 I'm sorry, I do have an objection to 3. I
3 have them mislabeled on my list.

4 HEARING EXAMINER: Fine.

5 (Inaudible).

6 MR. HOLLIDAY: So Number 3 is the
7 slide titled Title Errors and Omissions.

8 HEARING EXAMINER: Yes.

9 MR. HOLLIDAY: If you look at
10 Cimarex's call logs, you can see that on 9/6, 10/11,
11 10/14, 10/15, and 10/21, there were either emails or
12 phone calls amongst the parties to discuss title.
13 So Cimarex chose to include lengthy title
14 information in their case in chief. They didn't
15 include this information. This is not new evidence.
16 It's not based on any surprise. The parties were
17 well aware of these issues before exhibits were due.

18 HEARING EXAMINER: Okay. And to
19 answer that, Ms. Bradfute?

20 MS. BRADFUTE: So we did not see the
21 breakdown of ownership interest until the exhibits
22 were filed in this case. And that was definitely
23 testified to today --

24 HEARING EXAMINER: Okay.

25 MS. BRADFUTE: -- by . . .

1 HEARING EXAMINER: Mr. Holliday,
2 specifically to what she said, that they did not see
3 the breakdown of ownership interests until the
4 hearing.

5 MR. HOLLIDAY: I'll just let my
6 objection stand. I have no --

7 MS. BRADFUTE: It was until we
8 received their exhibits. So when they filed their
9 exhibits, we saw for the first time.

10 HEARING EXAMINER: A week -- or four
11 days ago --

12 MS. BRADFUTE: Yeah. Yeah.

13 HEARING EXAMINER: -- or whatever it
14 was? Okay.

15 MS. BRADFUTE: Yeah.

16 HEARING EXAMINER: Mr. Holliday, are
17 you -- are you calling into question the veracity of
18 that statement that Ms. Bradfute made?

19 MS. BRADFUTE: No. We're calling
20 into question whether there was surprise or
21 foreseeability and whether these documents, if
22 they're going to list them out individually, should
23 have been listed in their case in chief, which is
24 Avant's position.

25 HEARING EXAMINER: Okay. So I'm

1 overruling the objection. So Number 3 is admitted.

2 Now, do you have an objection to Number 4?

3 And, Ms. Bradfute, do you want to say what
4 Number 4 is again?

5 MS. BRADFUTE: Yeah. Number 4 is the
6 title document references for the interests subject
7 to the Zafiro JOA, which was the JOA discussed in
8 paragraph 19 of Avant's landman.

9 MR. HOLLIDAY: I guess we don't have
10 an objection.

11 HEARING EXAMINER: Okay, perfect. So
12 that's admitted, Ms. Bradfute.

13 Number 5 which is related -- I think it's
14 a copy of the JOA. Mr. Holliday?

15 MR. HOLLIDAY: Yes. So we do have an
16 objection to this as well.

17 HEARING EXAMINER: Okay.

18 MR. HOLLIDAY: Avant, on multiple
19 occasions, requested copies of this JOA. I know I
20 requested a copy from Ms. Bradfute. We received no
21 response.

22 They're aware that this JOA -- of Avant's
23 concerns about this JOA and its applicability, and
24 they chose not to put it into their case in chief.

25 HEARING EXAMINER: Okay.

1 MR. HOLLIDAY: Same objection. This
2 was both foreseen, and it's not surprising anybody.

3 HEARING EXAMINER: Okay. So
4 Ms. Bradfute, why did you not show a copy of this
5 JOA in your original exhibits?

6 MS. BRADFUTE: So what's funny is we
7 presented -- we're presenting it as a rebuttal in
8 specific response to what Mr. Holliday just raised.
9 Cimarex did provide a copy of Exhibit A to this JOA
10 to Avant. We were surprised that Avant was taking
11 the position in its affidavit that it had not been
12 provided with any information about this JOA.

13 HEARING EXAMINER: I see.

14 So, Mr. Holliday --

15 So in this exhibit, does it show that, in
16 fact, you did provide it? Is there some sort of
17 proof that shows that. I mean, because is that not
18 what --

19 MS. BRADFUTE: Yeah.

20 HEARING EXAMINER: -- you're
21 rebutting, is the fact that --

22 MS. BRADFUTE: I did not include the
23 email where it was provided, but I did provide what
24 had been given to Avant. I thought the witnesses
25 would have a chance to testify to the rebuttal

1 exhibits and say, "Yes, this is what I provided to
2 Avant."

3 HEARING EXAMINER: Okay.

4 MS. BRADFUTE: So I wasn't sure about
5 the procedure.

6 HEARING EXAMINER: Mr. Holliday.

7 MR. HOLLIDAY: I can stipulate that
8 Exhibit A was provided.

9 HEARING EXAMINER: Oh.

10 MR. HOLLIDAY: It's the actual JOA
11 itself that this Exhibit A is attached to that no
12 one's ever seen. And so that's why we objected,
13 introducing pieces of it when we requested the full
14 document in advance of the hearing.

15 HEARING EXAMINER: Ms. Bradfute.

16 MS. BRADFUTE: We have had a lot of
17 testimony, and Mr. Holliday allowed questions on the
18 record about this Exhibit A. His land professional
19 even testified that she had received this Exhibit A,
20 and then --

21 HEARING EXAMINER: So what are you
22 rebutting, then?

23 MS. BRADFUTE: So the rebutting is --
24 it helps make the title issue a little bit more
25 complete. It is not necessary, given that we have

1 the record county title filings.

2 HEARING EXAMINER: Yeah.

3 MS. BRADFUTE: So if this one --

4 HEARING EXAMINER: We're not
5 admitting Number 5.

6 MS. BRADFUTE: Yeah, that's fine.

7 HEARING EXAMINER: Very good.

8 Number 6, do you have an objection to
9 Number 6?

10 MR. HOLLIDAY: I have no further
11 objections.

12 HEARING EXAMINER: Oh, very good. So
13 Number 6 and 7 -- so then we're going to renumber
14 them, Ms. Bradfute.

15 MS. BRADFUTE: Okay.

16 HEARING EXAMINER: It's going to be 1
17 through 6.

18 (MHPI Rebuttal Exhibits 1-6 admitted
19 into evidence.)

20 MS. BRADFUTE: Okay.

21 HEARING EXAMINER: Not 1 through 7.
22 Okay?

23 MS. BRADFUTE: Okay, great. Thank
24 you.

25 HEARING EXAMINER: All right. Now,

1 let me see something here. Hold on a second.

2 Okay. Now, we have next MRI's rebuttal
3 case. You have a rebuttal case. All right.

4 MR. FELDEWERT: No, sir. No. No,
5 because we admitted that -- the full report.

6 HEARING EXAMINER: Yes.

7 MR. FELDEWERT: You said you didn't
8 need me to admit the statement that we used for
9 their geologist from the prior case.

10 HEARING EXAMINER: Well, we didn't --
11 no, that was used for impeachment purposes.

12 MR. FELDEWERT: Correct.

13 HEARING EXAMINER: So I wasn't
14 allowing that document to come in as an exhibit.
15 It's on the record that you used it, however you
16 used it for impeachment purposes.

17 MR. FELDEWERT: I think I did
18 identify the case number --

19 HEARING EXAMINER: You did.

20 MR. FELDEWERT: -- where it was
21 located. Okay, good.

22 HEARING EXAMINER: You did.

23 MR. FELDEWERT: Then we're fine.

24 HEARING EXAMINER: You did. It's on
25 the record.

1 Okay. So MRI, no rebuttal case. We
2 have -- about rebuttal, we have MHPI rebuttal.
3 Okay.

4 I am going to take a ten-minute break. I
5 have some technical issues to speak about. So
6 please let us reconvene -- it says 2:32 now. Let's
7 reconvene at 2:45. I understand what this is --
8 want to get to flights. What time are the flights?
9 5:00?

10 UNIDENTIFIED SPEAKER: Yes.

11 HEARING EXAMINER: The flights are
12 5:00.

13 UNIDENTIFIED SPEAKER: Yeah.

14 HEARING EXAMINER: So Santa Fe
15 airport, I would say check in 45 minutes ahead. It
16 takes approximately half an hour to get there, if
17 that. So we're talking about an hour and 15 in
18 front.

19 All right. So we'll need to move along
20 once we -- once -- because 3:45 will be a cutoff,
21 then, for you guys to get to the airport. Okay.
22 Got it. Thank you.

23 (Recess was taken from 2:32 p.m. until 2:49 p.m.)

24 HEARING EXAMINER: Okay. It is
25 2:49 p.m. We are going to hear the rebuttal case

1 for Magnum Hunter/Coterra first, since their
2 witnesses need to leave.

3 So we have six exhibits that have been
4 entered into evidence by stipulation of the parties,
5 although I think one of them was over the objection
6 of Avant. I think that was objection -- that was
7 Exhibit Number 3.

8 So, Ms. Bradfute, who do we have on the
9 witness stand?

10 MS. BRADFUTE: Excuse me, we have
11 Mr. Behm --

12 HEARING EXAMINER: Okay.

13 MS. BRADFUTE: -- on the witness
14 stand. And I apologize, my Teams just decided to
15 flip out on me. So I'm pulling it back up.

16 And it's coming back up.

17 HEARING EXAMINER: And while you're
18 doing that, what is the purpose of Mr. Behm's
19 additional testimony?

20 MS. BRADFUTE: The purpose of
21 Mr. Behm's additional testimony is Mr. Behm
22 conducted a degradation study based on the exhibits
23 submitted by MRC and Avant in their case in chief.

24 HEARING EXAMINER: Okay.

25 MS. BRADFUTE: And so he will be

1 introducing those slides to help orient the Hearing
2 Examiners when you go back and look through the
3 record.

4 HEARING EXAMINER: And, Ms. Bradfute,
5 let's keep his direct examination to -- extremely
6 limited --

7 MS. BRADFUTE: Yes.

8 HEARING EXAMINER: -- and just stand
9 for cross-examinations since we have admitted the
10 exhibits.

11 MS. BRADFUTE: Yes. Yes.

12 DIRECT EXAMINATION OF EDWARD BEHM

13 BY MS. BRADFUTE:

14 Q. Okay. Mr. Behm, can you see Rebuttal
15 Exhibit 1? And is this the first page of it?

16 A. Yes.

17 Q. Okay. Really quickly, could you walk
18 through your exhibit -- the main purpose is just to
19 point out the highlights of the most important
20 points on the slides included in your exhibit. And
21 we'll take it slide by slide. Okay?

22 A. Yes.

23 Q. Okay. Can you please point out the key
24 items that you are trying to show in this slide?

25 A. What I'm showing in this slide is a

1 similarly broad AOI, except it's oriented more in
2 line with a Cimarex geologist interpretation of
3 stress than our competing proposals.

4 Q. Okay. And the red rectangle is the AOI
5 that had been identified by MRC in its exhibits,
6 correct?

7 A. Correct. And then I've oriented a similar
8 size rectangle east/west bringing in more the
9 45-degree points that we talked about at the county
10 line.

11 Q. Okay. And what are the most significant
12 points from slide 2 of your study?

13 A. This focuses on the second sand. There's
14 a lot of east/west wells over a broader area. The
15 main difference here between this one and MRC's is
16 I'm showing data through time. So the top plot is
17 2010 to present. It's 6-month QM per foot, 12-month
18 QM per foot, and then 3-year QM per foot. And it's
19 bucketed by east/west versus north/south for the
20 same timeline that was given, 2010 to present.

21 And then the bottom graph would be how I
22 would separate maybe modern frack from old frack, if
23 I was just using a time period.

24 Q. And what are your conclusions that you
25 drew from looking at the data on this slide?

1 A. My conclusions on this slide is that
2 east/west versus north/south over a broad area with
3 our area of review, it looks like it's not going to
4 be an issue.

5 Q. Can you please look at the next slide of
6 your study and just state the high points of this
7 slide?

8 A. The left side is a map. It is VH, which
9 we talked about earlier in the hearing. So the --
10 the more VH you have, the more in place there is to
11 go get. So this is doing a very small review of
12 east/west third sand wells versus north/south wells
13 of a very similar frack vintage.

14 So you can look at the green versus the
15 blue. The best comparison in here, to me, is the
16 dark blue well because that's the same operator.
17 That's Franklin Mountain. Similar time period. The
18 green wells aren't materially different than the
19 blue, in my opinion.

20 Q. And I'm moving to the next slide. What
21 are you showing on this slide?

22 A. Just the magnitude of frack importance.
23 Those are two new wells. You can't book them with
24 an EUR yet, my opinion, but the Gold State and the
25 Sky Dweller, when we talk about frack, how big of a

1 knob is it, those wells have QM'd as much as the old
2 wells did over a ten-year period, but they've done
3 it in less than a year.

4 So frack advances over the periods that
5 have been being reviewed are very large.

6 Q. Okay. And so frack design really can
7 create a difference in well performance, especially
8 when you're looking back at degradation, right?

9 A. Yes. And this is over a two-mile wide
10 area. So we showed lots of multi-township areas
11 earlier. So this is over a two miles, about as
12 similar as you can get with frack as the main
13 variable, in my opinion.

14 Q. I want to move to the next slide of your
15 exhibit. Could you please tell us what the high
16 points are of this slide?

17 A. This is just calling out the differences.
18 And even if you constrain it to 2010 versus 2015, to
19 Mr. McClure's question earlier, how different are
20 the wells. So the two wells we have, the Magpie,
21 Tin Cup are half the energy of the comparison wells
22 that they're being compared against.

23 Q. And I want to go to the last slide of your
24 study. Could you please explain the key issues in
25 this slide.

1 A. Not a lot of modern wells close. There is
2 the Crazy Wolf well. That's called out in pink.
3 And you can just see how that's performing versus
4 north/south in the same area relative to the type
5 curve that we showed our values for earlier.

6 Q. Okay. Thank you.

7 MS. BRADFUTE: And these six exhibits
8 are already admitted, so that concludes my
9 questions. Thank you.

10 HEARING EXAMINER: Thank you.

11 Mr. Feldewert.

12 MR. FELDEWERT: Sure.

13 CROSS-EXAMINATION OF EDWARD BEHM

14 BY MR. FELDEWERT:

15 Q. Let me share.

16 All right. So looking at your -- what are
17 you having to describe this? This is your rebuttal
18 slide C-1.

19 MS. BRADFUTE: Rebuttal Exhibit 1.

20 MR. FELDEWERT: Rebuttal Exhibit 1.

21 Q. Okay. Looking at your Rebuttal Exhibit 1,
22 so the MRC study area, it's boxed in red, Mr. Behm?

23 A. Yes.

24 Q. Okay. And when you look at that area,
25 that includes an area where experienced operators,

1 looking at the data available to them and --
2 including well results, it shows drill almost all of
3 them standup, right? Over 90 percent?

4 A. Yes, within that AOI, it's predominantly
5 north/south.

6 Q. Okay. And what you've done is kind of
7 turned that, and you went to an area in the west
8 where we see that operators are starting to drill a
9 mixture of laydown and standup wells?

10 A. Yes.

11 Q. So you're taking an area where operators
12 have drilled predominantly standup based on the
13 information they are having -- had and comparing it
14 to an area where operators drilled differently based
15 on information that they had?

16 A. Yes. It's oriented to the stress. So if
17 you were to think back to the 45-degree, roughly,
18 line that was on the county line from the exhibits,
19 that would be roughly where that deep LM rig
20 location is, drilling east/west.

21 So it's just bringing in the area where
22 stress rotates. And it's more similar to what our
23 geologist testified to today.

24 Q. And so is it your opinion that this area
25 in green has a similar stress regime where operators

1 can drill both laydown and standup?

2 A. It's my opinion that the green box would
3 include the area where stress is rotating, as well
4 as where we believe it is more similar to the
5 acreage, versus the red box, which aligns more 21
6 south. I think every company today agreed they
7 would drill that more south. That's down at the
8 very southern edge. I would not want those wells
9 into the north.

10 Q. So if I looked at the insert to the right,
11 where -- which we have the Zoback study, we see the
12 cluster of data points that indicate, what, about a
13 45-degree stress orientation?

14 A. Approximately.

15 Q. Okay. And you're suggesting that that
16 45-degree stress orientation extends now all the way
17 east to the star?

18 MS. BRADFUTE: Objection. We've
19 already had a lot of testimony on stress
20 orientation. This was really limited to rebuttal on
21 the new study.

22 HEARING EXAMINER: Mr. Feldewert.

23 MR. FELDEWERT: I'm asking his
24 opinion about whether that stress orientation --
25 whether he believes that stress orientation dictated

1 by the Zoback report extends all the way to the area
2 of the star.

3 HEARING EXAMINER: And, Ms. Bradfute,
4 are you saying that this witness has already been
5 asked this question?

6 MS. BRADFUTE: No. The star is the
7 subject area. Those are the subject lands. So I
8 know we have had lots of testimony over the last two
9 days about stress orientation around the star.

10 HEARING EXAMINER: But this -- but
11 this rebuttal exhibit is talking about stress --

12 MS. BRADFUTE: Um-hmm.

13 HEARING EXAMINER: -- and the subject
14 lands. And if this witness has not been asked this
15 question before, I'm going to allow it.

16 MS. BRADFUTE: I think allow it.
17 That's fine, yeah.

18 HEARING EXAMINER: Okay.
19 Mr. Feldewert, would you ask the question again?

20 MR. FELDEWERT: Sure.

21 Q. So, Mr. Behm, when you -- since you chose
22 this as your study area, are you suggesting that the
23 45-degree data point that show -- that's shown in
24 the Zoback report extends from west to east across
25 your study area to the star?

1 A. It would not be the same across -- again,
2 I'm a reservoir engineer. So we testified today
3 that it rotates across the area. Up in 18 South,
4 what we showed today was we showed a point that we
5 had from our private array in 18 South, 35 East,
6 which would be the eastern border of where I've got
7 the green box. If you were to move over to where
8 the deep LM is, that's roughly where the 45-degree
9 line is. So Ms. Frey testified earlier today of a
10 43-degree over at 18 South, 35 East from our seismic
11 array data, and then it's roughly 45 by the deep LM.

12 So across the north of that, I would say
13 it's roughly consistent, and then it would rotate to
14 that east/west similar to Ms. Frey's testimony
15 earlier.

16 So this would capture a blend of stress
17 orientation rather than just north/south.

18 Q. A blend of stress orientation. So you're
19 not saying that your study area includes from the
20 east to the west, the orientation that is shown in
21 the cluster data there for the Zoback report?

22 A. No. I -- no, I can't make that claim.

23 Q. Okay. All right. Okay. When I go to --
24 maybe this is a little more helpful. When I go to
25 the next slide down, this is a -- is that a little

1 easier to read, depiction of your study area in the
2 upper left-hand corner, your second page of this
3 rebuttal slide?

4 A. Yes.

5 Q. This is the one where it has the bar
6 graphs, green and blue. And to the left of that is
7 the area that you analyzed?

8 A. Yes. These would be all the wells within
9 that green box. So we looked at first, second,
10 third. I'm showing second because that was what we
11 showed.

12 Q. Okay. And so, again, you're taking an
13 area where operators to the west have drilled almost
14 exclusively standup and then comparing that to an
15 area where operators have drilled a mixture of
16 standup and laydown?

17 A. Yes.

18 Q. Okay. When I go to your next slide --
19 page of this exhibit, it looks like this is an area
20 that was part of -- this is part of MRC's study?

21 A. (Inaudible). This was part of Avant's,
22 focused on the third sand.

23 Q. Okay. This was also included in MRC's
24 study area, right?

25 A. In the broader area? Yes.

1 Q. Yes.

2 A. Yes.

3 Q. Where our -- where our geologist said he
4 believes the stress regime is very similar?

5 A. Yes.

6 Q. Okay. All right. And then if I go, then,
7 to, I think, the last page of this Rebuttal Exhibit
8 Number 1. This Crazy Wolf well that you pulled out
9 here in red?

10 A. Yes.

11 Q. If I look at Exhibit C-1, where is that
12 located?

13 A. It would be -- could you go back to my
14 exhibit real quick?

15 Q. Yes, I will try.

16 A. So that is 19 South, 32 East, Sections 3
17 and 4. That is just outside of this AOI.

18 Q. So it's over here?

19 A. No. Move your cursor up. It would be
20 Sections 3 and 4. So it would be in the northeast
21 corner of Township 19 South, 32 East. Down from
22 there.

23 Q. Thank you. Right here?

24 A. Yeah, approximately.

25 Q. Okay. Then much closer to where we see

1 the Zoback data points showing a 45-degree stress
2 orientation?

3 A. Yes.

4 Q. And you're comparing that to a -- the
5 Turnpike acreage, which is closer to the data point
6 that Zoback shows having a 70, 75-degree
7 orientation, right? 13 miles?

8 A. I'm sorry?

9 Q. Closer to the Zoback data point shown as
10 70-degree orientation? So if I go back to C-1 and I
11 go to the star, you see the upper right-hand data
12 point on the Zoback report?

13 A. Yes.

14 Q. That's the 70 -- 70, 75-degree
15 orientation?

16 A. I'm not a geologist. I believe that's
17 correct --

18 Q. Okay.

19 A. -- from what was talked about earlier.

20 Q. All right. And this is the area where
21 your geologist had likewise testified a year ago
22 that the orientation --

23 MS. BRADFUTE: Objection to the form
24 of question. Yeah, that . . .

25 HEARING EXAMINER: Ms. --

1 Mr. Feldewert, I sustained the objection. So can
2 you move on from this question, please. We've had
3 enough about this.

4 MR. FELDEWERT: Okay. That's all the
5 questions I have.

6 HEARING EXAMINER: Thank you.

7 Mr. Holliday.

8 MR. HOLLIDAY: I have no questions.

9 HEARING EXAMINER: Thank you.

10 Mr. McClure.

11 MR. MCCLURE: Thank you, Mr. Hearing
12 Examiner. I do have a quick question for Mr. Behm.

13 HEARING EXAMINER: (Inaudible).

14 CROSS-EXAMINATION OF EDWARD BEHM

15 BY MR. MCCLURE:

16 Q. Mr. Behm, on your Exhibit -- well, it's
17 labeled Rebuttal Avant C-1 Exhibit, third sand.
18 It's page 7 of 37?

19 A. Yes, sir.

20 Q. Do you believe it would be more -- I know
21 earlier we were talking about a tendency to increase
22 production as you go south. Would it be accurate to
23 say that rather than, as you go south as your -- you
24 have an increased porosity times height, would that
25 be a better description?

1 A. Yes. As you move into that channel,
2 production's going to increase. That's an overprint
3 on all the data in this area.

4 Q. Okay. And that is essentially the driving
5 factor that we're looking at, correct? So it would
6 be more accurate to say that -- like in the middle
7 of Section 22 is going to be better than the -- in
8 the middle of Section -- well, to the east of there;
9 is that correct?

10 A. Can you say that again, sir?

11 Q. Do you see --

12 A. Section 22 in 19 South, 34 East?

13 Q. Yes, sir, that's absolutely correct.

14 A. Yes. As you move south into that bigger,
15 more continuous sand, I would expect the wells to be
16 generally better.

17 Q. But towards the east of there, you would
18 expect it to be worse; is that correct?

19 A. It would be -- yes, it would be a little
20 bit worse. Yeah.

21 Q. Yeah, as you start getting towards
22 Section, I guess, 19 of Range 35 East?

23 A. The only other thing that's going on here
24 is also oil cut improving as you move with structure
25 to the east side in the third sand. So you could

1 have a total fluid change that also has an overprint
2 where you have a fantastic oil cut.

3 Q. Okay.

4 A. Yes, in general, the sweet spot would be
5 right through the middle of that channel, in my
6 opinion.

7 Q. But potentially as you get further away
8 from the basin, you would have a higher oil cut? So
9 as you go towards the east; is that correct?

10 A. Further away from -- yes, as you're moving
11 up structure towards the edge of the basin, there's
12 opportunity for pinchouts and other things to drive
13 production.

14 Q. Is that what you're referring to when you
15 reference a higher oil cut to the east?

16 A. Yes.

17 Q. Okay. On this same -- on this table on
18 this same exhibit, you're referencing proppant per
19 foot in lateral length. Do you think proppant and
20 fluid per foot is a relatively accurate description
21 of the quality of frack?

22 A. It's the best publicly available
23 description I have. And I would say roughly, you
24 know, 700 versus 500 might be pretty similar. But
25 even then, you can see differences in fluid. This

1 is the best data I had.

2 Q. Approximately, if you -- improvements in
3 chemicals that's used in the fluids, would you have
4 a date that you would think that might start making
5 a difference?

6 A. Versus --

7 Q. Seeing as more friction reducers and stuff
8 like that?

9 A. For FR --

10 Q. Uh-huh.

11 A. -- I would be leaning more towards -- and
12 it's going to vary by operator, as well, because
13 different people are moving at different speeds.

14 I would go more towards 2015, towards the
15 tail end of this window versus the early end. Down
16 at 480 or 300 pounds, the smaller fracks with 8 to
17 9 barrels per foot, for all I know those could be
18 packers plus completions.

19 You could have sliding sleeves. It could
20 just be crosslink. I did -- I did not -- I don't --
21 I don't have that available to me or what their
22 cluster density is.

23 Q. And would that be a concern on fracks that
24 were completed around 2010 type era?

25 A. It's way more likely earlier in time. As

1 you get closer to 2010, I would expect just an
2 absence of slick water in general. And it's a more
3 conventional mindset where people are -- you might
4 have 125 foot between clusters, 150 versus maybe a
5 24 to 12, even on the low end would be more common
6 today. So it's a big change.

7 Q. But as far as the implementation -- or as
8 far as starting to go more towards slick water and
9 friction reducers, would you attribute that to 2015
10 and later?

11 A. I would be able to say by about 2018,
12 2019, everybody's there, and that transition period
13 is over. I don't know --

14 Q. But as far as --

15 A. -- if that helps, I'm sorry.

16 Q. As far as the start of that transition, do
17 you agree that 2015 is a fair enough beginning of
18 that era for this -- for the crossover?

19 A. Yes. Roughly, yes.

20 Q. If I can move you back up two pages to
21 your page 5 of 37.

22 Have you provided us with a list of the
23 wells that you included in this study here?

24 A. I did not. I -- I'm happy to attach one.

25 Q. Okay. Thank you, sir. We'll make that

1 request as a part of our requests here in a bit.

2 MR. McCCLURE: Thank you, Mr. Behm.

3 Thank you, Mr. Hearing Examiner. No
4 further questions.

5 HEARING EXAMINER: Thank you,
6 Mr. McClure.

7 May this witness be excused?

8 MS. BRADFUTE: Yes, Mr. Hearing
9 Examiner.

10 HEARING EXAMINER: All right. Thank
11 you. Do you have another witness?

12 MS. BRADFUTE: I do.

13 HEARING EXAMINER: Who?

14 MS. BRADFUTE: I have one more, our
15 land professionals, Bella Sikes.

16 HEARING EXAMINER: -- Sikes, I remind
17 you you're under oath.

18 Ms. Bradfute.

19 DIRECT EXAMINATION OF ISABELLA SIKES

20 BY MS. BRADFUTE:

21 Q. Okay. Thank you, Ms. Sikes. I want to
22 turn to Rebuttal Exhibit 2. And I just want you to
23 orient the Hearing Examiner as to what this exhibit
24 is showing, very quickly.

25 A. This comes from Avant's land Exhibits A-9.

1 And this is kind of highlighting all of those
2 laydown units that they had kind of outlined in
3 their exhibit. This also has some callout boxes
4 where we have received laydown unit proposals. So
5 that would be Avant Shinnery Oak, the Ghost
6 proposals, and Grey Wind. Those have been talked
7 about a lot. And this also shows the distance from
8 those.

9 Some other things we want to point out are
10 Avant's one-mile developments that they have within
11 this little snippet. And then there's another one
12 that's not shown I believe a township or two south
13 of this.

14 Q. Okay. Great. I'm going to move into the
15 next land exhibit.

16 This land exhibit -- can you explain what
17 this exhibit shows? It's Rebuttal Exhibit 3.

18 A. Yes. So after receiving Avant's exhibits,
19 this is where I went through their exhibits and kind
20 of pointed out those errors of people that I saw and
21 started kind of noting where those parties had
22 assigned out earlier in title. I believe most of
23 these were -- well, some were around 1990s, early
24 2000s, and then also just pointed out the strangers
25 to title. Strangers to title, we mean we've never

1 seen them show up in our title chain.

2 And then for Avant themselves, there have
3 been interests that they have picked up and acquired
4 that we do not see in title. And so just a little
5 summary here of those interests and kind of where
6 Avant probably went wrong.

7 Q. Okay. And in your opinion, does this help
8 explain the differences in the interest percentages
9 that have been presented in Avant's exhibits versus
10 what you have shown in Magnum Hunter's exhibits?

11 A. Yes.

12 Q. And I'm going to turn next to Rebuttal
13 Exhibit Number 4, I believe.

14 And can you explain what this document is
15 showing?

16 A. I had spoken about this previously. It's
17 just how we're not saying our interests are coming
18 from a JOA. This is the assignment chain showing
19 that Matador Petroleum Corporation, the operator of
20 that -- of the original operator of that OA and who
21 had interests in the Exhibit A, and basically the --
22 the mergers that happened in the early 2000s of how
23 Magnum Hunter ended up with Tom Brown's interests,
24 which were Matador's interests.

25 Q. Okay. And this is a description of where

1 Magnum Hunter's title is located in what is
2 otherwise referred to as a contractual interest
3 under a JOA in Avant's land exhibits, right?

4 A. Yes.

5 Q. I next want to turn to the next rebuttal
6 exhibit entitled, "Working Interest Control."

7 HEARING EXAMINER: Would you use the
8 numbers, please.

9 MS. BRADFUTE: Yes. I believe this
10 is Rebuttal Exhibit Number 4. I need to renumber
11 them, Mr. Hearing Examiner.

12 HEARING EXAMINER: Oh --

13 MS. BRADFUTE: So I apologize.

14 HEARING EXAMINER: -- I see.

15 MS. BRADFUTE: Yes.

16 Q. But the title of the exhibit, I've
17 entitled it, "Working Interest Control."

18 Mrs. Sikes -- or, Ms. Sikes, can you
19 please explain what this exhibit shows.

20 A. So once we understood from both parties
21 filing their exhibits and seeing what they claim to
22 own, we put that out -- all out.

23 So in green, Sections 29 and 32, this
24 is -- assuming that Avant's title is correct,
25 according to their exhibits, they have 405 Bone

1 Spring net acres and 367. And then Matador's Bobby
2 Pickard, according to both MRC and Magnum Hunter's,
3 because they're -- we don't have any title errors
4 between the two, they have 491 Bone Spring net acres
5 and 402 Wolfcamp net acres.

6 And then looking at Section 33 and 32,
7 which is Magnum Hunter's Turnpike development, we
8 show 777 Bone Spring net acres and 850 Wolfcamp net
9 acres.

10 Q. Thank you. And the last rebuttal exhibit
11 is entitled, "BLM CA Feedback." It's Rebuttal
12 Exhibit Number 7, I believe.

13 HEARING EXAMINER: It was 7, but
14 you're taking out Number 5, so it's actually
15 Number 6 now.

16 MS. BRADFUTE: Thank you. Exhibit
17 Number 6. Thank you, Mr. Hearing Examiner.

18 Q. Ms. Sikes, can you please explain what
19 this -- what this exhibit is.

20 A. Yes. This is just Ed Fernandez's
21 comments. I had emailed him to kind of figure out
22 about a Bone Spring communitization agreement and if
23 the BLM would approve one if, you know, an interval
24 of the Bone Spring was cut out. And so I believe I
25 talked about this earlier, but this is just that

1 correspondence.

2 Q. Okay. Great. Thank you, Ms. Sikes.

3 MS. BRADFUTE: That concludes my
4 questions.

5 HEARING EXAMINER: Thank you.

6 Mr. Feldewert.

7 MR. FELDEWERT: No questions.

8 HEARING EXAMINER: Thank you, sir.

9 Mr. Holliday?

10 MR. HOLLIDAY: I do have a couple.

11 HEARING EXAMINER: Please.

12 CROSS-EXAMINATION OF ISABELLA SIKES

13 BY MR. HOLLIDAY:

14 Q. Yeah, so if we can go back to Exhibit 2,
15 again.

16 HEARING EXAMINER: You mean
17 Rebuttal 2?

18 MR. HOLLIDAY: Rebuttal 2, yes, I'm
19 sorry.

20 Q. So this map here -- yeah.

21 So we've heard a lot of testimony -- or do
22 you think it's accurate that the testimony today is
23 that the stress orientation changes as we move from
24 the east to the west?

25 MS. BRADFUTE: Objection. This is

1 our land witness.

2 MR. HOLLIDAY: She testified about
3 the orientation of wells depicted on this very plat.

4 MS. BRADFUTE: She can testify to the
5 extent of her knowledge.

6 A. I do not know about stress direction.
7 This is just me highlighting laydown units that
8 Avant has put forward.

9 Q. Okay. That's a good question for my next
10 question. I think we've also had testimony that
11 these, what you're describing as laydown units are
12 not all, in fact, laydown units that have been
13 proposed. These are actually tracts in which Avant
14 owns an interest; is that correct?

15 A. That, I'm not exactly sure about. If you
16 actually zoom into the original image, the sections
17 within these are not specifically called out. And
18 so that would leave one to believe that these are
19 laydown units.

20 Q. Okay. So you don't know that these are
21 laydown units. You believe, based on your review of
22 the plat, that these could be laydown units?

23 A. Based on my review of the plat and the
24 proposals that we have received on this map, yes.

25 Q. Okay. And I don't have any concern with

1 the proposals you have received. It's just sort of
2 this cluster to the far west here. I just want to
3 be clear, you don't know whether those are proposed
4 units or not?

5 A. I -- yeah, I do not know for sure. If you
6 look at it face value, one would be able to assume
7 that they are.

8 Q. Okay. Thank you. If we could go to
9 Exhibit -- Rebuttal Exhibit 3 and just the first
10 page. We'll start with the Kaiser-Francis,
11 (inaudible) the next page, yeah.

12 Okay. Your testimony, if I characterize
13 it correctly, is that Avant had errors in their
14 title; is that correct?

15 A. Yes.

16 Q. Okay. So did you personally examine these
17 instruments?

18 A. I did look at a few, but not in depth like
19 my title attorneys would have. I did have
20 communications with Kaiser-Francis where they did
21 reach out to me. They said, "Avant had proposed
22 wells. Why haven't you-all proposed to us?"

23 And so I did send that information to my
24 title attorney, and he was able to find the
25 assignment that showed Kaiser-Francis no longer

1 owned in Section 32. And I sent that information
2 back to Kaiser-Francis. And from my communication
3 with them, they kind of understood that this
4 clarified title, and there were no further questions
5 about them owning in Section 32.

6 Q. Okay. So this acronym ARTI, what does
7 that mean?

8 A. All right, title, and interest.

9 Q. Okay. So are you aware that this
10 instrument is, in fact, not an all right, title, and
11 interest, it's a depth-severed conveyance of
12 interest?

13 A. Correct.

14 Q. Okay. So it's possible Kaiser-Francis
15 could have an interest in other depths than were
16 conveyed by this instrument?

17 A. No. Because the interest that
18 Kaiser-Francis received was also depth severed.

19 Q. Okay. But, I mean, you don't know about
20 the chain of title backwards, right?

21 A. That one, I did review, yes.

22 Q. You did personally review this?

23 A. Um-hmm, yeah.

24 Q. The entire chain of title?

25 A. From the one -- from whoever assigned to

1 Kaiser-Francis, I did review that.

2 Q. You so you looked at the vesting deed, but
3 not any deeds upchain from that?

4 A. Say that again.

5 Q. So is your testimony that you looked at
6 the vesting deed for Kaiser-Francis?

7 A. I glanced at it, yes. My title attorney
8 actually highlighted previously in title where that
9 interest was depth -- depth severed. And if you
10 move it forward, it was incorrectly added throughout
11 title.

12 Q. But you personally didn't review the chain
13 of title behind that vesting instrument; is that
14 correct?

15 A. No. But people under my purview did.

16 Q. Okay. So you can move to the next one.

17 Same question. Are you aware that this is
18 actually not all right, title, and interest. It's a
19 depth-severed conveyance?

20 A. Most of these are depth-severed
21 conveyances. If the original title or the original
22 assignment that kicked off most of these assignments
23 is from Hilliard to Union and that was depth
24 severed, that was from the surface to the
25 (inaudible) graphic equipment of 9,548 feet as seen

1 in the McElvain well.

2 Q. So it sounds like you have a good handle
3 on the depths?

4 A. I know the source document.

5 Q. Right. Why not include those depth
6 severances in this document versus calling them all
7 right, title, and interest conveyances?

8 A. It was all right, title, and interest as
9 to what the party owned.

10 Q. Okay. I'm just going to note similar
11 considerations -- we won't go through all these.
12 I'm going to note similar concerns about Trainer
13 Partners, Hog Partnership, Mexico Energy, Dawn
14 Chapel -- I believe that's it.

15 Okay. If we can move, my last questions
16 are about Rebuttal 4. So my understanding is you're
17 relying on these documents to act as some sort of
18 constructive notice to parties because the JOA was
19 referenced; is that correct?

20 A. Will you rephrase that question? Sorry.

21 Q. What's the purpose of these documents?

22 A. So that is showing that Magnum Hunter
23 received the majority interest in New Mexico from
24 Matador who conveyed to Tom Brown, who conveyed to
25 Magnum Hunter.

1 Q. Okay. So this is offered to prove chain
2 of title and not any sort of constructive notice of
3 the presence of a JOA or other unrecorded agreement?

4 A. Yeah, I don't think this is -- I'm -- I
5 guess I don't understand the question. This is
6 showing the record title chain of Matador to Tom
7 Brown to Magnum Hunter.

8 Q. Okay.

9 A. From -- if you -- like the dates with the
10 OCD of the Zafiro well do match up with these
11 mergers and title.

12 Q. It's still not clear to me what the
13 purpose of these documents are, but --

14 A. So this is showing that we're not --
15 Magnum Hunter is not stating that our interests are
16 contractual interests that we received under an OA.
17 This is showing that through record title documents
18 in the county records, Magnum Hunter received their
19 interest, like leasehold interest.

20 So this is showing when this JOA was
21 created in 1998, that Exhibit A outlined the
22 interests in that tract, right, the east half.

23 Q. So what bearing does the JOA have to your
24 title? I thought your testimony was that your
25 title's not derived from the JOA.

1 A. No title is really derived from a JOA.
2 It's a snapshot in time of what title is at
3 that . . .

4 Q. Of what the parties thought the title was?

5 A. Correct.

6 Q. Okay.

7 A. But I would also reference back to my
8 previous exhibit that shows a majority of the owners
9 who formerly owned in Section -- in the east half of
10 Section 32 assigned to Mewbourne, who was the only
11 other party of that JOA.

12 Q. Okay.

13 MR. HOLLIDAY: That's all my
14 questions.

15 ISABELLA SIKES: Thank you.

16 HEARING EXAMINER: Any redirect?

17 MS. BRADFUTE: No.

18 HEARING EXAMINER: Thank you. May
19 this witness be excused.

20 MS. BRADFUTE: Did Mr. McClure have a
21 question?

22 HEARING EXAMINER: Oh, Mr. McClure, I
23 forgot about you. Sorry.

24 MR. MCCLURE: Well, to be fair, I was
25 just leaning forward to say I don't have any

1 questions.

2 HEARING EXAMINER: Oh, thank you.

3 MS. BRADFUTE: Good.

4 No. This witness may be excused.

5 HEARING EXAMINER: All right. Thank
6 you.

7 Thank you very much. Have a safe trip
8 back.

9 Okay. Does that conclude your rebuttal
10 case, Ms. Bradfute?

11 MS. BRADFUTE: Yes, it does.

12 HEARING EXAMINER: It does. Okay.

13 Mr. Holliday, your rebuttal case, please.

14 MR. HOLLIDAY: Yes, I'd like to call
15 Ms. Bella Guerra real quick.

16 HEARING EXAMINER: Okay. And is she
17 with us virtually?

18 MR. HOLLIDAY: I believe she is on
19 Teams.

20 Did I say Bella? I meant Sophia.

21 HEARING EXAMINER: That is what you
22 said.

23 MR. HOLLIDAY: Sorry.

24 HEARING EXAMINER: So who did you
25 mean?

1 MR. HOLLIDAY: There's been a lot of
2 names. I intended to call --

3 HEARING EXAMINER: Guerra?

4 MR. HOLLIDAY: -- Sophia Guerra.

5 HEARING EXAMINER: That's what I
6 thought.

7 Ms. Guerra.

8 SOPHIA GUERRA: Yes. Can you see and
9 hear me?

10 HEARING EXAMINER: I can't see you,
11 but I can hear you. Maybe Madia can pin your
12 picture somewhere. Can you stop sharing your
13 screen?

14 Thank you. Perfect. There you are.

15 Okay. I remind you, Ms. Guerra, that you
16 are under oath.

17 SOPHIA GUERRA: Okay. Thank you.

18 HEARING EXAMINER: Okay.

19 Mr. Holliday.

20 DIRECT EXAMINATION OF SOPHIA GUERRA

21 BY MR. HOLLIDAY:

22 Q. Okay. If we could go back to Rebuttal
23 Exhibit Number 2, I believe that's the plat
24 depicting various Avant ownership interests.

25 HEARING EXAMINER: Okay. Who's

1 rebuttal exhibit?

2 MR. HOLLIDAY: I'm sorry. Cimarex
3 Rebuttal Exhibit Number 2.

4 HEARING EXAMINER: Okay. I thought
5 Cimarex's Rebuttal Exhibit 2 was a list Avant's
6 laydown wells in the area.

7 MR. HOLLIDAY: That's what we're
8 contesting. It's not actually a list of laydown
9 wells. It's a plat --

10 HEARING EXAMINER: I thought that's
11 what it was titled, is what I meant.

12 MR. HOLLIDAY: Oh, I'm sorry.

13 HEARING EXAMINER: Sure.

14 Q. Okay. Ms. Guerra, real quick, we've heard
15 some testimony that these green outlines represent
16 proposed spacing units by Avant; is that correct?

17 A. Yes. We have heard that testimony, yes.

18 Q. Okay. Do all of these green boxes
19 actually correspond to planned spacing units by
20 Avant?

21 A. Not all of the green boxes relate to a
22 proposed spacing unit, no. The yellow on this map,
23 as I think I testified and perhaps a few of my
24 colleagues, is simply just acreage that we have an
25 interest in and could be a proposed development plan

1 or is just simply showing where our acreage lies in
2 this relative area.

3 Q. Okay. So these green boxes do not align
4 to Avant's official development program?

5 A. No. Not all of them, no.

6 Q. Okay. If we can go to Exhibit Number 3.
7 That's the list of title documents.

8 Did you have any concerns about this
9 slide, Ms. Guerra?

10 A. We did, yes. Upon receiving this list in
11 Cimarex's rebuttal exhibits, I personally went
12 through in and read each document. We do agree that
13 some of them are maybe misinterpreted, and we can
14 get to that with we get to my rebuttal slide
15 regarding Marathon's interests. However, several of
16 these, as you crossed Ms. Sikes, are depth-severed,
17 and we do credit interests to some of these parties
18 still as shown in our summary of interest in my
19 original testimony.

20 Q. Okay. So fair to say Avant, like Cimarex,
21 had title run. That title was then looked at by
22 title attorneys, and that's what you're basing your
23 decision on?

24 A. Correct. We -- I think in one of my
25 exhibits, there's a timeline of events. We employed

1 a broker back in 2022 to start running this title.
2 We've looked at -- they've looked, as well as we
3 have, thousands of documents through the record
4 title, through county records, BLM files, you name
5 it. And we believe that some of these parties do
6 still own in Sections 32 and 29.

7 Q. Okay. So fair to say Avant has done a
8 significant amount of title work in this area?

9 A. Correct, yes. On top of the broker work,
10 we have a title attorney who's drafted ownership and
11 then a title opinion for these lands.

12 Q. So we go real quick to the next rebuttal,
13 Magnum Hunter Rebuttal Exhibit Number 4.

14 Is it your understanding that Magnum
15 Hunter is relying upon or has communicated to Avant
16 that it's relying upon this 1990 JOA -- 1998 JOA to
17 boost its working interest in Section 32?

18 A. Yes. I think -- I think potentially,
19 maybe there was a break in communication between
20 Cimarex and ourselves. We were under the
21 understanding that Cimarex was being credited
22 additional acreage through this JOA.

23 Again, as (inaudible) testified several
24 times, there -- we were never given a full copy of
25 the JOA, and we were only given the Exhibit A and

1 the signature pages. So it's just not a document
2 that we can fully review and credit in this case.

3 Additionally, I do just want to point out
4 that we were only noticed of this JOA about a couple
5 weeks ago. And so we've had a very limited amount
6 of time to apply this JOA appropriately and look at
7 it in its entirety.

8 Q. So in your opinion, if the JOA does not
9 increase ownership, what is its relevance to
10 Section 32?

11 A. Could you repeat that? Sorry.

12 Q. Sure. So if this JOA does not boost the
13 working interest -- or, excuse me, I say boost --
14 does not increase the working interest for Cimarex
15 in Section 32, how is it relevant to the title
16 discussion?

17 A. We don't think it -- we think it could be
18 relevant in the fact that if it is an appropriate
19 JOA, it should have been recorded in the county and
20 taken to account with our title, but we just aren't
21 sure how it is relevant unless we're able to see it
22 in its entirety and apply it to our ownership.

23 When our brokers tried to surmise what the
24 title would be based off the limited documentation
25 we were given of the JOA, it does change the

1 ownership in Section 32. And I believe there's an
2 exhibit that I reference in my original testimony
3 that credits Cimarex with acreage if the JOA was
4 applied accordingly to the Exhibit A that we were
5 provided.

6 Q. Right. And if -- is it correct -- is my
7 recollection correct that even if this JOA were
8 applicable under the ownership changes that you've
9 put forth, that Avant would still have roughly
10 double the working interest in this Daytona
11 section -- unit as Cimarex?

12 A. Yes, that is correct.

13 Q. And you didn't find any record title
14 evidence of this in the 2022 to 2024 -- to
15 October 1, 2024, title runs; is that correct?

16 A. That is correct. We found no evidence of
17 the JOA recording, which isn't standard practice to
18 record an entire JOA. However, it is standard
19 practice to record a memo of a JOA to put other
20 parties on notice that there is a JOA covering those
21 lands. And we were not able to find a recorded memo
22 in Lea County.

23 Q. Sure. And then once you were alerted to
24 this JOA -- or the presence of this JOA, did you ask
25 your brokers to go out and look -- take a second

1 look?

2 A. Yes. They took a second and I believe a
3 third look, as well as myself and several other
4 landmen in our office.

5 Q. Okay. And they didn't find anything?

6 A. There was no evidence of a memo or the JOA
7 recorded in Lea County.

8 Q. Okay. Thank you. If we could go real
9 quick to Avant's Rebuttal Exhibit Number 1.

10 Yeah, that's correct.

11 Okay. Ms. Guerra, what is the purpose of
12 this slide?

13 A. This slide is a rebuttal to Cimarex's
14 claim of Avant's interest in Section 32. The
15 Cimarex slide, I believe it's Exhibit A-7 in their
16 original testimony, claims that Avant only owns 1.2
17 net (inaudible) acres in Section 32. We have
18 acquired several parties in Section 32 over the last
19 year, and our interest is quite higher in Section 32
20 according to our title, which has, again, been run
21 by brokers and title attorneys.

22 So the purpose of this slide,
23 Exhibit A-16, I believe is what we're calling it
24 today, is just showing that Avant has 71 acres
25 committed or owned in Section 32 as to the Bone

1 Spring formation and 122 net acres -- or owned or
2 committed in the Wolfcamp. So this is just showing
3 that it's quite a bit higher than the 1.2 net acres
4 that Cimarex has credited us with.

5 Q. Okay. So we heard a lot of testimony
6 about supposed mistakes in Avant's title. Just to
7 make sure I'm clear for the record, there were a
8 number of instruments in the record chain of title
9 into Avant that Cimarex did not represent in its
10 ownership?

11 A. Correct.

12 Q. Would you consider that a mistake?

13 A. I would. Based on the title that we have
14 seen and that our brokers and title attorneys have
15 presented to us and that we have personally
16 reviewed, we believe that Cimarex has not credited
17 us with interest in Section 32 that they should
18 have.

19 Q. Okay. Thank you. So if we can move -- my
20 last question, what's going to be Avant Exhibit --
21 Rebuttal Exhibit 2, but we've mark A-17 here. Can
22 just walk us through this slide briefly?

23 A. Yes. So I believe last Thursday or
24 Friday, I can't remember which day, Marathon Oil
25 Permian filed an entry of appearance into our cases.

1 I believe that Marathon is being represented by
2 Ms. Bradfute. And the basis of their entry of
3 appearance was due to a discrepancy in Avant's
4 exhibits, specifically Exhibit A-6 -- A-6A that
5 demonstrates our summary of interests. Marathon
6 believes they own more in our proposed Daytona unit
7 both in Section 29 and 32.

8 Upon receiving this email, we have had our
9 brokers work diligently to try and get to the root
10 of this discrepancy. And they are actively looking
11 through records, seeing if there's possibly a
12 misinterpretation. And we've been also
13 communicating directly with the landmen at Marathon
14 Permian to ensure that our records are correct.

15 Due to the nature of only having about
16 five days to review this title as to this supposed
17 discrepancy, we're not in a position today to update
18 our exhibits until we get to the bottom of what the
19 possible discrepancy is.

20 Q. Okay. So you're not stipulating that
21 there is an actual discrepancy? Your testimony is
22 that this in response to Marathon's allegation that
23 there's a discrepancy?

24 A. Yes. And also this is just to ensure that
25 Avant is looking into this issue, and we will

1 certainly supplement our exhibits if a discrepancy
2 is found.

3 Q. Thank you. And last question. So
4 Marathon did not enter an objection in this case; is
5 that correct?

6 A. Correct. It's my understanding they just
7 entered an appearance, not an objection.

8 Q. Okay. Thank you.

9 MR. HOLLIDAY: That concludes my
10 questions.

11 HEARING EXAMINER: Thank you.

12 Do you have any cross-examination?

13 MS. BRADFUTE: I do.

14 CROSS-EXAMINATION OF SOPHIA GUERRA

15 BY MS. BRADFUTE:

16 Q. Good afternoon, Ms. Guerra. How are you?

17 A. Hi. I'm good. How are you?

18 Q. Good. Good. I want to start with the
19 rebuttal exhibit we're showing on the screen. It is
20 marked on the top of the page as Exhibit A-16.

21 MS. BRADFUTE: Mr. Holliday, what
22 rebuttal exhibit number is this? Is it Rebuttal
23 Exhibit 1?

24 MR. HOLLIDAY: My understanding in
25 the naming convention, it will be Avant Exhibit --

1 Rebuttal Exhibit 1.

2 MS. BRADFUTE: Okay. Thank you.

3 Q. So I'm looking at Avant Rebuttal
4 Exhibit 1. Can you see the exhibit?

5 A. Yes, I can.

6 Q. Okay. So I just want to confirm that I
7 heard your testimony correctly. These charts here
8 show what Avant believes its working interest is
9 within Section 32; is that correct?

10 A. That is correct. There's a chart for the
11 Bone Spring unit, which actually -- as I'm looking
12 now, that top chart should say, "Bone Spring."
13 However, the chart below does indicate that is just
14 Wolfcamp.

15 Q. Okay. Wolfcamp. So Avant is now
16 testifying that it owns 5.61 percent of the working
17 interest within the entire Bone Spring formation in
18 Section 32; is that correct?

19 A. So the Bone Spring unit that Avant is
20 pooling is represented in that -- in that chart.
21 So, again, as we've heard over the last two days,
22 Avant is seeking to pool the first and third Bone
23 Spring.

24 Q. Okay. And does Avant have different
25 ownership within the second Bone Spring?

1 A. They do, yes.

2 Q. Okay. And do you know what that ownership
3 percentage is?

4 A. I'm not --

5 MR. HOLLIDAY: Objection. That's not
6 relevant. There's an objection.

7 HEARING EXAMINER: What is the
8 objection?

9 MR. HOLLIDAY: That the ownership in
10 the second Bone Spring is not relevant. It was not
11 in Ms. Guerra's testimony direct. It wasn't in
12 rebuttal.

13 HEARING EXAMINER: Okay.

14 MS. BRADFUTE: Okay.

15 HEARING EXAMINER: Ms. Bradfute.

16 Q. So there is no evidence, right now as to
17 what Avant's ownership interest in the second Bone
18 Springs --

19 HEARING EXAMINER: Ms. Bradfute, I'm
20 sorry, I was looking a response to the response for
21 the objection.

22 MS. BRADFUTE: Yeah. Oh, I'm so
23 sorry. I'm so sorry.

24 So the response to the objection is, is --
25 it is a relevant issue in Magnum Hunter's cases.

1 It's been an issue that we've been discussing
2 throughout most of the day today.

3 HEARING EXAMINER: But how does it --
4 how does it relate to this specific exhibit?

5 MS. BRADFUTE: This specific exhibit,
6 I'm just trying to figure out what is represented in
7 the -- in the first chart and confirm that there's a
8 correct understanding in the record.

9 HEARING EXAMINER: So I'm going to
10 sustain the objection.

11 Why don't you ask a different question.

12 MS. BRADFUTE: Yeah, thank you.

13 HEARING EXAMINER: Sure.

14 Q. Ms. Guerra, this exhibit shows in total
15 that Avant is claiming that it owns 9.56 percent of
16 the working interest in the Wolfcamp formation in
17 Section 32, correct?

18 A. Correct.

19 Q. Okay. Great. I'm going to go down to the
20 next exhibit. And I also represent Marathon Oil
21 Permian, LLC, in this case. Are you aware of that
22 representation?

23 A. Yes. I believe I mentioned that
24 previously.

25 Q. Did Marathon's land team reach out to you

1 about a potential question about their ownership
2 interest shown in Avant's exhibits in Case 24632 and
3 24633?

4 A. They did not. I actually went back
5 through my emails to see that -- to see if we had
6 previously discussed their ownership when they
7 received proposals, and I did not see any evidence
8 that they reached out to us. I -- however, upon
9 understanding of their entry of appearance, I
10 reached out to their land team.

11 Q. Okay. And you reached out to them. Did
12 Marathon then send you some information regarding
13 their title in Section 32?

14 A. They did. They did send me information.
15 And as upon receiving that information from their
16 land team, we had our brokers look specifically at
17 the information they provided as to their ownership
18 in the Daytona unit.

19 Q. Okay. And was that information list of --
20 (Audio dropped.)

21 A. Excuse me?

22 HEARING EXAMINER: Madia, do you have
23 any backup batteries there?

24 MS. BRADFUTE: Let's see. I can use
25 this one.

1 HEARING EXAMINER: Perfect.

2 MS. BRADFUTE: Sorry, Ms. Guerra. My
3 microphone died all of a sudden.

4 Q. Did Marathon ask you to look at a list of
5 assignments that were in the County records that
6 they believed were in their chain of title?

7 A. They did as to Section 32.

8 Q. Okay. And what did Avant originally show
9 Marathon -- Marathon's net mineral interest
10 ownership to be within its proposed spacing unit?

11 A. Gosh, I'd have to either pull up an email
12 or look at the summary of interest. I don't have
13 that noted in my exhibit. I apologize.

14 Q. Okay. After looking at the documents that
15 Marathon sent you regarding their chain of title,
16 have you found validity that some of those documents
17 do show that they own more interest within one of
18 the sections?

19 A. So as I stated, it is a little too early
20 to state that one way or another. We've obviously
21 been in this hearing for the last two days, and so
22 that gives about two working days that we've had an
23 opportunity for our brokers and title attorney to
24 examine those documents and ensure that their
25 interest would be different than what we purported

1 in our exhibits.

2 Q. Okay. And I'm going to stop sharing my
3 screen and just -- I need to pull up something to
4 use on my laptop really quickly.

5 Are you aware of why Marathon specifically
6 entered their interest in this case -- or entered
7 their appearance in this case? Did Marathon tell
8 you, you know, specifically what their discrepancy
9 or their dispute was?

10 A. Other than their ownership, I don't
11 believe they stated anything different.

12 HEARING EXAMINER: Ms. Bradfute, can
13 I interrupt for a moment?

14 MS. BRADFUTE: Yeah.

15 HEARING EXAMINER: I'm lost to where
16 these questions are going. This is all about
17 ownership interest. It is all about ownership.

18 Is there -- is there -- I understand that
19 there's a dispute over ownership interest. I
20 understand that's what the rebuttal exhibits are
21 about. But why don't the rebuttal exhibits just
22 stand for themselves? Why do we need to have
23 endless cross-examination about people's opinions
24 about the documents?

25 MS. BRADFUTE: That's okay. Yeah --

1 HEARING EXAMINER: Okay. Good.

2 MS. BRADFUTE: -- we can stand on the
3 rebuttal exhibits. That's fine.

4 HEARING EXAMINER: Excellent. Okay,
5 so please proceed.

6 MS. BRADFUTE: Then that concludes my
7 questions.

8 HEARING EXAMINER: Very good. Thank
9 you.

10 Okay. Mr. Holliday, are there any other
11 witnesses?

12 MR. HOLLIDAY: I do have one briefly.

13 HEARING EXAMINER: And what is this
14 about?

15 MR. HOLLIDAY: It's about the Cimarex
16 Rebuttal Exhibit Number 1.

17 HEARING EXAMINER: What do you --
18 what do you -- what do you want your witness to
19 deal -- how do you want -- what's the issue with
20 Cimarex Rebuttal Number 1?

21 MR. HOLLIDAY: Sure. Avant's
22 reservoir expert is concerned about the data used in
23 that slide and the veracity of it.

24 HEARING EXAMINER: The data used.
25 Can you be a little bit more specific?

1 MR. HOLLIDAY: Yeah. I'll do my
2 best.

3 HEARING EXAMINER: In other words,
4 what does it concern? And what do you --

5 MR. HOLLIDAY: The concern is that
6 the map -- or maps represented there left out
7 certain wells that would have been detrimental to
8 their position.

9 HEARING EXAMINER: I see. So you
10 feel as though -- so your expert feels as though the
11 map that is Rebuttal Exhibit 1 from Avant -- from
12 Cimarex leaves out wells?

13 MR. HOLLIDAY: Right.

14 HEARING EXAMINER: And gives a false
15 picture because of it?

16 MR. HOLLIDAY: Correct.

17 HEARING EXAMINER: Okay. Keep it
18 real short.

19 MR. HOLLIDAY: Real short. I'll just
20 ask that one question.

21 HEARING EXAMINER: Go ahead.

22 MR. HOLLIDAY: Okay. I'd like to
23 call Mr. Shane Kelly, please.

24 HEARING EXAMINER: Mr. Kelly, you're
25 still under oath.

1 SHANE KELLY: Yes.

2 DIRECT EXAMINATION OF SHANE KELLY

3 BY MR. HOLLIDAY:

4 Q. Good afternoon, Mr. Kelly. Mindful that
5 we all have to get to the airport.

6 Can you please discuss your concerns with
7 Cimarex Rebuttal Exhibit Number 1. And it might be
8 helpful if we put it back on the screen.

9 HEARING EXAMINER: Is someone putting
10 it on the screen?

11 MR. HOLLIDAY: Yeah, I am
12 (inaudible).

13 MS. BRADFUTE: Yes.

14 SHANE KELLY: I believe it is slide
15 3, page 3.

16 Q. Page 3.

17 A. Yeah, there's the one.

18 I think we heard testimony earlier, you
19 know, that there was some concern about bringing in
20 wells a little bit too far south, but I wanted to
21 bring up my own concern. I mean, there's clearly a
22 pay map here on the left side that's showing --
23 like-for-like rock, and there's a lot of north/south
24 wells that are drilled in the same time period with
25 the same tract that were conveniently left out of

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1 the data set because they are much better wells than
2 what he is showing here.

3 He picked three of the worst wells in the
4 entire data set to throw on here from the
5 north/south direction, which I think falsifies the
6 view to the Commission of what's actually going on.
7 He states that these were all drilled by the same
8 operator.

9 So it's a like-for-like comparison, but
10 none of these wells are drilled by Franklin
11 Mountain. Franklin Mountain just acquired this
12 acreage within the last few years. They are not the
13 people responsible for the production on these
14 wells. They're actually drilled by multiple
15 different operators in his data set.

16 In my data set, I tried to bring in -- I
17 had about 40 north/southwest (sic) wells, and I
18 brought in pretty much every east/west well that's
19 ever been drilled up here. So I tried to create a
20 more complete data set.

21 My data set does go down to the south, but
22 as you can see on this pay map, most of my wells
23 stayed on the east side of his pay, which is green
24 in this map, which is actually worse pay than the
25 east/west flows that he picked.

1 So I think this is just falsifying
2 information for the Commission. I didn't want to
3 leave that to sit there, so you had the full
4 picture.

5 Q. Thank you.

6 MR. HOLLIDAY: I have no further
7 questions.

8 HEARING EXAMINER: Ms. Bradfute.

9 MS. BRADFUTE: I have no questions.

10 HEARING EXAMINER: Thank you.

11 MS. BRADFUTE: Yeah.

12 HEARING EXAMINER: Okay.

13 (Inaudible) --

14 MR. McCLURE: Mr. Hearing Examiner?

15 HEARING EXAMINER: Yes, Mr. McClure.
16 Thank you.

17 MR. McCLURE: I don't have any
18 questions for Mr. Kelly --

19 HEARING EXAMINER: Oh.

20 MR. McCLURE: -- but it might be
21 worthwhile for me to ask a few questions of
22 Ms. Guerra.

23 HEARING EXAMINER: Oh, please. Okay.
24 So this witness may be excused.

25 Thank you, sir, for your participation.

1 SHANE KELLY: Thank you.

2 HEARING EXAMINER: Go right ahead,
3 Mr. McClure.

4 CROSS-EXAMINATION OF SOPHIA GUERRA

5 BY MR. McCLURE:

6 Q. Okay. Ms. Guerra, are you there able to
7 hear me now?

8 A. Yes, I am.

9 Q. Ms. Guerra, just a few quick questions for
10 you. This assessment that you plan on conducting in
11 regards to interest percentages that you were
12 referencing, did I hear that correctly?

13 A. Yes, a title review of Marathon's
14 interest.

15 Q. And will that review include the entirety
16 of whatever concern -- or the concerns that Cimarex
17 may have had with the interests that you had listed?

18 A. I don't believe it would be the entirety.
19 It seems Cimarex has issue with all of Avant's title
20 within Section 32, whereas Marathon's concerns are
21 limited to certain tracts within Section 32.

22 Q. Okay. So it's specifically Marathon's
23 interests that you plan on conducting additional
24 review about; is that correct?

25 A. Correct. Since Marathon approached us

1 last week -- late last week pointing out a couple
2 inconsistencies, we are going to look into further
3 to see if we need to revise our exhibits.

4 Q. Upon hearing testimony from Cimarex, do
5 you feel comfortable with the interests that -- the
6 rest of the interests that Avant is portraying in
7 its exhibits?

8 A. We do, yes. We've done extensive title
9 for several years and believe that our title is true
10 and correct.

11 Q. Okay. Based off your understanding, was
12 Cimarex -- was there any difference in persons
13 rather than solely interest that was a part of
14 Cimarex's concerns there?

15 A. Between Avant's title and Cimarex's title?
16 Is that what you're referring?

17 Q. Yes, I apologize. That is correct. Was
18 all the same persons identified, and it solely went
19 down to how much interest each person had; is that
20 correct?

21 A. Yes, to an extent. I do believe that
22 Avant has several owners that we are showing in
23 title in Section 32 in the Bone Spring formations
24 that Cimarex is not crediting interest to in
25 Section 32. Those are the people that Cimarex is

1 stating are strangers in title. So we show them in
2 our summary of interests, but Cimarex does not.

3 Q. Okay. So in your current list of persons,
4 it includes all the persons that Cimarex is
5 including and then additional on top of that; is
6 that correct?

7 A. That is correct, yes.

8 Q. So is it your position that Cimarex is
9 missing persons?

10 A. Our interpretation of title, how it stands
11 today, yes, we do think that they are missing
12 people.

13 Q. And as far as this assessment in regards
14 to Marathon's interest, what sort of timetable is
15 that going to take you to complete?

16 A. As to Marathon's interest, we think we
17 could probably wrap up by next week. So I would
18 suggest if we needed to supplement our exhibits,
19 perhaps we could do so at that time.

20 Q. It may be worth something bringing into
21 your closing arguments perhaps, one way or the
22 other, whether you agree or not.

23 A. Yeah.

24 Q. Which I'm sure that will be -- I mean,
25 mine two weeks for transcripts, so I'm sure it's

1 much -- or at least two weeks beyond that, but that
2 will be up to Mr. -- the Hearing Examiner's
3 discretion.

4 MR. McCLURE: Thank you, Ms. Guerra.

5 I have no further questions.

6 HEARING EXAMINER: Thank you,
7 Mr. McClure.

8 MR. McCLURE: Thank you.

9 HEARING EXAMINER: Does that conclude
10 your rebuttal case, Mr. Holliday?

11 MR. HOLLIDAY: It does, yes, sir.

12 HEARING EXAMINER: Okay. Then we are
13 done with the evidentiary hearing, and now let's
14 discuss post-hearing timetable. As you're -- as
15 you-all know, it takes two weeks to get a verbatim
16 transcript. Yesterday's was transcribed, so we will
17 have it. But today's --

18 And, Madia, you don't know the extra delay
19 when it's recorded, do you?

20 MS. CORRAL: (Inaudible).

21 HEARING EXAMINER: Okay. Is Freya
22 with us?

23 MS. CORRAL: I believe she is --

24 HEARING EXAMINER: Okay.

25 MS. CORRAL: On the line.

1 HEARING EXAMINER: Freya, do you know
2 how long it takes if we record a -- if we record a
3 hearing and send it, does it add time to the -- to
4 the two-week period?

5 MS. TSCHANTZ: (Unrecorded response.)

6 HEARING EXAMINER: Well, let's just
7 assume that we have our transcripts two weeks from,
8 let's say, Monday. And Monday would be the --
9 Monday would be the 11th. So we're saying right
10 about the week of Thanksgiving we will have our
11 transcripts in.

12 How long do the parties want to draft
13 closing arguments and proposed findings and
14 conclusions?

15 I'll start with you, Mr. Holliday.

16 MR. HOLLIDAY: The issues are
17 extensive.

18 HEARING EXAMINER: Yes.

19 MR. HOLLIDAY: And you got three
20 parties. I will -- I'll defer to my colleagues.
21 I'm not really sure. I mean, I would --

22 HEARING EXAMINER: Some opinion.

23 MR. HOLLIDAY: So one opinion would
24 be four weeks.

25 HEARING EXAMINER: A month. Okay.

1 And you, Ms. Bradfute?

2 MS. BRADFUTE: A month would be
3 reasonable, given the week of Thanksgiving --

4 HEARING EXAMINER: Okay.

5 MS. BRADFUTE: -- is in that time
6 period.

7 HEARING EXAMINER: Okay. All right.
8 So one month?

9 Okay. Mr. Feldewert, I know you don't
10 even want to draft these, but since I'm asking you
11 to, how long would it take?

12 MR. FELDEWERT: So we're talking a
13 month from November 11th?

14 HEARING EXAMINER: We are talking
15 about a month from November 25th.

16 MR. FELDEWERT: November 25th. Oh,
17 good. Okay. Because, I mean, that's going to be
18 tough.

19 So we could make it due Christmas Day?

20 HEARING EXAMINER: Yes. No, the day
21 before, Christmas Eve.

22 MR. FELDEWERT: Oh. So that would be
23 Monday, December 23rd, is what you're thinking?

24 HEARING EXAMINER: That's fine, yes.

25 MR. FELDEWERT: Does that work?

1 HEARING EXAMINER: That works for us,
2 yes.

3 MR. FELDEWERT: Okay.

4 HEARING EXAMINER: Okay. Freya, are
5 you with us?

6 No, I guess you're not.

7 Okay. Madia, do we sent out a notice when
8 transcript comes in? Is that what we do? Or do we
9 just upload it to the case file?

10 MS. CORRAL: Mr. Hearing Examiner,
11 I'm not sure, to be honest.

12 HEARING EXAMINER: Okay. All right.

13 MS. CORRAL: If you want us to send a
14 notice, I'm happy to do so when we --

15 HEARING EXAMINER: That's fine.

16 MS. CORRAL: -- get the transcript.

17 HEARING EXAMINER: I think that's
18 what we do. I think we upload it so the parties can
19 just start looking at the -- at the case file.

20 We also need to talk about amended exhibit
21 packets. When do the --

22 Mr. Holliday, what is the deadline --
23 would November 25th work for you? I think that
24 makes sense.

25 MR. HOLLIDAY: Yes, it does.

1 HEARING EXAMINER: Does that work for
2 you? That gives everyone plenty of time.

3 So we have exhibit packets due
4 November 25th. That's when the transcript will come
5 in. The hearing clerk will clean up the record and
6 remove the old exhibit packets. And then I'll take
7 a look at those exhibit packets to make sure that
8 they're in order as well. Please put a cover
9 letter.

10 Is there anything further from anyone
11 before we go off the record?

12 MR. McCLURE: Mr. Hearing Examiner --

13 HEARING EXAMINER: Yes, Mr. McClure.

14 MR. McCLURE: -- we got the list
15 of --

16 HEARING EXAMINER: Ah, you have
17 some --

18 MR. McCLURE: We have the list of
19 requests.

20 HEARING EXAMINER: Yes. Yes, yes,
21 yes. Your list of wants. What are they, sir?

22 MR. McCLURE: I guess the fastest and
23 easiest one would be for Matador --

24 Mr. Feldewert, I assume you're still
25 there?

1 MR. FELDEWERT: Yes, sir.

2 MR. McCLURE: I think the only thing
3 I was looking at for Matador was a table and a map
4 of the wells for Matador's Exhibit C-6.

5 MR. FELDEWERT: Got it.

6 MR. McCLURE: And in addition to
7 that, if I could also be provided by email that list
8 in an Excel format?

9 MR. FELDEWERT: You're talking about
10 the list, right?

11 MR. McCLURE: Yes. Not the map, just
12 the --

13 MR. FELDEWERT: Yeah.

14 MR. McCLURE: -- list of them, so I
15 can grab all the API numbers.

16 MR. FELDEWERT: Yep. Certainly.

17 MR. McCLURE: All right. Thank you,
18 sir.

19 Cimarex may be the next easiest.

20 Are you with me, Ms. Bradfute?

21 MS. BRADFUTE: Yes, I am.

22 MR. McCLURE: Okay. On your pooling
23 application checklist, we have two different
24 Wolfcamp pools.

25 MS. BRADFUTE: Okay.

1 MR. McCLURE: Within Section 33, the
2 pool is Airstrip Wolfcamp. That's pool called
3 97 Zill.

4 MS. BRADFUTE: 97 -- I'm sorry, can
5 you . . .

6 MR. McCLURE: Oh, 97 -- and then I
7 keep mispronouncing it, but Zill, as nil.

8 MS. BRADFUTE: Oh, thank you,
9 perfect. I got it.

10 MR. McCLURE: And then in Section 32,
11 which might have been the one you included, was EK
12 Wolfcamp. And that pool code was 2167 zill.

13 MS. BRADFUTE: Thank you.

14 MR. McCLURE: In addition to that,
15 you have a notice spreadsheet, however, it does not
16 include the certified tracking numbers. Instead it
17 seems that you copied -- you scanned all the
18 different green cards.

19 MS. BRADFUTE: Yes.

20 MR. McCLURE: If we could resubmit
21 that tracking spreadsheet and include the certified
22 numbers within the spreadsheet, that would
23 definitely be ideal.

24 MS. BRADFUTE: Okay.

25 MR. McCLURE: And then in addition to

1 that, just a list of the wells used in the study
2 in -- I believe it's Cimarex's rebuttal exhibit.

3 MS. BRADFUTE: Great.

4 MR. McCLURE: Okay. Thank you,
5 ma'am.

6 Mr. Holliday, for Avant is a little bit
7 thicker of a list here. Are you with me, sir?

8 MR. HOLLIDAY: I am.

9 MR. McCLURE: I don't know if you
10 recall that -- the specific testimony, but
11 essentially we're looking at more specifics for the
12 allocation method. If we could submit a -- more
13 specifics about that actual calculation and what the
14 numbers are actually being that Avant is proposing.

15 MR. HOLLIDAY: Okay.

16 MR. McCLURE: Additionally, your --
17 Avant's certified or tract -- or notice spreadsheet,
18 additionally does not include the certified tracking
19 numbers.

20 MR. HOLLIDAY: Yeah.

21 MR. McCLURE: If we could add that on
22 you guys' as well and resubmit that.

23 MR. HOLLIDAY: Okay.

24 MR. McCLURE: And then in addition,
25 the notice of public -- the affidavit of publication

1 appears that the newspaper clipping was -- it
2 overlapped or folded or something. If we could
3 submit a new copy of the actual full one of that.

4 MR. HOLLIDAY: Would you like a new
5 copy from the place where it was published?

6 MR. McCLURE: Well, since it's the
7 attorney prior to yourself, I mean, unless you have
8 it on -- unless you have it somewhere. Essentially
9 we just need to see the full newspaper clipping.
10 The current newspaper clipping is partial.

11 MR. HOLLIDAY: Okay. I can get that.

12 MR. McCLURE: Once that Marathon
13 assessment -- or Marathon's interest assessment is
14 completed, if we can either provide a supplemental
15 or else include in your closing argument. However
16 you want to provide that, it doesn't matter to me.

17 MR. HOLLIDAY: Yes, sir.

18 MR. McCLURE: And then the last thing
19 is a list of the wells used in Avant's study. If I
20 recall, there was only one study for Avant, correct?

21 MR. HOLLIDAY: I had -- I don't want
22 to get me lying on the record. I'm not sure.

23 MR. McCLURE: I believe that -- I
24 believe there was just the one. I know it was the
25 2012 to 2015 --

1 MR. HOLLIDAY: True.

2 MR. McCLURE: -- and there was like
3 20 wells, something along those lines --

4 MR. HOLLIDAY: Sure.

5 MR. McCLURE: -- that was immediately
6 to the east and southeast of the area of interest.

7 MR. HOLLIDAY: Okay.

8 MR. McCLURE: And essentially, what
9 I'm looking for is a list of the wells. And then
10 within that spreadsheet, could we also include any
11 information that Avant has on the proppant that was
12 used per foot and the fluid use the per foot in
13 those completions?

14 MR. HOLLIDAY: Yes, sir.

15 MR. McCLURE: And additionally,
16 please, via email provide me with an Excel version
17 of that list.

18 MR. HOLLIDAY: Yes, sir.

19 MR. McCLURE: Thank you,
20 Mr. Holliday. That was --

21 Thank you, Mr. Hearing Examiner. That was
22 all that I had on my list.

23 MR. HOLLIDAY: Thank you.

24 HEARING EXAMINER: Thank you,
25 Mr. McClure.

1 So besides the Excel spreadsheets, which,
2 of course, if a party sends something to
3 Mr. McClure, please copy the other attorneys here.

4 Then we expect these asks to be part of
5 the amended exhibit packets. I have notes here to
6 that. We have dates. We have deadlines.

7 Is there anything further from any of the
8 parties before we go off the record?

9 MR. FELDEWERT: No, sir. Thank you
10 for your time.

11 HEARING EXAMINER: Thanks for hanging
12 in there. I know everyone wants to go, because the
13 snow is building up.

14 MS. BRADFUTE: Thank you very much.

15 HEARING EXAMINER: Thank you.

16 MR. HOLLIDAY: Thank you, sir.

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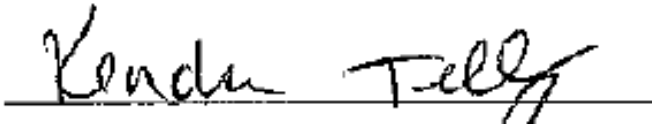
STATE OF NEW MEXICO
COUNTY OF BERNALILLO

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I, Kendra D. Tellez, New Mexico #205 CSR, RMR, CRR, within and for the State of New Mexico, DO HEREBY CERTIFY that the foregoing audio transcription was prepared from provided audio, that the audio was reduced to typewritten transcript by Kendra Tellez Court Reporting, Inc., A Veritext Company, and that the testimony contained herein is a true and correct transcript of the recorded proceedings, to the best of my knowledge and hearing ability. The audio was of fair quality recording.

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

December 31, 2024

A handwritten signature in black ink, reading "Kendra Tellez", is written over a horizontal line.

Kendra D. Tellez, CCR #205

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